UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**)**	**Investigation Nos.:**
UTILITY SCALE WIND TOWERS FROM	**)**	**701-TA-627-629 AND 731-TA-1458-1461**
CANADA, INDONESIA, KOREA, AND VIETNAM	**)**	**(PRELIMINARY)**

Pages: 1 - 200
Place: Washington, D.C.
Date: Tuesday, July 30, 2019

Ace-Federal Reporters, Inc.
Stenotype Reporters
555 12th Street, NW
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Tuesday, July 30, 2019
Hearing Room C
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The meeting commenced, pursuant to notice, at 9:30 a.m., before the Investigative staff of the United States International Trade Commission, Craig Thomsen, presiding.

APPEARANCES:

On behalf of the International Trade Commission

Investigative Staff:

CRAIG THOMSEN, SUPERVISORY INVESTIGATOR

AHDIA BAVARI, INVESTIGATOR

KARL TSUJI, INTERNATIONAL TRADE ANALYST

JOHN BENEDETTO, INTERNATIONAL ECONOMIST

DAVID BOYLAND, ACCOUNTANT/AUDITOR

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TYRELL T. BURCH, MANAGEMENT ANALYST

SHARON D. BELLAMY, RECORDS MANAGEMENT SPECIALIST

In Support of the Imposition of
Antidumping Duty Orders and Countervailing Duty Orders:
Wiley Rein, LLP
Washington, DC
On behalf of:
Wind Tower Trade Coalition
Kerry Cole, President of Energy Equipment, Arcosa, Inc.
Dennis Janda, Broadwind Towers, Inc.
Wesley Bourland, Senior Vice President, Sales and General Manager, Arcosa, Inc.
Alan H. Price)
Daniel B. Pickard)-OF COUNSEL
Robert E. DeFrancesco, III)

In Opposition to the Imposition of
Antidumping Duty and Countervailing Duty Orders:
White & Case LLP
Washington, DC
on behalf of:
Marmen Inc., Marmen Energie Inc., and Marmen Energy Co.
(collectively, "Marmen")
Patrick Pellerin, President, Marmen Inc.
Vincent Trudel, Vice-President -- Operations, Marmen Inc.

APPEARANCES (Continued):

Jay C. Campbell)
)-OF COUNSEL
Ting-Ting Kao)

Alston & Bird LLP
Washington, DC
on behalf of
American Wind Technology, Inc.
Vestas Towers America Inc. ("Vestas")

Jon Chase, Vice President, Public Affairs, Vestas

Jason Waite)
)-OF COUNSEL
Lian Yang)

American Wind Energy Association
Washington, DC

Amy Farrell, Senior Vice President of Government and Public Affairs, American Wind Energy Association

REBUTTAL/CLOSING REMARKS:
In Support of Imposition (Daniel B. Pickard, Wiley Rein LLP)
In Oposition to Imposition (Jay C. Campbell, White & Case and Jason Waite, Alston & Bird LLP)

I N D E X

P R O C E E D I N G S

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

MR. THOMSEN: Good morning and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of anti-dumping and countervailing duties Investigation Nos. 701-TA-627 to 629 and 731-TA-1458 to 1461, concerning Utility Scale Wind Towers from Canada, Indonesia, Korea & Vietnam.

My name is Craig Thomsen. I'm the Supervisory Investigator of these investigations and I will preside at this conference. Among those present from the Commission staff are from my right, Ahdia Bavari, the investigator; John Benetto, the economist; Jane Dempsey, the attorney advisor; David Boyland, the accountant/auditor, and Karl Tsuji, the industry analyst will be joining us shortly after our Commission vote that he is currently at.

I understand the parties are aware of the time allocations. Any questions regarding the time allocations should be addressed with the Secretary. I would remind speakers not to refer in your remarks to business proprietary information and to speak clear into the microphones. We also ask that you state your name and affiliation for the record before giving your presentation, as well as before answering questions for the benefit of the court reporter and those seated in the back of the room.

All witness must be sworn in before presenting testimony. Are there any questions?

Mr. Secretary, are there any preliminary matters?

MR. BURCH: I would like to note to all panels please identify yourselves for the benefit of the court reporter because he's not able to see your name. Mr. Chairman, there are no other preliminary matters.

Opening remarks on behalf of those in support of imposition will be given by Alan H. Price of Wiley Rein. Mr. Price, you have five minutes.

OPENING STATEMENT OF ALAN H. PRICE

MR. PRICE: Good morning. I am Alan Price from Wiley Rein, counsel for Petitioners. The staff is likely familiar with this product from the prior investigation in recent sunset review.

As an initial matter, wind turbines are comprised of three components -- the wind tower itself, the rotor, and nacelle. This case concerns the tower, a series of longitudinally welded steel plates joined with flanges. These are large structures that are designed to support OEM nacelles. Dennis Janda, from Broadwind, will explain the production process in more detail following my remarks.

Plain and simple, dumped and subsidized imports of wind towers from the four subject countries have severely injured the domestic industry. The Commission has previously found this domestic industry to be injured and threatened with injury by reason of unfairly traded wind tower imports and recently reached an affirmative determination in a sunset review.

During the POI, subject imports surged into the U.S. market and deteriorated the domestic industry's prices, volumes, and profits at a time when demand was historically strong. The statutory factors that the Commission normally considers have been easily met in this case.

First off, the Commission should analyze all subject imports on a cumulative basis, as it did in the original investigation and recent sunset review. Additionally, the Commission should also apply the captive consumption provision and focus its analysis on the merchant market. The Commission has previously focused on the merchant market because that is where the competition is most intense.

In terms of volume, subject imports have increased and remain significant based upon official import statistics subject imports total 92,000 metric tons in 2016 and increased to roughly 100,000 in 2018. Subject imports will continue to increase in 2019 without the discipline of an Order. Indeed, subject imports are almost 12 times larger in the first three months of this year than the first three years of 2018, based upon import statistics.

The volume of subject imports also increased at the expense of the domestic producers. This should not be the case given that demand for wind towers in the U.S. has been good in recent years. The domestic industry has been unable to experience the full benefits due to the dumped and subsidized imports. The domestic industry's growth and profits have been harmed; industry imports have stolen volume with unfair prices, forcing domestic producers to cut prices to keep up.

The Commission record contains evidence of substantial lost sales. Today you will hear about several other conditions of competition that leave the domestic industry particularly vulnerable to injury from unfairly traded imports. Demand for wind towers is extremely concentrated and makes competition especially price dependent.

While there are numerous foreign and domestic tower producers, there are only a handful of OEMs due to recent mergers. This means that the customers have market power and wind tower producers compete for a limited number of customers in large-scale projects. The loss of even one sale can be injurious.

The significant volume of dumped and subsidized imports from the subject countries has caused and continues to cause material injury to the domestic industry. The domestic producers have lost sales to unfairly traded imports and lost revenues as they were forced to cut prices to try to maintain volumes. As a result, the domestic industry's financial performance has been adversely affected. OMEs often require the bidding producer to obtain inputs from approved providers at pre-negotiated prices, which means price reductions due to import competition must come directly from conversion costs.

It is important to remember that all of these products are sold on an FOB basis. That is the point of competition and how prices are negotiated. The material injury to the domestic industry is currently experiencing is occurring in a strong market with the PTC in effect. Subject imports are also threatening further material injury in the absence of ADCD Orders.

Qualification for the PTC will end in 2019 with tax benefits fully phasing out in 2023 and tariff shipments will decline with this phase out. The domestic industry is particularly vulnerable to any down cycle of demand that is likely to accompany the phasing out of the PTC. If the domestic producers are struggling to compete with unfairly traded imports in a period of good demand, they will likely have no chance to compete when demand falls off.

Already the significant volume of subject imports has lead to a decline in prices for the domestic products in 2018. This trend will only continue as levels of subject imports surge. Additionally, foreign producers will remain aggressively export oriented. It is likely that the subject imports will only continue to increase in the upcoming years. The U.S. market is particularly attractive to foreign producers that are already export oriented.

As the Indonesian wind tower producer, Kenovic, explains in its website "Exporting is its nature." The same is true for the producers in Canada, Korea, and Vietnam. The producers have been willing to sell at rock bottom prices. The domestic industry is both currently suffering from material injury by reason of the subject imports and threatened with material injury. Thank you.

MR. BURCH: Thank you, Mr. Price. Opening remarks on behalf of those in opposition to imposition will be given by J.C. Campbell of White & Case. Mr. Campbell, you have five minutes.

OPENING STATEMENT OF JAY C. CAMBELL

MR. CAMPBELL: Good morning. My name is Jay Campbell with White & Case. I represent Marmen, a Canadian and U.S. producer of wind towers. Marmen, in fact, is the only Canadian subject producer.

Normally, I would argue that subject imports on a cumulated basis are not a cause of injury or threat. I would do so because the standard for cumulation under the statute is low. In Marmen's presentation today, however, we will not be making arguments on a cumulated basis. The case for de-cumulating Canada is that strong.

In the U.S. wind tower market, competition between subject imports from Canada and subject imports from Indonesia, Korea, and Vietnam is extremely limited, falling well short of the reasonable overlap in competition that is required to cumulate. Marmen has two wind tower facilities in Canada, both located in Quebec. At these facilities, Marmen produces two types of wind tower products for sale in the United States, complete wind towers, and top sections of towers. For complete wind towers competition between Canadian subject imports and Asian subject imports is negligible, at best. Shipments of Canadian towers and Asian towers are concentrated in different regions of the U.S.

For top sections of towers, competition between Canadian subject imports and Asian subject imports is nonexistent. Marmen is the only subject producer, if not the only foreign producer that sells only the top section of a tower to the U.S. A top section by itself is useless and is not interchangeable with a complete tower. Given the lack of a reasonable overlap in competition between Canadian imports and Asian imports, the statute requires the Commission to de-cumulate Canada and separately examine whether Canadian subject imports injure or threaten to injure the domestic industry.

