UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	**Investigation Nos.:**
TITANIUM SPONGE FROM JAPAN	)	**701-TA-587 AND 731-TA-1385-1386**
AND KAZAKHSTAN	)	**(PRELIMINARY)**

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UNITED STATES OF AMERICA

BEFORE THE

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:	) Investigation Nos.:
TITANIUM SPONGE FROM JAPAN	) 701-TA-587 AND
AND KAZAKHSTAN	) 731-TA-1385-1386
	) (PRELIMINARY)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, September 14, 2017

The meeting commenced pursuant to notice at 9:30 a.m., before the Investigative Staff of the United States International Trade Commission, Michael Anderson, Director of Investigations, presiding.

Staff:

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Michael Anderson, Director of Investigations

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Ayanna Butler, Investigator

Daniel Matthews, International Trade Analyst

Emily Burke, International Economist

Fernando Garcia, International Economist

Joanna Lo, Accountant/Auditor

John Henderson, Attorney/Advisor

Opening Remarks:

Petitioners (J. Kevin Horgan, DeKieffer & Horgan, PLLC)

Respondents (Kathleen Cannon, Kelley Drye & Warren LLP)

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

DeKieffer & Horgan, PLLC

Washington, DC

on behalf of

Titanium Metals Corporation ("TIMET")

Henry Seiner, Titanium Metals Corporation, Vice President of Business Strategy, TIMET

Roy Houseman, Legislative Representative, United Steel Workers

J. Kevin Horgan and Alexandra H. Salzman - Of Counsel

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

Kelley Drye & Warren LLP

Washington, DC

on behalf of

Allegheny Technologies Incorporated

John Sims, Executive Vice President, High Performance & Components, Allegheny Technologies Incorporated

Brad Forsythe, Vice President, Supply Chain, Allegheny Technologies Incorporated

Michael Kerwin, Director, Georgetown Economic Services

Kathleen Cannon and Laurence Lasoff - Of Counsel

Sidley Austin LLP

Washington, DC

on behalf of

OSAKA Titanium technologies Co., Ltd. ("OTC")

Masayuki Tsuji, Executive Officer, OSAKA Titanium technologies Co., Ltd.

Kiyoaki Sando, Sales and Marketing Department, OSAKA Titanium technologies Co., Ltd.

Shinya Kuriyama, Assistant Manager, High Performance Materials Team, Specialty Steel Flat Rolled Products Business Department, Sumitomo Corporation Global Metals Co., Ltd.

Akira Kudo, Product Manager, Light Metals and Specialty Steel Sheet Unit, Steel and Non-Ferrous Metal Group, Sumitomo Corporation of Americas

Richard L.A. Weiner, Neil R. Ellis and Brenda A. Jacobs - Of Counsel

Adduci, Mastriani & Schaumberg LLP
Washington, DC
on behalf of
The Perryman Company

Frank Perryman, President and Chief Executive Officer, The Perryman Company

Irvin Brown, Director of Commercial Operations, The Perryman Company

Deanna Tanner Okun, Elizabeth Regard and Rowan Dougherty - Of Counsel

Squires Patton Boggs (US) LLP
Washington, DC
on behalf of
Ust-Kamenogorsk Titanium and
Magnesium Plant JSC ("UKTMP")
Ritchie T. Thomas and Iain R. McPhie - Of Counsel

Crowell & Moring, LLP
Washington, DC
on behalf of
RMI Titanium Company Inc.
Jeremy Halford, President, RMI Titanium Company Inc.
Alexander H. Schaefer - Of Counsel

Rebuttal/Closing Remarks:
Petitioner (J. Kevin Horgan, DeKieffer & Horgan, PLLC)
Respondents (Deanna Tanner Okun, Adduci Mastriani & Schaumberg LLP

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P R O C E E D I N G S

(9:30 a.m.)

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

MR. ANDERSON: Good morning, everyone. Welcome to the U.S. International Trade Commission's conference in connection with the preliminary phase anti-dumping and countervailing duty investigations number 701-TA-537 and 731-TA-1385 through 1386 concerning titanium sponge from Japan and Kazakhstan. My name is Michael Anderson. I'm the director of the Office of Investigations and I'll preside at this conference.

Among those present from the Commission staff working on the investigation are my right, we have two investigators. Jordan Harriman and Ayanna Butler. And on my left, we have our attorney adviser John Henderson, and our economist Emily Burke and another economist Fernando Garcia, and then our accountant auditor Joanna Lo. And Mr. Dan Matthews is our industry analyst.

I understand the parties are aware of the time allocations. And I would remind all speakers not to refer to your -- not to refer to business proprietary information in your remarks. And please speak directly into the microphone for the benefit of the court reporter. Also, before speaking, please state your name and your affiliation.

I understand that the parties are aware of their time allocations. And any questions regarding time allocations should be addressed with the Secretary.

Are there any questions? Very well, Mr. Secretary, let us proceed with opening remarks.

MR. BISHOP: Mr. Chairman, I would note that all witnesses for today's conference have been sworn in. Opening remarks on behalf of petitioners will be given by J. Kevin Horgan of DeKieffer & Horgan.

Mr. Horgan, you have five minutes.

OPENING STATEMENT OF J. KEVIN HORGAN

MR. HORGAN: Good morning, Mr. Anderson and Commission staff. My name is Kevin Horgan of DeKieffer & Horgan. I've been trade counsel to Titanium Metals Corporation for about 25 years. TIMET is the last remaining American producer of titanium sponge. Today, you're going to hear about why it became necessary for TIMET to file anti-dumping and countervailing duty petitions to mitigate the harm being inflicted on the American titanium sponge industry by unfairly priced imports of titanium sponge.

These dumped and subsidized imports from Japan and Kazakhstan have undermined and are continuing to undermine U.S. production of titanium sponge by placing integrated American titanium sponge producers at a severe economic disadvantage, compared to U.S. sponge melters, who

begin their titanium production process by exploiting the availability of unfairly priced imported sponge.

Seeing the injury caused by subject imports does not require some nuanced economic analysis. A year ago, there were two American producers of titanium sponge. Today, there's only one.

And the one that is still operating has cut back on sponge production, even though titanium demand in the United States has been strong and steady throughout the POI.

ATI, the company that shut down its sponge operations, or I should say suspended its sponge operations, cancelled its supply contract with U.S. Magnesium by invoking a force majeure clause that allowed it to cancel a contract only if ATI was able to obtain titanium sponge from other sources for a period of five years at a price that was 15 percent below ATI's variable cost to produce titanium sponge.

When it idled its Rowley, Utah sponge plant, ATI told the SEC and its shareholders that it had entered into a long^^term competitive cost, or excuse me, cost competitive supply agreements with several leading global producers, and that the lower cost titanium sponge purchased from the these global producers would replace the titanium sponge produced at ATI's Rowley facility.

ATI also reported that as a result of the

suspension of operations, it was incurring asset impairment charges of $470 million and other costs of approximately $34 million. That's half a billion dollars in damages.

So regardless of what ATI might tell you today, the decision to idle Rowley was driven by the availability of unfairly priced dumped and subsidized imports of titanium sponge from global producers. And the surge in imports from Japan and Kazakhstan after the closure of the Rowley plant tells you all you need to know about where some of those global producers are located.

And it hurt ATI and the American titanium sponge industry as a whole, even if the pain to the company might be mitigated by its replacement of domestic production with dumped and subsidized imports. The availability of cheap and supported sponge -- cheap imported sponge did not mitigate the harm suffered by the 150 workers, who lost their positions at the Rowley plant. Those workers were part of the American titanium sponge industry, too.

The value of TIMET's productive assets is also being impaired by dumped and subsidized imports of titanium sponge. As long as cheap sponge is available to TIMET's nonintegrated competitors, TIMET will not be able to earn a fair return on its sponge production operations.

Moreover cheap, unfairly priced sponge imports drag down the prices for downstream titanium products,

severely reducing the overall profitability of integrated titanium producers.

TIMET is subject to the same make or buy imperative that led ATI to idle its Rowley, Utah facility. I strong urge the Commission staff to look at the white paper TIMET prepared in early 2016, evaluating its options regarding investment in its sponge plant. That's Exhibit Gen 21.

In addition to the current harm being caused by dumped and subsidized imports of titanium sponge, the threat to what's left of the American titanium sponge industry is real and it is existential. You will hear today how the facts and the law clearly support a finding that there is a reasonable indication of injury and/or threat of injury to the American titanium sponge industry caused by imports of dumped and subsidized titanium sponge from Japan and Kazakhstan

We very much appreciate the staff's effort in carrying out a fair and expeditious investigation of TIMET's petition for relief from the unfair trade practices that are injuring the American titanium sponge industry. Thank you.

MR. BISHOP: Opening remarks on behalf of respondents will be given by Kathleen Cannon of Kelley Drye & Warren.

Ms. Cannon, you have five minutes.

OPENING STATEMENT OF KATHLEEN CANNON

MS. CANNON: Good morning, Mr. Anderson and members of the Commission staff. I am Kathleen Cannon with Kelley Drye appearing today on behalf of Allegheny Technologies, Incorporated or ATI.

While typically you see me appearing on behalf a petitioner and supporting the imposition of trade duties, this case is highly unusual in many respects and has led ATI, a U.S. producer that has used the trade laws on many occasions to oppose the case.

The facts presented by the petition do not demonstrate the injurious volume and price effects of subject imports on a domestic industry that justify relief under the trade laws. To begin with, most of the injury alleged in the petition and by Mr. Horgan this morning is not the TIMET the petitioner, but purportedly to ATI based on the idling of its sponge facility in Rowley, Utah. And Mr. Sims will discuss, the idling of ATI's Rowley facility was driven by many factors unrelated to the subject imports. A duty on imports will not remedy the problems for ATI.

Notably, prior to filing the petition, TIMET did not contact ATI to confirm the accuracy of any of its injury allegations or to ask for ATI to join as a petitioner, as would be expected if the import-related injury to ATI were

true. Nonetheless, ATI has become the poster child for the allegations of injury and the request for relief by TIMET, an odd use of the trade laws indeed.

Another highly unusual aspect of this case is the lack of open market sales. The titanium sponge produced by TIMET and the sponge that was previously produced by ATI was captively consumed by both companies in their production of downstream titanium mill products. Although TIMET claims that it offered its sponge for sale, as our witnesses will testify, TIMET was never actually attempting to sell its sponge to any of the major purchasers it cites. In fact, to the industry's knowledge, TIMET's capacity is not sufficient to meet its own needs, leaving TIMET to import the subject product to supplement U.S. production.

TIMET is not and has never been in a position to supply the demands of the U.S. market for titanium sponge, as it cannot even supply its own internal needs. TIMET's claim it is trying to sell any significant level of sponge on the merchant market are unfounded.

Under these facts, as the Commission has recognized in other cases involving high levels of captively consumed products, the volumes and price effects of subject imports are minimized. There is no direct competition between U.S. producers and the subject importers for sales of titanium sponge. So there are no lost sales and no

displaced U.S. volumes or market shares.

In fact, even an assessment of the market share of subject imports shows no increase between 2014 and 2016. Further, imports had a longstanding historical presence in the U.S. market, often in much larger volume levels than the volumes of imports during the period of investigation. And as I noted, TIMET itself has long been a significant importer of this product, too.

TIMET's attempts to show adverse price effects are also unsupported by the record evidence. There is no underselling by subject imports, as there are no real commercial sales or any competition with subject imports in the open market demonstrated by TIMET.

Further, the pricing data TIMET has submitted does not prove its claims of adverse price effects as our economic analysis will demonstrate.

As to impact, we are struggling to find the harm that TIMET claims to have suffered due to subject imports. Although the data are largely confidential and cannot be discussed publicly, there's little correlation between import volumes or prices and injury to a U.S. industry. Simply put, this case does not meet the basic statutory factors required to demonstrate a reasonable indication of material injury by reason of imports.

In fact, the facts presented here are remarkably

similar to the facts that caused the Commission to revoke the prior orders on titanium sponge in 1998. In deciding to terminate the prior orders, the Commission focused on the extensive captive consumption in the market that minimized direct competition with imports, the strong demand for titanium sponge, and the inability of the U.S. producers to supply merchant market needs. Those market dynamics remain true today.

Although I have often emphasized to the Commission the low threshold for a preliminary determination as set forth in the American Lamb case, the record presented here is a rare occasion where even that low threshold has not been met, where the petitioner cannot demonstrate lost sales to subject imports, adverse price effects from subject imports, or result in material injury to a U.S. industry that is related to those import volumes and prices. A negative decision is warranted. Thank you.

MR. BISHOP: Would the panel in support of the imposition of the anti-dumping and countervailing duty orders please come forward and be seated? Mr. Chairman, this panel has 60 minutes for their direct testimony.

MR. ANDERSON: Good morning to our first panel, Mr. Horgan and our witnesses. Thank you for being here today. Before I let you start, I just want to -- I think everybody was notified, but the Commission has business at

11:00 today here in this room, a vote. And so we're going to have to take a suspension of wherever we're at in the conference at about 10:50. So just to make everybody in the room aware of that.

So Mr. Horgan, when your panel's ready, please proceed.

MR. HORGAN: Okay, good morning again. And we're going to start with Henry Seiner of TIMET.

STATEMENT OF HENRY SEINER

MR. SEINER: Good morning, Mr. Anderson and the Commission staff. Thanks for the opportunity to present our side of the story to you today. I look forward to clarifying any questions you have regarding our petition. I'm Henry Seiner, vice president of business strategy for TIMET. I'm responsible for purchasing, as well as production planning. I've owned the raw materials and the make versus buy strategy for TIMET for many years. A 26 year veteran of the industry. The past 20 years primarily focused on titanium raw materials. For the past 10 years, I've participated in the International Titanium Association Supply Trends panel, including the last seven as in a sponsorship role. Many of the companies represented today have presented on that panel. I've also made multiple presentations on titanium raw materials and market dynamics at the TZMI's annual congress in China. TIMET's not only a

producer, but also a major consumer of titanium sponge from Russia and Kazakhstan, as well as from the Ukraine and China and even from Russia.

I've personally negotiated many times directly with the parties named in this petition. Probably had 10 meetings -- more than 10 meetings with each of the Japanese producers over the last 12 months. Based upon this track record, I believe I'm fairly well-versed in titanium raw materials.

This morning, I'm going to review the six major tenets of TIMET's petition. Each of these from a standalone perspective constitute injury or potential injury to the U.S. industry. When combined, they provide overwhelming evidence of injury.

The first example I'd like to review concerns the recent ATI plant idling. ATI has a long history of producing titanium sponge in the U.S. The Albany, Oregon plant opened in 1981, was idle due to business conditions in 2001, was restarted in 2005 before being idle again in 2009, and eventually closed in 2014.

Interestingly, after the earlier orders were revoked the Albany plant closed within the following year. So business conditions are clearly, even when the order was revoked last time, maybe were imperfect.

The Rowley plant was first announced in 2006,

started production in 2009, received standard quality qualification in 2012 and premium quality qualification in 2016. So 10 years after it was announced, nearly seven years after it started to get qualified for premium quality sponge and then was idled in August of 2016.

Originally announced as a $325 million investment, later increased in $460-. And after the announcement, ATI reports more than $500 million of charges related to the idling. So we didn't need to contact to ATI to -- the numbers were their numbers all released in the public domain.

In the aftermath of the stoppage during resolution of the legal dispute with their processing partner U.S. Magnesium, which was co^^located next to the sponge facility and involved in recycling the magnesium used in a sponge making process, details of ATI's economic force majeure declaration came to light. The force majeure clause required ATI to have an offer at least 15 percent below their variable costs. So not this $500 million, their variable cost for a duration of at least five years in order to server their relationship with U.S. Mag.

This is clear evidence that imported sponge was the cause of the idling and resulted in financial injury to ATI. They're on record at time of the announcement in 2006 to have a requirement for 150 jobs, but paying more than

double the median wage into a county where the plant was located. The United Steel Workers Union will comment further on the clear evidence of injury to those individuals following my presentation.

Additionally, although not represented here today as part of this conference, employment and financial results at U.S. Mag were certainly impacted by ATI's decision to top -- stop making titanium sponge at Rowley.

An additional facet of our injury petition is related to the impact low price imports from Japan and Kazakhstan has had on TIMET's sponge plant in Henderson, Nevada. Excess capacity in the global sponge industry and resulting high inventory levels forced our hand. In early 2016, the decision was made to reduce the production rate. Henderson is continuing to operate at a lower rate through 2017.

The primary operating philosophy of Precision Cast Parts Corporation, our parent, is to maximize asset effectiveness in manufacturing plants. The decision to reduce the operating rate was a huge step.

Due to the highly technical nature of these positions, reductions in force are especially painful. The hiring and training burdens of ramping down and then ramping back up the plant are significant. This was a noteworthy decision and one taken only as a last resort.

While commercial sales of titanium sponge are not a major component of TIMET's business plan, TIMET has attempted to sell sponge to U.S. melters for a long time. In the early 1990s, in conjunction with partner Toho Titanium, TIMET updated its sponge making technology and opened the vacuum and distillation portion of our sponge plant in Henderson, Nevada.

For the first several years of operation, significant quantities of sponge from this plant were sold to domestic melters, including ATI and Arconic by Union Titanium Sponge Corporation, UTSC, which was a consortium of Japanese companies led by Toho, which had a 25 percent in TIMET at the time.

During the mid to late '90s, TIMET repurchased this 25 percent after which time other domestic melters refused to make additional purchases from TIMET. After UTSC disbanded, domestic melters refused to buy from TIMET because we were a competitor.

From time to time, over the last 20 years, TIMET has attempted to sell sponge to the domestic melters with no success. TIMET is fully qualified to supply all applications such that certification to them is a formality for us.

Thorough evidence of TIMET's efforts through the years have not been recorded. The petition does include

documentation of some recent efforts, which were immediately rebuffed. While it does make sense for competitors to buy TIMET's sponge to reduce their duty drawback burden, TIMET has not been successful.

In the days immediately following ATI's Rowley announcement, I reached out to ATI in attempt to supply them, but was denied. Third party sales are not a major component of TIMET's business plan, making this a nontraditional industry claim, we admit that, but efforts have been made and were rebuffed.

Another powerful element to our petition relates to the potential further devastating injury impact to our Henderson sponge plant. TIMET has been making sponge since the 1950s in Henderson Nevada. Although redacted and therefore not part of the public related to the filing, the petition includes an internal white paper from March of 2016, well before Rowley's closure.

This white paper concerns the future direction of the Henderson plant. Options considered covered a range of radical alternatives, including significant reinvestment, as well as significant curtailment of operations.

For obvious reasons, I'm not comfortable discussing the specifics in a public forum, but as a fully integrated sponge producer which includes both what you U.S. Mag was doing for ATI and the manufacturer of titanium

tetrachloride from feedstocks, TIMET's Henderson sponge manufacturing employment is significantly higher than the 150 estimated at Rowley.

Additional injury has resulted from dumped imports related to downstream pricing. I'm not trying to draw a perfect correlation between imported sponge and downstream pricing. Nor am I attempting to refute that there are many factors at play in the titanium industry, but clearly, the precipitous decline in imported sponge prices has played a role in the reduction of melted and mill product prices, which has reduced the profitability of TIMET.

Competitors have been able to lower prices of their downstream products as a result of decrease sponge cost from Japan and Kazakhstan. TIMET's mill product price strategy was not the result of a market share grab strategy. TIMET had been forced to reduced prices just to stay competitive and maintain market share.

The petition, again redacted from public view, contains detailed information documenting the reduction in prices from 2013 to 2016. This has resulted in a significant reduction in TIMET earnings, clear evidence of injury.

This chart details in aggregate the relationship between dumped imports and downstream pricing. Compared to

2013, the average selling price of downstream products has declined by more than 10 percent. The average CIF value of imported sponge has declined by more than 25 percent.

And this is not a products mix -- product mix anomaly. Each of the five product groupings detailed here forged products, cold rolled products, hot rolled sheet products, tubular products, and plate products have experienced price declines since 2013 of between 7 and 35 percent.

And if this were to be expanded to the 10 product families, which further nullifies the product mix argument, one will see that each of the 10 is down as well. The correlation between import sponge pricing and downstream product pricing is strong.

I expect that the other side today might allege that the downstream price erosion is a result of TIMET's attempt to garner additional market share, cutting prices to steal business from them. This charge should put that argument to rest.

It depicts significant growth in industry volume and TIMET U.S. volume from 2013 to 2016, coinciding with growth in the aerospace industry increase for demand for titanium downstream products.

As an aside, one would expect that prices would increase during periods of growth, which was clearly not the

case detailed in the prior charts.

The purple line depicts TIMET's U.S. market share of the global market during this time period. It shows clearly that TIMET as treaded water for the past four years. The shared depiction is irrefutable as TIMET knows for certain its volumes. So we know the numerator. And because of industry sources including the USGS, the Japanese Titanium Society, the Chinese Titanium Association, and the public reporting of VSMPO, the Russian titanium producer, more than 90 percent of this global estimate is documented and less than 10 percent is based on internal TIMET estimates. So we're not guessing at what our share is. We know that that's our share and that it hasn't increased over the period of investigation.

In addition to the share grab argument, and it's anticipated the other side may attempt to attribute the downstream price decline to revert or scrap, the other major raw material used during the titanium melting process, this chart utilizes the industry benchmark prices for prices -- metalprices.com in its annual average prices for each of the commodities and strongly refutes the argument that scrap is driving the downward trend.

In fact, the two major bellwether revert imports 6-4 bulk audibles and 6-4 turnings which are the yellow and blue lines here used by melters to make aerospace grade

titanium more higher in '14 and again in '15, as compared to 13. So the decline in downstream product pricing was clearly not the result of cheap scrap availability.

The other side may also point to the reduction in titanium feedstock costs, an important raw material utilized to manufacture titanium sponge as justification for enabling lower prices. Although the above reveals a decline in various feedstock commodities from 2014 to 2016 and '17, this reduction accounts for only about 10 percent of the sponge decline.

In spite of attempts, TIMET was unable to get its hands on clean data -- excuse me, clean import data on the cost of feedstocks in Japan and Kazakhstan. The above data was published by TZ Minerals, TZMI, the industry leader in titanium feedstock information. And in conjunction with periodic discussions on this topic with the parties identified in the petition, I can state with confidence that their feedstock costs are in line and do trend with the above materials, bellwether materials listed here.

Each of the products detailed above contains varying% percentages of titanium dioxide, which accounts for the wide differential between Ilmenite, which is typically 50 percent or less titanium content and Rutile, which is typically 95 percent.

In the case of the 95 percent content, the 16

percent decline or 134 per metric ton decline from 14 to 17, translates only to 27 cent per kilo reduction in titanium sponge costs. It's enabler for sure to support a lower sponge pricing, but not one that justifies the more than $2.50 to kilo decline in CIF pricing.

The final leg of TIMET's potential injury argument relates to the real threat to national security. Sponge is a critical requirement of titanium mill product manufacturing. TIMET is the only remaining North American sponge producer. Arconic closed their RTI plant in Ashtabula, Ohio in the early 1990s and had a short-lived attempt in late 2000s to invest $300 million and co^^locate a plant next to a tetrachloride producer in Mississippi, but their partner went bankrupt and they had approximately $7 million asset impairment and related charges at the time. And we covered ATI's history earlier.

In July of this year, an executive order was launched across government study of whether the country's manufacturers can fully support the military's needs, looking for single points of failure that the government policy can address. TIMET can address -- has adequate capacity to address all of the defense needs, not the larger commercial aerospace market.

Titanium sponge will surely be identified in this study as a potential single point of failure. In the

'80s, during the Cold War, the Defense Logistics Agency stockpiled approximately 30,000 tons of titanium sponge. The stockpile wasn't needed and was sold off for pennies on the dollar between 2000 and 2005. But since 2005, the DLA has undertaken multiple initiatives to address the driving security concern related to titanium sponge with consideration of sponge ingot and downstream product buffers.

TIMET is the only remaining producer of titanium sponge. Furthermore, the proximity of the three Japanese plants and the shipping lanes from Japan and Kazakhstan could be disrupted in the event of a conflict with North America. It's imperative that -- with North Korea, excuse me. It's imperative that injury to the single point of failure be avoided.

In conclusion, TIMET's not trying to present Japan and Kazakhstan producers from supplying sponge to the U.S. market. Clearly, TIMET doesn't have the capacity to supply the other U.S. melters' needs. The driving force behind the petition -- the filing of this petition is the need for fair pricing. Fair prices will ensure health competition, eliminate injury, and potential injury which is being inflicted today. TIMET is being injured because the value of its productive asset, that Henderson sponge plant is impaired.