Let's turn to present injury. The volume of Canadian subject imports is not significant. Subject imports from Canada declined in volume over the POI and lost market share. Moreover, competition between Canadian subject imports and domestically-produced wind towers is attenuated. In the Northeast where Marmen sells complete wind towers manufactured in Quebec, Marmen does not see competition from U.S. producers. It sees competition from non-subject imports from Spain.

Also, the top sections Marmen makes in Quebec are not interchangeable with the complete towers manufactured and sold by U.S. producers. Marmen's top sections can compete with domestic wind towers only after they are sold with the mid and base sections manufactured by Marmen Energy in South Dakota. The complete towers made with Marmen's top sections are mostly a U.S.-manufactured product.

With respect to price effects, Canadian subject imports are not underselling or exerting downward pressure on the prices of domestic wind towers. Turbine manufacturers buy wind towers based on total delivered cost, the cost of the tower plus transportation costs. On a delivered cost basis, Canadian subject imports do not undersell domestic towers. Furthermore, purchasers have not identified any instances of U.S. producers lowering prices to compete with subject imports.

This is not surprising. Again, competition between Canadian subject imports and domestic product is attenuated. In the absence of significant volumes in price effects, subject imports from Canada are not a cause of material injury to the domestic industry.

I'll briefly turn to threat. The Canadian industry's capacity shrank over the POI. CS Wind, which had a facility in Ontario ceased to operations in 2018, leaving Marmen as the only Canadian subject producer. Marmen runs its Quebec facilities at full utilization and has no plans to expand capacity. Product shifting is not an option. Inventories are not significant. And there's no indication that Canadian subject imports are likely to have price depressing or suppressing in the imminent future. It also bears repeating that Marmen is a U.S. producer. It does not have any incentive to be disruptive in the U.S. market.

Now, we recognize the Commission need only find a reasonable indication of material injury or treat in a preliminary investigation, but the statute requires the Commission to conduct a preliminary investigation for a reason. This is not a pointless proceeding or a formality. The legislative history states that the Commission should "eliminate unnecessary and costly investigations which are an administrative burden and an impediment to trade."

Here the record evidence is compelling that Canada should be de-cumulated and is not a cause of injury or threat. We respectfully urge the Commission to issue a negative preliminary determination for Canada. Thank you.

MR. BURCH: Thank you, Mr. Campbell. And would the panel in support of the imposition of anti-dumping duty and countervailing duty Orders make their way forward and be seated.

And Mr. Chairman, I would like to note this panel has 60 minutes for their direct testimony.

MR. PICKARD: Good morning. This is Dan Pickard from Wiley Rein. To begin with, Dennis Janda will do a direct presentation in regard to wind power manufacturing product-specific information.

STATEMENT OF DENNIS JANDA

MR. JANDA: Good morning. My name is Dennis Janda and I'm the Vice President of Engineering at Broadwind Towers. I've been at Broadwind since March of 2008 and have over 40 years of experience in the engineering field.

As the Vice President of Engineering, I'm involved in many technical aspects of wind tower development and production. For example, I'm involved in the technical aspects of designs and drawings associated with putting a new tower design into production.

Additionally, I'm responsible for overall technical support at Broadwind's facilities, including equipment maintenance, troubleshooting, and upgrades. I'm also involved in the quoting process for towers, which involves using a specific software to estimate the tools and equipment, raw materials, and labor needed for tower production.

Finally, I'm engaged in ensuring the finished tower is available for the OEM to pick up after production, as well as business development and interface with new and existing customers.

I would like to start by providing a brief description of the wind tower production process, followed by a discussion of the impact that unfairly traded imports of wind towers from Canada, Indonesia, Korea, and Vietnam have had on the domestic industry.

Broadwind Towers is a turnkey supplier of wind towers to major OEMs in the wind turbine business. This slide helps you visualize a typical tower and its internals. And you'll notice in this case there are four sections and on the far right you see all four sections stacked up as a complete, assembled wind tower that you would see at a wind farm. You'll notice also that there are a lot of components on the interior of each of those four sections.

Wind towers are heavily loaded, tubal steel structures that rest on foundations in the ground and support the nacelle and rotor blades of the wind turbine. The production of wind towers requires heavy equipment in highly-specialized facilities. We use raw materials in the form of cut-to-length steel plates and steel flanges and transfer them into the wind tower structure. We also obtain electrical and mechanical components for the internal assembly of the tower.

As you can see from this next slide, wind tower production incorporates various large-scaled fabrication techniques and involves several steps. The primary steps are can fabrication, which would be the top blue box; section fabrication, the middle green box; coating applications and then, finally, assembly at the very end in the bottom.

First, we acquire extremely large, cut-to-length steel plates. The plates, you'll see in this slide, must be segregated by size and material type and they are queued up in a specific sequence for production. Typically, the steel plate can comprise upwards of 70 to 80 percent of the material content of the tower. Plate and flanges, together, account for roughly 80 to 90 percent of the material costs.

The thickness of the plate depends on its relative position within the tower. For example, plates used in the base section or bottom of the tower will be much thicker than those in the top section. Before cutting the plates, we clean the plates with blasting materials to ensure all mill scale, rust, and debris is removed from the plates. The specialized plate blast machine that you see in this slide simultaneously cleans the top and the bottom of the plate all at one time.

These plates are then cut into the appropriate size and shape, using a plasma or oxy acetylene cutter. Once cut, the edges of the plate may be beveled to facilitate welding. In this slide, you notice the top photograph is a picture of a plate beveling machine in one of our facilities. I'm sorry, a plate cutting machine in the top and in the bottom are photographs of different techniques used to cut a bevel on the edge of the plate that is required to create the weld joint itself.

The cut and beveled plates are then placed on large plate roller which rolls the plate into cylindrical or conical shapes, as indicated in this slide. And the longitudinal seam is welded together to form a can or a cone shape. And so, in the lower right corner, you'll see a can that has been rolled in the machine. And it's essentially like a soup can, only much, much bigger.

The weld is made where the ends of the plate roll together, just like you'll notice a seam along the length of a soup can. The seam is inspected using ultrasonic testing methods to ensure a quality weld. After this inspection, the individual cans or cones are welded together, end-to-end, to for tower sections. This slide shows multiple weld lines that are configured to maximize production. In the top slide, you'll see what appear to be three different sections in various stages of completion; building up one can to another to another.

Both the longitudinal and circumferential welding stations are semi-automated. They consume welding wire, granular flux, compressed air, and argon gas, and run on electricity. All the circumferential welds are also inspected using ultrasonic testing methods to ensure weld quality.

Highly customized forged rings, called flanges, are welded to the ends of each tower section, using the same welding inputs as the circumferential welding station. These flanges form the main connection points of the tower sections when the OEM assembles the complete tower at the particular job site. And if you recall back to the very first slide, and you see it again here on the right, a completely assembled tower as it would appear at the wind farm.

In this slide, it illustrates two types of flanges at the top, what's referred to as an "L" flange, the bottom a "T" flange. Once the other welding is complete, we then weld brackets and bosses to the inside of the tower section to which internals are bolted, as shown in this slide. On the left, you see a typical cut-away that shows a lot of very what look like small pieces that are welded to the interior of the tower section. Those are threaded bosses and brackets that all those internals you saw earlier have to get bolted to.

Bosses, also known as welded internals, are made of steel bar stock or plate, and may be prefabricated. A producer will then typically use an oxy acetylene torch to cut a door opening into the base section of the tower. As demonstrated in this slide, a doorframe is welded into this opening and a door on hinges is then attached to the frame. This door provides entry to the internal structure for access and maintenance. And that doorframe is a highly-specialized fabrication that reinforces what would otherwise become a weak spot in that base section because you've cut a hole in it.

Finally, machining is used to correct for any distortion in the top flange that occurred during welding, if necessary. In this slide you'll notice two different machines that are used to machine the flanges. Welding creates distortion and sometimes the distortion warps the flanges such that it requires this secondary operation to machine it and make it flat again. You can imagine, of course, these joints from one section to another that get bolted together they're structural joints. You need to have two flat surfaces meeting in order for that to be a good joint.

Next, depending on the customer's specifications, we may metalize portions of the surface e to provide long-term corrosion protection. Metalizing is a thermal spray process that involves vaporizing zinc and aluminum alloy wire to impinge it upon the blasted profile steel surface. This process is similar to galvanizing and provides an extremely durable, corrosion-resistant coating that is particularly important for protecting towers from environmental factors. We may also use this same process to metalize the flanges.

Paint rings are then installed onto the flanges on either end of the sections which allows the entire section to rotate during the painting process, as depicted in this slide. If you can imagine, you're trying to paint the entire exterior of a cylinder. You can't have that cylinder running on any kind of a roller because it's running where the paint is going to go, so you have to bolt on these big rings on each end and those rings are on rotators that rotate the entire section.

Corrosion protection systems vary by tower design, but generally involve one or more coats of paint on the section interior and two or more coats on the exterior of the section, depending on specifications of the tower customer. Painting and curing the section takes approximately 12 hours. Once the paint is cured the painted section is then moved to the assembly area where there remaining internal components, such as ladders, flooring, decking, conduit, electrical, utility cabling, lighting, elevators, and other accessories are installed, as soon in this slide. The assembly bays are where it all finally comes together to create a finished section ready to go to the wind farm.

Once the section this section is completely assembled, it goes through a quality control checklist to ensure that it meets customer specifications and quality criteria. This inspection is especially important to ensure that all components included in an internal kit have been installed. After this inspection, the tower is transferred to inventory. The completed tower is placed in a lay-down storage until retrieved by the customer. Lay-down facilities are located either at the tower manufacturing site or in a separate facility, as illustrated here.

OEMs arrange transportation of the finished tower from this lay-down facility to the project site at their convenience. Towers may sometimes remain in the lay-down facility for long after production and we often do not know when the OEM will ultimately retrieve the order.

As unfairly traded imports have increased, we face greater pressure to slash prices and any adjustment in price will typically be a reduction in conversion costs. The quoted bid price of a tower is the total cost of the materials, plus the conversion cost required to create a tower from these inputs. Often, OEMs will require directed buys with strict requirements on where we procure the steel at pre-negotiated prices, flanges, and internals for construction of a tower.

This means that the only cost we have control over is the conversion cost. Oftentimes, this forces us to slash pricing to nearly break even to keep our plants running. Because we are in a period of healthy demand this should not be the case. Again, due to dumped and subsidized to imports, we were unable to take advantage of the fairly strong demand cycle in the industry. We've lost sales and had to drop prices significantly to try to maintain other sales.

As a result, our performance suffered. The constant pressure to reduce prices has prevented us and others from being able to keep our facilities running at anywhere near full capacity. Despite strong domestic demand for wind towers, we, and other domestic producers have been unable to benefit in the good times. This is especially significant as we head into what appears to be a downturn. Subject imports have absorbed much of the additional demand and forced us to lower prices in an attempt to maintain production.

At a time when we should've seen strong performance consistent with healthy demand levels, imports stifled our ability to realize that benefit. At the same time, OEMs have been turning increasingly to unfair traded imports, leaving us with little committed volume going forward, just as qualification for the PTC is set to expire. As a result, PTC qualification expiration will only magnify these already injurious affects and will lead to U.S. producers closing facilities again.

We simply cannot continue cutting prices to attempt to maintain some sales. We consistently bid on a large number of projects and tower models. Unfortunately, we cannot lower our prices enough to win much of that business. We have zero ability to negotiate price adjustments related to anything other than the overall price of the tower.

Without relief from unfairly traded subject imports, Broadwind will continue to lose sales and will be forced to further reduce production, shut our facilities, and lay off workers. This is a time when our performance should've been strong. Instead, subject imports forced us to collapse our conversion pricing, took an increasing number of sales from us, and caused our performance to deteriorate. The injury we have already suffered will be further compounded with the expected PTC qualification expiration and a slowdown in demand.

We can compete in a fair market. If nothing is done to address the surge in unfairly traded imports of wind towers from the countries subject to this investigation, however, our company, and our industry may not recover. Thank you for your time this morning and I am happy to answer any questions you may have.

STATEMENT OF KERRY COLE

MR. COLE: Good morning. My name is Kerry Cole. I'm President of the Energy Equipment Segment for Arcosa, Inc. Arcosa is one of the largest producers of utility scale wind towers in the United States. I've been working in the wind tower industry since 2007 and in the structural steel industry since 2000.

On behalf of Arcosa and its employees, I would like to thank the Commission staff for your time and effort on this case. I urge the Commission to find that imports from Canada, Indonesia, Korea, and Vietnam have materially injured the domestic wind tower industry and threatened our industry with further injury.

I appreciate the opportunity to appear before you again. I previously testified before the Commission in the investigations of wind towers from China and Vietnam. In those investigations the Commission determined that the domestic industry had suffered material injury by reason of the subject imports and was threatened with material injury as a consequence of which the domestic wind tower industry received much needed relief. The Commission determined in April of this year that the continuation of that relief was necessary to prevent further injury.

Our current situation actually began with the imposition of the duties against China and Vietnam. Once the Orders went into effect, our performance and the rest of the industry's performance began to improve rapidly. The recovery and demand following the renewal of the PTC and the assurance these duties offered allowed the U.S. industry to reinvest. The domestic industry saw two new entrants. We began to expand capacity to meet what we expected to be a strong demand.

As the Commission has so frequently seen, though, after duties were imposed on imports from some countries, imports from others began to take their place. This is exactly what happened in this case. Imports from Canada, Indonesia, and Korea surged into the U.S. market, nearly tripling from 2013 to 2018.

One of the largest Vietnamese producers, CS Wind was exempted from the anti-dumping duties, as a result of a court decision. We saw imports from that country surge as well. This surge came directly at our expense and the subject imports took sales from us. We were forced to lower prices as we struggled to maintain production and market share. As a consequence, in the period when we should've benefited from the recovery and demand from the expiration of the PTC, both prices and shipments declined and our profitability tumbled.

To understand exactly how the subject imports impacted our sales, costs, and profitability, it is necessary to discuss some important facts about the wind tower industry. First, the market for utility scale wind towers in the United States is incredibly concentrated with four wind turbine OEMs accounting for about 90 percent of the market. One of the OEMs is vertically integrated. That is to say it produces its own towers, as well as nacelles and blades. As a result, this OEM rarely buys wind towers from domestic producers, so the market for wind towers is even more concentrated with a significant amount of pricing power concentrated in only a few OEMs.

Everyone, both the domestic and foreign producers, sells to these manufacturers. Generally, the turbine manufacturers will purchase from qualified supplier.

Qualification across OEMs is largely consistent and is not exceedingly difficult to qualify. In fact, typically, we, and other tower producers, are asked to bid on projects even before we are qualified. After winning the bid, we will then go through the qualification process.

Our industry is also unique that there is no publicly available pricing data to assist in price discovery and negotiations. In general, price and sales information is hard to come by. This is even true of supply contracts which are, of course, confidential. Wind towers are usually sold either through bids or pursuant to long-term contracts. If we lose a bid, all we definitely know is that we lost. Sometimes the customer may tell us how much we were off or we may learn through various who won the bid. In the period of review, there were almost always sourced in one of the subject countries.

I was looking back at our bid data and it was very clear that we consistently lost a significant number of sales to imports from the subject countries. We had plenty of available capacity over this time. And in fact, we currently have idle facility available for immediate orders. If we had won just a few more of these bids, we could've been better able to fill our facilities at higher prices and our financial performance would've been stronger.

Both the domestic industry and the foreign producers quote prices on a FOB basis. The OEMs may talk a lot about how important delivered cost is for them, but the fact is the only price we can quote is the FOB tower price. We don't even necessarily know when an OEM will pick up a tower from our lay-down yard or even sometimes where a particular tower will be used, as the OEM may purchase the same model for multiple projects from different people.

Our contracts specify that we are to deliver to a drop off point, which is literally next to our facilities. The OEM is responsible for getting the tower to the project location. With quality a given, the OEM will buy from you only if you can meet their specifications and with the OEM assuming the cost of delivery FOB price is really the only basis for competition between domestic and foreign suppliers.

Frankly, this dynamic is no different from other industries where purchasers may consider a landed cost, but the point of competition between the suppliers and how suppliers are chosen is always on an FOB basis. Further, while supply contracts play a role in establishing volume commitments, we, and the rest of the domestic industry, still have plenty of viable capacity beyond our volume committed to under these agreements. And oftentimes, OEMs have either not honored these volume commitments or delayed purchasing of the committed towers under the contract.

As the PTC begins to phase out, rather than increasing purchases from us, and other U.S. producers, the OEMs appear to have substantially increased their purchases from unfairly traded imports. As subject imports continue to weigh on pricing, some of the OEMs refuse to honor the contracts entirely while other deferred the purchases under the contract to take advantage of very low import prices instead.

Almost as soon as we had entered into these long-term supply agreements, OEMs purchased large volumes of imports and either delayed or refused to honor our contracts as import inventories begin to build. While from OEM-to-OEM, the pricing formulas may be slightly different and are proprietary, the steel costs in the sales contract typically establish a pass through steel pricing formula.

Oftentimes, OEMs either direct us to purchase steel from specific suppliers at predetermined steel prices or require us to negotiate with a select group of predetermined suppliers. Regardless, because of the pass through nature of the steel costs in sales contracts, the negotiations focus on the conversion price of the tower. As a result, we are often asked to renegotiate the conversion portion of the price in the contract to compete with foreign imports; otherwise, OEMs simply may not take delivery at all. This often leaves us with a hard choice, cut price to nearly our costs, despite the fact that we have a contract or not make the sale at all.

In an industry where demand is so concentrated, even contracts don't provide the certainty you would expect. As Arcosa explained in a sunset review in 2018 about an instance where one of our major wind turbine customers simply refused to abide by the terms of our supply contract. In an industry where there are only a handful of purchasers, it is very difficult to force OEMs to honor their commitments with large and growing volumes of unfairly traded imports in the market.

By the first quarter of 2019, we were negotiating to increase volumes for the end of '18 -- 2019, excuse me, and 2020. Depressed prices that are agreed to during a period of increased import competition will continue to negatively impact into the future. In fact, two-thirds of the increase in demand for the first quarter of 2019 went to unfairly traded imports.

Besides taking sales directly from the domestic industry, the subject imports have had another negative effect. Now, as the industry is preparing for the final year or so before the ability to qualify for the PTC expires because of the availability of low-cost imports, the OEMs have been reluctant to commit to much, if any, long-term volume. Demand is still there for the next few years, but, as in the past, the OEMs are only agreeing to substantially reduced volumes from us and other U.S. suppliers.

The new supplier contracts tend to be for shorter terms at substantially reduced volumes well below what we had previously seen in the conversion prices that we are getting in those contracts are lower still. In some cases, we are essentially quoting prices at our cost just to keep our facilities active. We have had our customers tell us they are doing this specifically because of the availability of low-priced imports.

The future of wind power in the United States is bright. The United States is now number two in the world in capacity. Advances in technology are driving wind power costs even lower. In the near term, though, things aren't as bright as you would expect. Qualification for the production tax credit expires in 2019. The last time this happened in 2013 demand for wind towers plummeted. We expect to see this again in the 2021 and 2022 timeframes. At this point, we expect to have just about a year or two of sold demand left, demand that is currently increasingly being gobbled up by the subject imports.

After that, unless the PTC is renewed, the domestic industry and the subject imports are going to be competing for a shrinking market. With unfairly traded imports disciplined by the anti-dumping and countervailing duty Order, however, we believe that even in a down market the domestic industry can and will proper.