Additionally, TIMET cannot justify new investment if dumped imports continue to place TIMET at a cost disadvantage. Dumped and subsidized sponge plays domestic integrated producers at a severe disadvantage versus melters who exploit the unfair trade practices of foreign suppliers and governments. The facts clearly demonstrate that injury has occurred. We'll leave it to the Commerce Department to determine whether it has resulted from unfair pricing, but the injury evidence is overwhelming. Thank you very much.

MR. HORGAN: Thank you, Henry. We're going to ask the USW to speak now. Roy Houseman.

STATEMENT OF ROY HOUSEMAN

MR. HOUSEMAN: Good morning Mr. Anderson and the Commission Staff. My name is Roy Houseman. I'm a legislative representative for United Steel Workers. We are the largest industrial union in North America with about 1 million active, retired and laid off members.

We are proud to represent the men and women in nearly every manufacturing sector including throughout America's titanium industry. The USW has consistently opposed the unfair trade practices of foreign companies and governments. Unlawful government subsidies and injurious dumping violate the U.S. and International trade rules and have a devastating impact on American Workers.

The USW represents the workers at TIMET's titanium sponge plant in Henderson, Nevada. Until it closed at the end of 2016, the USW also represented the workers at ATI's titanium sponge plant in Rowley, Utah. When the plant closed, I had the sobering task of helping those workers file for the Trade Adjustment Assistance Petition.

The TAA Petition was successful because the workers lost their jobs due to unfair trade and imports being a factor. Workers in America's titanium sponge plants have suffered job losses both in Utah and Henderson, Nevada. Workers in Henderson have also seen their hours go down. These lost jobs and wages have resulted in real financial harm for hardw0orking, highly skilled American workers.

The families and communities that depend on the success of these plants have also been hurt. American workers and the products we make can compete with products from any country in the world but we cannot stop unfair trade practices without the vigorous enforcement of America's trade laws. These workers are counting on the Commission and the Commerce Department to fully investigate the facts in the case to determine if the injury is being caused by dumped and subsidized imports of titanium sponge.

We are counting on the Commission to enforce the trade laws so that titanium sponge producers and workers have a future that will make the United States more

prosperous and secure. On behalf of our union members who can make titanium sponge and the communities that depend on them I urge the Commission to find that imports of titanium sponge which are being unlawfully subsidized and dumped in the U.S. Market at unfairly low prices are injuring the U.S. titanium sponge industry including the men and woman who do the work of processing the highest quality titanium sponge in the world.

Thank you for your attention and your important work.

STATEMENT OF J. KEVIN HORGAN

MR. HORGAN: Thank you, Roy. I'd just like to add a few comments on the law and the economics here. As Ms. Cannon indicated, this investigation is unusual but it's not unprecedented due to the fact that the petitioner TIMET only has a handful of commercial sales and does not have adequate capacity to meet all the needs of titanium melters in the U.S.

As Henry indicated, we're not cutting off their supplies. They can get as much titanium sponge as they want from anywhere in the world that they want. We just want them to pay fair prices for it. Title 7 of the Tariff Act of 1930 does not require that a Petitioner be a commercial seller of the product under investigation in order to get relief from injury caused by imports or dumped or subsidized

imports.

Nineteen USC Section 1671 and 1673 provide that if the administering authority determines that a class or kind of imported merchandise is being dumped or subsidized. If the Commission determines if the U.S. Producers of the like product are being injured or threatened with injury or the establishment of an industry is materially retarded by reason of these imports, the antidumping or countervailing duties shall be imposed.

In defining the Domestic Industry the Commission's uniform practice is to include in the industry all producers of Domestic Production of the like product, whether it is whole-produced, capitally consumed or sold in the Domestic Merchant Market.

In the Petition we discussed the tungsten ore concentrates case where like this the Petitioner produced only captively consumed material. That didn't stop the Commission from making an affirmative injury determination in that case and it should not stop the Commission here.

We've already heard reference to past titanium proceedings, in particular the changed circumstance review that revoked the antidumping duty orders on titanium sponges from the former Soviet States including Kazakhstan and Japan. The Commission looked at titanium demand at the time, the limited commercial sales by two Domestic

Producers, then TIMET and Ormet and limited domestic capacity and concluded that the U.S. Industry which then, as now, consisted of two captive producers, was not likely to be harmed by dumped imports of titanium sponge because titanium demand is strong.

With all due respect, the Commission got it dead wrong. Shortly after that decision the Ormet plant suspended options. It did go back into production a few years later and then it suspended operations again in 2009. Never resumed operation and was closed at the beginning of 2014 permanently.

That's the same Ormet facility that is now owned by ATI. Fortunately, the Commission now doesn't have to speculate on what might happen if an order is not issued. The damage to the U.S. Industry has already occurred. Despite strong titanium demand in the U.S., despite the fact that ATI Rowley was a captive producer, despite long-term contracts, despite the limited commercial sales of domestic sponge, ATI Raleigh was not immune to competition from dumped and subsidized imports. It was replaced by dumped and subsidized imports.

The limited number of commercial sales does deprive the Commission of one indicia of injury, price-to-price comparisons. But there is plenty of other evidence indicating current injury and treat of further

catastrophic injury. First of all, there is ATI's shutdown. That was price-driven, clearly. There were fired workers, there were lower hours for remaining workers.

There were production declines TIMET. Lower capacity utilization at TIMET. Impaired asset values to the tune of half a billion dollars, not even counting what is happening to TIMET. Lower prices for downstream products. U.S. inventories are growing. The market share for Subject Imports climbed from 40 percent in 2016 to 66 percent in 2017.

The prevalence of long-term contracts has not prevented the steady decline in titanium sponge prices due to dumping and subsidization. As far as price is concerned it seems those long-term contracts are being routinely renegotiated.

I'd like to say a few words about threat. The threat to continue production of titanium sponge in the United States could not be more real. Foreign Producers of Subject Merchandise have offered TIMET the same deal that ran ATI out of business. TIMET has to make a decision on massive investment of its sponge plant if it intends to continue sponge production. The availability of titanium sponge imports at unfairly low prices discourages that investment.

Sponge producers in Kazakhstan and Japan have

enough excess capacity to take over the entire U.S. Market for titanium sponge. Exports for titanium sponge from the Subject Countries to the United States are continuing to increase, rapidly. Subject Producers' inventories are rising dramatically. Prices of Subject Imports are trending steadily downward. Subject Imports are rapidly increasing and the Subject Producers are export oriented.

Kazakhstan has no home market for titanium products. The Japanese market for titanium products is saturated. There principal export, more a formal principal export market China is now self-sufficient in standard quality titanium sponge so Japanese cannot ship its titanium sponge at least the standard quality to China.

I think that if the Commission gets hung up on the fact that there are limited commercial sales of domestic sponge and thinks that in fact may indicate that Subject Imports are not a cause of injury, I think the Commission would then have to consider whether the presence of dumped or subsidized imports are preventing the establishment of a commercial titanium sponge industry in the United States.

If you have to have a commercial titanium sponge industry, then it's the dumped and subsidized imports that are stopping that from happening so I don't think you need to go there, but if you get there you can thank the lack of commercial sales as a deciding factor. Then you've got to

look at the establishment issue and decide whether the presence of those dumped and subsidized imports are preventing the establishment of the commercial outlet for TIMET's titanium sponge.

TIMET, as Henry indicated, has made commercial sales in the past, has made a handful of commercial sales during the POI and has been trying to make commercial sales throughout the POI. TIMET's efforts to engage ATI, Perryman and Arconic have been summarily rebuffed. One says "we are not interested in anything you have to say". Another one says "don't call us, we'll call you" and they never call. The third one says "if you're willing to sell below your cost of production, then we'll talk".

Mr. Seiner also explained how it would make sense for TIMET to sell to its competitors and for them to buy from TIMET but the prices for imports of subject merchandise is so low that the possibility of buying from TIMET is a non-starter as far as ATI, Perryman and Arconic are concerned.

So of there has not been any formal negotiation process, it's not because we have not tried, we've picked up the phone. They have hung up on us. This may be a case, as I have indicated, where you have to talk about the establishment of a Domestic Industry. Just to be clear, the law does not require evidence of actual commercial sales to

support an affirmative finding of injury.

In conclusion I'd just like to say that the questionnaire responses filed by the parties have fundamentally confirmed all of the allegations in TIMET's antidumping countervailing duty petition. The Commission should vote to get the present investigation into its final phase. Thank you and we'd be happy to respond to staff questions.

MR. ANDERSON: Thank you Mr. Horgan and thank you to the Panel for being here today and for your helpful testimony. We would now like to turn the time over to Staff for questions and we will start with our investigator, Mr. Harriman.

MR. HARRIMAN: Good morning to the Panel. Thanks for being here and providing your testimony. I have a quick product question to start off with just to help us summarize and understand the product. Can you summarize the difference between the premium and standard grade sponge and what the end uses for those would be?

MR. SEINER: Rotating aerospace parts require premium grade application, premium grade sponge that has a fixed manufacturing process and is free from evidence of defect. That's the driving difference.

MR. HARRIMAN: Can you talk a little bit about the end uses that it is used for?

MR. SEINER: So it would be rotating parts of an engine, in the hot section of an engine. It would be in some cases even non-rotating of parts like landing gear that are subject to man-rated static high stresses that where a defect would result in catastrophic failure and loss of life.

MR. HARRIMAN: I see, thank you. I'll mostly focus, I have a couple of questions on the nature of these sales efforts which you have discussed already. I know in exhibit GN26 it says TIMET has been unsuccessful in its efforts to sell titanium sponge to unrelated domestic and export customers.

Can you describe in a little more detail the nature of these efforts and the kind of outreach you made and the extent to which they were formal channels, informal channels or anything you can discuss?

MR. SEINER: In the one case, after ATI's closure I personally contacted a member, my counterpart if you will at ATI who I know is responsible for their make versus buy strategy, extended the offer to him via email. The others have been principally telephone calls from TIMET's sales staff to the key purchasing representatives from the other organizations.

MR. HARRIMAN: What would be the marginal difference towards trying to -- you mentioned it was not

part of the business plan to focus on that but what would be the marginal difference to try to sell some commercially versus continuing to use it for downstream product?

MR. SEINER: It would prevent us from having to cycle the plant down when we are over inventory. It would allow us to establish, it's a small industry. We do business with each other on multiple fronts so when our sales people are picking up the phone and calling them on sponge it is because also they are selling them in coils, ingots or conversion services. So we are buying conversion services from them. We have our sales team, has an ongoing relationship with the other melters.

MR. HARRIMAN: Lastly, can you talk about you mentioned that it was a little bit more active in the 90's. Can you summarize again the general timeline from how active this element was in your business plan from the 90's to today?

MR. SEINER: So sponge is not the only example. TIMET also had a joint venture with another company for melting and the product from that joint venture was sold in considerable volumes to other melters and after the -- and that was during the same time period in the late 90's where we took over a hundred percent control. They cut off all purchases, simply didn't want to buy from a competitor.

When UTSC had 25 percent ownership and they were

the ones making the sales calls on the other melters, they were able to sell. As soon as UTSC went away, failed to exist, TIMET was unable to sell to other melters and there has not been significant sales since.

MR. HARRIMAN: Well, thank you. I may follow up later but I know my colleagues have a lot of questions as well so I will defer to my colleague.

MS. BUTLER: Good morning, thank you for coming to Washington to speak on behalf of your industry. I'll just start on Page 9 of the petition. You have the HTS number as 8108200010. Would you please confirm if that is the only HTS number and how much of the excluded product is in that number.

MR. HORGAN: It is the only titanium sponge number but it covers, I believe, only titanium sponge. It is possible it covers sponge fines but we things those volumes are pretty small. We think it's pretty nearly 100 percent titanium sponge.

MS. BUTLER: Okay, now if you would, describe how the injury has evolved over the recent years. Has there been any automation? Any new technology to change how this process has happened, particularly since the revocation of the recent ABCBD order?

MR. SEINER: Not significant changes to the Kroll process so all of the manufacturers are more efficient.

There have been new plants that were built utilizing the same technologies but producing in larger batch sizes which improves the economics slightly but the basic technology of magnesium reducing titanium tetrachloride is unchanged.

MS. BUTLER: Okay. And you said to the Kroll processes, are there any other processes that we should be aware of?

MR. SEINER: There was a hunter process that isn't being used for any products within the scope, no.

MS. BUTLER: Okay and do you have any purchasers for the runoff or any of the recycled magnesium?

MR. SEINER: No.

MS. BUTLER: What happens there?

MR. SEINER: We recycle it all ourselves. In fact, there is what's considered a closed loop process and so there is a small amount of magnesium that's lost in that closed loop so very small percentages that flow through into the sponge or get lost so we buy small quantities of virgin magnesium to supplement our process but we utilize all of it, all the mag-chloride and don't sell any in the commercial market.

MS. BUTLER: I'm not sure if you're aware but there was an announcement made yesterday by Boeing that they anticipate increasing production of both passenger and military aircraft. Have you at all considered how that

might impact your company?

MR. SEINER: Yes, we welcome the volume as you can see volume has not been a problem. It's been price and there is adequate capacity between TIMET and the other individual companies represented in this room to satisfy those requirements. I can confidently state that.

MS. BUTLER: And can you at all speak in this forum about the impact that reduction in domestic aircraft over the past decade 15 years has had on those charts that were presented? How that might be reflected?

MR. SEINER: Reductions in?

MS. BUTLER: In engine, in like the moving parts. Has that at all had any impact?

MR. SEINER: Downcycles in aerospace?

MS. BUTLER: Yes.

MR. SEINER: Sure, when there are downturns and volumes are reduced, there is downward price pressure. We have not seen that, we've seen growth through the POI and prices going the other way.

MS. BUTLER: Okay. Just a couple more. So the chart that you presented up on the big screen was in color thankfully on page 41, in the filings it was in black and white, but if you wouldn't mind describing from 2014 and 2015 there is a slight bump where the green line does go out of sync with the others, on page 8 of your presentation

today, 41 of the brief.

Can you describe a little bit of what was happening between 14 and 15 for us? Why that line plateaus for you?

MR. SEINER: It was flat and probably when you saw the increase in sponge prices and scrap prices on page 11 it prevented further decline in the overall prices. So when the yellow and blue picked up significantly from 14 to 15, the average price didn't decline and it was then that the further reduction in 16.

So as I said before, there are many factors at play here. Sponge is not the only one. There is no argument that scrap has an impact on prices as well as competition but the overlying trend correlation is there.

MS. BUTLER: And so your sources for the data are?

MR. SEINER: For the sponge you mean?

MS. BUTLER: On both page 8 and 11 of the presentation today.

MR. SEINER: So the ITC import statistics are the red and the blue lines and the green line is TIMET's internal price data. On page 11 it's metalprices.com. Again being compared to TIMET's internal price data which is included in detail year-by-year, volumes and prices in the

Petition.

MS. BUTLER: Okay. Last two questions. To the best of your knowledge, are there any antidumping or countervailing duty orders in third country markets?

MR. SEINER: No, not to my knowledge.

MS. BUTLER: And perhaps for Mr. Houseman, what would the impact be on the displaced workers if there were a ruling in the Petitioners favor today?

MR. HOUSEMAN: You know, it would be up to the business decision of the company to hopefully bring it back online production but currently this workforce has been laid off for over one year and are going through job retraining if they so choose.

MR. HORGAN: This is Kevin Horgan. If I could just -- he's talking about the ATI plan where they have been laid off for more than a year but certainly at a time their hours could increase, workers could be recalled so it could have an immediate beneficial impact on TIMET's operations. We don't know what ATI will do but you never know. They didn't shut down the plant permanently. They said they kept in a state where it could be reopened so perhaps an antidumping countervailing duty order will encourage that.

MR. SEINER: TIMET hasn't drawn a line in the sand and said if this is unsuccessful we are going to shut down the plant. We are still considering this investment.

We still have not made that decision yet.

MS. BUTLER: Thank you.

MR. ANDERSON: Thank you, Ms. Butler. Let's turn it over to Mr. Henderson. Can I just ask that you state your name before responding to the questions for the benefit of the court reporter, thank you.

MR. HENDERSON: Thank you and I'd also like to welcome Mr. Seiner and Mr. Houseman and the Petitioners' Panel here. We have not heard from the Respondents yet, their positions on certain legal issues but I feel that I should at least raise them with the Petitioners. First, on domestic like product, I know you stated that you think there should be a single domestic like product that's coextensive with the scope of the Petition and it stated that in the prior Commission proceedings and changed circumstances review the Commission also found a single like product.

I could not ascertain from looking at those Commission opinions whether there was an exclusion for ultra high purity titanium sponge, I don't know whether it was produced back in 1984 but could you explain, we need some information for the record about differences and some of this was already covered in the response from Mr. Harriman's question. Differences in production process, characteristics and uses, interchangeability between ultra

high purity titanium sponge and what's within the scope here.

MR. HORGAN: Okay, speaking first, this is Kevin Horgan, speaking first of the ultra high purity sponge. That's produced using a different process altogether. That's produced using a sodium reduction process. As Mr. Seiner testified, all of the titanium sponges used in scope are produced using a Kroll process though it's a very different, much more expensive process and the output of the ultra-high purity sponges are principally used in electronics and manufacture of electronic chips and stuff like that.

It's very different in terms of the processes, it's different in terms of the applications and it's certainly ATI, Arconic, Perryman are not buying much of that as far as I know. It's a very different channel of trade. It's aimed at different customers, different processes, much different price structure so in that regard we think that would be a separate like product if we had included it. Someone would be in here arguing for a separate like product.

We are trying to stop collateral damage and I think we don't want to bring in unnecessary products that are not being affected by these imports. We have also been working with the Commerce Department on the scope to define

powders and sponge fines which are small and loose particles of titanium metal. Again, that's sort of a different channel of trade and it's defined on the ASTM as anything less than 20 mesh is the ASTM standard and we've worked with the Commerce Department on this scope issue. We expect that will be excluded as well.

Again, titanium powder is used in additive manufacturing and even though it is produced using the same Kroll process it is ground down to such a fine size that the chemistry changes, the applications change, the end users change. Again, we regard that as a separate like product and we have asked Congress to exclude that from the scope as well.

MR. HENDERSON: Okay, thank you. And as the petition states, that both ATI and TIMET are also importers of subject merchandise and under the law they would be related parties, I take it from all the discussion here that the Petitioner's position is that none of the domestic producers should be excluded as a related party.

MR. HORGAN: Certainly TIMET shouldn't be excluded. We're not asking to be excluded, and I don't think --

MR. HENDERSON: What is that?

MR. HORGAN: When you look at this industry, you have to look at the industry as a whole. You can't

ignore the fact that ATI, even though they say it now, it didn't hurt us when you were better off with sponge, it did hurt. It hurt those workers. They were part of the industry. Certainly at least until the end of 2016, which is part of the POI. Their operation has not been shut down. It's suspended. They've indicated they've closed in a way that will allow it to be reopened.

So even though they may oppose this titanium petition, I think what's happened to them, what they've done is certainly evidence of what's happened to the industry as a whole, and they should be included for analytical purposes, regardless of what their position is on this petition.

MR. HENDERSON: Okay, thank you. And since we have the subject imports from two countries, Japan and Kazakhstan, obviously there is an issue of cumulation. And one of the interesting issues here where we have so much being captively consumed is trying to examine whether subject imports from these countries and the domestic-like product can be in the same channels of distribution.

MR. HORGAN: This is Kevin Horgan again. They certainly do. As TIMET's indicated, they have bought from Japan, they have bought for Kazakhstan, they've used it interchangeably with their own production and the domestic production. Now you can't, as the petition indicated, you

can't use standard quality in an application that requires premium grade. But you can always use premium grade for standard quality applications, and that does happen. The chemistries are very close.

You have to think about the production method here. When they produce titanium sponge, it comes out in a huge mass, you know, a thousand or how many, ten thousand times?

18,000 pounds, and from that single mass you get multiple grades. You get both premium quality and standard quality. So it costs the same to produce, you use the same equipment. You're using the same workers to make that product. It's only after you make it that you sort out which is premium quality and which is standard quality. So it's clearly, and also ATI and I think all of the producers or actually all of the smelters, at least three of them, they acquire both premium grade and standard quality sponge. So it flows to the same people. It's all direct exports from Japan and Kazakhstan to end users. So I think the channels of trade are very similar.

As I said, the evidence is clear that the domestic producers certainly use it interchangeably with their own production. So there's no question that it's interchangeable.

MR. SEINER: This is Henry Seiner. It isn't

as though you tried to make standard quality then that you can cook it for a shorter time or to a lower temperature or something that's going to significantly alter its cost structure. Maybe you don't have to inspect it to as high a degree, but the production process is identical and the costs are very similar.

MR. HENDERSON: Thank you. Moving on to pricing issue, one question and I don't want to interfere with -- I know questions have already been asked about this and probably will be asked further, but just clarify on these offers to sale, offers to sell product without getting into obviously any confidential information.

When you were, Mr. Seiner, when you were contacting representatives of other possible purchasers, were there offers to sell with particular price terms and, you know, were these offers to sell or were they just contacts to let's discuss, you know, possible sales?

MR. SEINER: This is Henry Seiner again. They were contacts just in generalities, do you have interest. We never could get that far into a price discussion.

MR. HENDERSON: Thank you. And Mr. Horgan in terms of the Commission doing its pricing analysis, underselling and price depression, price suppression, there's references in your petition to the effect on prices

of downstream mill products. Now is -- is it Petitioners' position that the Commission should be considering the effect on downstream mill products in doing its pricing analysis of the effects of subject imports on the domestic prices for the domestic like product?

MR. SEINER: Well, we're not asking the Commission to collect price data on downstream products, on mill products. But I think we are asking the Commission to look at what happened to mill product prices as a whole, and see the correlation between them and the declining prices of titanium sponge that Henry Seiner clearly illustrated in his opening presentation.

It would be silly for anybody to say that declining raw material costs is not going to affect the price of downstream products. The only question is whether that price of that raw material, in this case sponge, is fair or not. Here it's not fair, and that has placed integrated producers at a terrible disadvantage, and the impact of that is felt both by -- it's been felt in a catastrophic fashion by ATI, and it's being felt by TIMET. It lost production, building inventories, much lower prices for downstream products. So it's affected its overall titanium operating as well.

MR. HENDERSON: But just to clarify, if there are -- have been effects, adverse effects on prices for

downstream products from subject imports, where does that fit into the analysis? Is that part of the Commission's pricing analysis? Is that part of the Commission's analysis of the impact of dumped imports on the industry producing --

MR. HORGAN: I think it fits into the analysis of the impact. Now there are a handful of sales. So if you want to talk about underpricing, it's uniformly undersold and the margins are significant on those rare occasions when we were able to sell. So there is some evidence of underselling, and that's further evidence that TIMET is trying to sell commercially or will sell commercially given the opportunity.

But when people hang up the phone when you call, you can't get the price discussions. It's like a telemarketer. We call them up and they just hang up the phone. So it's unfair to suggest that oh, you didn't make a formal offer, you didn't do this or that. You didn't have actual prices on the table. Well, the one price that was mentioned, and I won't say it here, it was in our confidential exhibits, was below TIMET's cost of production by a substantial amount.

So those are non-starters. So if there's no price information out there, it's because the Petitioners or excuse me, the other smelters wouldn't buy from TIMET.

MR. HENDERSON: Thank you. Since you have

raised the issue, Mr. Horgan, of -- that the Commission should at least consider, if necessary, the issue of whether subject imports have prevented establishment of a domestic industry, I would encourage you to address that in your post-conference brief, so the Commission can consider whatever arguments that would be relevant to that issue.

MR. HORGAN: We will do that. As I say, you don't need to go there. I'm not -- I don't think that's the proper analysis. But if the Commission really gets hung up on the lack of commercial sales, that's what they've got to do.

MR. HENDERSON: And a question that is in the handout and Mr. Seiner's testimony this morning with respect to possible threat to national security if imports cause, for example, TIMET's facilities to close, how is the Commission supposed to consider that as a part of its analysis? Under what statutory provision or, you know, how are we to -- how is the Commission to address that in its analysis?

MR. HORGAN: Well in fact I think the public policy issues like that are generally not something the Commission should take into account, because as I said at the beginning of our presentation, if there's dumping and it's causing injury, duties should be imposed. So that is -- the titanium industry is a national, you know, it's an

important part of the domestic national security supply chain, and I think anybody who thinks about titanium in the industry knows that. That's just part of the atmosphere of the industry.

So it is sort of a -- it's a characteristic of the industry, but it's not something, nor should any other public policy issue filter into the Commission's analysis. If there's dumping, if there's subsidies then there's injury. Orders should be issued.