As you saw in the sunset review, this dynamic played out from 2013 to 2014 when the PTC expired and was not initially renewed. Demand declined drastically, but because Chinese and Vietnamese imports were subject to Orders and imports from Canada, Indonesia, and Korea had not yet surged into the market. The domestic industry performed well, even in a down demand cycle. The same can be true going into this next down turn in the demand cycle. But without relief from unfairly traded imports that will not be the case. The U.S. industry will suffer further injury and we will see more facilities shuttered without relief.

The United States has enormous potential wind power resources. Wind power can and must play an essential role in diversifying our energy supply for all the reasons that you know; however, without a viable industry to produce utility scale wind towers very little of that supply will be tapped by a domestic supply chain. Instead, a larger growing portion will move overseas to service the wind energy market in this country. We, in the industry, have spent time and money on research, development, and the investments we need to position ourselves to be competitive in the long term; however, we cannot compete against unfairly dumped and subsidized imports.

I ask you to recommend to the Commissioners that they make a preliminary finding of injury, as the evidence requires, so that the domestic wind tower industry can obtain the relief from unfair import competition it needs to survive. Thank you very much for your time.

MR. PACKARD: Good morning. I'd like to just go through some of the major points of this case and specifically highlight some of the legal issues that are obviously going to have to be addressed in the staff report.

So, as far as traditional cases, this is pretty straightforward if we're going to talk about volume, price, and impacts. The volume of imports -- I'm going to talk about volume of imports using the official import statistics in a public hearing. So, we see a significant increase from '16 to '18. We see a very large spike from '17 to '18 and then a massive spike in year-to-date 2019 as compared to year-to-date 2018.

This took place during a period of traditionally strong demand for the domestic industry, but even during that period of strong demand you see the financial performance of the domestic industry deteriorate. And I think one of the main points that I would like to emphasize this morning is that this is just as strong of a threat case as it is a current material injury case. And I think one of the points that can't be emphasized too much is questionnaire data are very clear that throughout 2019 large volumes of subject imports are projected to enter the United States.

So, just to kind of tick through the legal issues that are common in every ITC investigation in regard to domestic-like product we're arguing that there should be one domestic-like product coextensive with the scope. This is consistent with what the ITC found in its previous investigations and it doesn't sound like anybody's going to be contesting this definition in this case.

Frankly, there were some odd arguments made in the original investigation, but it doesn't seem like any of those are being repeated. As far as the domestic industry definition consistent with what the Commission previously found, we're again arguing for one aggregated domestic industry.

You clearly have some issues in regard to the application of the related parties' provision when it comes to Marmen. Since so much of that goes to business proprietary information, we'll be addressing that primarily in our post-conference brief; although, I think we would respectfully suggest regardless of whether the related party provision is applied to Marmen or not, you still have compelling evidence of current material injury and threat.

There is certainly an issue in regard to Vestas and captive consumption provision, which I'll turn to in just a moment. You don't have an negligibility issue here that all of the imports based off of the official imports statistics and the questionnaire data everybody is well above the negligibility standard.

Cumulation I think we're going to be talking a lot about cumulation today, right. But as far as the traditional four-factor test, the Commission, in its original investigation and in the sunset found wind towers to be fungible, that they're sold on a national-wide basis, that they all travel through the same channels of distribution, and that they were simultaneously present.

It doesn't sound like you're going to be hearing any arguments today, although I could be wrong, in this afternoon's session that there's any reason to de-cumulate Korea, Indonesia, or Vietnam. I have a feeling we're going to be talking a lot about Canada today. I would point out just as for purposes of this direct presentation maybe three points. One, our scope specifically covers completed towers and segments of towers. That's point number one.

Point number two is a completed tower made to a certain specification is, by definition, interchangeable with another tower made to that same specification. That's equally true for segments. That a top made to a specific spec is going to be interchangeable with that same top made for the same spec by other foreign producers.

And last, but certainly not least, you're going to hear today in the public version in this public hearing, but also in our post-conference brief that not only is competition still on a nationwide basis, but Marmen's low price offerings are used to leverage down prices throughout the United States.

In regard to captive consumption, obviously, it's our position that Vestas, as an integrated producer, should be excluded from the domestic industry dataset. And what the Commission did previously is it approached this as a condition of competition, focusing primarily on the merchant market. I would point out for purposes of the legal issues memo that's going to have to be drafted the original application in the captive consumption provision was during the time before the statute was amended. The third prong has now been removed, which I think makes a very compelling argument for application of the captive consumption provision.

But even if it wasn't strictly applied, still is a relevant condition of competition is the fact that because Vestas is internally integrated it would be more appropriate to focus on the merchant market where the competition with imports are more intense.

You heard from Mr. Cole this morning, consistent with ITC previous decisions, and I think we're going to be talking about this m ore this afternoon, the importance of bids and long-term contracts. This is going to certainly go to issues in regard to timing of imports and when the manifestation of injury occurs because it's going to be relevant for an import that may enter the United States today is a lost sale, arguably, up to a year previously. And to the extent that those imports entering today depress prices consistent with long-term contracts that are being negotiated those prices depressing effects are extenuated and that's a little unusual in comparison to those types of cases that the Commission traditionally looks at, right? That's the importance of the build-to-order issues here.

I don't think anybody's going to dispute the importance of the concentration of customers here. If anything, it's more intense than during the original investigation due to some of the mergers and acquisitions and which only intensives price negotiations and the affect of low-price imports in the marketplace.

As we've talked about in the opening testimony, demand was relatively healthy during the three-year period of investigation. PTC qualification period is going to end at the end of 2019. And as the Commission has previously found, low-priced imports can be even more injurious in a smaller market. U.S. supply is increased. There are new market entrants, but most specifically and most relevant to the Commission's analysis, subject imports have been large, are increasing in 2019, and are projected to increase throughout the year.

Subject imports and the domestic-like product compete directly. It's going to a very, very small number of OEMs just specific to agreed-upon specs, so those products are interchangeable. Again, I think this is something that equally applicable to all of foreign sources of imports.

The importance of FOB price was more of a contested issue. I believe it was more of a contested issue in the original case. The Commission has found, obviously, that imports and the domestically-produced product those price negotiations take place on an FOB basis and the questionnaire data, the questionnaire responses in this case are pretty compelling evidence that this remains true.

And then we get to traditional notions of current material injury and threat. Imports are up significantly, both absolutely and relative to market share. Subject imports have undersold the domestically-like product. There are some issues in regard to the completeness of certain questionnaire responses submitted by Respondents. To the extent that it would be appropriate, obviously, would encourage staff to ask questions about that this afternoon.

But you will be hearing, I am sure, in our answers to your questions regarding the specifics of how the imports from Canada, Vietnam, Korea, and Indonesia affect U.S. price levels and how that drops down to the bottom line of the domestic producers.

Again, just recapping how significant the import volumes are and how massive the surge has been in the interim periods in 2019 as compared to 2018, there are -- to do it in tower equivalence, just not to beat the dead horse, just a touch, year-to-date, first quarter of 2018, 13 subject towers. Year-to-date, 2019, increased to 158 towers, which is I believe more than a thousand percent increase.

Price effects, which I've touched on, and then regarding evidence of the negative impact on the domestic industry, you see it declining production, declining shipments, lower average unit values, depressed capacity utilization rates, some significant decreases in workers and total hours worked. You see it in operating income, operating income margins, and decreased cap backs.

The causal connection is pretty straightforward. I think perhaps of one of the other issues or pieces of evidence that I would certainly highlight for the Commission staff is the fact that you have confirmed lost sales. The questionnaire responses have indicated that significant market participants have purchased subject imports specifically because the subject imports were lower priced.

And as I started in my introductory comments, that in my opinion, this is as strong a threat case as it is current material injury. The cumulation issues remain the same. Not only have the import volumes risen sharply over the three-year period and over the interim period, but the foreign producer questionnaires indicate that the projections throughout the rest of the year are particularly high. These are expected to have continued negative price effects; especially, once demand starts to significantly tick down.

This is a domestic industry that is vulnerable, as you heard Mr. Janda talk about earlier this morning. This was a period of relatively high demand. These should've been very good times for the domestic industry and it is not an uncommon story for the Commission to see imports siphon off profits at the height of the market, which makes them even more injurious as demand starts to tick down.

And with that, that concludes our direct presentation. Thank you so much.

MR. BURCH: Thank you, Mr. Pickard. Mr. Chairman, this concludes all direct testimony from this panel.

MR. THOMSEN: Good morning to the first panel. I'd like to thank you all for your presentations this morning. Today's questions for this panel will start with the investigator, Ahdia Bavari.

MS. BAVARI: Good morning. Thank you so much for presenting and your testimony this morning. It was very helpful. Just to start, could you state, either for the record now or in your post-conference brief, whether you believe the Commission should use questionnaire responses or import statistics as a reflection of the import data?

STATEMENT OF DANIEL B. PICKARD

MR. PICKARD: Sure. For purposes of the prelim, first off, I think that regardless if you look at the official import data or you look at the questionnaire data, you still see this significant increase.

For purpose of the prelim, and consistent with what the Commission has done previously, we would recommend that the official import statistics be the primary source of the data. I think that's true because, one, not only because it's consistent with what the Commission has done previously, but also due to some concerns regarding some of the questionnaire responses. And that we'll certainly be happy to flesh out more in our post-conference brief.

MS. BAVARI: I believe, Mr. Cole, you were talking about qualifications and qualification processes for the OEMs. Could you elaborate a little bit on that? What the qualification processes are like? If they're similar from OEM to OEM?

MR. COLE: Sure. Yes, they are. So it's a basic qualification where they come into your plant--same qualification with every manufacturer--and just see that you have the capabilities to manufacture the towers with the equipment you have and you have the proper quality systems in order to do it. So it's a pretty cut-and-dry -- most OEMs conduct the same sort of qualifications, and it's pretty standard across every plant that they give you.

MS. BAVARI: What's the estimated useful life of the tower?