MR. HENDERSON: Now as has been discussed this morning and it's obviously discussed in some detail in the petition, and there's an exhibit that's discussed, the issue of TIMET's make or buy decision is -- as impacted by subject imports is obviously an important issue. Even though there's a lot that's confidential with respect to this exhibit, we need at least some sort of understanding of what, how TIMET would go about and make that analysis.

MR. SEINER: If you can -- Henry Seiner again. If you can buy it cheaper than you can make it, why would you throw significant, you know, hundreds of millions of dollars, every investment into your shop? Simple as that. So that's one facet of that decision as to whether to spend that money to upgrade your shop.

MR. HENDERSON: And apart from the decision to spend further money, if there's already been money that's

been spent and it's not a question of spending additional money, how does that -- how is that analysis?

MR. HORGAN: This is Kevin Horgan. I think the way you have to look at that is, you know, if you're an integrated producer and he's competing with the people who have access to lower priced sponge, and he goes out -- he's working at a lower profit margin than his competitors are. So by switching to foreign sponge, he could increase his profit margin.

So by continuing to use internally produced sponge, he's leaving money on the table. As Henry just said, now he's being asked to reinvest in that plant. So he's asking to pay for the privilege of leaving more money on the table vis-a-vis their non-integrated producer, their non-integrated competitors.

So and this is -- this is an important issue for national security you just mentioned and for workers, you know. The shareholders, the owners of TIMET are not in the business of leaving money on the table. If they can make a higher profit by switching to dumped imports as ATI did, they may be inclined to do that. Then you say well, those workers, they've been loyal to us for 50 years, and they're nice people and skilled workers and hard workers.

But I can make more money if I switch to dumped imports. The national security of the United States,

well that's important too and the United States should have a domestic titanium sponge source. But you know, I could make more money if I switch to dumped and subsidized imports, and frankly I think the Commission, if those lower costs are due to unfair prices, then the Commission needs to step in and make that finding.

The evidence is there. It may be required to use a slightly different analysis in this case. It doesn't fit into the sort of format that you usually use for your entry analysis. But that doesn't mean there's not injury there. It's not obvious and it's not apparent and it's not real, and if the Commission doesn't step in, it will be catastrophic.

MR. Seiner: Henry Seiner again. We did contact the DLA and ask them if they would testify on our behalf today and they said that they aren't in the habit of doing that unless they're contacted. But they did reinforce that if we are making a decision to suspend production, they do want to be contacted because there are avenues available to us should we choose to go that route, based upon that national security argument.

MR. HENDERSON: And just to clarify, what does DLA stand for?

MR. Seiner: Defense Logistic Agency, the arm of the DoD.

MR. HENDERSON: Thank you.

MR. SEINER: They contacted us after the Rowley announcement and said are you going to close, and of course we told that we didn't have plans to do that at that time, and we still don't.

MR. HENDERSON: And looking at page 33 of the petition, there's a lengthy quote from one ITC Commissioner Ladwig from a 1991 Commission report, which I looked at last night, and apparently -- well Commissioner Ladwig draws the distinction between the make or buy decision during periods of declining consumption versus during periods of expanding consumption.

I gather from the petition and some of the testimony this morning, that the general view is that demand has been increasing during the Period of Investigation?

MR. HORGAN: Right. This is Kevin Horgan. Yes that's true, but the Commission really got it wrong. They got it wrong in this analysis, in the tungsten rule, and they got it wrong in 1998 when they revoked the other anti-dumping duty orders on titanium sponge, because what has been demonstrated then and is demonstrated again in this Period of Investigation, is even in periods of strong demand, that make or buy decision will lead to closure if low, unfair, dumped, subsidized prices are allowed to persist.

That's what -- so the conditions of competition haven't changed since 2016 when ATI made the decision to close. Those conditions of competition are the same then as they are now. The titanium demand was just as strong, and they closed. So this notion that titanium demand will insulate captive producers from competition is not true. As I just said, how much money are you going to ask them to leave on the table before they switch, and I think the dumping law was recently changed to indicate that a decline in profits is injury.

So if TIMET is foregoing profits by maintaining its internal production of titanium sponge, that's injury. That's what the law was changed to remedy. This notion that just because you're profitable that you're not being injured. If TIMET has to leave money on the table by being -- by continuing its internal production, it's being injured, and it's not going to continue doing that forever. It faces the same choice that ATI did.

MR. HENDERSON: Thank you. That's all the questions I have for now.

MR. ANDERSON: Okay. Thank you. Before I turn it over to Ms. Burke, I'd just like a clarification if you could, Mr. Horgan.

MR. HORGAN: Excuse me?

MR. ANDERSON: On the question -- the line of

questioning of Mr. Henderson was asking regarding the outrage and the efforts to sell. If you could just document that to the extent in your post-conference brief you could document any of the phone calls, conversations, etcetera, that would be very helpful. I just wanted to get that on the record and I'll turn it over to Ms. Burke.

MS. BURKE: Good morning. So the first question I have is today you stated that you've made a handful of commercial sales, but on page 30 of the petition you stated that TIMET did not make any commercial sales of titanium sponge during the Period of Investigation. So which is it?

MR. SEINER: The sales are de minimis. They were included in the producers' filing, the questionnaire response last week, and you'll see that the -- you know, it was one or two tons a year for a plant that's making more than 10,000, de minimis.

MR. HORGAN: This is Kevin Horgan. Just to be clear, as the one who prepared the petition, I was unaware that there were any sales, and certainly my understanding was that there were no sales. It's only when TIMET scoured its files during the questionnaire response preparation that it identified those sales.

MR. SEINER: Henry Seiner. One ton out of more than 10,000 is essentially no sale.

MS. BURKE: And to be clear, those sales were to unrelated parties?

MR. SEINER: Correct.

MS. BURKE: Okay. So this kind of goes off the line of questioning everyone else has said. But when you make offers to other -- to customers, do you offer discounts? Do you have price lists that you're working off of? This can will be in post-conference brief.

MR. SEINER: Henry Seiner. There are no price lists for titanium sponge, and as I said before we had never got that far to well, what price? The only feedback we received was well, if you'll sell to us for two to three dollars a pound, we'd be interested. So we never got as far as a serious discussion on volumes or prices.

MS. BURKE: And I mean this I guess would go off -- would you be offering it on a spot sale basis? Would you be offering it on a contract basis?

MR. SEINER: We never got that far. A contract would not be beyond the realm of possibility, no.

MS. BURKE: Okay, and so in general for the market, are most sales done on a contract basis or on a spot sale basis?

MR. SEINER: Contract basis.

MS. BURKE: And how long would those contracts generally be?

MR. SEINER: They vary significantly. Long term contracts can run from three to five years to ten to fifteen years, and there are fixed price contracts, there are variable annual leave negotiated contracts. There are prices that are indexed to certain things, that as costs go up or down, prices go up or down. So everything you can imagine exists out there.

MS. BURKE: So when you state in the petition that there were relationships between the customers that you contacted and who was supplying them currently, could in theory they be under these long term three to five year contracts?

MR. SEINER: Yes, and that could vary. That could be the reason that they were unable to buy. In fact, one indicated they weren't allowed to buy from a third party. Their contract mandated that they buy only under that contract. So but we're not privy to the details of the agreements between the other smelters and their suppliers.

MS. BURKE: Okay, great.

MR. HORGAN: This is Kevin Horgan. If I can just add, the prevalence of long-term contracts didn't stop ATI from shutting down. So clearly just because there are long term contracts out there, that doesn't mean there's no impact, no current impact from the availability of dumped sponge. So just because there is a long term contract

doesn't mean that they weren't -- that there isn't an impact.

As Henry indicated, the price terms of those long term contracts are changed over time. So prices go down notwithstanding the length of the long term contract. Thank you.

MS. BURKE: Okay. And again, this kind of goes to the conversation of potential customers, but when you were reaching out to anyone, were there any concerns over TIMET's ability to supply titanium sponge in the quantities that these customers might need?

MR. SEINER: Sure. We recognize we don't have the capacity to supply all of their volume. But we do have the capacity to supply some of it, and that was what we were attempting to do, to stimulate, and we have repeatedly over the last several years.

MS. BURKE: Okay, okay, and before we end, are there -- what are the substitutes, if any, for premium grade sponge and standard grade sponge?

MR. SEINER: So titanium scrap can be used in -- for some portion of the, if you will, the recipe to like you're baking a cake. When you go to make a titanium ingot, you can use all sponge and just add the alloying additions like aluminum and vanadium, or you can use scrap that has -- already has the aluminum and vanadium in it to some extent.

But you can't make it exclusively out of the revert, because scrap has higher oxygen content and you need the lower oxygen that sponge contains in order to sweeten that scrap. So you can't make premium grade ingots without premium grade sponge, and you can't make standard grade ingots without titanium sponge.

MS. BURKE: Okay, and so my understanding of premium grade and standard grade is that it's on a purchaser by purchaser decision. There's no like body that certifies sponge as premium grade and standard grade; is that correct?

MR. SEINER: That's correct. Henry Seiner again. That's correct. Each producer has a fixed practice agreement with its customer that -- and many times with the end user approval as well, General Electric or Pratt and Whitney, the engine makers will go certify the process at these plants, and once that process has been certified, then it's up to the producer to certify that it met all the conditions of that agreed-upon fixed practice.

MS. BURKE: Okay. So how would that then translate into interchangeability issues? I mean if each producer -- their sponge may be a bit different than another producer's, is all sponge -- it was mentioned that it's interchangeable. Is that true?

MR. SEINER: Henry Seiner. As long as it meets the chemistry requirements and it's free of defects,

made consistent with that certified, fixed practice, it's eligible to be certified as premium grade.

MS. BURKE: Okay.

MR. SEINER: There are differences between TIMET's production process and our fixed practices, compared to those of the other producers. But as long as they've been certified as good enough by the end user, then it can be certified that way. Sponge manufacturers try to make premium quality every time. But if when they have more premium quality than what their customers need, they sell them the same sponge at a much lower price, just marketed as standard quality.

MS. BURKE: Okay.

MR. ANDERSON: All right. We're going to suspend the conference and take a break here while we great ready for our official vote, and then we'll reconvene with this panel and with the questioning shortly after the vote. We'll call the room to order. So thank you for your patience in allowing us to conduct other Commission business.

(Whereupon, a recess was taken.)

MR. BISHOP: Will the room please come to order. I remind all witnesses that you remain under oath. Thank you.

MR. ANDERSON: Okay, thank you for that

suspension, and we'll continue with Ms. Burke and the staff questions.

MS. BURKE: So if we were to go affirmative in this case and you are importing currently from Japan and Kazakhstan, how would that change with an affirmative decision?

MR. SEINER: This is Henry Seiner. It would unlikely change our sourcing patterns. We would continue to buy from the same people in the same sorts of quantities that we've been purchasing historically.

A lot of our purchases are used in Europe. Not a lot in the U.S. Most of our U.S. smelting comes from our U.S.--our own captive production comes from the Henderson plant. A lot of the sponge that we do use is from other countries which makes products inferior to the product from Japan and Kazakhstan that we're able to use in certain applications, all of which was made clear in our questionnaire.

MS. BURKE: So earlier you stated that it makes sense for you to import the sponge currently because it's cheaper. But if it was the same price as what you're currently producing domestically, I'm a bit confused on that argument.

MR. SEINER: We aren't--in the U.S., we're not reliant upon the sponge from Japan and Kazakhstan. We are

principally reliant on our own internal production, and we supplement that with spot purchases from China, and from the Ukraine, and other--for nonsubstitutable, only partially substitutable material that's inferior in quality to what we can buy from Japan and Kazakhstan. Most of what we need in the U.S. at that quality levels we're able to support from our own production.

MS. BURKE: So if we were to go affirmative, would you--would you increase your own production of the premium grade, or the non-inferior product?

MR. SEINER: It might allow us to return back to full capacity, back to where we were before we made our rate reduction in 2016. And we don't have a track record of buying much premium quality from--importing much premium quality. The premium quality that we use, we mostly make ourselves.

MS. BURKE: Okay, so I guess the same question would then apply to standard grade, as well.

MR. SEINER: So we don't intentionally make standard grade, but if we get back to full production and we don't have enough internally, yes, we would continue to procure. But it's more important to us to, even if the price of what we buy goes up, getting the value for our investment, for our Henderson sponge plant, we think is worthwhile.

MS. BURKE: Okay. In terms of the differences in price of premium grade and standard grade, I'd just like to explore this a bit. So my understanding is that premium grade can be used for standard grade end uses.

MR. SEINER: That's correct.

MS. BURKE: So are there any price--should there ben any differences in price of premium grade and standard grade on the market?

MR. SEINER: Should there be any difference?

MS. BURKE: Or are there?

MR. SEINER: There certainly are significant differences. Should there be differences?

MS. BURKE: Why are there differences?

MR. SEINER: There are differences because it's got--so if you were only producing standard quality sponge, you wouldn't need to have those tight process controls in place to do that that are required for premium grade. And hence the third world nations, if you will, Ukraine and China, don't have the premium quality control systems, quality systems, in place. Their product is not as good. They have a higher--likely have a higher defect rate because they don't have those quality controls in place. And they sell at a lower price.

So it's more of--because there isn't enough premium quality demand, 20 years ago the Japanese sold--

exported only premium quality sponge. And because of a lack of premium quality sponge demand, they started selling--and the over-capacity in the global market for titanium sponge, they started marketing standard quality. Even though its cost is the same as premium quality, they marketed it at a lower price to increase their sales.

MS. BURKE: Okay. So then kind of following off of the answer to that, can you--have you observed a decrease, an increase or a decrease in demand for titanium sponge both domestically and within the world market? And how has that changed your own pricing?

MR. SEINER: There's been clearly an increase in demand. Pricing--the global market price for titanium sponge has come down in spite of that increase in demand, and the mix supplied by especially the Japanese between premium and standard has shifted to much more standard quality. In fact, less than 10 years ago there was I believe only premium quality sponge coming from Japan, and it's only in the last 10 years, accelerated in the last 2 or 3 years, that their mix has shifted towards the standard quality, which is the item that they're--I mean Commerce will determine this, but the item that they're selling at a loss.

I believe they're still making money on the premium quality that they sell, but I believe it's standard

quality that they're selling that's really being dumped.

MR. HORGAN: This is Kevin Horgan. If I could just add, I think you have hit on something there. There is a real disconnect between price and demand. In the case of increasing demand, you would expect prices to go up, or at least stay where they were. That's not what happened here. Prices went down by 20 percent over the POI, despite increasing demand. And that's why you can't look at the increasing demand where the overall demand for titanium or titanium sponge and say, well, that means they shouldn't get hurt because prices continue to go down. And it's because there's excess inventory. There's excess capacity overseas, and they're looking for an outlet. And the only outlet they have is the United States.

So they're pushing all their excess production into the United States. It is driving down prices, notwithstanding increasing demand. And, you know, I think that if the Commission wants to avoid those mistakes of the past in relying on demand as evidence of unlikelihood of injury, they've got to recognize that there's a disconnect. That notwithstanding increasing demand, prices are dropping dramatically. So something else is going on, and it's dumping, and it's subsidization. And that's why we're here.

MS. BURKE: Okay, and I want to talk about raw materials. Looking at page 11 of your PowerPoint slide, so

I'm a bit confused as to what I'm looking at here. Are you suggesting that raw materials, the price of raw materials for sponge have--just sponge, not the downstream products--has decreased over the POI?

MR. SEINER: Yes, it has.

MS. BURKE: Okay. And how much of your production costs are attributed to raw materials--and this can be in the postconference brief.

MR. SEINER: It's in our questionnaire. We'll include it in the postconference briefing. But every hundred dollar a ton decline in rutile translates to a 20-cent reduction in sponge costs. So $100 a ton is, in feedstock is a $20 a ton reduction per ton, which per kilo is 20 cents. So the price has come down $2.50. The price of feedstock, 862 minus 728 is down $134. So that $134 a ton reduces our--reduces the cost by 27 cents a kilo.

MS. BURKE: Okay, okay--

MR. SEINER: And the price is down $2.50 a kilo

MS. BURKE: Okay--

MR. SEINER: So feedstock--so sponge raw material cost reduction that accounts for part of their reduction, but not the significant swing of two fifty.

MS. BURKE: Okay, and I have one more question. I'm looking at your market growth and share chart, or graph on page 10. Is the industry, the U.S. industry? Or is this

the global industry?

MR. SEINER: This is the global industry.

MS. BURKE: Okay, could we see a similar graph in your postconference brief for your market share of the U.S. industry? I mean, can we get the same graph--

MR. SEINER: Sure, sure.

MS. BURKE: Just to see how that changes.

MR. SEINER: Sure.

MS. BURKE: Okay, thank you.

MR. SEINER: And we can share with you the actual numbers behind these. We just can't do it in a public forum.

MS. BURKE: I understand. Thank you.

MR. ANDERSON: Okay, thank you, Ms. Burke. Now--

MR. SEINER: Henry Seiner, one last--it is a global market. And so our shipments are--the shipments of the U.S. producers are all reported to the USGS. That's the only way we have to know what our competition is shipping.

We don't know whether they're shipping to U.S. customers or foreign customers. It's truly a global market.

MR. ANDERSON: Okay, Mr. Garcia?

MR. GARCIA: Hi. And thank you for being here and informing us about the issues. I just have a few questions. I'd like to follow up on the raw materials for the downstream products.

You were talking about the recipe for ingots, for example. And let's say I wanted to increase the percentage of sponge compared to scrap, or to the alloy. Is that a fairly easy process. Is the same equipment used?

MR. SEINER: Yes, it's a fairly easy process. So making a change to that recipe, within--so there's different melting technologies. Some melting technologies allow you to go to zero percent scrap. Some, the product--you get product degradation if you try to make it all out of sponge. But we can make the same chemistry quality ingot from the VAR process without using a cold hearth melting out of 90 percent sponge and 10 percent alloy, as we can when we make it out of 70 percent scrap, 25 percent sponge, and 5 percent alloy, in the same equipment. The same VAR furnaces can make that same ingot using 25 percent sponge or using 90 percent sponge, using 70 percent scrap or using zero scrap.

In the cold hearth process, there's a limit to how low the scrap percentage can get, more like, you know, you could go from 70 down to 30. If you tried to go to 20, you'd start to see chemistry fluctuations, which are unacceptable to our customers. Maybe that was too much of an answer for you, but...

MR. GARCIA: That's fine. So besides the chemistry, are there other factors driving this decision on pricing for each individual input?

MR. SEINER: Sure. And when I talked about--this is Henry Seiner again--when I talk about the "make" versus "buy," it's not just are we going to make our sponge, or are we going to buy our sponge. But it's also are we going to use our sponge, or are we going to use scrap?

And economics do dictate that, and that decision varies over time. I'm on record in conferences saying that you need to be ready for a quick change in the weather. And as the relationship between scrap and sponge change, the recipes change.

It's only in the last few years where there seems to have been a disconnect between scrap prices and sponge prices.

MR. GARCIA: And how--what are those relative to each other? What sort of trend have you seen in scrap prices and sponge prices?

MR. SEINER: Well scrap went up in '14 and '15 compared to where it was in '13, while sponge was coming down. So at all points in time, scrap has, over the Period of Investigation, scrap has been cheaper than sponge. But they moved in opposite directions in the last three to four years.

If you go back 20 years, you'll find that historically there's been a stronger correlation between the two. But supply and demand is the driver.

And to the earlier question about downstream product prices going down while--and sponge prices going down while demand has increased, there's excess. It's clear that there's excess capacity in the marketplace. And it isn't as though the reduction in sponge prices has made the market any bigger.

MR. GARCIA: Thank you. Earlier you mentioned purchasing imports from various countries just to supplement your domestic production. What are some factors that inform a decision about which producer to purchase from? And from which countries?

MR. SEINER: They're not interchangeable. The other countries that aren't included in the Petition make inferior quality sponge from chemistry and defect. They're limited as to where they can be applied.

We will utilize them, being opportunistic, on price. So we will be making a cost-driven decision. And if they are cheaper and can compete with scrap, we'll alter our recipe to use more of them.

MR. GARCIA: And going the other direction, how feasible would it be to ship their shipments from internal consumption to a foreign market?

MR. SEINER: If we were to close our plant, there's adequate capacity to buy all our--replace all of our needs from Japan and Kazakhstan. They have unutilized

capacity sufficient to do that. And in fact the same offers that were made to ATI that precipitated their closing were made to TIMET. I was told, point blank, we'll make you the same deal we made them.

MR. GARCIA: And are there anything limiting your ability to export to any of these non-U.S. markets?

MR. SEINER: As I said, it's not a--it hasn't been a part of our business plan because we haven't had those sales in the past. There's nothing that would stop us from selling to them. It would increase the amount we'd have to buy if we did that.

MR. HORGAN: This is Kevin Horgan. If I could just add. The U.S. market is driven by aerospace. So a lot of these other countries just don't have an aerospace industry. Kazakhstan certainly doesn't. Japan has a very small aerospace industry. So those are not feasible outlets for U.S. produced titanium sponge because the market is here, and that's why they're trying so hard to get in.

MR. GARCIA: Shifting back to the domestic market, how difficult is it to enter the domestic market for a new firm, for example?

MR. SEINER: Henry Seiner, again. So ATI announced in 2006 they were building a plant. They started production in 2009. It took them until 2012 to get certified to make standard grade. It took them until 2016

to get certified to make premium grade. So it was $500 million, and it was 10 years from announcement to success. Very high barriers to entry.

MR. GARCIA: Are you aware of any other firms trying to enter the market besides ATI or expand?

MR. SEINER: No. And the same sponge producers that were making sponge 20 years ago are making sponge today. I stand corrected. There is a project underway in Saudi Arabia right now to produce titanium sponge or that's one of the titanium dioxide producers who's wanting to get into the sponge production business for a long time and they finally found a partner with the technology to do that. One of the Japanese producers is a participant in that joint venture and they're looking to enter the market next year and maybe in the next few years, but our understanding is there's no intent to turn that plant into a premium grade sponge plant. It would be exclusively making standard grade, would not have the bells and whistles, if you will, and the quality systems in place to compete in the premium grade market.

MR. GARCIA: Okay, thank you.

MR. ANDERSON: Ms. Lo.

MS. LO: Hi, thank you, Mr. Seiner for coming and Mr. Houseman. I apologize in advance if I'm characterizing your industry incorrectly from my reading so

far and my questions, but I just want to get a few items clarified regarding this make or buy in terms of variable costs, to the extent that you can disclose it in the public domain.

I understand that -- and you've been very public about TIMET buying sponge for your downstream production of the mill products. What about prior -- your decision to make or buy -- what about in the raw material sector, such as chlorine and the inputs that go into the sponge, chlorine and I believe I read -- I found an older 10-K before TIMET was -- 2011, before TIMET was purchased by PCC and then Berkshire Hathaway, that you had tried to source chlorine and also TICLL-4; is that correct, titanium chloride.

MR. SEINER: Yes, that's correct.

MS. LO: So now, right now, would that reduce your cost of the production for sponge?

MR. SEINER: I'm going to go down in the weeds here a little bit. So we're an integrated sponge producer, which means we recycle the magnesium and the chlorine. So we buy a little bit of makeup chlorine and a little bit of makeup magnesium, as I talked about, because of the tramp elements that -- the traces that are lost in the closed loop process. Should we choose to stop making titanium tetrachloride we could purchase that and so we could purchase it instead.

The business model that Rowley operated in they did not recycle their tetrachloride, so they bought the tetrachloride under a long-term contract from DuPont that was, I believe, public record and they recycled the mag chloride through U.S. Magnesium. The reused the magnesium and the chlorine that was separated as part of that process was then disposed of by, I guess, U.S. Mag and not recycled.

So yes, you can operate in a non-closed loop, but should you do that there are some inefficiencies and the U.S. Mag is not recycling magnesium for fun and the titanium tetrachloride producer is not supplying you TiCl for fun. So yes, you would expect that your costs be higher should you be nonintegrated.

MS. LO: So that helps a lot in terms of how you can vary your costs.

The other question I had was there was some discussion about the quality differences among the different types of, I think, feedstock, whether it's scrap or rutile ilmenite?

MR. SEINER: Ilmenite, yes.

MS. LO: Yes, or slag, is that correct? So preferably, you would like the feedstock to be -- it doesn't really matter?

MR. SEINER: So the price is -- as you can see

from that chart, the price of ilmenite is $100. The price of slag is 5 to $600. The price of rutile is $700. The titanium content and the cost of upgrading it to being able to use it is the equalizer there. So you can buy something with a lower content. You can upgrade it to 95 percent and eventually you're getting it to 100 percent. You can upgrade it, but the costs are higher when you start with something that's cheaper as a lower feedstock content.

MS. LO: That's very helpful. So it's not as this graph would indicate in terms of raw material cost because I would just use the cheapest ilmenite, if I could, but there's cost to bring it up to the standard to be able to produce the sponge that you would need for your customers.