MR. COLE: We don't hold the designs of the tower. Our customers are the ones that design the towers, so what they tell us is, is a 20- to 30-year life cycle is preferred.

MS. BAVARI: Do you know if that also applies to the nacelle and the rotor?

MR. COLE: Everything.

MS. BAVARI: Everything? And I believe, Mr. Campbell this morning was mentioning that Marmen Canada only produces top sections whereas their U.S. facility only produces middle or bottom sections. And for U.S. producers that would have multiple establishments, would there be any instance where you would produce top sections at one plant and then middle or bottom sections at another?

MR. COLE: You could if you got more efficiencies out of your plants. Every section is interchangeable. It doesn't matter if it's manufactured by a different tower manufacturer, as long as it's the same model, they all go to the same. Matter of fact, when they pick them up from our storage yards, even though they're serialized, they'll match a serial number 1 on the top with a serial number 5 on the mid, and a serial number 8 on the base section. So they're all designed to be interchangeable by any manufacturer.

MR. PRICE: Just wanna add that one of our clients, and we'll explain this confidentially, and in fact, just explained that they've, in fact, they have one that periodically. They'll take tops and bottoms from different places and different plants.

MS. BAVARI: That would be helpful. Thank you.

MR. COLE: We at Arcosa have done that in the past. So it just depends on your facility, what kind of sort of cranes that you may have and I alluded to inefficiencies, so it's easily interchangeable. It's done where you can do it in sections or you can do it in towers. It's really irrelevant.

MS. BAVARI: During the bidding process, is it fairly transparent what the facility's capacity is like to the OEM? Or is that something that's communicated during the bidding process?

MR. COLE: Since it's a relatively small market, most of the OEMs know what our capacities are across the industry at each plant. Periodically they'll check in from time to time to see, you know, based on the sales you have, where it compares to your capacity.

MS. BAVARI: So would you say then that your capacity is relatively transparent?

MR. COLE: It's very transparent.

MS. BAVARI: Okay Mr. Janda, you've mentioned in your presentation--thank you by the way, that was very helpful this morning--that certain processes are semi-automated. Could you elaborate a little bit on any employment trends and if automation has, you know, played a role in that, that would be useful as well.

MR. JANDA: The semi-automated portions of the process are related to the submerged arc welding and that process has been in place for wind towers, I think really from the start. And there haven't been, at least to my knowledge, any trends to have any further automation of the welding in any way that would reduce employment.

MS. BAVARI: At a very high level, I understand that details would probably be proprietary and so if you'd like to flesh this out post-conference, I'd appreciate it. Could you give just a very general sense as to either what sort of guarantees you would want and how much it would cost roughly to build a new facility?

MR. COLE: That is how we grew our business. We grew our business with the OEMs ten years ago by -- and every facility we have is based on the demand that our customers asked for at the time -- so yeah, so to build a facility, a standard wind tower facility, with the building and all, you're probably looking in the neighborhoods of $35- to $40-million for a facility that can produce 300 towers or 900 sections.

MS. BAVARI: Thanks. That's all I have for now. Thank you very much.

MR. THOMSEN: Thank you very much, Ms. Bavari. I'll now turn to Mr. Benedetto, the economist.

MR. BENEDETTO: Thank you all very much for your testimony today. This is John Benedetto. If any of my questions touch on business proprietary information, please feel free to just follow up later in the brief.

So I wanted to make sure I understand the bid and contract process correctly. What you do is you bid on a long-term contract based on what the total FOB price is, is my understanding. You might negotiate on things like conversion costs, but the number in the contract will actually be an FOB price, is that correct?

MR. COLE: Yes, traditionally in the past, we have bid on three-year contracts. And those contracts were a set number of towers for that time period. And yes, they're always FOB and they're usually based on FOB by each plant as well. And a new phenomenon has been introduced into the market, is a conversion cost. So it's basically taking out all the raw materials, mainly the conversion cost is just your labor.

For some reason, some of the raw materials like paint are left in that cost generally, and weld wire is generally list in that cost. And so the theory is, is that they'll cut down to exactly what your margins are on your labor and they won't allow you to make any markup on any materials.

So, for example, if you have a $300,000-priced tower, all in, where you would mark up the whole tower with all the costs, when you strip it down to the conversion, the conversion's a small fraction of that, and so that's the only place that you'll be able to make any markup. It's very transparent on what your markup is, because what you're using your labor and your resources to purchase the material that you're directed to buy at their costs.

MR. BENEDETTO: Okay. So this might be sensitive, but is it -- are you saying that it's changing from, the contracted used to be on FOB price, but now it's on conversion cost? Or is it still on FOB price, just you're negotiating more on the conversion cost?

MR. COLE: We have some contracts that are based on -- all the contracts we have today are based on a total delivered price, but your components are broke down on a bid sheet, so you're negotiating the conversion basically.

MR. BENEDETTO: One clarification. When you say total delivered price, you mean delivered to the, basically FOB --

MR. COLE: FOB the plants. Yeah, we've never handled transportation for our wind tower, ever.

MR. BENEDETTO: So the wind towers are sold to wind turbine OEMs, and as you noted in your presentation, there's only a handful of them. Who do the wind turbine OEMs sell to? Are they selling to a large market or are they selling to a similarly concentrated market?

MR. COLE: No, it's a larger market. So they're selling to utilities or developers. So their market is, you know, forty, fifty people maybe buying it, versus our market where you have basically four that we're selling to. Really three.

MR. BENEDETTO: I know in some of the past cases, there's been an allegation that transportation of wind towers across the continental United States is very difficult. Do you think it's easier to do by sea? And is it -- how difficult is it for you to -- or how -- have they told you about how difficult it is to ship these products over land? Do you have any difficulty selling to people that are further away from the production facility?

MR. COLE: The vast majority of the wind facilities are in the wind corridor in the U.S. So they're in Texas all the way up to Canada between the Colorado and the Mississippi River. And so they're all land-based facilities, so they all have to go out with trucks.

MR. BENEDETTO: Okay. So the imports aren't -- when you're saying you're losing sales, you're losing sales in that wind corridor as well, is what you're saying?

MR. COLE: Or losing them in every part of the United States.

MR. BENEDETTO: Back to the contracts for one second. Did the 232 and the 301 tariffs, and maybe some of the AD/CVD cases on steel, did any of those impact you inside of a contract? In other words, were you stuck with a contract that mandated a certain FOB price, for example, but you couldn't get the steel at the price you used to be able to get it at? Or was there passed through there, where those costs were able to be moved on? That might be sensitive. I understand, so if you want to answer later --

MR. COLE: So, let me walk through this in broad terms. In broad terms, when you go into -- every year we have a contract with the OEMs on their behalf, we have for steel. In terms of that, there's an escalator for the steel pricing that will go up and down based on a specific collar-type mechanism. But generally, they approve the steel prices year-to-year that we go after, and so we've not seen that effect.

MR. BENEDETTO: What is the outlook on the continuation of the tax credits? Is there any introduced legislation to extend them or any -- I know you can't predict or sure, but --

MR. COLE: Not to this date. There's not been any drive, even by our own internal wind association to go back and ask for more tax credits. So right now, we've not seen any significant legislation that's been posed in any near term in hopes that a PTC will be extended or come back in any form.

MR. BENEDETTO: Do you think demand is becoming permanent though, in some sense, that it may not need it to remain at a certain level?

MR. COLE: No, industry forecast, when the PTC expires, '20 will be the bellwether year and the high water mark, '21, when it's at the 80% level will drop significantly, and by the time you get to '22 and beyond, there'll be a significant drop in wind going forward with all the forecasts.

For example, in 2020, the forecast is expected to be a high-water mark of 12 or 13 gigawatts, and by the time we get to 2022 and beyond, it's somewhere in the 3 gigawatt range, and in that range for four to five, six years, at least as far as the forecasting period goes.

MR. BENEDETTO: Okay. So I know you all said that all the pricing is done at an FOB level. In your negotiations though, do any of your purchasers say to you that, well, your FOB price is X, but I've gotta compare it to an FOB price plus a lower transportation cost from an importer or anything like that? Or is it just, they're telling you the FOB price from the importer is something else?

MR. COLE: They're just telling us that our FOB price, our mills, that our factories are not comparable and not competitive with imported towers.

MR. BENEDETTO: And a question for Mr. Pickard for the post-conference brief. You said there are confirmed lost sales, if you could please spell that out to help map out where those are, that would be great.

MR. PICKARD: Happy to do so.

MR. BENEDETTO: Okay, that's all my questions for right now. Thank you very much.

MR. THOMSEN: Thank you very much, Mr. Benedetto.

Let's now turn to the attorney/advisor, Ms. Dempsey.

MS. DEMPSEY: Good morning. Thank you for your testimony today. I have a question with respect to the domestic like product. Would it include separate sections of wind towers? Does the domestic like product encompass that?

MR. PICKARD: Yes, it does.

MS. DEMPSEY: And did you say the scope only focuses on whole wind towers? Or --

MR. PICKARD: No, the scope also includes segments of towers.

MS. DEMPSEY: Okay. With respect to the captive production provision, I know you say that it applies, can you address not the third factor, the second factor as to whether the domestic like product is the predominant material input in the production of wind turbines?

MR. PICKARD: Sure, so we'll spell it all out in our post-conference brief.

MS. DEMPSEY: Okay.

MR. DEFRANCESCO: Actually, just quickly, if I can. So the Commission has looked at this when they looked at the weight of the tower relative to the other material components and found that it was significant, previously in the original investigation. As Dan said, we'll spell that out further in the brief.

MS. DEMPSEY: Thank you.

MR. DEFRANCESCO: And just to elaborate for one second, which was, in that finding in the original investigation was the failure of the third tier, which is no longer part of the statute, was the reason why they did not apply it.

MS. DEMPSEY: Other than the PTC and is it the RPC with respect to states, what other major factors influence demand? Or will influence demand in the future?

MR. COLE: As you stated, other than PTC and the state's RPS, it's really the price of other fuels. So natural gas, coal, any other type. That answer your question?

MS. DEMPSEY: Yes, thank you. So getting to price, so the Commission didn't collect any traditional pricing product data, and how do you -- what data should the Commission rely on in order to find significant underselling, as well as significant price suppression and price depression?

MR. DEFRANCESCO: I think you could rely on similar types of analyses that you used in the original investigation where you looked at both the aggregate average unit values. I mean you can see overall underselling. You can also use the bid data that you did collect, and obviously that's confidential and we can expand on that in the brief.

But when you look at that data, what you see is not only consistent underselling, but you also see U.S. producers lowering their price to obtain volume and capture at least some of the volume that they're bidding on. So I think in that instance, you do see, not only price underselling, but you see the price suppression and depression.

MS. DEMPSEY: Would AUV data possibly reflect differences in product mix? As opposed to, you know --

MR. DEFRANCESCO: I think, not so much product mix as it would changes in steel pricing, right, so as the steel price moves, the AUVs are going to move, so what you see when you look at the data is, as imports are increasing in the market, the AUVs maintain a significant margin of underselling and you see a cost-price squeeze going on with the domestic producers as they continually have to lower their conversion costs to get that business, and you see that in the data.

MR. PICKARD: Just to follow up on that, and it's related to Mr. Benedetto's previous question. I think it's of great probative value, the fact that, because you've got a small amount of customers. You've got at least one lost sale response where a major market participant indicates that imports are primarily lower-priced and that their purchasing decision to buy imports rather than the domestically produced product was primarily based on their lower prices. That's pretty compelling evidence in regard to price effects.

MR. PRICE: I think in the post-conference brief, we will discuss additional methods for collecting pricing data for the final determination and additional bid data, we think in some cases, some of the questionnaires, by the way, are deficient you have received in this area, which are another issue which we'll talk about in the brief, some of the questionnaires from the import purchasers.

But one of the things that Mr. Cole has told us in preparation, is that you will literally be called into a meeting and they will put basically a bar graph up and say, "Here's your price, here's the next guy's price, here's the next guy's price, here's the next guy's price." It's all FOB pricing and that's what you're told that you're competing against.

MS. DEMPSEY: Are there any documents that you could provide the Commission with respect to any written correspondence or any documents reflecting --

MR. COLE: Yeah, it's primary. Where we go into a room and there's a dry erase board or a presentation with a bar graph -- "Here's your price," which is always the high bar chart, and "here's the subject import prices," and this is what you have to do in order to get the business, whether you have a contract or not.

MS. DEMPSEY: I'm sure you'll address this in your post-conference brief, but do you have any, I guess, response to the Canadian Council's argument with respect to cumulation and how Canadian imports are not fungible, are sold in the same geographic area in the Northeast?

MR. PICKARD: Sure, I'll start it off. In the most concrete sets that--just as a hypothetical--a specific model that meets GE specs, that same tower coming from Canada or the United States, are gonna be, by definition, interchangeable, right, because they meet the same specifications.

Similarly, the top to that tower, if it's coming from Canada or if it's coming from the United States or if it's coming from Korea, if they're all made to the exact same OEM spec, it must be interchangeable. So we'll obviously tease this out in the post-conference brief.

MR. DEFRANCESCO: I'd also point out, I think, again, this deals with confidential information, but when you're looking at the bid data and certain bid data from certain importers, it's reporting the effects of the overall tower sales and bidding and its aggregating tower quotes, I guess is the way to put it, or tower bids together, regardless of the source. But again, it's confidential.

MR. PRICE: Factually, and again, it's confidential, but one of our clients has actually provided tops to other people's towers, so the idea that it's a bound item is actually not even correct.

I think it's important to understand that the Canadian industry basically demanding Canada has collapsed over a number of years now. So those Canadian plants, Marmen's goal is to keep those Canadian plants full and they are subsidized plants. And their goal is to use their subsidies to maximize their capacity utilization. And it has the same effect, whether or not they choose to sell it as a complete tower or mixed tower, in terms of negative effects on the domestic industry pricing.

Their decisions to do that in the South Dakota facility, which was actually built by Broadwind is designed to do full and complete towers. The decision to do that configuration by them is a convenience for them, but the economic effects and the impacts of unfairly traded imports from Canada, whether it's the full tower or a mixed tower, is identical to the subject imports and identical impacts for the domestic industry.

MR. PICKARD: Just to follow up, because your question was two-pronged, and I think I only answered the first prong. So obviously to the extent that it's made to the same OEM specification, it must be interchangeable, but your second question also went to the extent of geographic overlap. Just to be quite frank, I believe that their assertions in regard to this complete lack of geographic overlap is just not factually correct. That touches on proprietary information, but you can count on the fact that we'll addressing that in our post-conference brief.

MR. DEFRANCESCO: And just to follow up on Mr. Price's point -- to get at the significance of the subsidies in our Canadian subsidy petition where we talk about one of the subsidies in particular, the local content requirement, counsel this morning talked about one of the Canadian producers closing.

Well, the Canadian producer that closed was in Ontario. And there was a WTO decision recently, where the WTO ruled against the Ontario local content requirements. The local content requirements were removed and that facility closed. The local content requirements still exist in Quebec and the Marmen facilities are benefitting from--we believe--benefitting from those subsidies among others, which allows them to maintain that production. And that was what Mr. Price was talking about.

Also, by the way, the way those programs function is, it provides benefits in a way that allows them to penetrate all geographic areas and lower their price relative to U.S. producers, and the OEMs are purchasing those towers prior to knowing where they're going and installing them regardless of location. So they're losing sales before they even know where those towers are going to be located, regardless of whether it's going into the Northeast or the Mid-West or anywhere else.

MR. PRICE: And Kerry, as you said, you have seen those prices quoted against you throughout the U.S., correct?

MR. COLE: That's correct.

MS. DEMPSEY: I just have one last question. I think you had testified that purchasers focus on FOB price and not the total delivered costs in making their purchasing decision. But based on the evidence in the original investigations and reviews and questionnaire response data, it appears that purchasers do, in fact, consider total delivered costs in making their price decisions. Would you say that this is a fair representation?

MR. PICKARD: Why don't I start it off, then I have a feeling some of my colleagues are gonna have some things to add about that. Even if you accepted that as a logical matter, right? So I think the questionnaire data's pretty clear of that. The negotiating point is an FOB price, and that's what's used to push down domestic prices.

But just as a logical matter, if you were gonna say that OEMs are purchasing on the basis of total delivered price and subject imports are increasing significantly, then just, there's an arguing there that you accepted their position as a logical matter, that must mean that imports are coming in at lower delivered price as well, because they're increasing so significantly.

MR. PRICE: So I'll make a somewhat similar point, a couple of different points here. First of all, lower FOB price is -- the Commission, most purchasers on any product, right, there's gonna be an FOB price, take steel, and then there's a delivered price. Always delivery is a sort of mentally a factor. The point they compete at are the FOB prices. That's where they negotiate. That's where the point of competition are.

Many times the client doesn't even know here, as you've heard testimony about, where the tower is going. They're just negotiating a blanket volume at a certain price in many instances. And so that's the price that's negotiating. Then they're choosing where it goes and our clients have told us in certain circumstances, they'll start sending -- they'll actually have order instructions that it's gonna be produced for this location, all of a sudden we'll get revised shopping documents, somehow or other it's going to a different location.

And so, again, this is not, "Oh we're negotiating a price for that location in the same way." There's some contracts that are like that, just wanna be clear. There's some contracts that are just blanket contracts, and there's some that may be won off a project.

MR. COLE: Most of the contracts that we enter are three-year contracts that usually when a year rolls off the end, another year'll be added to it. So it's usually three-year consecutive. That has changed dramatically over time. But in order to have a three-year contract, our customers cannot know where those wind farms are gonna be that far in advance. So it's always based on bulk volume on an annual basis.

And you'll base the pricing based on a model number that is current in the system, but as that model number goes out or new models are introduced, then you'll have a formula or mechanism to tier the pricing to that. Or it opens up a whole 'nother negotiation. But it's impossible for three years in advance to know where those projects are going. So they're buying your capacity in your plants based on just a set volume that they hope to sell over that time period.

MR. DEFRANCESCO: Just to put a point on that, again, this involves confidential information, but when you look at the bid data that's been submitted, you'll see in certain instances, OEMs that have asked for bids, gotten bids from U.S. producers and subject imports and several others, awarded volumes, and there's no freight data, because none of those towers have been delivered yet. So they purchased towers on an FOB basis and they don't report freight data because they haven't been delivered yet. They don't know where they're going yet. So it confirms what you're hearing.

MR. PRICE: To the extent that people are looking at Delivered Price G, an unfairly-traded FOB price, just to be straightforward about it, obviously has a direct impact on the delivered price. So there's no disconnect there. They're negotiating the FOB prices, they're negotiating the FOB prices for both parties. Often they don't know where it's going at the time the volumes are sold.

We have seen many instances where they've chosen to bring in the imports and not fulfill their contracts domestically--even though they had volume commitments--because they prefer the lower FOB import price is what they're getting on all of this. At fairly traded prices, it's reasonable to say the domestic industry would get substantially higher volumes at higher prices.

MS. DEMPSEY: Thank you.

MR. THOMSEN: Thank you very much, Ms. Dempsey. I'll now turn to Mr. Boyland, the accountant.

MR. BOYLAND: Good morning. Thank you for your testimony. I have sent the companies follow-up questions.

I appreciate your time on that. And I have some questions here and I'll probably be covering some of the questions that I've already sent, so thanks for bearing with me on that.

First question, one of the responses to Ms. Dempsey's question about product mix kinda suggested that it's not an issue. Is it an issue in terms of the types of towers being sold during the period?

MR. PICKARD: I'm not sure I heard your question. Would you mind repeating it?