MR. SEINER: That's correct. And I've made presentations in the past of that -- on that topic if you'd like us to include those.

MS. LO: Sure, thanks.

And this is sort of related to that. I understand in this industry most of the production is based on orders already from customers, just-in-time production; is that correct?

MR. SEINER: Not in the case of titanium sponge, no.

MS. LO: Okay.

MR. SEINER: That is the case for downstream product. You don't make a billet without an order, but sponge is premium grade, it's standard grade, and you're setting your production rate at 100 percent, 80 percent, 50 percent and because of that closed loop nature you're making the same amount every day and only adjusting that rate periodically, so there is almost no direct correlation. Sponge is not a make-to-order business.

MS. LO: Thanks.

MR. HORGAN: This is Kevin Horgan. If I could just clarify, but I think we did report in the petition that the sponge that's imported is delivered and stored on the premises of, say, TIMET and then it's used on a just-in-time basis, so the foreign producers retain title to that merchandise while it's sitting on the plant in the United States.

MR. SEINER: In many cases.

MR. HORGAN: Yes, so it's a little different than what Henry was describing as to downstream product.

MS. LO: So in terms of this -- I think it's 18,000 pounds of this mass, the output, the timing of that how long does that take from the recipe and the -- with the ore and then through this kroll VDP process. How long does it take to get that giant mass of -- I think you said 18,000?

MR. SEINER: Yes, I did. To turn that feedstock into tetrachloride takes a couple days and to turn that tetrachloride into a sponge mass takes a couple weeks. So from the time the ore is received into the plant until the sponge is ready to ship can be as little as less than three weeks, but we don't buy an atom of rutile and track it through to its batch of sponge. So there's a pool of rutile that we import and then we have a big chlorinator where we are producing the titanium tetrachloride and we're just feeding more rutile to it every day and while it cooks and we bring out tetrachloride every day and purify it and transport it to the sponge plant via pipeline and utilize it.

MS. LO: Thanks.

MR. SEINER: Come on out to Henderson, Nevada. We'd be happy to show you. You'd probably want to wait until it gets a little cooler. Doing that in the middle of September isn't the best time, better than July, though.

MS. LO: And you have a melting facility in Henderson, right?

MR. SEINER: Yes.

MS. LO: Okay. And I want to touch on a little bit on the assets in this industry. It's in the public domain that ATI spent half a billion dollars, is that correct, in bringing on this plant which now is idle. And

how much does this asset or capital expenditure required to make sponge how much does that affect your decision whether to make or buy? I mean you have melting plants, right, melting facilities not just at Henderson, but other places? So in theory, you could produce tons of the downstream mill products at other melting facilities with non-U.S. produced sponge, so does that factor into the downstream demand for titanium products into whether you make or buy sponge whether for the Henderson facility or other facilities that melt.

MR. SEINER: So I personally manage TIMET's global make or buy and I look at how much we're going to make, decide how much we're going to buy, how much we're going to use in the various melt shops in Europe, in Pennsylvania, in Nevada, what the recipes should be, how much scrap and try to come up with a global optimization, if you will, but our investment -- ATI spent $500 million just on the sponge part. They didn't put the mag recovery plant in, that was all U.S. Mag. They didn't put the chlorination plant in. That was all DuPont. So the replacement cost of what we have today is well, well in excess of $500 million. It would be half of the total.

MS. LO: So what would the capital expenditure be for producers to try to bring on the melting plants?

MR. SEINER: Considerably lower.

MS. LO: Like 100 million?

MR. SEINER: Or less.

MS. LO: Okay, I'm just trying to understand what level.

MR. SEINER: And the qualification process is considerably shorter as well.

MS. LO: Okay, that's helpful. I'm just trying to understand what level is most efficient in this industry.

MR. SEINER: So if you would want to put in just melting furnace -- just a melting furnace and preparation -- you have to get the sponge and you have to add the other elements to it and you could put in a whole melt shop for less than $50 million. You couldn't touch a sponge plant, even just -- you know that's 10 percent of the cost of just the reduction distillation and crushing that's without the closed loop for half a billion dollars.

MS. LO: No, that's helpful.

We were talking about this DLA. Is there any Buy America provisions at the sponge level and also whether there are you know defense and industry's need to have national security need to have sponge production in the United States is the security of having the sponge supply domestically isn't that something you guys also consider?

MR. SEINER: Yes. The specialty metals law does require that titanium used by the Department of Defense or

any one of their subcontractors is melted in the U.S. or in a friendly country, which includes NATO, which includes Japan, but it does not go so far as to stipulate that it has to be using U.S.-produced sponge.

MS. LO: That's helpful. That makes a lot of sense.

I just want to understand the like product you're proposing is just be SQ and PQ sponge, not the revert, which I understand is kind of the recycled product --

MR. SEINER: Correct.

MS. LO: -- or the fines right?

MR. HORGAN: That's correct.

MS. LO: Okay. So just to clarify again, the inventory, you do have sponge inventory always at your plant, not just the rutile.

MR. SEINER: Correct.

MS. LO: Okay. And for the very small amount of commercial sales you had mentioned could you just give me a quick overview of step-by-step of how that sale was made. Was the customer approached by you or did the customer approach you; is it a supply long-term contract? I was just trying to understand how you sell your product.

MR. SEINER: So these are a handful of people that we do not routinely contact because in total they're

only buying a ton across the handful of people a year and they come contacting us with their small need, which we don't necessarily understand what they're even doing with it or why they need it. And in some cases they want so little that we won't take an order for less than $500 because it's not worth us pushing the paperwork for less than that and so they only want a couple of pounds, so it'll look like, oh boy, you're selling this for $500 a pound, though it's not. It's a niche market, as I said, a ton out of more than 10,000.

MS. LO: And there was some discussion about titanium dioxide that goes into sunscreen, right, or cosmetics; is that correct?

MR. SEINER: So the titanium metal industry utilizes about 5 percent of the global TIO to feedstock demand. Ninety percent of that is used by the pigment market. So the whiteness in pigment comes from the titanium and so the large pigment producers are the ones who control and dictate the supply and demand of feedstock. And so as the feedstock prices go up and down, it's a function of what's going on in the pigment market, not what's going on in the titanium metal market. We're 5 percent. There's a welding market that's a few percent, but 90 percent of that market for titanium dioxide is titanium pigments.

MS. LO: And you guys can't make that stuff.

MR. SEINER: We do not make that stuff, no.

MS. LO: Real quickly, has the demand in the European market, Airbus, specifically affected your -- since there's very little commercial sales, the potential for commercial sales?

MR. SEINER: It's a global market and so much of the titanium that is consumed by Airbus comes from the same people that make the titanium mill products that consumed by Boeing and there are -- so the rising tide lifts all boats here, but Boeing and Airbus are increasing their build rates, increasing their consumption of titanium mill products, so really just looking at the U.S. market alone doesn't paint the whole picture; but Europe's picture is the same as the U.S. There are just no titanium sponge manufacturers in Europe.

Ukraine is the -- and they're not part of the EU and they don't supply aerospace titanium, typically, even standard grade and certainly not to the quality that comes from Japan or Kazakhstan. So the only producers, besides the U.S. and Japan and Kazakhstan, are a whole bunch of people in China, a dozen or more, the small plant in the Ukraine and a large plant in Russia that's captive to the VSMO, the largest Russian producer and the only new entrant is this one in Saudi Arabia.

MS. LO: And it seemed like from the discussion

that all countries that produce sponge captively consume most of their sponge.

MR. SEINER: Japan does. I mean they consume in their -- even though they don't have a big aerospace industry, they are very strong in non-aerospace products and they do consume quite a bit of that, both internally captive melting and with other Japanese-related parties, principally, customers.

The Kazakhats don't have a titanium industry there, but they've altered their strategy 10 years ago from being just simply a titanium sponge producer to being a melter and they now have a melting shop there and two joint ventures that use melted products, one in South Korea and one in France, moving downstream.

MS. LO: I have a question if Mr. Horgan could help us, or help me here, what should we use to make the financial or the impact argument with the financial data that we do have?

MR. HORGAN: With financial data?

MS. LO: You know without commercial sales -- I mean, obviously, everybody has been open about having transfers for the downstream product and internal consumption, so should we place more weight in those numbers?

MR. HORGAN: We'd prefer to respond in the

post-conference brief.

MS. LO: Sure, that'll be great. That'll be super helpful. Thanks. That's all for now. Thank you so much.

MR. ANDERSON: Thank you, Ms. Lo. And Mr. Matthews, your turn.

MR. MATTHEWS: Daniel Matthews, Office of Industries. Thank you all for your testimony here today.

Mr. Seiner, I would wondering if you could expand on the certification process for premium grade sponge used in aerospace applications; particularly, is there a set standard or certification process that companies like Pratt and Whitney and GE use that's accepted through ISO or ASTM? And then I was also wondering if you could comment on how difficult and how long it takes to receive a certification to produce sponge used in aerospace applications?

MR. SEINER: Sure. So two recent examples, one was Toho Titanium built a new plant that opened in 2010 or '11. I'm looking, I don't see him here, but he was here. Because they were an existing producer that had standards or fixed practices in place that they were simply putting into a new factor they were able to do that in about three years.

ATI didn't have that benefited Rowley because they weren't premium qualified in Albany for a long time and it was a vastly different process than what they had in the

older plant. They had to start from scratch and therefore they opened in 2009. It took them till 2016. ASTM doesn't deal with premium versus standard. It's only the end users that control that and so GE, Pratt and Whitney, Rolls Royce, the Saffron Group, and others have their own qualification process which varies in terms of how much you have to make and what you have to do with it and how you have to test it, in addition to hands-on audits of the quality systems for that certification, but it's significant and timely and costly which means that spending seven years getting a qualification, finally getting across the finish line in June and announcing a closure in August that's injury.

MR. MATTHEWS: Okay, thank you.

I was wondering if you could speak more about the domestic titanium sponge industry's demand for magnesium and chlorine, so is this met by domestic production or do you rely on a combination of both domestic production and imports.

MR. SEINER: As I said before, our requirements for chlorine and magnesium are very small. Our chlorine is provided via pipeline from another producer in our business complex in Nevada and so that is 100 percent domestic. Our magnesium comes from U.S. Mag. I believe some of it also comes from Israel. We might have purchased some, from time to time, from Canada, but it's not a significant driver in

our costs and there's no -- TIMET is the largest magnesium producer in the U.S., bigger than U.S. Mag, I believe; but all of that magnesium is the recycle of our mag chloride into magnesium for our plant.

MR. MATTHEWS: Okay.

MR. SEINER: So U.S. Mag may be.

MR. MATTHEWS: Okay, so going off of that, in the petition and in your testimony, you've indicated that all producers of titanium sponge use the kroll process to extract titanium metal from the ores and slag that we're talking about earlier and that similar processes and equipment are used as well. So I was wondering what are the major factors that determine the competitiveness of a titanium sponge producer.

MR. SEINER: So you've seen in the petition our cost buildup. So electricity is a major component. Labor is a big component and the titanium feedstocks those are the three major cost elements.

MR. MATTHEWS: Okay, thank you.

And in the petition and earlier, it was discussed the idea of scrap substitute, so as you said, titanium sponge is offered to entice the melter to use a higher rated of sponge in lieu of titanium scrap. So I was wondering given the choice between similarly priced titanium sponge and titanium scrap metal would a mill product

producer choose the sponge for its lower oxygen value and is there any benefit, other than cost, to using scrap over sponge?

MR. SEINER: So I explained earlier that there's a limit to how much scrap -- the minimum amount of scrap that you can use. There's also some end users specifications that either mandate that it's made through a cold hearth melting process or mandate that it doesn't allow a cold hearth process. That being said, once you decide whether you're going to make it out of cold hearth melt or not cold hearth melt, it's economics. So you can't do with zero sponge because you need its oxygen to sweeten the scrap, but beyond that it's all -- beyond that all producers are trying to maximize the amount of scrap they can incorporate, subject to any other constraints. They may have people to deal with the scrap, the availability of the scrap, but if the product specifications -- the downstream specifications allow the use of that scrap, then all producers will maximum the use of scrap should the economics be favorable.

MR. MATTHEWS: Okay.

Is there any indication that scraps overall share as an input on this decline during the period of investigation? Due to this lower cost sponge?

MR. SEINER: No.

MR. MATTHEWS: No? Okay. My next question, is it possible to produce titanium powder and titanium mill products without using titanium sponge? For example, are there emerging technologies that bypass the sponge production process, where you can take titanium concentrates or titanium tetrachloride and make a product directly from that?

MR. SEINER: In the case of powder, yes. There's a whole wrath of technologies, some of which start with sponge, many of which don't. In the case of mill products, all of them start with some melted product that has some sponge content in it.

MR. MATTHEWS: Thank you. So USGS data indicate that there is a small amount of domestically produced ilmenite and rutile. I was wondering, is this used in the production of any of the subject product? And does TIMET secure imports of these concentrates under -- well, if they're imports, does TIMET secure these concentrates under long term contracts or on a spot-market basis?

MR. SEINER: We've had discussions with domestic producers of feedstock, but haven't had success overcoming technology or logistical hurdles. It's our understanding that the TiCl that's been used when we would supplement our own TiCl production with third-party TiCl or that ATI would've used, used some domestic feedstocks. Right now

TIMET is reliant upon imported sources and we have both spot priced and longer-term contracts in place for feedstock supply.

MR. MATTHEWS: So those long-term contracts, do they vary by supplier? Or they tend to be set, like --

MR. SEINER: No, they vary by supplier.

MR. MATTHEWS: They do? Okay. So do any domestic or foreign titanium sponge producers have upstream operations? Where they're mining their own ilmenite or rutile?

MR. SEINER: It's our understanding that the Kazaks have some of their ilmenite is domestically sourced, but we don't have specifics regarding the -- we don't know what percentage of what those economics look like. Conversations with them lead me to believe that they can make some, but it's not all of what they need and therefore, they're gonna make or buy, and that due to the weather, there's times of year where they can't mine it at all, which has an impact on their operation, but you'd have to ask them.

MR. MATTHEWS: So other than the Kazak producer, you're not aware of anyone else?

MR. SEINER: No, I'm -- well, the Chinese, no, the Ukrainians used to until recently they've had some ownership structure changes and they've split the ownership

of the mines and the sponge producer. I don't believe the Russians do any mining of their own raw materials, no.

MR. MATTHEWS: Okay. So before you stated that China, Russia and Ukraine are the other major producers of titanium sponge? I was wondering if you could comment to what degree do you expect that imports will increase from the nonsubject countries if orders are put into place on imports from Japan and Kazakhstan?

MR. SEINER: I don't think it would have much of an effect because their sponge isn't of the same ilk. It's not the same pedigree. It's not interchangeable with the sponge from Ukraine or Japan. I don't believe that they would be able to capitalize on this.

MR. MATTHEWS: You mean Kazakhstan and Japan?

MR. SEINER: Kazakhstan and Japan. I'm sorry.

MR. MATTHEWS: And earlier you were talking about the joint venture with Japanese producers and a few other companies in Saudi Arabia, so I was wondering if you would comment as to the extent that this Japanese supplier might be able to supply the U.S. market from Saudi Arabia if duties are placed on imports from Japan.

MR. SEINER: It's possible.

MR. MATTHEWS: That is all I have. Thanks.

MR. SEINER: But they're not even seeking premium quality certification to our knowledge, so, but yes,

they could -- it could compete.

MR. MATTHEWS: Thank you.

MR. ANDERSON: Thank you, Mr. Matthews. Just want to close the loop on one of the responses. Could you just clarify -- there was a question about inferior imports. Could you just clarify if you're referring to subject imports, nonsubject imports or all imports?

MR. SEINER: Nonsubject.

MR. ANDERSON: Okay. Thank you. And now, I think staff has just a few brief follow-up questions, so I'll turn to Ms. Butler.

MS. BUTLER: Yes, just two quick questions based off the statements given today. I understand from the discussion about the process for getting the tetrachloride that it takes approximately, you're saying, a couple of weeks to get the titanium sponge, but it would take, I think when you described another corporation, that it took several years to get the certifications? And maybe I'm missing a fundamental step, but why is there such a distance in those dates?

MR. SEINER: Dialing in the process, so you're doing it the same way every time and getting that process under control, and then making downstream products that exhibit the same product attributes as products made from already-qualified sponge takes a long time.

So it may take you six months -- so you've made the sponge now in three weeks, but then you have to make the bar out of it, and that may take you another six months before you've made that, and then it may not be good enough as if you were making it from already qualified sponge.

So it's a long, drawn-out process that requires inspection of the product manufactured by the sponge to be defect-free, and for rotating for premium grade, there's a requirement that millions of pounds of that sponge has been made through that process before they'll even entertain allowing you to start the premium grade qualification.

MS. BUTLER: Okay, so the inspection during the process is purely by the manufacturer and the certification at the end is purely by the purchaser?

MR. SEINER: So, yes, the certification as you're making it is by the producer according to the fixed practice agreement in place with the end user. But the end user has to certify that process.

Not every batch that you make -- but they say, here's the limits you have to have, you know, the pressure in the vessel has to stay at a certain range, and the temperature has to stay at a certain range, and the power supply has to follow certain characteristics. And if it falls outside of those parameters, it's not eligible for a premium grade.

They don't come and look at the records every time. They certify the process and then they come out and audit you on an annual basis, spot-checking to make sure that it really met. So if we have a batch where we have a power interruption and we go below the required temperature, that downgrades that batch.

That makes it standard grade even though it has the same cost as premium grade. And we sure as hell better not get caught by the end user when they come do their audit and then they spot-check batches to determine that we did something that was outside the fixed practice agreement. And when, God forbid, there's failures in the field and from time to time, you have rotating engine parts that fail, there's a full-blown investigation, traceability all the way back to that sponge batch.

And the FAA, along with the engine manufacturer whose specification you certified to, will come look through those records. And you don't take chances. So everything has to be just right for it to be premium grade.

MS. BUTLER: Thank you. And the last question, you referenced the DOD melting requirements. Are you aware of any potential trade agreements that might affect the pricing if we were to sell to those countries as opposed to any other sale of the titanium sponge?

MR. SEINER: Not aware that there's -- are you

saying, does the DOD have any deals to sell hardware to a country in exchange for allowing them to melt titanium there?

MS. BUTLER: No, I'm more asking if, because of the DOD requirement, that the titanium sponge be purchased from only certain countries. If there are any agreements in place that you are aware of that would affect that pricing?

MR. SEINER: So the DOD does not -- the specialty metals law does not mandate that sponge comes from those countries. You can use any sponge. You can only melt it in the U.S. or a friendly country. So there's no -- to my knowledge, the DOD and the DLA have not gotten involved in the pricing of titanium sponge.

MS. BUTLER: Okay. Thank you.

MR. ANDERSON: Thank you, Ms. Butler. Mr. Henderson, I believe you had a follow-up?

MR. HENDERSON: Yes, thank you. This is for Mr. Horgan, and in my questions earlier, we were noting how, under the statute, the Commission has to make certain findings with respect to the price effects of subject imports on prices of the domestic like product, including where there's significant underselling, significant price depression and price suppression.

And here, as we've discussed, and without characterizing what the pricing data from the other U.S.

producer or the importers is gonna look like, but if the pricing data from TIMET is just sort of de minimis sales in which the prices may be somewhat anomalous, how is the Commission supposed to make any of these statutory findings in the absence of data for commercial market sales?

MR. HORGAN: I would suggest that the Commission has to find that there was no data and they couldn't make that finding. There was no meaningful data that allowed them to make a determination of price impact on titanium sponge.

But that's not the sole criteria. And its absence doesn't prevent the Commission from making an affirmative injury determination, that there are lots of other indicators of injury. And they're all there. And there's adequate basis for making an affirmative determination of injury, notwithstanding that there's really no meaningful price suppression or depression data respecting sponge.

MR. HENDERSON: And you have made arguments, of course, about the prices of subject imports and the prices of downstream products. Are those at all relevant to the Commission's pricing analysis?

MR. HORGAN: I don't think -- you can't use them in the Commission's traditional pricing analysis, but they are indicators of injury. The lower prices on downstream

products are an indicator of injury because it impacts the overall profitability of the titanium company, and the value of their assets. So that information is still relevant, notwithstanding the fact that you can't make a price comparison.

MR. HENDERSON: Thank you. As I say, this is something that would be useful to see more of this in your post-conference brief.

MR. HORGAN: Sure.

MR. HENDERSON: Thank you.

MR. ANDERSON: All right. I'll scan the staff and see if there's any follow-up questions? Okay. I just have -- my team has done a great job here with a lot of great questions and thank you for all your comments. I just a few brief questions.

On Page 30 of your brief, you mentioned that the subject imports increased by 14% over the 2014 to 2016 time period. Could you just comment on how that compares to demand for that same period? And you can do that in your post-conference brief if you would like.

MR. HORGAN: We can do that. Yeah.

MR. ANDERSON: Mr. Houseman, I had a question for you. Thank you for being here. And if I understood you correctly, you said that the workers at the Raleigh plant have applied for TAA, Trade Adjustment Assistance, and did

they receive it?

MR. HOUSEMAN: Yes, they were certified, and I believe they were certified last year. I filed the petition, I think it was in December of 2016, so the actual certification would've been around then. Within sixty to ninety days. I'd have to look back.

MR. ANDERSON: Okay. And how many workers roughly was that? Was that all hundred and fifty? And then, what are the next steps? Are they receiving financial assistance and training? And what could that possibly lead to them if the production facility is not reopened?

MR. HOUSEMAN: So, with my conversations with the staff, there were approximately a hundred and fifty workers that were impacted. With the certification of the facility, those workers have access to roughly about two to three years of benefits, which is a job retraining program of their choosing, based off of skills and/or career path that they so choose.

So, for example, when I went through the program, I got a Masters of Public Administration. So you can go through and do the program anywhere from -- I've had people become truck drivers, and I've had fellow workers become helicopter pilots. So the program is relatively broad in scope.

MR. ANDERSON: Okay, so given the location of

that facility, which I understand is near a metropolitan area with lots of job opportunities, but my geography is not great, but those commutes could probably rival commutes here, right? From Tooele County to Salt Lake City? Are there any other local opportunities for those displaced workers? Or is it more that they would have to go through training programs that would be outside the area of their current type of skill set or their former position at the plant?

MR. HOUSEMAN: To my knowledge, I'm not very familiar with the education opportunities in the nearby community as much, but they would go through the local job center and explain the skills that they have, look for opportunity career paths and try and work that way. But ultimately, when you go through these programs, 9 times out of 10, when I talk to workers, they appreciate the assistance, but they'd much prefer to have their job back.

MR. ANDERSON: Thank you, that's very helpful. And then finally, just a question, Mr. Horgan. You're making the argument in your brief. You've expounded on the increase in market share, both during the POI and particularly in the interim period of the POI.

But I'm wondering particularly in the three-year period of the POI, 2014 to 2016, how should the Commission look at the fact that import volumes are driven by this

"make or buy" decision by the industry, particularly when the petitioner here is making a decision that--if I heard you correctly earlier, Mr. Seiner--that when imports get below the prices of scrape, you're gonna import scrap, because you're in the business of making money.

So how do we disentangle that business decision from the actual data that shows that imports have increased and particularly before the closure of the Raleigh Plant, the 2014 to 2016 period?

MR. HORGAN: Well, I can't delve too much into the data, but I think one of the peculiarities you see in the data for the domestic industry, both TIMET and ATI, you see this sort of flat economic performance in their titanium sponge operations. And it's flat and then bam, it disappears. The plant closes.

And I think what was talked about earlier is that, you know, when you look at this kind of case, and this is an unusual case, the owners aren't just thinking about whether they're making money on this operation. They're thinking about how much money I could be making if I switched. And so when you look at that data, that's what you have to think about in terms of the "make or buy" decision.

It's not so much, "Am I making money right now?" It's, "How much could I be making if I switched?" And ATI

made that choice. They think they're gonna make more money by switching. TIMET hasn't made that choice yet. But, you know, the dumped and subsidized merchandise is coming in at very low prices, that obviously impacts the decision.

So if the volume or the availability of dumped or subsidized merchandise is significant, then it discourages further investment or further operation of titanium sponge production for captive production or for commercial sales.

And that's the situation we have here. And I think you gotta look at the inventory figures you see. Run up an inventory of both in Japan and the United States and it's significant and so all this sponge is being imported. It can't be absorbed, and so you have huge inventory overhang as well. And that's gonna further discourage investment in new sponge production.

MR. ANDERSON: Thank you for that clarification. And with that, on behalf of the team here, I'd like to thank you very much for being here today. Your testimony has been very helpful. And we'd like to recess for thirty minutes, and take a thirty minute recess, so reconvene at 12:50 for the second panel. Thank you.