MR. BOYLAND: Mr. Pickard, the question was basically product mix, and the extent to which it changed during the period significantly? And I'm asking that in part because we calculate an average, you know, the AUV per tower. It's an average for the entire industry.

Also by company and what I'm interested in is, during the period, in addition to the raw material, which obviously is a pass-thru, that's changing, but the actual product itself, the tower, I understand from the review, towers were getting bigger and that would be a product mix change. During the period we're looking at, was that still a factor?

MR. COLE: So, tower models change from time to time. They'll change in height. Nothing dramatically. They'll change in a little bit of weight, but the structure's still the same, the process is still the same, the equipment we use to manufacture them is still the same. The biggest deviations you may see is the internals on the inside of the tower, maybe a certain project specific from time-to-time. But our largest customer may order two to three types of towers from us a year, and they don't change dramatically whatsoever.

MR. BOYLAND: So, from your perspective, you wouldn't think or consider the AUV to be changing substantially as a result of what you just described? Changes in components and towers and size?

MR. COLE: Not during this recent period.

MR. BOYLAND: For Broadwind, would that be correct as well?

MR. JANDA: In general, the towers as Kerry's indicated, they're very similar over the years. As he mentioned, they've gotten on average a little bit taller, but essentially the content and everything has been very, very similar. Just a slow evolution.

MR. BOYLAND: Okay, thank you. This is just to confirm, given the fact that the segment, the sections are put into inventory essentially, they are, or they're available to be picked up, from the company's perspective, are you recognizing revenue when they go into that storage facility? When is revenue recognized?

MR. COLE: As of 2018, when the revenue rules changed, you're right. We recognized them as soon as we put them in the yard because we have an FOB agreement and selling price, so our obligations have been accomplished, title and risk of loss have passed at that time.

MR. BOYLAND: Okay. So prior to that, it would've been when they physically picked up the tower?

MR. COLE: Prior to that, it was not, because it was still in ex works, and so, as long as the PO had the end date and that's when we put it in the yard, risk of loss and title passed at that time as well.

MR. BOYLAND: Okay, thank you. So not as substantial trans -- obviously there was a revenue recognition, they tweak it and all that, but from your perspective, revenue is still essentially being recognized?

MR. COLE: No, there is a difference. The difference when the revenue recognition rules changed in '18 as we did get to recognize it at that point, previous to that time, certain one of our customers towards the end of the year, would defer towers into the following year because they didn't wanna take delivery of them to keep their cash position better. And so at that point in time, we would not be able to claim the revenue until the first quarter of the following year. So you saw a really weak fourth quarter and a really strong first quarter based on the old revenue recognition rules.

MR. BOYLAND: Okay, thank you. I appreciate that clarification. With respect to progress payments, just because obviously these towers are -- you know, it's not instantaneous -- are there progress payments? How does that work?

MR. COLE: I can only speak for our particular company. But we get no progress payments whatsoever during the build of the tower. So we get a PO based on our contracts and then we don't get paid until the term of payment after the tower is completed.

MR. BOYLAND: So the working capital, that's all on you?

MR. COLE: That is all on me for Arcosa. I'm not sure, Dennis would have to answer for his company, for Broadwind.

MR. JANDA: In this case, I honestly can't tell you, that's on the commercial side of the business, which I have peripheral involvement in.

MR. BOYLAND: Okay.

MR. JANDA: I'm not nearly as versed on that as Kerry would be.

MR. BOYLAND: If post-conference, it's just, it's clarification?

MR. JANDA: We'll be happy to provide it in post-conference.

MR. BOYLAND: With regard to change orders, I think you kind of referenced this in terms of models being updated. How often does that happen, in terms of a tower is being produced and the OEM changes a specification, is that normal, or does that even happen?

MR. COLE: So a model on a specification for these purposes are different. So a specification use isn't changed for a long period of time. It's the general rules of which you have to build a tower. A model change could take place, depending on the OEM, two to three times a year. Some OEMs like to get more project-specific with their design and offer their customer, they believe, something project-specific. So, you know, some of them are two, three year, some of them will try to change something in the tower for every project that they have.

MR. BOYLAND: Okay. And is that true for Broadwind?

MR. JANDA: Yes, there is sometimes some very slight variations in what you're referring to as the model, from one wind farm to another, just the very, very minor customization. The specifications are in standard would be things like ISO standards or it'd be U.S. welding standards, things like that, that are referenced on a customer's design. And those tend to be very, very consistent over years.

MR. BOYLAND: Okay.

MR. JANDA: The design details, though, however, can change slightly in a model over a period of time. And then occasionally the OEMs will introduce an entirely new model.

MR. BOYLAND: Okay, thank you. And the conversion price that you're charging would ultimately be reflecting that?

MR. JANDA: Correct.

MR. BOYLAND: What's expected of you in terms of producing the tower. And the actually you, Mr. Cole, you kinda suggested that the conversion price model is a new phenomenon. Is it new in terms of the period we're looking at? Or is it new for a longer time? When did it start?

MR. COLE: So our behalf, very recently. Previous, we would only sell complete towers with the material and the labor. I can't speak for the rest of the industry, but for us, we've just started seeing that within the last two or three years as prices started getting more and more depressed and they started to trying to -- we used to give a packaged price at one point in time. Now we're asked to itemize almost every part in the tower, you know, every labor hour that you have by station, and so the transparency in the pricing is becoming more and more open.

MR. BOYLAND: And it sounds like, if you're talking three years, then the majority of the period we're looking at would've been reflective of conversion price?

MR. COLE: That's correct. I think that when you're an OEM, you're thinking that materials, everybody's gonna buy the materials and not have a great advantage, because a lot of the OEMs will buy their own materials and drop-ship them to you, so the true way to evaluate you versus somebody else, really, is highly dependent on the labor costs and the profit that you would put on those labor costs, and a small amount of materials that you are allowed to bid, mainly paint and weld-wire consumables.

MR. BOYLAND: And for Broadwind, is that your experience?

MR. JANDA: In general, yes. Years ago, there was probably more of a mix, but the trend these days is definitely conversion pricing, as Kerry indicated.

MR. BOYLAND: Okay. And you mentioned, you know, obviously the conversion costs themselves, the overhead, the labor, but you did indicate some material, that would be the welding and the paint. Anything else?

MR. COLE: Nope, for the most part, it's weld-wire and paint are the ones that are in the conversion, and then of course, all your labor, all your overhead and then whatever profit that you might be able to get.

And I think the key to that is that, you know, really what we're competing against on the subject imports, is the cost of labor, and that's hard for us to compete on the cost of labor from subject on the imported towers. And that's where you can see the difference.

MR. BOYLAND: And Broadwind, would that be similar in terms of some material inputs, but primarily the overhead and direct labor?

MR. JANDA: Yes, it's the same and, you know, obviously, since we're bidding with sales with the same OEMs, they're requesting the same thing from Broadwind as they are from the other suppliers.

MR. BOYLAND: Okay, thank you. And, you know, I guess, sorta sticking to the conversion price, because I guess that's a big part of the whole picture, once you've established the conversion price, from your perspective, what are the variables that are essentially impacting the financial results?

Because you have your conversion costs that you're actually incurring, versus the conversion price that you've established, but in between, what are the -- is it just simply the conversion price itself is narrowing? Or is it that plus other factors like capacity utilization? Maybe just --

MR. COLE: You know, capacities are being lowered, they're not taking as many towers as they used to, also, based on the conversion cost. But the other factor on the conversion cost is that you're not allowed to make any money on markup on the materials.

But you're expected to still employ all the people that have to manage the materials, from your receiving of the materials to your quota control inspectors that inspect the materials to administratively, you having to order those materials and care for them. If materials come in and they're damaged and you don't identify them immediately, then you get charged for them.

So it's the lost margin that you would get on top of the conversion cost that you have to match against the subject imports. It sometimes will break even or even below your costs.

MR. BOYLAND: Okay. And I'm just curious, because you mentioned how volume isn't even necessarily taken for the contracts in their entirety. But what you're basing your conversion price on, that reflective of the full volume? In other words, is there an impact?

MR. COLE: There's definitely an impact.

MR. BOYLAND: As well?

MR. COLE: Yes, because when we went into the contracts, we expected a certain burden coverage and overhead coverage in our plants, and we're not getting that.

So we have one customer that is completely, every year at the end of the year, will try to kick volume that was due in that year into the following year. And we have another customer that has a three-year contract with us that should be done at the end of 2019, and they still owe us half the contract and have not ordered anything from us significantly in the last year.

MR. BOYLAND: And the conversion price doesn't get adjusted upwards to reflect lower volume?

MR. COLE: Not at all, no. Because you're matching the price targets that they give you from the subject imports. It's not a factor of your cost or your profits you wanna make. It's a factor of, this is what the price has to be or you don't get the work.

MR. BOYLAND: Okay. For Broadwind, is that a similar --

MR. JANDA: Yes, definitely. We have to, regardless of how our overheads and burdens might fluctuate, based on our production rate, we have to compete on the basis and we, in fact, invested, made a large capitol investment in our Texas facility two years ago, which was intended to provide more capacity to the OEMs and, unfortunately, we're not near capacity at this facility because in the interim, the demand that we expected for that plant have been fulfilled by subject imports.

MR. BOYLAND: Thank you. And I guess other testimony was indicating that the conversion price itself on a particular contract, is itself being negotiated down during the period? In other words, I can't look at it, I can't look at the revenue for, let's say, Contract A, towers are being sold, a conversion price was established, but over the course of the period, is that conversion price actually being knocked down? Or does it stay the same during the period?

MR. COLE: NO, it's being knocked down during the period. Because there's a constant renegotiation.

MR. BOYLAND: Okay. In other words, when you established the conversion price, that is what it is at that moment, but it's not necessarily the price that you're gonna get for the whole period?

MR. COLE: That's correct. None of the contracts have been honored within the spirit that they've been entered into. There's a constant renegotiation.