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

MR. ANDERSON: Good afternoon, and hope everybody had a good lunch break, and thanks to our

witnesses for being here this afternoon. I just want to reiterate when you respond to the questions later, please state your name and affiliation, and I guess Ms. Cannon, and counsel I'll turn it over to you to begin your panel.

MS. CANNON: Thank you, Mr. Anderson. Our first witness this moring will be Mr. Sims.

STATEMENT OF JOHN SIMS

MR. SIMS: Good afternoon. My name is John Sims. I am the executive vice president for High Performance Materials and Components Segment at Allegheny Technologies Incorporated or ATI. My responsibilities include our titanium operations. I'm appearing here today in opposition to the petition. ATI is one of the largest and most diversified specialty materials and components producers in the world.

Our products consist of a wide array of super alloys, stainless and specialty steels and other metals, including titanium and titanium alloys. I read TIMET's petition with bewilderment. TIMET's injury case rests in large part on the decision by ATI to idle its Rowley, Utah titanium sponge facility in 2016 and return to 100% global sourcing.

According to TIMET, ATI's idling of Rowley was a simplistic determination based on the availability of low-price titanium sponge imports. That is not true. There

was no sudden increase in low-priced imports that caused ATI to idle the Rowley facility. Further, there was no real change in subject import pricing from ATI's perspective either. It's critical for the Commission to understand that ATI's decision to idle a production facility like Rowley is a function of many factors, including the expectations and demands from our downstream titanium mill products customers, and the assurance of supply.

Given ATI's strategy of security of supply, even if duties are imposed, ATI would not restart Rowley. First, Rowley has an inherent strategic disadvantage relative to TIMET's Henderson facility. TIMET's facility produces its own titanium tetrachloride, otherwise known as TiCl, and recycled magnesium, the principle feedstocks for a titanium sponge operation.

ATI, by contrast, had to source TiCl and magnesium from third parties. The TiCl had to be transported by rail across the United States before it could be processed into sponge at the Rowley facility. The cost of TiCl supply and transportation were also increasing due to environmental concerns about the transportation and handling of toxic inhalants. There was also a risk that the railroads would not transport TiCl at all.

Second, a producer must take into account the security and stability of its supply of raw materials

including titanium sponge. In the commercial aerospace sector, a major downstream consumer of titanium products, the nature of the business cycle demands that titanium mill producers be able to supply their customers on a long-term contractual basis.

Contracts to supply titanium mill products to our aerospace customers are generally fixed or firm priced, with terms often exceeding five years, sometimes ten. The long-term nature of these contracts require the domestic mills to maintain a secure supply of readily available titanium sponge that is both accessible and cost competitive. If the aerospace business cycle turns down, the titanium mill supplier still bound to the fixed and firm pricing contracts must be able to adjust its cost or suffer immense economic harm.

In the case of ATI, we made a difficult decision given the current state of the market to expand long term supply agreements with two or our long-standing off-shore suppliers. These agreements gave us the long term security of a competitive supply of sponge, which Rowley in our opinion could not.

TIMET, the only other producer in the U.S., was not an option to supply ATI with its sponge needs. TIMET's sponge production facility in Henderson, Nevada could not even meet its own internal demand, and does not,

to our knowledge, sell sponge commercially. TIMET is a substantial importer of titanium sponge, despite having one of the largest and most efficient sponge operations in the world. Similarly, even when Rowley was operational, ATI needed to import to supplement its production.

It was never our intention for Rowley sponge to provide 100 percent of our internal needs or to become a globally competitive seller of sponge. The decision in 2006 to build Rowley was part of our risk management strategy in a time of limited global sponge availability. This diversified supply chain is prudent both from a producers' standpoint and is often a requirement of our customers.

I can say with confidence that no serious offers have ever been made by TIMET to sell sponge to ATI, either when ATI was a sponge producer or subsequent to our company's decision to idle the Rowley facility. ATI did receive an email after the idling of Rowley, but the email was devoid of any substance and no formal offer was ever made.

Regarding the inquiry made in May 2017, despite being given the contact information from Mr. Brad Forsythe, who is our vice president of Supply Chain, TIMET never contacted him. Mr. Forsythe is here today and can respond to any questions about these purported offers. Further, it is clear from TIMET's website that TIMET does

not offer sponge for sale. Third, ATI had to take into account titanium scrap when evaluating the operation of Rowley. Scrap availability, scrap pricing and customer controlled scrap programs are factors giving more security of supply today than when we built Rowley, and further supported the decision to idle the facility.

In sum, contrary to the suggestion in the petition, we did not make the decision to idle our Rowley facility based on an arbitrary determination that the import price of sponge was cheaper. The decision to idle Rowley was driven primarily by inherent disadvantages in sourcing tickling magnesium.

Further, we were able to pursue idling Rowley due to the availability of long-term supply commitments at globally competitive prices that secure our ability to fulfill our contracts with our downstream customers. The decision to expand our sourcing of subject imports was made because there were no other options to supply the sponge in the United States, and to provide us with the volume of titanium that we need to meet our downstream customer needs.

Total U.S. sponge capacity is and always has been incapable of meeting the demand of the domestic titanium mills that consume titanium sponge in the production of downstream titanium mill products. All the

indicators are that the current conditions in the aerospace sector are strengthening, and that the titanium mills will benefit from this unprecedented growth. We are also heartened by signs of improvement in some of the industrial markets.

We have modified our global supply chain on a long-term basis to mitigate the strategic risks and challenges associated with operating Rowley, and to enable us to produce titanium mill products in accordance with the growing demands of our aerospace customers. ATI has used trade laws as a petitioner many times over the past several decades. In every instance we were addressing injury from imported products that competed with products we were selling into the commercial market.

I'm not an expert on this law, but I sit here in disbelief that we as a domestic manufacturer with over 8,500 employees are sitting on this side of the table, opposing a case that was brought by a domestic titanium producer that does not sell titanium sponge into the commercial market, but consumes it exclusively on its own and therefore is completely insulated from import competition.

I'm hopeful the Commission will recognize the misguided and inappropriate use of these important laws. My colleagues and I look forward to responding to your

questions.

STATEMENT OF JEREMY HALFORD

MR. HALFORD: Good afternoon Mr. Anderson and members of the Commission staff. My name is Jeremy Halford and I'm the president of Arconic Titanium and Engineered Products or ATEP, which owns RMI Titanium Company. I'd like to begin by thanking the staff for the opportunity to testify and for your efforts in this case. I understand that in these proceedings the staff has a great deal of work to do, and relatively little time in which to do it, and we appreciate your dedication.

To help you accomplish this task and parse some of the data you've been given, I'd like to provide some background on our role in the U.S. titanium market, with a particular focus on the way that we and others in this market purchase titanium sponge.

ATEP is a global supplier of titanium to the aerospace, defense, energy and medical device markets. With over 2,200 employees at a dozen facilities in the U.S., as well as a number of locations abroad, ATEP has been in the business of delivering a full range of titanium mill products, extruded shapes, formed in 3D printed parts and precision manufactured components for more than 60 years.

Across Arconic, we have 11,000 U.S. employees associated with titanium sponge or mill products who could

be impacted by this case. For my part, after holding several positions at Delphi in the manufacturing, engineering and technology spaces, I came to Alcoa in 2005 and held a series of leadership positions, including as general manager of Alcoa Power and Propulsion's large and aluminum structural castings business.

From 2013 to 2016, I was president of Don Castor's Power Systems, an international manufacturer of high precision alloy components, where I was responsible for the aerospace and industrial gas turbine business. In January of this year, I returned to Alcoa, now Arconic, to serve as president of ATEP.

So with that background, let me turn to the product that brings us here today. Whether you're making a titanium ingot, billet, sheet or plate, the starting point will be the same, titanium sponge. It is the key input in the manufacture of titanium mill products, and as with any input, there are only two ways to get it. You can produce it yourself or you can buy it from a producer.

When it comes to producers, the list of potential options for us is not terribly long. There are only four sponge producers worldwide with the capacity to be legitimate supply options to us: Via Sempiola Visma in Russia, OTC and Toho in Japan, and UKTMP in Kazakhstan. There are a number of producers in China, but from what we

can tell, the majority of that material is consumed in China by producers of downstream titanium products and relatively little is exported.

Over the last couple of years, we've also seen multiple announcements regarding a planned Saudi Arabia-based joint venture between Toho and a subsidiary of Saudi Arabia's national industrialization company, known as TAZNI. The announced capacity of that facility is said to be in excess of 15,000 tons per year. Based upon information in the press, it is scheduled to come online during the second half of this year, though I'm not sure of the latest status there.

I'm sure you noticed that I did not include TIMET on that list of potential suppliers, and that's not by accident. We at ATEP do not see TIMET is a meaningful titanium sponge supply option, nor have we seen them that way in recent memory, and let me talk a little bit about why that's so.

First and foremost, TIMET has never made a legitimate effort to be a commercial seller of sponge in the U.S. In fact, we were amazed to read TIMET's allegation that imports prevent it from selling sponges commercially. The fact is that at ATEP, we purchase the entirety of our sponge requirements via long-term contracts executed following a formalized bid process.

Once those contacts are locked in, we rarely seek outside or additional material from any supplier. The discussion of TIMET's approach to us in the petition is bracketed, so I don't know what they've identified as contacts with us. But I can tell you that to my knowledge, they have approached us twice, neither of which were part of a formalized bid process.

First in May of this year, my procurement director Sharma Rao received an unsolicited call from TIMET asking whether we wanted to purchase some sponge from them. A few weeks later, a TIMET representative approached me at a cocktail party to ask me the same question. These were very superficial discussions and not how this sale process typically works.

I should add that our sense was and continues to be that TIMET was not seeking to sell us domestically produced sponge; rather, they were attempting to sell off excess inventory of imported sponge. The reason I believe this is that it is our understanding and has been confirmed this morning that TIMET's mill product operations consume all of the sponge that they produce, and in fact they have to import sponge to supplement their domestic production.

It wouldn't make sense for TIMET to sell us domestically produced material, only to have to go and import more. In any case, we declined and the reason in

both instances was the same, namely that as TIMET well knew, all of our sponge requirements were and continue to be met via our long-term contracts.

As previously mentioned, neither of these two approaches came in the context of our usual bidding process. TIMET is has never made an effort to be part of that process, nor has it shown any inclination to do so.

The petition was filed in August and I assume that it was in process for several months prior to that. When you look at the timing of their approaches to us in light of the timing of the petition, it seems clear that their efforts to sell were not meaningful efforts to dive into the commercial market for the first time ever, but rather pretexts to allow them to argue that its efforts to sell domestically have been stymied by imports.

That is a gross misrepresentation. The Commission should understand that TIMET is not a domestic seller of titanium sponge, and it hasn't made a serious effort to be one. In that regard, you can't help but notice that in the products section of TIMET's website, titanium sponge is conspicuously absent. Contrast that with the websites of the other sponge producers here today and the difference is striking.

It's also important for the Commission staff to understand that we don't see TIMET is an upstream supply

source because they're not one. They are a direct competitor in the titanium mill products base. They're in the same business we are in, converting sponge into further processed products and selling those products into aerospace and other industries.

It's also noteworthy that the intellectual -- that there is intellectual property associated with the sponge chemistries and characteristics that we purchased for different applications. Sharing that information with a supplier who is also a direct competitor could have negative consequences for us. This just further highlights how bizarre TIMET's claim is of being a domestic sponge seller.

I don't believe that TIMET is being injured by sponge imports, and I certainly don't believe that TIMET has either the capacity or desire to suddenly become a sponge supplier to the U.S. mill products industry that it competes in. Instead, I believe that this case is fully in support of TIMET's efforts to support and prop up its overseas affiliates.

Mr. Seiner indicated earlier today that the vast majority that their Japanese and Kazakh sponge goes to Europe and consequently would not be subject to any actions taken as a consequence of this. With that in mind, let's take Airbus as an example. Airbus is the second largest purchaser of titanium mill products in the entire aerospace

industry. As it stands, ATEP is the only U.S.-based supplier of titanium mill products to Airbus, who also purchases from VSMPO in Russia and UKAT in Kazakhstan.

To the best of our knowledge, TIMET has no direct sales to Airbus from its U.S. facilities, nor from its facilities in the UK and France. Given that ATEP, Perryman and ATI have no titanium mill product production capacity outside the U.S., if TIMET can drive up the sponge costs for ATEP and other domestic competitors, then TIMET's foreign facilities will reap the benefits.

They will be able to undercut prices coming out of the U.S. and finally get a shot at that Airbus work. While I understand the strategy, it seems to me that propping up TIMET's affiliates in the UK and France by hamstringing U.S. titanium mill product producers ought not be the purpose of U.S. trade remedy laws. Once again I thank the staff for your hard work and attention, and I'd be happy to answer any questions.

STATEMENT OF FRANK PERRYMAN

MR. PERRYMAN: Good afternoon. My name is Frank Perryman. I am the president and the CEO of Perryman Company, an importer of titanium sponge. I'm joined today by Irvin Brown, director of Commercial Operations for Perryman. Perryman Company was founded in 1988. We are headquartered in Houston, Pennsylvania, about 30 miles

outside of Pittsburgh.

Perryman has 511 employees worldwide, 99.5 percent are located in the U.S., including all of our manufacturing facilities and employees. Perryman is privately held and is the only remaining independent company in the industry. Perryman is a fully integrated manufacturer of titanium mill products for the aerospace, medical and other markets worldwide. We purchase titanium sponge, which is the critical raw material solely for the manufacture of downstream mill products.

Therefore, we use approved suppliers and long-term contracts for our purchases of titanium sponge in order to ensure a sufficient supply that meets our certification requirements. Perryman does not sell any titanium sponge on the U.S. merchant market.

There are three main points I'd like to make about the market for titanium sponge. First, I want to emphasize that TIMET is currently the only domestic producer of titanium sponge, and there is no domestically produced supply of titanium sponge available in the merchant market. It is Perryman's understanding that TIMET internally consumes the titanium sponge that it produces in order to manufacture downstream titanium mill products, and that TIMET itself imports foreign titanium sponge in order to meet its manufacturing requirements.

Perryman has never purchased domestic titanium sponge since we began integrated operations. Perryman has never chosen to purchase imported sponge over domestically produced titanium sponge simply because domestic titanium sponge has never been offered a reliable commercial quantity in the U.S. merchant market. As an additional point, relying on a competitor in the downstream titanium mills products for our supply of titanium sponge would not be a viable option for Perryman as a business matter.

A second key point is that the vast majority of contracts in the titanium industry are long-term agreements. Perryman has about 300 active customers, primarily in the aerospace medical industries. Both the aerospace and medical markets are growing for us. Most of Perryman's contracts with its downstream product customers are fixed price contracts for a five year period and sometimes even longer.

To meet our downstream product commitments, we therefore require long-term commitments in writing from our own suppliers of the raw materials. We need to have raw materials, including titanium sponge, covered for years. The lack of availability of domestically produced titanium sponge precludes Perryman from relying on domestic sponge to meet its long term needs.

The third point I'd like to make is that there

is limited or no competition between subject imports and domestic product in the titanium sponge market. This is because, as we have stated several times, to our knowledge there are no sales of domestically produced titanium sponge or in any titanium sponge in the U.S. merchant market.

As we understand is the case with TIMET, most of the sponge produced or imported into the United States is internally consumed in the manufacture of downstream mill products. Perryman competes with TIMET and other companies named in the petition, but in the downstream market of titanium mill products.

Finally, I'd also like to respond to the allegations on page 39 of the petition that Perryman rejected an offer of titanium sponge from TIMET. As an initial matter, to the extent TIMET's petition relies on verbal offers of domestic titanium sponge to Perryman to demonstrate lost sales, we have no objection to the names of the Perryman employees being made public, so that we may respond effectively to these allegations.

Yet even without knowing all of the alleged details because of redactions, I can affirmatively state that Perryman did not consider the discussion in November of 2015 as a bona fide offer of sale of titanium sponge from TIMET. Although Perryman's typical process begins with face to face discussion of demands or needs, it also includes a

discussion of price and delivery, followed up in a written confirmation from the supplier.

Here, there was no mention of these basic details necessary to consider a purchase. There was also no formal or written follow-up of any kind, a fact which TIMET does not seem to dispute based on the petition. TIMET is never been an active sponge seller, and Perryman refutes the characterization of the discussions in November 2015 as an offer from TIMET. Thank you for the opportunity for Perryman to participate in today's conference, and I look forward to your questions.

STATEMENT OF MICHAEL KERWIN

MR. KERWIN: Good afternoon. I'm Michael Kerwin of Georgetown Economic Services. This afternoon, I'd like to address some of the weaknesses and inconsistencies of the injury case that has been presented to you by the Petitioner. Because of the structure of the industry and the fact that there is just a single petitioner, it is not possible to discuss the data on the record in detail, but I will present some observations on the public data, and will also draw your attention to some of the proprietary information we have summarized in that handouts that you have in front of you, the pink handouts.

This case is unorthodox it's hard to know where to begin to critique it. As presented in the

petition, the case requests the Commission to make a finding of material injury on one like product, titanium sponge, based on supposed price effects and financial impact on a completely different downstream product, titanium mill products.

This raises clear legal issues, given that the Commission is directed by law to assess injury in relation to the domestic like product as will be discussed in detail by Ms. Cannon. But even as an economic and a logical question, the case raises huge concerns. In assessing TIMET's claims of injury to its mill products operations, you should bear in mind that titanium sponge is just one element of the overall cost of producing titanium mill products.

In fact, according to the public version of their petition, titanium sponge only accounts for around 25 percent of the total raw materials cost for producing a titanium ingot, with the other 75 percent typically being made up of titanium scrap and alloy additions. Given that the raw materials account for an average of around 50 percent of the overall cost of producing a finished titanium mill product, titanium sponge accounts for only about 12 percent of the overall cost of the products on which the Petitioner would like the Commission to assess injury.

This seems to indicate that other factors,

such as increased competition among producers of titanium mill products or pricing pressures by large purchasers of titanium mill products, may be more salient explanations for trends in pricing for titanium mill products.

Even if we accept TIMET's proposition that injury to titanium sponge operations can be assessed by examining mill products operations, TIMET admits in its public petition that its shipments of titanium mill products actually increased between 2014 and '16. Further, when TIMET presents information on the pricing of titanium mill products in its petition, it misleadingly uses 2013 rather than 2014 as the base year.

When 2014 within the POI is properly used as a base year, the pricing shown for mill products is essentially flat. Incredibly in their presentation this morning, Petitioner compared pricing information at pages 8 to 11 of their handout covering 2013 to '16, to input material costs for the period 2014 to 2017, as shown at page 12 of their handout.

I consider this to be methodologically misleading. On full review of the petition, it is clear that TIMET has not provided a complete injury database in relation to either its mill products or its titanium sponge operations. Instead, the petition presents bits and pieces of data in relation to either product when it suits the

case.

To say that the petition is confusing is an understatement, and the relationship between the data presented in the petition and TIMET's questionnaire is murky at best. Given the unusual nature of TIMET's case, it will be very important for the Commission staff to review all of the methodological assumptions embodied within TIMET's questionnaire responses.

Nor does TIMET's injury case add up in relation to its operations on titanium sponge. In making its case in the petition, TIMET primarily relies on information on ATI and the idling of the Rowley, Utah operation. But as you heard from Mr. Sims, ATI does not support the petition and does not agree that the idling of the facility was the reflection of an injurious impact by the subject imports.

Now that the questionnaire responses have been submitted, numerous additional questions have arisen in relation to Petitioners' injury and causation case. A major condition of competition in the U.S. market is that there have always been substantial imports of titanium sponge. If you look at your handout, the pink handout, as shown in Chart 1 imports from the subject countries during the Period of Investigation were actually at their lowest levels in ten years.

This was also the case in relation to total U.S. imports of titanium sponge. If you look at Chart 2, even within the Period of Investigation, shipments of imports from Japan and Kazakhstan were largely stagnant during the 2014 to '16 period. As you can see in Chart 3, subject import market share was also essentially flat from 2014 to '16, as was domestic industry share.

As noted by our previous witnesses, the domestic industry has never been able to come close to covering the needs of U.S. consumers of titanium sponge. Even Petitioner TIMET admits that it is unable to meet its own needs for titanium sponge, as imports accounted for approximately 32 percent of its consumption over the past five years, according to the public version of the petition.

The inability of the domestic industry to meet demand for titanium sponge in 2014 to '16 when ATI's Rowley facility is operational is graphically presented in Chart 4. Industry capacity in relation to total consumption in 2017 after the Rowley closure is shown in Chart 5. It is true that imports of titanium sponge from Japan and Kazakhstan increased in the first half of 2017.

The domestic industry's data, however, show a causal disconnect. As you will see in Chart 6, the domestic producers' financial performance did into suffer due to the

increase in subject imports in 2017. Chart 7 shows a similar disconnect in relation to injury to industry shipments. The purported price impact of the subject imports on domestic producer prices also does not withstand scrutiny. Any price impact is limited by the fact that purchases of imported titanium sponge, including those by TIMET, are generally made under long term contracts with some contracts exceeding five and going up to even ten years.

As you can see in Chart 8, available evidence does not support the contention of price depression on titanium sponge. TIMET's derivation of a product line income statement should be reviewed carefully by the Commission staff. It is Commission's long-standing practice to use prices for commercial shipments to value internal consumption and transfers. As we have heard this morning, TIMET does have open market sales of titanium sponge.

As shown in Chart 9, the staff should pay particular attention to the relative unit values of TIMET's shipments. Proper derivation of the shipment values can have a major impact on the indicators of the domestic industry's financial condition, as shown in Chart 10. In summary, the action being pursued by TIMET reflects huge leaps of logic in its presentation of an injury case, and massive disconnects in relation to a causal connection

between the purported injury and the subject imports.

Given these disconnects and the fact that almost all of the output of the domestic industry is internally consumed or transferred, the Commission staff should review the evidence that has been submitted very thoroughly, and the Commission should ultimately conclude that this case is without merit on its face. That concludes my remarks. Thanks very much.

STATEMENT OF KATHLEEN CANNON

MS. CANNON: For the record, I am Kathleen Cannon, and I will address several legal issues presented by this case. As the testimony of our panel has demonstrated, and as Respondents concedes, the facts presented here are highly unusual compared to those the Commission typically sees in Title VII actions. The arguments Petitioner advances in an attempt to show injury are not only unique but are largely inconsistent with the basic statutory injury requirements.

First and foremost is the issue of captive production. Typically, this issue as presented to the Commission relates to the statutory provision requiring the Commission to focus on merchant market sales, rather than on the overall market where certain criteria are met. In this case, however, the captive production provision is inapplicable because there really is no merchant market to

analyze.

The Commission has expressly recognized that captive consumption attenuates the degree of competition between the domestic product and subject imports. Why is that? Because you have virtually no direct competition between the subject imports and the U.S. product when a product is captively consumed.

Captive consumption precludes any possibility of head to head price competition between competing offers of subject imports and the U.S. product. Where the domestic product is captively consumed, there are no sales lost by U.S. producers to subject imports either. Further, there are no reduced U.S. producer prices in an attempt to compete with the prices of the subject imports for sales.

These traditional factors in which the Commission relies to find injury are not present here. In recognition of this quandary, Petitioner relies on the Commission's decision in Tungsten Ore, in an effort to demonstrate injury under the make or buy analysis relied on by one Commissioner in that case. As Mr. Henderson pointed out this morning, Commissioner Lodwick's analysis in Tungsten Ore was based on a market-facing declining consumption. Respondents have conceded that demand here is strong and growing over the Period of Investigation, in an increasing market, as Commissioner Lodwick recognized in

Tungsten Ore, U.S. production may be supplemented by the imports. That is not injury.

Another important point is that the Tungsten Ore decision dates back to 1991. In a 2003 case involving Pigment Dispersions from India, when presented with a similar argument relying on Tungsten Ore, the Commission stated "Developments since 1991 in the case law concerning our material injury determinations indicate that any such analysis should be viewed with caution."

In particular, the Commission cited the Court's focus on the industry producing the like product, not other downstream industries. The Court of International Trade has emphasized that injury by law must be measured in relation to import effects on the subject product, and not effects on downstream operations as Petitioner has attempted to do by pointing to prices of the downstream titanium mill products.

In the Pigment Dispersions case, the Commission issued a negative preliminary determination, rejecting the Petitioners' attempt to rely on downstream product effects. The Commission focused on the limited direct competition between the domestic like product and subject imports that minimized the impact of increasing import volumes and lower import prices.

In the DAS Chemistry case, the Commission

similarly issued a negative preliminary determination where a market was dominated by a U.S. producer that captively consumed the subject product. The Commission found there that as a result of the captive consumption, no significant volume or price effects of subject imports existed.

The same market dynamics identified in Pigment Dispersions and in DAS Chemistry are present in this case. Indeed, as Mr. Sims testified, ATI's decision to idle Rowley was not driven by increasing volumes of low-priced subject imports, but by other challenges Rowley encountered and by ATI's need for a long-term source of supply that imports offered but that U.S. producer TIMET could not.

This brings is to a second major legal issue, that is U.S. supply capabilities. Although the Commission has recognized that the domestic industry does not need to be able to supply the entire U.S. market to obtain relief, the Commission always examines the U.S. industry's attempts to sell product in the U.S. market and its loss of sales to subject imports.

Where the Commission has found a significant supply deficit between U.S. producer capacity and domestic demand, and the limited ability of the U.S. industry to respond to requests to supply U.S. producer contracts, the domestic industry's inability to supply product has weighed against a finding of injury caused by subject imports, and

that was particularly true in the Blast Furnace Coke case.

Similarly, where U.S. producers fulfilled their own contractual obligations before offering product to other domestic purchasers, leaving purchasers to source imports due to a lack of U.S. supply, the Commission has found that the increasing import volumes are not causing injury. As Mr. Sims testified, there is a long-standing practice of U.S. titanium producers that are manufacturing sponge for their own internal consumption, to have little if any open market sales.

Indeed, as Mr. Sims stated, even the domestic producers have traditionally relied on significant volumes of subject imports to supplement their own production. Under these facts, Petitioner cannot legitimately claim that it has lost sales to subject imports. Petitioner's allegations as the price effects of subject imports are also unfounded, as they focus on the downstream product price effects, not actual price effects of the subject product.

Whereas here there is no competition between subject imports and the domestic like product, there can be no adverse price effects on the U.S. industry due to subject imports. In fact, Mr. Horgan's testimony this morning suggests that they are not even alleging injurious price effects.

The Commission is left therefore with facts

remarkably similar to those it faced in 1998 when it decided to revoke the previous orders on titanium sponge. In that case, the Commission recognized there were virtually no open market sales by U.S. producers, that U.S. producers had demonstrated no interest in competing in the titanium sponge commercial market in any significant way, and that U.S. producers themselves imported significant volumes of titanium sponge and all of those factors remained true today.

The Commission further found in the prior case that long-term supply contracts of five to ten years in duration had become more common, locking in prices for an extended period and thus insulating U.S. producers from adverse import price effects. As Mr. Sims stated, these long-term contracts of five to ten years remain a critical condition of competition in the U.S. market today.

In revoking the prior titanium sponge orders, the Commission also found that U.S. demand was strong, that demand exceeded domestic supply, and that demand was likely to remain strong in the reasonably foreseeable future. Again, these facts continue to apply to the U.S. market today, where there is strong demand due in particular to growth in the aerospace sector.

Just as these facts justified revoking the prior orders on titanium sponge, they support a finding of

no material injury caused by subject imports in this case. I would add that Respondents' contention this morning that the Commission made a mistake when it revoked the order, as demonstrated by the closure of the Oramet facility after that decision was made, is unfounded, as Mr. Sims can explain to you further.

Let me close by saying that I referenced the American Lamb case in my opening statement as providing a low threshold injury test, but one which has not been met by the facts presented here. One additional point I would like to add on that case is that the Commission has a remarkably comprehensive database here, with questionnaire responses from all significant U.S. producers, foreign producers and importers.

These data and the information provided at this hearing and in our briefs will provide more than a sufficient record on which to base a preliminary determination. Under American Lamb, there is no need to proceed to the final phase of this case, to gather information missing from this record. That will lead you to reach a negative preliminary determination. Thank you very much.

STATEMENT OF KIYOAKI SANDO

MR. SANDO: Good afternoon. I am Kiyoaki Sando of the Sales and Marketing Department of OSAKA Titanium

Technologies Company, Limited, or OTC. I would like to tell you about OTC and the important dynamics of the titanium sponge market.

OTC is a producer of titanium sponge and titanium ingot, headquartered in Amagasaki, Japan. Unlike TIMET, we do not manufacture or sell mill products.

OTC became Japan's first successful industrialized titanium company in 1952 and remains the country's leading manufacturer and exporter of titanium sponge.

Worldwide, only a few manufacturers, including OTC, have the expertise to manufacture premium-grade titanium sponge for use in the manufacture of critical parts such as rotating aircraft engine components. For decades, OTC has made a significant positive contribution to the U.S. market by enabling the U.S. titanium industry to maintain a stable volume of production and respond flexibly to increased demand.

To understand the U.S. titanium sponge market, it is essential to understand several points. First, the different grades and applications for titanium sponge. Second, the increased presence of titanium scrap in the U.S. market. Third, the role of the downstream purchasers in the sponge market. And fourth, TIMET's role as a major U.S. sponge importer.

First, the distinction between standard grade and premium grade titanium sponge is important. We provide customers with different grades of sponge. In the aerospace industry, titanium is used in airframe and engine applications.

Standard quality sponge can be used in airframes and in the static, non-rotating parts of engines, but only premium quality can be used in rotating engine parts. OTC is among the few sponge manufacturers approved by key end users to supply premium grade sponge.

Second, titanium mill products can be made using both sponge and titanium scrap. The amount of scrap present in the marketplace has increased over time due to the heightened use of titanium in aerospace and industrial applications.

Greater volumes of scrap generally have created downward pricing pressure on sponge, given that scrap and lower grades of sponge are substitutable for many remelting applications. In the United States, the proportion for scrap to sponge in titanium melt has risen now to around 60 percent.

Third, I would like to speak about the critical role of downstream purchasers. The titanium sponge market is driven largely by commercial and military aerospace applications. Mill products and castings for those

applications represent approximately 79 percent of U.S. production in first quarter 2017, according to the latest U.S. Geological Survey, with non-aerospace applications accounting for the remainder. Market conditions in these end-use industries have an upstream impact on the titanium sponge market.

Suppliers of titanium mill products have felt increased price pressure from the U.S. end users such as aircraft manufacturers. That pressure in turn is reflected in price pressure exerted by producers of mill products on suppliers of titanium sponge.

Aerospace manufacturers have made widely reported efforts to reduce material input costs, reportedly working to substitute lower-cost material such as aluminum for titanium.

Finally, I would encourage the Commissioners and the staff to look closely at TIMET's role in the U.S. market. TIMET identifies itself as a U.S. producer of sponge, but to OTC's knowledge TIMET does not sell titanium sponge in the commercial market. Rather, it uses virtually its entire supply of sponge to satisfy internal demand to product titanium mill products.

TIMET does not have a continuous capability to supply sponge to outside customers. That means that, unlike OTC, TIMET is not and cannot be a reliable and stable

supplier to outside customers.

In the Petition, TIMET said it contacted potential sponge customers without success. However, we believe that TIMET does not contact potential customers when its own sponge plant is operating at or near full capacity.

Even more importantly, TIMET depends on sponge imports for its own internal production of titanium mill products. TIMET has long been a major purchaser of titanium sponge that aggressively seeks low-priced sponge from overseas on a contract basis.

TIMET says in the Petition that it has reduced sponge production at its own plant, alleging this is due to increased imports. But OTC's belief is that TIMET's reduction in its production is related to its own business decisions which we will discuss in our post-conference submission.

I would encourage the Commission to look at imports that TIMET has made or will make from nonsubject countries such as Ukraine, China, Russia, and Saudi Arabia. The only conclusion that can be reached is that TIMET is, first and foremost, a major buyer of low-priced imports and that its primary interest is not serving as a domestic manufacturer and supplier of sponge.

We are confident that the Commission will recognize that there are no unfairly traded imports of

titanium sponge from Japan injuring the U.S. sponge industry.

All we have here is a single U.S. producer with a limited production capacity seeking to excuse its own business decisions and secure arrangements for nonsubject imports.

Thank you, and I would be happy to answer any questions you may have. Thank you.

STATEMENT OF RITCHIE THOMAS

MR. THOMAS: Good afternoon. I am Ritchie Thomas of Squire Patton Boggs, counsel for UKTMP.

TIMET's Petition does not present a basis for a finding of a reasonable indication of material injury or the threat of material injury to the U.S. titanium sponge industry. The domestic sponge producers' internal consumption, in the Petition's words, virtually all of the titanium sponge that they produce is such that subject imports do not compete with the domestic like-product in the titanium sponge market in the United States.

Others have and will fully address the issues raised by these facts. My remarks center on three issues subsidiary to those overriding deficiencies of Petitioner's case which have particular relevance to UKTMP, the sponge producer in Kazakhstan.

First, subject imports from Kazakhstan and Japan

should not be cumulated by the Commission in these investigations in either its present injury or in its threat analysis. As Ms. Cannon observed in her opening remarks, this case is highly unusual in many respects, most especially in the lack of open market sales.

The statute does not envision cumulation in these circumstances. The section relating to mandatory cumulation states that: When other requirements are met, the Commission shall assess the volume and effect on the domestic industry of the imports from multiple countries if such imports compete with each other and with the domestic like-product in the United States' market.

The section relating to cumulation and assessing threats has the identical requirement. Here, subject imports do not compete with the domestic like-product in the United States' market, as the cumulation provision requires.

The domestic like-product is captively produced, internally consumed by the producers or their affiliates, and does not enter the United States market for titanium sponge. Those facts also fail to satisfy two of the Commission's four-factor cumulation test.

Given that virtually all of the titanium sponge TIMET and ATI produce was internally consumed, essentially no sales or commercially significant offers of the domestic like-products could conceivably have been made in the same

geographical markets as subject imports, or in any U.S. markets as required for cumulation.

In addition, internal consumption of the domestic like-product is a different channel of distribution from the open market sales of the subject imports. In a 2003 negative preliminary injury determination in the DAS Chemistry from India case, the two Commissioners who considered the issue held subject imports should not be cumulated because the statutory preconditions for cumulation do not exist when the domestic like-product is, as TIMET's Petition states, virtually wholly captively consumed.

Moreover, in addition to not competing with the domestic like-product, subject imports from Japan and Kazakhstan compete with each other in the United States market only to a limited extent. Only standard grade sponge not certified for use in aircraft rotating parts was exported to the U.S. by UKTMP. It was not substitutable for Japanese premium grade sponge qualified for and used in rotating parts by U.S. engine manufacturers.

The imports from Kazakhstan consequently were substitutable for the imports from Japan only to a limited extent. Further, because aircraft engine manufacturers are a separate and distinct category of titanium mill product end users with distinct quality, quality certification, and support documentation requirements, sales of sponge for

ultimate manufacture into aircraft rotating parts constitute a channel of distribution distinct from the channels of sponge sales for non-engine application.

Cumulation of sponge imports from Japan and Kazakhstan therefore neither is authorized by statute nor appropriate. Of course for the reasons already stated, there's no reasonable indication that subject imports are causing or threatening to cause the domestic titanium sponge industry material injury, whether they are cumulated or not.

The greater significance of the cumulation provisions that they hold for the Commission in these investigations is that they so clearly show how poorly the Petition's allegations fit the statutory scheme.

This is Cinderella's Ugly Stepsister trying to cram her misshapen foot into Cinderella's slipper.

Second, UKTMP's export history shows there has been no dramatic surge in sponge from Kazakhstan as TIMET claims. UKTMP has been a supplier of titanium sponge to the U.S. titanium mill product producers for over two decades. Its exports to the U.S. have fluctuated depending on the requirements of the U.S. titanium melters.

Current exports to the United States are not significantly different from the historical record. Considering only the POI over the three full years included, UKTMP's exports to the United States increased from 2014 to

2015, then decreased from 2015 to 2016 to a level below the start of the POI.

The exports to the U.S. increased again from 2016 to 2017, solely as a result of the long-term supply agreement with an ATI affiliate, which ATI negotiated when the sponge requirements increased following the decision to idle its U.S. sponge production. But they remained below their 2015 level and are expected to continue so in the foreseeable future.

Third, UKTMP is not dependent on exports to the United States market, and it has no plans to, quote, "surge," close quote, of such exports in the foreseeable future. In recent years, UKTMP has successfully taken steps to move into downstream titanium mill product production in order to reduce its reliance on the titanium sponge market.

It participates in a joint venture with POSCO, a Korean firm, to produce titanium slabs at UKTMP's plant. In addition, UKTMP produces its own titanium ingots for export to a related French titanium product manufacturer.

Those operations are continuing and represent a growing and overwhelmingly preponderant portion of UKTMP's sales. TIMET'S assertion that, quote, "in 2016 UKTMP abandoned its domestic production strategy," close quote, is flatly wrong as UKTMP's questionnaire response shows.

Further UKTMP's other titanium sponge export

markets include India. Korea, China, and Europe. UKTMP's sponge exports to those other markets in the aggregate exceeded its exports to the U.S. throughout the POI, except for 2015, and continued to do so in part-year 2017.

UKTMP therefore is not dependent on exports of titanium sponge for the U.S. market, as TIMET has claimed.

That concludes my remarks. I will be happy to answer questions.

MS. CANNON: That concludes the remarks of the panel, Mr. Anderson. We'll be happy to answer questions.

MR. ANDERSON: Thank you very much to the panel for your presentations and for being here. I know some of you traveled a long way to be here today.

We will start questions from staff with Mr. Harriman.

MR. HARRIMAN: Hello. Good afternoon. Jordan Harriman. Thanks again for being here this afternoon.

I will start out with a couple of questions for Mr. Sims. To the extent you can discuss these factors--I mean obviously this maker by decision is a major component here. I'm just wondering, could you delve into a little bit more detail of the total timeline before the decision, after the decision that led to this shift, and including any relevant details such as the outcome for the Rowley Plant and your other operations?

MR. SIMS: This is John Sims from AT. I want to make sure I understand the question. Could you repeat that?

MR. HARRIMAN: Sure. I'm just curious when the decision--because I assume it wasn't an instantaneous decision, so I'm wondering when it became more of a topic of conversation, the steps you took to prepare for it, and I'm sure it's a very impactful decision that you had to make. So I'm just curious when it was discussed, and how long it sort of took to implement.

MR. SIMS: I understand. I would say, I'll take you back a little bit from a contextual standpoint to when we decided to build Rowley in 2006. Because the fact circumstance at that time--and those were largely driven by at the time historic demand for titanium both aerospace and industrial applications, medical, et cetera. It was unlike anything we had seen in a generation I would say.

And sponge availability was very tight. Scrap markets were extremely tight. Prices for those were very high. So any producer was more concerned about availability of raw materials over, you know, the period of time that we had to supply.

So when we decided to build Rowley, the decision was made at that time in large view because of those circumstances not to build it in an integrated fashion, meaning with the up-front TICL magnesium. That seemed wise

to do at the time, and I think as Mr. Seiner referenced this morning, those carry with them significant costs if you're going to add that to a plant.

As well as if you're building a greenfield plant in the United States today and you're going to build a sponge plant, it's going to cost a lot of money because of the code changes and environmental regulations, et cetera, that go with that.

So if you compare Rowley to our existing sponge facility, the old one in Albany or to TIMET's in Henderson, Nevada, they will look very different.

So as we built the plant, we began startup in 2009, our whole task was at the time to, one, learn how to run the plant, become efficient at it. We had a green workforce. There are no sponge plants in Salt Lake City, Utah, so you're having to train workers how to operate in a facility like that to come up to speed.

And our estimates at the time we did the business case for the investment were based on certain cost assumptions. We can share those post-conference, but in long/short we were not achieving those estimates for a variety of reasons. Some of those were related to the TiCl challenges that I referenced in my testimony, not only the price of the TiCl but also the transportation costs associated with those which were increasing steadily. And

just so you know, a one-cent-a-pound increase in TiCl transportation costs is 4 cents a pound on the cost of the sponge because of how that works.

So that was something we were challenged with. As we went through the period probably from 2012 through 2014, and there were multiple discussions, you know, certainly at senior level with our board of directors, et cetera, is we were evaluating from a long-term basis are we going to be able to achieve our targets?

And again, our targets were not trying to peg against some lowest global cost of sponge out there; it was against, you know, what we viewed in the original business case of something we could sustain long term. We didn't think that was going to be possible.

And during that period of time, we began to be increasingly concerned about two factors. One was the viability of our TiCl supplier, and whether or not there were going to be curtailment actions or potential disruptions in supply of TiCl because of railroad actions based on their concern of transporting toxic inhalation-hazard materials.

So as we viewed the outward risk of that against the long-term contracts that we had and the cost basis that we were at which was far in excess of anything we had built into our business case, we made the determination that we

just were not going to get there without spending significant additional capital money to address the upfront problems, which were going to be the TiCl and the magnesium.

So we made a decision at that time to go ahead and idle. We had long-term contracts in place already. So really, the task there wasn't to get some sort of, you know, surge in lower pricing. The pricing didn't change to us. What we were negotiating was the term, because if you're going to -- if we were going to take the action to take that plant down, we had to make sure that we had a much longer term contract arrangement with our suppliers, because we knew if we did have to start that plant back up for some reason, it was going to take us quite a bit of time to do that.

So it took, I would say, over a four year period, we became gradually aware that we were not going to be able to achieve the objectives by which we justified building the plant without that front end investment.

MR. HARRIMAN: And so you said about four years? Yeah?

MR. SIMS: Yeah. From 2012 to 2016. But I would say more acutely 2014 to '16.

MR. HARRIMAN: Uh-huh. Was the -- and again this may be more of a post-comment sort of question, but was

the internal thought process always to approach the -- a total buy situation as a, you know, sort of last resort? Were there like a multitude of options in place that just sort of slowly turned towards that outcome?

MR. SIMS: This is John Sims from ATI. We built Rowley with a capacity that at the time we built it, we assumed that we were going to be able to run at full capacity. We did not ever intend to have an internal capacity that met 100 percent of our requirements for two reasons.

One is we went through business cycles. We knew there were going to be ups and downs in the titanium industry and we wanted to have partners on the outside that could help us move through that while we maintained our plant at relatively high run rates.

The second factor from a security of supply stand point and risk mitigation, most of our customers evaluated that and wanted us to have two sources of supply just from a risk mitigation standpoint.

MR. HARRIMAN: Okay.

MR. SIMS: And I would say, I would add too also, up until 1999, from an ATI perspective, and in '99, we purchased Ormet, ATI had never had a sponge plant. We had been a titanium producer for decades and never had a sponge plant. So from our history as a titanium supplier, having a

sponge plant was never considered to us at least to be some significant strategic requirement, because we had had the experience over decades of long-term relationships with the other suppliers.

MR. HARRIMAN: Okay. Thank you. Let's see. This is a question for Mr. Perryman and I invite comment from the rest of the panel as well. Can you walk through a little bit more detail, the timeline of a typical bid process? You discussed that for a little bit during your testimony. And I'm curious to know if, you know, a bid were to start today, what sort of timeline we're looking at and what the details of that process would be?

MR. PERRYMAN: So we are referring to a sponge bid?

MR. HARRIMAN: Correct.

MR. PERRYMAN: Well, a sponge bid will usually take anywhere from four to six week period. It's not something that's done in a day or two, because through the initial steps that I did describe, then it goes into more we'll call it the formal process when -- where you're outlining the -- all the specifications that are needed to be met, the amounts that are dictated by the demand of the product that needs to be produced and then turned into the scheduled deliveries of what will need to be met to meet our mill products demand.

And then taking that into a formal written quotation before it then turns into a purchase order. So it's not something that's done very quickly. It's logically thought out and planned, because of the significance or the cost of it.

MR. HARRIMAN: Uh-huh. And has -- the dynamic of the industry has always been built around the long-term contracts like you discussed and really getting secure supply arrangements in place from the beginning?

MR. PERRYMAN: They're absolutely critical, because a lot of our supply chain is dictated by the OEMs, the end use customers, you know, such as Boeing and Airbus. And then everything is built backwards into it. So it's very critical that we have all the components in place to do this, which means our sponge supply, or master alloy supply. And there's a significant amount of inventory throughout the supply chain when you are a multi now producer.

MR. HARRIMAN: Okay, thank you.

MR.: Mr. Harriman, can I comment on that, too?

MR. HARRIMAN: Yes.

MR. FORSYTHE: This is Brad Forsythe at ATI.

MR. HARRIMAN: Uh-huh.

MR. FORSYTHE: Because of the nature of the requirements for titanium sponge in our industry and our melting requirements, these conversations happen over many,

many years really. Essentially we have long-term relationships with these suppliers. So you're constantly looking at your programs you have with them, talking about how they may need to change for the next contract period.

So they don't just start kind of on a cold basis, but they're continuing to go on in in partnership with that supply because we don't want to all of a sudden end the period and say we got two months to go, let's start negotiating. These conversations take place over many months typically often more than a year.

MR. HARRIMAN: Well, thank you. Okay, thank you for your answers. I will defer to my colleagues.

MS. BUTLER: Good afternoon and thank you everyone for coming here today. Just a couple of questions. To follow up on the contracting process, how frequently would you say new bids are opened?

MR. HALFORD: These are bids for I'm sorry -- this is Jeremy Halford from --

MS. BUTLER: Sponge.

MR. HALFORD: These are new bids for a sponge?

MS. BUTLER: Yes.

MR. HALFORD: Very infrequently. You know --

MS. BUTLER: Every five years, 10 years?

MR. HALFORD: Five between five and 10 years --

MS. BUTLER: Okay.

MR. HALFORD: -- would be typical for us.

MS. BUTLER: Okay. And for the foreign producers, earlier today, there was a statement that was made, a contention that the quality of the titanium sponge that is produced is not of the same quality as the American producers. Do you have a response for that? And how would you describe your process for making it as compared to the domestic process?

MR. SANDO: Well, we believed -- Kioyoaki Sando, OTC. Okay, we believe that Japanese sponge and American U.S. TIMET sponge basically interchangeable as on that same grade. But since, you know, we don't know the quality of TIMET's sponge, you know, we cannot say something for sure. But for the same grade, basically, interchangeable we think.

MR. THOMAS: For UKTMP, we equally don't have experience with the grade with the quality of TIMET's sponge. As I mentioned, during the POI, UKTMP exported --

MS. BELLAMY: Identify yourself, please?

MR. THOMAS: Ritchie Thomas. Thank you, sorry. UKTMP exported the only standard grade sponge to the United States. Therefore, that sponge was not qualified to produce in aircraft rotating parts. TIMET makes such sponge. So certainly, that is the difference.

MS. BUTLER: So then perhaps the domestic as Mr. Perryman and Mr. Halford can respond, this export then of

not the superior quality sponge, would that we used for example in the medical devices? That's the first that we're discussing medical devices today?

MR. HALFORD: Yeah, we -- given that none of us use domestically produced sponge, and among the --

MS. BELLAMY: Identify yourself please?

MR. HALFORD: I'm sorry, this is Jeremy Halford, sorry. Given that none of the three of us between Arconic, ATI, or Perryman use domestically-produced sponge, but do among the three of us have the ability to produce all titanium alloys for all applications, I would assert that there's little to no difference in quality between a domestically produced sponge versus a premium quality sponge coming out of Japan.

MS. BUTLER: And I'm trying to wrap my head around the assessment of the quality of the sponge. Earlier, it was stated that a buyer would come out and it's not something that is regulated. Is that your understanding of how these sponges from the foreign producers would then also be assessed?

MR. HALFORD: So again, Jeremy Halford from Arconic. We have specifications for all of the trace elements that could be left within the sponge that we purchase. And the quantity of those trace elements in the sponge that we buy is what would make a determination

between a premium quality sponge versus a standard quality sponge.

And so, while each of the users may have slightly different characteristics of what they buy or standards for what they buy, they would be relatively close to each other, all geared towards achieving an end product based on the processes that we use.

MR. FORSYTHE: Ms. Butler, can I add to that? This is Brad Forsythe at ATI. I think the reason we're struggling to explain exactly why they're interchangeable or not is it's not only the sponge which may have consistent characteristics just sitting there if you evaluate it, but you have to take that sponge typically in the aerospace engine business and carry it through your own melting processes, your own hot working process, and then have it approved by the OEM. So those are independent activities. And the OEMs want to approve that entire supply chain, not just the sponge, independent of the rest of that process.

MS. BUTLER: So is that the -- I believe it was the -- I believe it was the 75/25 percent ratio that may have been discussed earlier by the economist Mr. Kerwin? Is that what you're describing?

MR. FORSYTHE: No, I'm describing that when you talk about what's a premium quality sponge, it's dependent upon that sponge you're talking about and how and where you

use it in your own manufacturing process to satisfy a particular OEM's requirements.

MS. BUTLER: Okay.

MR. FORSYTHE: They change. And different OEMs have different requirements with that.

MS. BUTLER: Okay. Regarding the -- we discussed a little bit about the run off, the recycling this morning. In the foreign production, is that recycling process done as well? Is there run off? Are there buyers for the run off?

MR. SANDO: Kiyoaki Sando with OTC. Your question about recycling?

MS. BUTLER: Yes.

MR. SANDO: And could you just -- would you mind repeating?

MS. BUTLER: Yes.

MR. SANDO: Make sure I -- .

MS. BUTLER: Let me get my chart out to make sure I'm discussing the right chemical processes. This morning just bear with me a moment.

UNIDENTIFIED SPEAKER: If I could help, I think you're talking about the closed loop for magnesium --

MS. BUTLER: Yes.

UNIDENTIFIED SPEAKER: And chloride.

MS. BUTLER: Magnesium.

MR. THOMAS: This is Ritchie Thomas. For UKTMP, as I'm sure for friends from Japan, it's in the nature of the kroll process that you recycle the magnesium and chlorine that you use in the process. So yes, we both do that.

MS. BUTLER: So to back up then, perhaps would be the most efficient way. Your process both is the same as the domestic producer. Do you use the same processes for distilling and producing the sponge?

MR. SANDO: Kiyoaki Sando with OTC. Yes, we recycle mag and chlorine, yes, same as Kaza, right, and same as Henderson. Yes.

MS. BUTLER: Okay.

MR. THOMAS: This is Ritchie Thomas, yes, that's correct. We --

MR. SIMS: And this is Butler from Johnson for ATI. The Rowley facility was the only major sponge production facility on the planet that did not have the integrated mag and TiCl capability, which made it very unique from -- all of our supplies and our competitors.

MS. BUTLER: Thank you, that is helpful. Have we discussed again this morning, and I would like to give the foreign producers the opportunity to respond. Have there been any technology or automated developments and advancements in the production that would change the way

that it's produced or any of the costs?

MR. SANDO: Kiyoaki Sando from OTC. So the technology development making sponge over some years, basically, we've been using kroll process for over the years. So same production method. Our production batch has became larger, so more efficient. But basically, the same production process or same production method.

MR. THOMAS: This is Ritchie Thomas from UKTMP. I agree. There have been no significant technology changes in the production process.

MS. BUTLER: And would the respondents agree that their products, the titanium sponge that is produced by the foreign producers, that it is perfectly interchangeable with the product as you understand it from the petitioners?

MR. SANDO: Kiyoaki Sando with OTC. Well, as I say, if you compared same grade, we believe that's interchangeable. But since we don't know the quality of the domestic sponge, you know, we're not sure. We believe that's interchangeable.

MR. THOMAS: This is Ritchie Thomas. It has to be emphasized that the domestic sponge is not in the market. Therefore, we have no experience of that sponge.

Certainly, and all in the case of UKTMP, its exports to the United States in the POI were wholly standard grade sponge. As you've heard many people testify here this

morning, standard grade sponge cannot be used in applications where you need a premium grade sponge for the aircraft engine rotating parts. So it is by no means perfectly interchangeable.

MS. BUTLER: But if it is the party's statement that they all use the kroll process, then would it be safe to assume that the product that comes out of that production process is the same?

MR. THOMAS: Ritchie Thomas again. By no means.

MS. BUTLER: Okay.

MR. THOMAS: You heard the domestic producer testify that there are well, actually, I forget now the number, four or five producers in the world that produce sponge that was acceptable to it. It regarded the other sponge producers as producing an inferior grade product.

So they're not all the same. The production process is a complicated one, that takes many years to be successful with. And there are variations in what the different plants are capable of producing.

MR. FORSYTHE: Ms. Butler, this is Brad Forsythe at ATI. I'd like to add to that as well. The quality of the sponge could be similar because the kroll process is very much the same, but there can be a lot of variation in that method of manufacture. I think this morning we heard a little bit about how controlling the temperatures,

controlling the pressures, those become important characteristics to allow that product to be sure of not having any defects in it, any nitrides, any things that might cause a problem in the product.

We're making quality material for aerospace engines. Last I checked, there weren't any garages in the sky. So you needed to it be reliable.

And so because of that, you have to make sure that the entire process is reliable and won't produce defects. So that was -- that's what the make interchangeability very challenging. And it's a two-step process. You have to meet the requirements for the sponge process and then you have to take that sponge and put it through our melting and our other downstream processes to ensure that the whole product at the end of the day meets those aerospace requirements. And so, it's very subjective to both the sponge process and then our various production processes.

MS. BUTLER: Thank you. One final question for Mr. Kerwin, you pointed my attention to the chart on page 8 of the presentation this morning. And I was wondering if you would speak a little bit more on the record about the green lined noted TIMET total mill products and the purple line, which is Japan sponge?

MR. KERWIN: Well, I think what's interesting

about this chart as I mentioned is, and I -- this was also a chart that appeared in the petition, that the base year is 2013. Well, the period of investigation for this case is 2014 to interim 2017. So first of all, they're not even delimiting the data within the current period of investigation.

Secondly, if you -- so if you start with 2014 as a base year and looking at the mill products pricing, that is very little changed between 2014 and 2016. Essentially, the pricing is stagnant over that period.

So the point is I can't tell you exactly off the top of my head what I think -- these are probably the sponge AUVs are probably based on the import statistics. And so that you could have a question of a product mix in relation to the degree of decline there. But the point is that really in relation to the mill products pricing, it's basically flat over the -- what is the period of investigation.

MS. BUTLER: My purpose in revisiting it to sort of hone in on the question is I was thinking you were raising this chart as an issue, because it is essentially comparing apples and oranges and not apples to apples. Is that the case?

MR. KERWIN: Well, it's my point, yeah, there's a couple points there. First of all, these initial charts I

think it's 8 through 11 use 2013 as a base year. When you get back to page 12, they're using 2014 as a base year. So I don't think any of the charts should be using 2013 as a base year, because they're outside the period of investigation.

Yes, you certainly have the question, which I talked about in my testimony is what is the relationship between the price of titanium sponge and mill products? As I mentioned, you know, the -- in TIMET's own petition, they said that sponge accounts for only about 25 percent of the raw materials costs of producing a titanium ingot, a mill product. When you consider the overall full cost of production of that ingot, it's probably well less than 15 percent. And this is from -- based on their own data. It would depend on the mill product of course, but as a general ballpark idea, you're talking about a relatively minor amount of the overall cost of producing an ingot that would be made up with a titanium sponge.

So yes, I think it's -- there's not a clear indication that there is a causal direct connection between what went on with titanium sponge prices, if these data are even accurate and what went on with mill products' prices. So yes, it is a bit of an apple to oranges comparison.

MS. BUTLER: Thank you. That concludes my questions. I defer to my colleagues.

MR. ANDERSON: Thank you, Ms. Butler. Go ahead, Mr. Henderson.

MR. HENDERSON: Thank you. First as a follow up to Mr. Harriman's questioning of Mr. Sims, I don't -- not to ask any more questions or have you repeat what you said before, but just I think it was implicit in his questions, but obviously if there is available documentation of the decision making process beyond the documents that are included in the petition, that would be very useful. Thank you.

Now for respondent's counsel Ms. Cannon or whoever else, the first question is on the definition of the domestic like product. The petitioner say there should be a single domestic like product that is co-extensive with the scope of commerce. Do respondents agree with that or have any other proposed definitions?

MS. CANNON: Kathy Cannon for the preliminary stage of this case, we do not contest the domestic like product should equal the scope.

MR. HENDERSON: Okay.

MS. OKUN: Deanna Okun for Perryman Company. We also don't contest it for purposes of the preliminary.

MR. ELLIS: Neil Ellis, Sidley Austin, we also agree with her. Thank you.

MR. THOMAS: Ritchie Thomas, Squire Patton

Boggs. We're postulating a single like product for these purposes, this proceeding as well.

MR. SCHAEFER: And this is Alex Schaefer from Crowell for RMI or -- and we don't have any different to add.

MR. HENDERSON: Thank you. The second question, definition of the domestic industry. We've -- from petitioners, their position is that there are two producers in the domestic industry and nobody should be excluded or apparently nobody should be excluded as a related party.

The -- is that -- do respondents agree with that definition of the domestic industry? Does anybody think anybody should be excluded as a related party?

MS. CANNON: Kathy Cannon. We also are not contesting that at this stage of the case. We think even including ATI in the database, there's no evidence of injury.

MS. OKUN: Deanna Okun for the Perryman Company. Mr. Henderson, for purposes of the prelim, again, we think the record is complete and we would not contest the definition of the domestic industry, because we don't think it matters.

I would note that of the cases that Ms. Cannon cited and that we will brief afterwards including Dows Chemical there were questions raised under some

circumstances that could be similar, so we will look at that. But again, I don't think it changes. Well, it does not change our analysis in terms of causation.

MR. HENDERSON: Thank you. Now with respect to accumulation, we've heard from Mr. Thomas thus far that arguing that the Commission should not accumulate either for material injury or threat I understand subject imports from Kazakhstan with those from Japan. Do other respondent's counsel have a position on this issue?

MS. CANNON: Kathy Cannon. We agree with Mr. Thomas' position specifically with respect to the lack of competition. There are no open market sales, so there's no competition.

MR. ELLIS: This is Neil Ellis, Sidley for OTC. We also agree with that under the unusual circumstances here where you don't have competition. You don't have sales, therefore you don't have competition. Therefore you can't accumulate, which obviously is a very unusual situation. Thank you.

MR. HENDERSON: Now we've -- Mr. Thomas mentioned the issues before of channels of distribution and geographic overlap. Now not to get in another discussion of interchangeability, but is -- do respondents contest fungibility with respect to for example subject imports from Kazakhstan with those from Japan as well as the domestic

like product?

MR. THOMAS: This is Ritchie Thomas. I believe there are issues in that area, but we're not contesting it at this point for this purpose.

MR. ELLIS: This is Neil Ellis. We agree with his hesitant agreement.

MR. HENDERSON: Needless to say, I invite respondents to address these issues in more detail, including their argument about the situation of this case in the U.S. market in post- conference brief. And I also invite the petitioners to respond to what we've heard from respondents this afternoon accumulation.

Now and sort of along the same lines, we heard legal arguments from Ms. Cannon this morning about the relevance of information concerning prices of downstream mill products to the Commission's impact analysis of the effect of the industry producing domestic like products. It's probably already written, but I invite that to be -- the respondents to include that in their post-conference briefs and I would invite petitioners to address those arguments as well.

Same with the arguments about the sort of U.S. industry capacity and ability to supply the U.S. market. Again, inviting both parties to address that and the various Commission investigations reports cited by Ms. Cannon since

Commissioner Ladwig's views in 1991. Again, I would like both parties to address those issues.

And another a question for Ms. Cannon in light of the testimony of Mr. Horgan this morning, some of the questioning about the Commission's analysis of price effects with respect to the domestic like product, if given the record and the absence of significant quantities of sales, commercial sales and if the Commission is unable to make any of the findings required for the U.S. statute under the U.S. statute with respect to price effects, does that -- what in your view does that mean for the Commission's overall analysis of impact and material injury?

MS. CANNON: Kathy Cannon for the record. I think that's really what the Commission was grappling with in the two cases I cited Mr. Henderson, the payment dispersions and the DS chemistry case where it was looking at a market where there had virtually all captive consumption. And the Commission said sure, if you look in the abstract at import volumes, you might they're significant. They're not small, but what about their effects? They're not really doing anything. That's what we have here. You're not showing lost sales because you have no commercial market.

Similarly, with prices, you know, there's no underselling. I mean, there may be what they even

considered was de minimus price or sales on an open market, but there's such a small amount, that regardless of whether there was lower prices, it's not having any significant effect.

And that's specifically what the Commission recognized. So when it got to impact, there wasn't really anything to assess in terms of what were the imports doing with that was causing any problems that might be seen in the industry. You just sever that causal nexus pretty substantially.

So that's what the problem with this case is in a nutshell. You don't have any of the typical volume and price effects that the statute requires. And I haven't heard any arguments today that suggest that anything TIMET has experienced relates to volumes or prices of imports.

And you heard Mr. Sims testify the volumes of prices of imports during this period were not what led to the ATI decision to close Rowley. That had a lot of other factors going on there.

MR. HENDERSON: Thank you. Again, I would invite you to present that in the post-conference brief and invite the petitioners to present their views on that question as well. That's all I have for now. Oh.

MR. ANDERSON: Did someone else want to comment on that last question, line of questioning?

MS. OKUN: I would agree with everything Ms. Cannon said. And we'll certainly brief Mr. Henderson post-hearing. But just to note that I think that to the extent we heard an argument that was at all based on the statute, it was to say you could somehow back into impact based on other things, including downstream products unconnected to pricing products or anything else. And I think that is contrary to anything the Commission has done. I think it's contrary to the statute. And we're happy to brief that.

MR. ANDERSON: Okay. Thank you. All right. Go ahead, Ms. Burke?

MS. BURKE: Good afternoon. So I just have a couple questions about the contracts and price trends. So do the
long-term contracts have meet and -- meet or release clauses?

MR. HALFORD: By meet or release, you mean fixed volumes that need to be purchased?

MS. BURKE: Yes, and if the producers can't supply, can you get out of your contract?

MR. HALFORD: Yes, so this is Jeremy Halford from Arconic. Yes, we do agree to set volumes in exchange for the fixed pricing that we get from the sponge providers. I don't know. I haven't considered the possibility that they couldn't meet their supply requirements. I would

assume that if they could not meet the supply requirements, then of course we would get out of those contracts.

MS. BURKE: And the -- do the producers agree with that statement?

MR. THOMAS: This is Ritchie Thomas. I'm sure I misunderstood the question. I've always understood a meet or release clause to be one that says if you can't meet a particular price, you can be released from the contract.

MS. BURKE: You -- that and I'm just asking how I'm asking if you have meet or release clauses and then do you have like how are these contracts set up? Like my -- it was earlier today, I think that there was a conversation or an argument being made that somehow in the past, contracts have companies have been able to gather contracts. And I'm just trying to figure out if that's true, and if that is true, how that would happen on either side?

MR. THOMAS: This is Ritchie Thomas again. I'll leave it to this gentleman to respond. I certainly know of no such example.

MR. FORSYTHE: Ms. Burke, this is Brad Forsythe at ATI. To clarify, you're talking about the contracts we would have with the sponge producer?

MS. BURKE: Yes.

MR. FORSYTHE: Okay. Typically, there's not arrangements to be able to get out unless there's a force

majeure, an act of God. Perhaps you know, a tornado hits our melt shop and we simply don't need the sponge. But typically, there are commitments made for a period of time. Certain volume commitments at stated prices and what not. So typically, you cannot just walk away from the contracts.

MR. PERRYMAN: Ms. Burke, this is Frank Perryman from Perryman Company, and I fully agree with what Brad said. It's fixed volumes for a time period at a fixed price, and then unless something catastrophic happens, there are firm contracts.

MS. BURKE: Okay, and so when we're talking about fixed price, do these contracts use pricing formulas based on changes in raw materials, cost or -- because I mean for over five or ten years, I would imagine if something changed in terms of the costs of the raw materials.

MR. PERRYMAN: No. Frank Perryman, Perryman Company and on our contracts I'll speak for just Perryman Company in regards to this. Ours are at fixed price for the contract. They do not -- we do not have indicators or indices that we will change -- that the price is changed with. Also on the downstream side, we don't have that luxury.

MS. BURKE: Okay.

MR. FORSYTHE: Ms. Burke, this is Brad Forsythe at ATI. That could be done different. We'd be

happy to put that in our post brief what our current contracts are.

MS. BURKE: Great.

MR. HALFORD: And the same is true for our Arconic. We will publish something in the brief.

MS. BURKE: Okay, great. So in terms of just sponge, not downstream products, what price trends might we see over the POI, both for premium grade and standard grade?

MR. FORSYTHE: This is Brad Forsythe from ATI. On premium grade, you'll see them fairly stable with minor adjustments, and really the introduction for ATI was only very recent in the POI period, and they've been stable through that period.

MR. HALFORD: For Arconic, you will see some modification around the time of Arconic's acquisitions of RMI Metals or RTI Metals, and we'll be happy to detail that in our brief.

MS. BURKE: Okay, great. There was mention of, you know, the other industrial markets that sponge has been used in and how demand might have changed over the POI. Can you give either now or in your post-conference brief what exact industrial markets we should be looking at for changes in demand for sponge?

MR. FORSYTHE: Changes in demand? Fundamentally in the other markets non-aerospace would be in

the industrial market, chemical processing, desalination type markets. Typically we refer to those as commercially pure titanium markets.

MS. BURKE: Okay, great.

MR. FORSYTHE: I'm sorry. This is Brad Forsythe at ATI.

MS. BURKE: I'm just trying to think. So for the producers, have customers ever voiced concerns over your ability to supply sponge based on the contracts that you have set? Have there ever been supply concerns?

MR. THOMAS: I think we have to respond to that in the post-conference brief. I frankly have no idea. Ritchie Thomas, sorry.

MR. SANDO: Kiyoaki Sando, DC. No.

MS. BURKE: And in terms of the standard grade that's being imported from Kazakhstan, is there a reason why we're not seeing imports of premium grade from Kazakhstan?

MR. THOMAS: This is Ritchie Thomas. Again, I think we'll have to respond to that in the post-conference brief. I can only say that I know that UKTMP is not qualified with one of the major U.S. jet engine manufacturers, General Electric, and I believe that that's a significant customer of one of our purchasers. Thank you.

MR. FORSYTHE: This is Brad Forsythe at ATI. Ms. Burke, I would agree with Mr. Thomas' remarks. It

depends on the qualification, and since they are no longer qualified with a major end user requirement, then it precludes us from using it as a premium quality product.

MS. BURKE: Okay, and we talked about this earlier today, but I'm just interested in what you've observed in the price of the raw materials of sponge over the Period of Investigation, whether they've increased, they've decreased or pretty much stayed the same.

MR. SANDO: Kiyoaki Sando, DC. I think you're talking about titanium feedstock like --, feedstock going to the sponge production. I think the past year POI, past year is rather stabilized, not moving widely.

MS. BURKE: And do Japanese and -- do you use the same like pricing indices as the U.S. producers that you know of, or most of them.

MR. SANDO: Kiyoaki Sando. So are you saying, are you asking if we buy feedstock in the same way as U.S. TIMET does?

MS. BURKE: Yes.

MR. SANDO: I don't know about TIMET, but we -- I think typically we buy on the -- basis or something, contract basis, yes. But I don't know about TIMET.

MR. FORSYTHE: Ms. Burke, this is Brad Forsythe at ATI. During the time we were operating Rowley, we did see increases in our TiCl supplies. Mr. Sims

testified not only in the TiCl material but also in the transportation cost. Typically as well, these are independent contracts. They're not based on an index out in the market. They're contracts that a producer would do directly with a supplier.

MS. BURKE: Okay. Those are all my questions.

MR. ANDERSON: Thank you, Ms. Burke. Mr. Garcia.

MR. GARCIA: Thank you again for being here. I just have a couple of questions. The first one is for Mr. Sims, and I thank you for going through that whole time line and explaining the factors that led to the idling at Rowley. Have those, you know, have those circumstances changed during the Period of Investigation or if they were to change, would the plant, you know, come back to up to production?

MR. SIMS: This is John Sims from ATI. The circumstances have not changed. Again, by the time we reached the very difficult decision to idle that facility, we realized that if we were going to restart it for the long term, we would need to address that front end, the TiCl and the magnesium capability on the front end, because that really put it in a significantly disadvantaged position relative to any other sponge producer on the planet.

We keep it -- we call it idled and it is

idled, and the reason why we keep it in an idled fashion, meaning we still have a maintenance crew on site maintaining critical pieces of equipment because in the event of some global supply shortage of sponge for some reason, something happens that disrupts sponge supply, we still have that facility that we can start up as kind of an emergency supply capability if we have to.

So that's why we maintain it, not because, you know, I'm waiting for the prices to go back up of import sponge. It's more of a last ditch security measure for us.

MR. GARCIA: And what would the time line be for ramping back up and would you need to be recertified or any of that sort of thing?

MR. SIMS: Six to nine months is our estimate. Probably most of that's related to hiring and training the people. It's a complex operation with significant safety hazards in it. So you have to be very careful about that and yes, we would have to be recertified, both standard quality and PQ.

MR. GARCIA: Okay, because earlier we heard that sometimes it takes -- or it took one plant three years to be certified at the standard level and ten years to be certified at the premium. Why the difference there?

MR. SIMS: Yeah. I agree with Mr. Seiner's date on the standard quality, because that was a public

release by us. It was 2012 we achieved standard quality. We actually achieved premium quality certification in 2015, and part of that was our own decision. Again, we had some processing-related changes we had to make in the facility that required some additional capital expenditure, that delayed our premium quality qualification.

I would say from the time that we completed those and got the initial hazard review by the -- OEM, which is kind of the starting point. They come in and evaluate the physical layout, the process itself and basically give you the green light to then begin carrying on with the qualification, from that point until the time we achieved the qualification, it was about a year and a half.

MR. GARCIA: Okay, thank you. This question is for both foreign producers and purchasers. Are there any specifications besides premium grade and standard grade that you usually look for?

MR. FORSYTHE: Mr. Garcia, this is Brad Forsythe at ATI. Those are currently the two kind of grades that we do buy in the open market. We do have other specifications internally that we could utilize as well that we're currently not utilizing to import sponge.

MR. GARCIA: And we also heard that in downstream products you can substitute premium for standard. Based on your, and you know maybe this has to do with your

contracts and the way, you know, you work backwards in a way, but have there been any situations were you've had to use premium because you've run out of standard or similar situation?

MR. HALFORD: This is Jeremy Halford from Arconic. No, not in recent memory. We have not run out of standard quality.

MR. FORSYTHE: Mr. Garcia, this is Brad Forsythe at ATI. Yes, there are occasions in our manufacturing process where we do elect to use the premium quality and standard grade applications, depending upon the availability of the material that we do have. Plus in our manufacturing process at times, the premium quality being of different form and size can fit that process better. So we do elect to use it in place of SQ for that reason.

MR. GARCIA: And last question, we heard about the partnership between Toho and Saudi Arabia. Are you aware of any other producers that are thinking about entering the global market?

MR. SANDO: Kiyoaki Sando, DC. Besides the Saudi project, we don't know or not aware of any other things.

MR. HALFORD: This is Jeremy Halford from Arconic. We've not heard of anything other than that as well.

MR. THOMAS: Ritchie Thomas from UKTMP, no.

MR. FORSYTHE: Mr. Garcia, this is Brad Forsythe at ATI. There is another smaller Russian sponge producer. The name escapes me right now. I'd be happy to put that in our post-brief. They have limited capacity, however though, to supply.

MR. GARCIA: Okay. We appreciate that. Thank you.

MR. ANDERSON: Ms. Lo.

MS. LO: Hi. Thank you all for being here and helping me understand an industry. I just want to continue on the Rowley plant decision. Initially when the -- because half a billion dollars is not an easy decision to understand. When the plant was initially planned in 2006, you said initially you did not consider also investing in a TiCl and magnesium reclaiming.

Did that come into play anytime during the past ten years or so, when the plant was in operation or wait. The plant became operational I believe in 2009; is that correct? So was that because of this TiCl transport problem? Was that part of the consideration before you guys decided to idle the plant, or is -- I believe you had mentioned that bringing the plant online would -- part of that decision would be to see how you can also create a facility for the TiCl reclaiming and magnesium reclaiming I

believe, so you can have similar process to TIMET. I apologize if it's an incorrect characterization.

MR. ANDERSON: I think the question is, if I can clarify, is that you're asking did you consider becoming fully integrated?

MS. LO: Right.

MR. ANDERSON: In your production process while you had the plant opened before you idled it.

MR. SIMS: This is John Sims from ATI. I appreciate the clarification. Yes, we did. We actually went through the -- from a budgetary standpoint, as well as a design standpoint. We had a TiCl facility designed, costed out. We actually sought out support from some other suppliers who run similar chlorination type plants, to see if there was a joint venture opportunity along the way, and none of that was successful. The cost associated with building that facility was prohibitive.

MS. LO: What would be the cost of bringing on a TiCl facility?

MR. SIMS: Our estimate was between 100 and 150 million dollars.

MS. LO: And related to these questions about bringing the Rowley facility back online, six to nine months and a cost of approximately, to bring the facility back online?

MR. SIMS: We can provide a better estimate in the post-conference brief. I would be speculating at this moment.

MS. LO: The other question I had was something that the morning panel had mentioned about your premium quality for your OEM customer you had mentioned. So what happened to that order? Did it -- did they -- was the order, part of the order that the sponge had to be produced by Rowley or it didn't matter?

MR. SIMS: This is John Sims from ATI. It didn't matter. Again, once we have approved suppliers of premium quality sponge, and we had gained certification internally to produce premium quality sponge, from our customer standpoint they did not dictate which source we used. It was up to us to do that.

MS. LO: Just real quickly, not to beat the plant situation, but you mentioned that the plant costs to start the capital expenditures were very high because of regulations and codes that didn't exist 50 years ago but that exist now. What about improvements in energy efficiencies or transport within the plant? Were those, none of those were able to offset, I guess, the intensive cost of building the plant initially?

MR. SIMS: John Sims from ATI. That's correct, and I think as mentioned by both the Osaka and

UKTMP producers, the nature of the coal process and how you make vacuumed-distilled sponge is largely the same. There's not a lot of technological revolution involved in that, and in how you manage it downstream of that to, you know, crush it, inspect it, barrel it, certify it, ship it is largely the same as it's been for years.

So there's not a lot of technology revolution sitting out there. You'd have to look at some fundamentally different process for making titanium to do that. It's pretty well set.

MS. LO: I think this question is for everyone. So it is your testimony today that there's never been a shortage of sponge supply for globally, since it's a globally traded product?

MR. SIMS: I'll take it. John Sims from ATI. There was, and that was what led us to -- it was back in the 2005, '04 or '05 time frame. This was in the early stages of the last large aerospace ramp, which was really driven by the Boeing 787, a very titanium-intensive aircraft. There was a global shortages of sponge. That's what led ATI to make the decision to restart our Albany, Oregon sponge plant, which we had acquired in 1999 through the Oramet acquisition.

I think earlier this morning it was mentioned that we shut the plant down and restarted it. We shut the

plant down in 2000 because of its material condition, and its ability to meet environmental regulations. We had to put significant investment into that facility to upgrade it to the point that we could restart it, to meet those requirements.

So it was an extreme -- a period of extreme shortage of titanium units, both sponge and scrap. But that's the only time that I can remember I think since the early 80's I believe, was maybe the last time something like that occurred.

MS. LO: Thanks. Oh, just real quickly. This morning I was trying to get a slight understanding of this downstream production. If Perryman or Arconic could respond to the cost it took to create a melting plant.

MR. PERRYMAN: Ms. Lo, this is Frank Perryman, Perryman Company. I guess I'm probably about the best to address that, because we're the newest smelter to come in in the United ^^^^ well, kind of the globe in the last 30 years or so. Perryman putting -- Perryman put its smelt facility in ten years ago.

So we were -- we were just I'll call it a converter of product. So we did not have the melting stages of it, so we backwards integrated into that, which helped grow our company. Mr. Seiner's numbers are about half of what it does take to put in a facility of significance.

MS. LO: This question's for Mr. Kerwin. Just quickly on your confidential slides, I'm just wondering if you intend to focus on the interim data instead of the full period? On Slide -- I just was wondering if you could, in the post-conference brief perhaps, give a -- I think some of the slides had just the interim data listed and not the full period.

MR. KERWIN: Right, right. Well, there's a clear distinction between the 2014 to '16 period and the 2017 period here, in that in 2017 the Rowley facility was closed, and there was -- we conceded there certainly was an increase in import volumes in that period, much less so in the 2014 to '16 period, and then there are distinctions between what went on with the injury data in the 2014 to '16 period and the interim 2017 period, which is why we broke them out separately.

MS. LO: Well, related to the data that's on the record, without divulging any confidential information, would you agree that TIMET's -- they're limited commercial shipments are nominalist to the record and not comparable to other shipments?

MR. KERWIN: I would say this is one of the most unusual cases I've ever seen. I think I'll leave it at that for right now and we can get into the specifics of the data in the brief.

MS. LO: Yeah. Just please let us know or give us an idea how to analyze that very limited number versus the other numbers that --

MR. KERWIN: Sure. We'd be glad to.

MS. LO: And just one more question. I don't believe I heard it yet in a response. For Rowley, when was that decision made to close, to idle the plant?

MR. SIMS: We made the final decision in early 2016. But as I mentioned earlier, I would say over the time period from 2012 through 2016, there certainly was a growing awareness that continued operation was going to be a challenge, unless we addressed the front end and if we didn't do that, then we had the longer term challenge of the TiCl supply.

But I would say 2016 was final decision, but a lot of work went through 2015, you know, leading up to that as well. So --

MS. LO: Thank you. That's all the questions I have for now.

MR. ANDERSON: Thank you, Ms. Lo. Mr. Matthews.

MR. MATTHEWS: Daniel Matthews, Office of Industries. Thank you all for your testimony today. So earlier my colleague Ms. Butler asked the Petitioner this question, and I wanted to give the Respondents all the

opportunity to answer it as well. Are the Respondents aware of any anti-dumping or countervailing duty cases or orders, sorry, against Japanese or Kazakhstan in third country markets?

MR. FORSYTHE: Brad Forsythe. ATI. No, we are not.

MR. MATTHEWS: Okay.

MR. HALFORD: This is Jeremy from Arconic. I am not aware of any.

MR. MATTHEWS: Okay.

MR. SANDO: Kiyoaki Sando, OTC. No.

MR. MATTHEWS: Thank you.

MR. PERRYMAN: Frank Perryman, Perryman Company. Not aware of any.

MR. MATTHEWS: Okay.

MR. THOMAS: Ritchie Thomas, UKTMP. We're not aware of any.

MR. MATTHEWS: Earlier it was mentioned that UKTMP may possibly be an integrated upstream--may have integrated upstream operations where they mine their own ilmenite and rutile. I was wondering, Mr. Thomas, could you confirm this?

MR. THOMAS: Yes, they do mine some of their own ore.

MR. MATTHEWS: Okay, thank you. And Mr. Sando,

could you confirm if any of the Japanese producers have upstream operations where they mine their own concentrates, titanium concentrates?

MR. SANDO: Kiyoaki Sando, OTC. No.

MR. MATTHEWS: Thank you. I don't want to beat a dead horse. Any questions that I ask will I know repeat everything that's been said before, so I think that is all I have for now. Thank you.

MR. ANDERSON: Thank you, Mr. Matthews. And I'll scan the team to see if they have any follow-up questions. Mr. Harriman?

MR. HARRIMAN: I have two quick questions. First is for our foreign producers. Is there--just in your respective home countries, is there a commercial market for titanium sponge unto itself?

MR. SANDO: Kiyoaki Sando, OTC. Yes, in Japan we have a pretty large Japanese domestic titanium mill product industry which consumes sponge. So, yes, it's a pretty enormous volume of sponge going to the domestic customers. Yes, there are two big producers today in Japan.

MR. THOMAS: Ritchie Thomas for UKTMP. There is no internal market in Kazakhstan for titanium sponge. As I mentioned, there are titanium mill products made at the plant, but that's internal consumption not a market.

MR. HARRIMAN: Okay, thank you. And secondly, I

apologize, perhaps a more speculative question, but do you see, for U.S.-based parties, do you see any change in the dynamic pending the outcome of this case that would change the status quo of the state of the titanium sponge market in the United States? Namely, that it's not really much of a-- you know, it's a nonexistent commercial market. Are there any other factors at play here that we haven't already discussed, to the best of your knowledge?

MR. HALFORD: This is Jeremy Halford from Arconic. Third time's the charm. No, we don't see any dynamics changing as a result of this. I'm supposing your question is would we try to start our own sponge facility? Would we try to buy or convince TIMET to become a commercial seller of this? The answer is, no. We would expect the market to continue to progress the way it does currently.

MR. HARRIMAN: Thank you.

MR. SIMS: Mr. Harriman, John Sims from ATI. I agree with Mr. Halford. We would not change our decision, as I said earlier, on the operational state of Rowley based on the outcome of this.

What it would do, and this happens throughout business cycles, is as changes take place in the prices of raw materials for different things, you adjust as a producer. So in times where--and this has happened throughout the aerospace cycles particularly--as times when

sponge prices go up, you try to consume more scrap. And you build out your melt technologies and capabilities in a way that allow you to have to vary that scrap content in the recipe for the titanium so that you can move through the markets that way.

So if we get a push in one direction, we'll just adjust in another direction

MR. HARRIMAN: Thank you.

MR. ANDERSON: Any other questions from my colleagues? Any follow-up questions?

MS. BUTLER: I also have two, I think hopefully quick ones. Really briefly, for Mr. Thomas, you mentioned that domestically because of the premium--I'm sorry, your engine--I'm phrasing this incorrectly, I'm sorry.

Your production of titanium sponge is not premium for the domestic market because an engine producer, I think you mentioned specifically GE, does not certify your titanium sponge as premium.

Are there any in the foreign markets?

MR. THOMAS: I'd like to answer that in the post-conference brief, please.

MS. BUTLER: Surely. And then my last question concerns the chart that we have here in the brief on page 12 that I continue to reference perhaps because I don't know what the chemical composition is of titanium sponge.

We've spoken a lot about premium titanium sponge, and it seems to be that that is where the more expensive products lie. If the titanium sponge comes out in such a composition that there is the standard quality and not as much of the premium, can it be recycled? Is there a process for that? Would it be thrown back? Or would you just use it for less premium products downstream?

MR. FORSYTHE: Ms. Butler, this is Brad Forsythe from ATI. I'm not aware of a way that you could take the sponge and recycle it through the kroll process in order to essentially re-utilize that material. Potentially what you could do with that material is take it to a melt shop and melt it and turn it into essentially scrap revert and recycle it through that supply chain process. But I'm not aware of a process that takes it back through the kroll method.

MS. BUTLER: Thank you.

MR. ANDERSON: Okay, thank you. I believe that's all the questions from my colleagues. And I want to thank them.

I have just two quick follow-ups and an invitation. I think it was the ORMET facility, is that what it's called? And was the year that it was permanently closed, was that in 2014, Mr. Sims?

MR. SIMS: John Sims from ATI. It was permanently

closed I believe in 2009.

MR. ANDERSON: Okay, thanks for that clarification.

And then also, earlier I asked the first panel about the Trade Adjustments Assistance Program, and I would just invite counsel to comment on the relevancy, if any, of the fact that another government agency has granted assistance based on imports that are subject to this case, as displacing workers. Obviously our statute looks at injury and looks at several metrics, and one of those is employment.

So I just would invite you to, either now or in your post-conference brief, brief on that.

MS. CANNON: This is Kathy Cannon. We will address that further in our post-conference brief. But for now let's say that I heard the allegation this morning that the TAA finding was based on unfair pricing evidence of unfair trading, or something of that type, and that is not what TAA findings are based on. It's simply based on the import substitution. And ATI was looking out for its workers when all of this transpired, and they did buy imports instead which met the requirements for Trade Adjustment Assistance to help out the workers get the retraining that was discussed this morning.

But none of that really demonstrates that what

led to the Rowley closures are any different than what Mr. Sims was describing. And we can address that further in our brief.

MR. ANDERSON: Okay, thank you very much. And then last, I would just invite you, either now or in your post-conference brief, Petitioners put forth their arguments about threat of injury in this case. And I would invite you to discuss that either now or in your post-conference briefs, since we have not heard anything about that this afternoon.

MS. CANNON: This is Kathy Cannon. We will address that further. I would just say that part of the disconnect between the competition that we've heard about today and the injury is going to be equally true when you get to threat.

So while we can certainly address factors that the Commission typically considers like capacity, and export orientation, you have to start fundamentally with is there going to be injury? And we haven't heard any indication that there's some fundamental change that's putting TIMET's sales on an open market.

So you don't have, and you're not going to have, any different competition from a U.S. producer looking forward to be threatened by anything that would happen by the imports different from what you've seen during the Period of Investigation.

MR. ANDERSON: Okay, thank you for that explanation. That's helpful. I am clearly not trying to make more work for parties, but I want to round out the record.

And with that, I want to thank everybody for being here today and for your testimony. It has been very helpful, and we will now move into closing arguments. If we can just take about two or three minutes to set up for closing arguments. Thank you.

(Whereupon, a brief recess is taken.)

MS. BELLAMY: Will the room please come to order. Closing remarks on behalf of Petitioner, J. Kevin Horgan, DeKieffer & Horgan, PLLC, you have 10 minutes.

CLOSING REMARKS OF J. KEVIN HORGAN

MR. HORGAN: Thank you. First of all, I'd like to thank the staff for listening to us all today and all the work that they've done and are going to do on this case. And I think I have to begin by saying that TIMET is not here seeking to exploit ATI's misfortunate. Frankly, we sympathize with Mr. Simms and the tough decisions they had to make, but if you listen to his decisions and how they made them, you can see how their Raleigh plant was displaced by subject imports, by dumped subject imports.

When he explained that in order to keep the plant open, they would have to make additional investments.

Of course, that's the same situation TIMET finds itself in now. If you want to keep the plant up-to-date, you have to invest in it. If you want to make cost competitive, you have to invest in it and they decided not to. They opted instead for what he referred to as a "secure supply" of titanium sponge that went at globally competitive prices and I apologize if that's not the exact word he used, but I'm pretty sure that's close.

So let's dig down into these globally competitive prices. So there are only a few producers of titanium sponge in the world. We've heard that Chinese sponge, Ukraine sponge is inferior and can't be used for the applications here in the United States. The Russians consume all their own titanium sponge, pretty much, so that leaves Kazakhstan and Japan. Those are the two sources for this secure supply chain and they're being dumped, so what he's said is we've opted not to invest because we have a secure supply of dumped and subsidized titanium sponge from Japan and Kazakhstan.

So when dig through all that and he's doing his best to avoid mentioning price, that's what he said. He said we had to invest in order to keep the plant open. We weren't going to do that because we had a secure supply of dumped and subsidized sponge. They not only made that decision in 2016. You just heard him testify about the

Albany plant. It was the same thing. We had to invest to make the Albany plant cost competitive, so we're not going to do that. We're going to shut it down instead.

So how many times does this have to happen before the Commission realizes that internal, captive consumption is not immune from competition? That's what happens when an internal consumption is competing against dumped, foreign sponge. When Mr. Thomas suggests that there's no real competition here, when UKTMP and ToHo and OTC all show up in TIMET's offices and say we're willing to sell you sponge at less than you produce it for they're competing in the U.S. market. They're competing against TIMET's internally-produced sponge, just as they were competing against ATI's internally-produced sponge and ATI's internally-produced sponge lost that contest. So they were replaced by this secure supply of dumped and subsidized sponge.

The conditions of competition that caused ATI to close Raleigh or to suspend operations there, despite strong titanium demands, still exist today. So when you look at this and you say, but titanium demand is strong, so you're safe. That's not true. Titanium demand was strong you know when they closed the Albany plant. Remember the Commission made that determination in 1998 that they weren't likely to face competition. They bought the plant in 1999 and they

shut it down because they weren't cost competitive.

And when he says that we couldn't justify the investment, what are they comparing it against? They're not comparing it against some figure they make up. They're comparing it against the cost of other sponge, cost of the sponge they can buy, so that's competition. So when they make their investment decision, they say it wasn't cost warranted or costs weren't warranted. They weren't warranted because there was cheap sponge available from foreign sources and that's what they opted up. And TIMET again is faced with the same question. You know we're being asked to make new investment in our sponge plant. Should we do it? What'd we have to look at?

We measure our costs against the cost of procuring outside, so dynamic really exists and as much as anyone wants to say that captive consumption is insulated from foreign competition it is not and it's been demonstrated over and over and over in the titanium sponge industry and this is your last chance really. TIMET's the last American producer of titanium sponge. This is the last chance you get to make that because you know if we shut down they said it's hard to get recertified. It's hard to restart, so this is the last chance to get it right.

And I have to go back to this idea, TIMET's owners and managers they have to look at what it cost to

make sponge and what it cost to buy sponge and really decide whether it can make more money selling titanium mill products if it uses dumped sponge, so it's not just a question of whether their sponge operation is currently competitive. It's also a question of how much more money they can make by switching to a cheaper source of a key raw material and they want to do that. They want to avoid that if they can, but if the dumping and the subsidization is going to continue, if the prices are going to continue to go down, that decision becomes more and more difficult.

So it's leaving money on the table by continuing to make sponge and if it has to invest large amounts of money in order to keep making titanium sponge, then it will be spending money so that it can continue to operate at a structural disadvantage vis- -vis all its competitors. So I don't think it's difficult to understand where that decision is going to go.

A decision already happened at ATI, but the current disadvantage of being an integrated titanium producer is not based on quality or inefficiency or shifting terms or the existence of long-term contracts. This disadvantage is the result of unfairly priced imports of dumped and subsidized titanium sponge from Japan and Kazakhstan. TIMET cannot overcome that disadvantage unless these unfair trade practices are stopped by the issuance of

anti-dumping and countervailing duty orders and we strongly urge the Commission to make an affirmative determination in this case. Thank you.

MR. ANDERSON: Thank you, Mr. Horgan.

MS. BELLAMY: Closing remarks on behalf of Respondents, Deanna Tanner Okun, Adduci Mastriani & Schaumberg, LLC. You have 10 minutes, Ms. Okun.

CLOSING REMARKS OF DEANNA TANNER OKUN

MS. OKUN: Good afternoon, Mr. Anderson and members of the Commission staff. I'm Deanna Tanner Okun of the Law Firm of Adduci Mastriani & Schaumberg, on behalf of the Perryman Company for providing closing remarks on behalf of Respondents. We appreciate your time and attention. We know this is a busy time at the Commission, prelims move fast, but we look forward to providing additional information in response to your questions so that the Commission will have a complete record on which to make its decision.

If there's one thing that Petitioner's counsel and Respondent's counsel agree on, it's that this petition is unusual. There's a lack of open market sales of the domestic-like product. The claims of injury rest primarily on a non-petitioning company that is here to tell you why it closed down during this period that didn't relate to the subject imports.

By TIMET and ATI have historically purchased imports and the fact is the demand has exceeded supply in this market and continues to do so, so these are unusual facts. What we disagree on is what that means for a Commission decision.

Petitioner's counsel suggests in response to a question from Mr. Henderson of whether the Commission would have to reach a finding with respect to pricing, but that really wasn't the correct inquiry. He said the Commission could make a decision that the industry was injured looking at, of the various things he said, you could make a finding based on the price of downstream mill products, which, of course, is a huge bucket of downstream mill products; but he did not suggest that the Commission should collect any data. So you would just make a finding on price trends on downstream mill products on the industry that's not the subject of the scope of investigation. I would say that that invitation is inconsistent with the statute and the focus on the industry producing the domestic-like product.

Mr. Horgan also suggests that if the Commission gets hung up on the lack of commercial sales, they could look instead at preventing the establishment of an industry, so the material retardation of the statute of course that wasn't argued in the petition and even Mr. Horgan admitted later that it probably doesn't fit the facts of this case

where you've had an industry that's been operating since the 1990s, so put that one to the side.

Mr. Horgan suggested that in looking at the impact on the industry you could look at national security concerns and I think you heard this in his closing -- you know last producer standing in an important material, but of course, that's not the statute the Commission administers. There is a statute that deals with national defense concerns. We've all heard a lot about it recently, but it's not this statute.

So what's our position? Our position is that the record is clear and complete at this point that an analysis of the statutory factors of volume, price, and impact to the domestic industry producing titanium sponge would lead to a finding that there is no reasonable indication of injury or threat of injury.

Let's walk through what we've heard today from our industry witnesses. The Petitioner has not and does not sell the domestic-like product in the merchant market. The alleged loss sales allegations that were in the petition had been flatly and firmly rejected by the witnesses today. And in fact, in describing how contracts were made, I think you got a really good indication from the purchasers that in this industry with long-term contracts where there are fixed prices, fixed volumes, where they are committed to

downstream product, that this is not the type of market where people go in and out and just look for an offer that comes and looks whether it's the lowest price or not. The Commission's seen plenty of those cases. This is not one of them.

Demand is strong and exceeds the domestic supply throughout the period of investigation. The Petitioner, as I stated, itself is an importer and has been for a long time and based on the fact that TIMET that it internally consumes virtually all titanium sponge in its imports of titanium sponge there is no indication that TIMET could be a reliable or stable supplier to outside customers. And Mr. Sims admitted as much in saying when asked about that, that, in fact, TIMET could not supply the quantities needed. And he went on in describing just you know the few other things with respect to these alleged offers he said that one in a thousand of these sales I guess that are now reflected in the questionnaires didn't really mean no sales and the Petitioner's counsel, of course, didn't have those in the petition and they were only found after they scoured the record. So again, I think the record is fairly clear at this point there are no commercial sales of the domestic-like product.

And you've heard the reliability of supply is extremely important in this industry with long-term

contracts that are based on long-term commitments to customers. All of these are important conditions of competition and the analysis of the statutory factors must be made in light of looking at these statutory factors. We believe the testimony you've heard today from our witnesses is consistent with the information you've received in the questionnaires and you have a complete record to make this investigation.

And again, while the facts of this case are unusual, the Commission has seen and rejected at the preliminary stage petitions based on very similar circumstances. Ms. Cannon spoke about these in her presentation and I want to direct the staff to review the pigment dispersions from India case and Dask Chemistry cases from 2003. In both case, the Commission reached negative preliminary determinations and a key part of that analysis was that they found that the lack of open market sales of the domestic-like product due to captive production by the domestic industry resulted in limited competition in the U.S. market.

We will, of course, also brief the Tungsten Ore case, but I think even Mr. Horgan had admitted that the one Commissioner who made the finding in that case, Commissioner Ladwig was talking about when demand was going down, not when demand was going up, so the circumstances are

different. I would suggest, though, in reading the 2003 cases that the Commissioners at that time were not convinced that Tungsten Ore was still good law.

The market in the case before the Commission today demonstrates some of these very same dynamics that the Commission observed in those cases. There is no merchant market for domestically produced titanium sponge because titanium sponge is captively consumed by the domestic producer in the production of downstream mill products. The domestic producer has shown virtually no interest in entering the U.S. commercial market and you've heard testimony from all the Respondents that they have not made a choice to purchase subject imports over domestic product because domestic product is simply unavailable. There is no competition. It is attenuated competition and that affects all of the analysis of the volume price and impact factors.

So with respect to volume, the Petitioners have said this is not a volume case. And in fact, if you look at the volume trends, we would agree with that. And again, with respect to the attenuated competition, the Commission has found in other cases that if you have attenuated competition it limits any volume that you find there.

With respect to price, the statute requires the consideration of the price of like products, not a comparison of internal transfer prices or the prices of

downstream products, but as I noted before, even if the Commission were to look at downstream products you haven't even collected prices on them and nor did the petition ask you to. They're asking you to look for injury in a very different way. But again, I would suggest that the Commission should not take the Petitioner up on that invitation to base an injury determination on movement in downstream products. Mr. Henderson asked where you would fit this into the analysis of pricing. I submit you cannot.

With respect to impact, much of what we will put in our post-hearing brief it relates to the confidential information that Mr. Kerwin shared with you today with respect to TIMET itself, but I think you have heard from ATI and I think made clear on their story what is going on and I want to make sure that it's very clear in Mr. Horgan's closing remarks when he's trying to say that TIMET is facing the same decision that ATI was facing and that therefore that's what indicates that they are harmed. In fact, that's not the case and you heard that. ATI is not vertically integrated. The amount of investments they would have to do to become TIMET is not the same, so TIMET is not facing the same decisions as ATI.

And as my time is nearing the end, I think I will end where the Petitioner began and that would be to go to page 2, if you still have their opening charts. They had

the elements of potential injury and what struck me when I read those and it strikes me now is not one of those related to the statutory factors. There's no discussion of volume. It's divorced from the statute. The only mention of price relates to these rejected offers of which we've talked about and the downstream price deterioration. Again, we've talked about why the Commission can't rely on that. And then, finally, with respect to the threat to the Henderson investment, again, this is not the same decision that ATI went through. So I see my time has expired, but with that, I want to thank all of you for your time and attention this afternoon. We thank you very much and we look forward to providing information.

MR. ANDERSON: Thank you, Ms. Okun.

On behalf of the Commission and the staff, I would like to thank everybody who came today and for our witnesses and for your testimony. It's been very helpful in helping us gather the record and learn about the titanium sponge industry.

Before concluding, I just want to mention a couple of key dates in the investigation. The deadline for the submission of corrections to the transcript and for submission of post-conference briefs is Tuesday, September 19. If briefs contain proprietary information, a public version is due on Wednesday, September 20. The Commission

has tentatively scheduled its vote on these investigations for Friday, October 6, and it will report its determinations to the Secretary of the Department of Commerce on Tuesday, October 10. Commissioners' opinions will be issued on Tuesday, October 17. And with that, again, I thank you all for coming and this conference is adjourned.

(Whereupon, the conference was adjourned at 3:24 p.m.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Titanium Sponge from Japan and Kazakhstan

INVESTIGATION NOS.: 701-TA-587 and 731-TA-1385-1386

HEARING DATE: 9-14-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

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: 9-14-17

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Christopher Weiskircher
Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Gaynell Catherine
Court Reporter