MR. BOYLAND: And this isn't based on any change in specification or model or -- it's just --

MR. COLE: It's just that they can buy the towers cheaper from the subject imports and maximize their profits.

MR. BOYLAND: Okay, all right. In the petition, the petitioners indicated they have dedicated facilities, dedicated employees with respect to wind tower production.

In terms of you referenced good times and bad times or in terms of the cycle, when the demand is declining, how do the companies handle the employees, the shift structures, manufacturing in general to accommodate lower demand?

MR. COLE: It depends on how long we expect the down cycle to be. So if we expect the down cycle to be a short period of time, then we'll keep a full staff and we'll keep all the plants open and we'll just lower our profit expectations for that period, if we believe the good times are around the corner.

If we think it's further out, which all this always takes place with a PTC expiration. So the last time we saw that was '13 and '14 timeframe, we'll have to lay people off. We'll go down to single shifts or we'll cut plants. In our recent negotiations for 2020 volume, we are in a position that, if we didn't renegotiate our contracted prices for what we had for the towers in 2020 to a lower price to match subject imports, we're going to have to shut down a complete facility and lay everybody off.

MR. BOYLAND: Okay. So it's shrinking capacity?

MR. COLE: Shrinking capacity. And in our case, we chose to compete with the subject imports and be in a poor financial position to keep all of our employees working.

MR. BOYLAND: For Broadwind, would that be a similar approach?

MR. JANDA: If we have a short-term lapse in capacity utilization, we do also retain our people. But if it's a longer term, then we will likewise lay off people, shut down shifts and so on.

MR. BOYLAND: Okay, thank you. And just a couple of additional questions here. With respect to the, you know, once the tower is sold, it's been delivered, does the company have any further responsibility in terms of assembly? Essentially is involvement done once the tower is picked up?

MR. COLE: That's correct. There's no field installation. Once the tower's been picked up by the OEM, we have no obligations. We really have no obligation once it's put into the yard other than to help provide them with the equipment to load the trucks.

MR. BOYLAND: Okay. Is that the same for Broadwind?

MR. JANDA: Yes, that's correct. We do provide some assistance with loading the trucks. We also do provide, maintain security, so that we don't have any damage to those tower sections while they're in that area at our facility.

MR. BOYLAND: Okay, thank you.

MR. PRICE: Just wanna go back one question.

Your question on layoffs. Although layoffs may not occur when there is a short-term lapse, many of these jobs are hourly jobs, so the number of hours worked then get affected for the workers, because of less jobs or jobs that were not produced.

MR. BOYLAND: Okay. So essentially the shifts would start to -- would that be the first sort of place to adjust any production at that level?

MR. COLE: The first thing is, is obviously you would cut back the overtime. If there is no overtime, the next thing it is, you would start downsizing shifts from three shifts to two to one, and then your next move would be to keep a skeleton crew of twenty or thirty people that know how to build a tower in case you ever have the opportunity to bring the plant back up, you have a basic skilled team that can, when you rehire, everybody can put them back on.

MR. BOYLAND: One final question. You mentioned R&D during your testimony. Could you describe generally what that would represent?

MR. COLE: What we do is, our R&D is really advanced automation team. So what we try to do is, is figure out, since we don't control the IP or the engineering of the towers, we figure out how to build the towers more efficient through automation, whether it's robotics or however we can take costs out, because that's the only way that we have the ability to take costs out is produce them in less man-hours than what we do today.

MR. BOYLAND: Gotcha. So from a manufacturing perspective, have increasing efficiency?

MR. COLE: That's correct. We're always investing in new automation. We're working on some robotics right now that we can spell out deeper in our post-hearing brief, and what we're trying to do to be more efficient and lower our costs in order to compete.

MR. BOYLAND: Okay. So, I mean I took it that the U.S. producers of wind towers themselves don't get involved in the design of the tower itself. I mean that's left to the OEM? Essentially that's what they do and --

MR. JANDA: Generally, yes. That is correct. The design itself is owned by and developed by the OEMs. In very rare circumstances, Broadwind has been involved in some design. We have designed the mechanical internals for a couple of OEMs over the years, but that's the exception and it's a very rare exception.

The R&D that was referenced related to manufacturing process, Broadwind does the same thing. We're always looking at ways to try to become more efficient and reduce the number of hours and improve quality so that we can be competitive.

MR. BOYLAND: Okay.

MR. JANDA: Hence the investment we made in Abilene two years ago.

MR. BOYLAND: Okay. I appreciate your testimony. I have no further questions.

MR. THOMSEN: We'll now turn to Mr. Tsuji, the industry analyst.

MR. TSUJI: Good morning. I have a few questions about the materials that are utilized to manufacture the tower and the sections and the flanges. First of all, I just wanted to ask for clarification about the type of cut-to-length plate. I presume it's cold-rolled rather than hot-rolled, is that correct?

MR. JANDA: The plate requirements for wind towers is referred to as a normalized plate, so it does go through a heating process, a final heating process to modify the grain structure of the material, which improves its ductility and it applicates durability in the design in the tower.

MR. TSUJI: Okay. Thank you for that elaboration. Secondly, what are the other types of steel-mill products that are used for the internal components of the power sections? I'm thinking, for example, of the ladders, the platforms, the bosses or I guess they are the support pegs within, inside the tower, along with any other attachment joints, etcetera. For example, would the mill products include items such as structural shapes, merchant bars and cold-rolled sheet?

MR. JANDA: The internals in general, the mechanical internals are either aluminum or they would be galvanized steel. And the items that you mentioned, bosses would be made out of round bar stock. Bosses and any brackets, all those items that get welded to the interior of the tower to support the internals, they would oftentimes they are specified to made out of the same material as the tower shell itself.

And without getting into a lot of detail, it's typically a European standard for a structural steel referred to as S355 or S235, and so typically, the steel in the internals matches that, with the exception of course of aluminum. And the ladders are predominantly usually aluminum.

MR. TSUJI: Okay. Again, thank you for that elaboration. That's a good lead into my next question. This is probably a question more suitable for counsel. On Page 9 of the prehearing brief, there's mention that the grades for the steel plate, and it's mentioned ASTM709, and then S as in Sam, 355J2, and S355N as in Nancy. Those are not ASTM specifications, but are those the European standards?

MR. DEFRANCESCO: I'll start and Dennis can jump in. Yes, the S355 is a European grade standard. All of those are essentially high-strength, low-alloy plate.

MR. JANDA: Because all the OEMs, the designs originate in Europe, they use European specifications for materials, and that's why you see the -- the S355 designation and the N or the J0, J2 and so on, those are simply designations that further define certain characteristics of the steel. There are U.S. or ASTM which is the American standards equivalent. There are equivalent materials that can be used in place of the European designated materials. Those U.S. equivalents do require certain, I will say, additions to their specifications so they match.

MR. TSUJI: Again, thank you. Regarding the flanges that would be at both ends of the power sections, how are those produced and shaped? And are they an integral part of the end rings, or are they a separate component that's welded onto the end rings of the tower sections?

MR. JANDA: The flanges are almost always -- the vast, vast majority of the time are specified as forgings and so they start with a billet and that billet is then put through a forging process to create the shape of the flange. You may recall during the presentation, I indicated there's two types, a T-flange and an L-flange, both of which are forgings. And after they are forged, they have a rough shape. They are then completely machined so that they have all the bolt holes are added, as well as the lug nut geometry, the beveled geometry for the weld joint and so on. All of that is done by the flange supplier.

MR. TSUJI: Okay. And to follow up, is the flange supplier an outside vendor? Or is the supplier also a subsidiary or a partner of the tower manufacturer?

MR. JANDA: The flange suppliers are, with regard to Broadwind anyway, they're a third party that we source flanges from.

MR. COLE: We source from a third party as well. We don't have the capabilities to make those inhouse.

MR. TSUKI: Okay. And would both of you say that's the same situation for the other domestic producers of towers? That they outsource their flanges?

MR. COLE: The vast majority of them do outsource. There is some other people globally that have their own capabilities inhouse because they've either built them up internally or they've bought companies that make flanges, but as far as the domestic competition, none of us own our own flange manufacturing companies. We buy them all on the outside.

MR. TSUJI: Thank you, and I noticed in the slide presentation that there was mention that the top flange, flatness is critical for the integrity of the tower to support the nacelle. I presume it's that the nacelle has a flange that would mate with the top flange, and of course they're bolted together. So that means the rotor bearings, etcetera, are within the nacelle, rather than being part of the tower; is that correct?

MR. JANDA: Dennis Janda, Broadwind. Yes, that is correct, and because you're -- the top flange mates with that slewing bearing, it's essential that that top flange be very flat. Otherwise, when you torque all the bolts connecting the flange to the bearing, it will distort the bearing and influence the ability of the bearing to rotate.

MR. TSUJI: Okay, thank you for that explanation. And then finally just for the record, this is more for counsel, first of all, I notice in the prehearing brief there's mention of import injury actions in Australia, the Australian third country market on towers from China and from Korea.

Of course my standard question I ask every panel, both the Petitioners and the Respondents, is are you aware of any other anti-dumping countervailing duty actions or import safeguard actions in any other third country market for wind towers?

MR. PRICE: We'll address this in the post-conference brief. One thing I will say is there are many countries with domestic content requirements, and so there are very few markets that are open for wind towers. And so what we find is that competition is intensified in the United States, which is the largest market and the most open market in the world.

MR. TSUJI: Okay. Thank you very much for that additional explanation. Mr. Thomsen, I have no further questions for this panel.

MR. THOMSEN: Thank you very much, Mr. Tsuji. I do have a few questions of my own that I wanted to ask the panel before turning to any other questions for a second round, if possible. The first question that I have is for Mr. Janda.

Regarding your presentation on Slide 2, it looks like you had noticed the differences between the base, mid and top sections of a wind tower, at least that's what it looked like from the pictures. Could you give staff a little more information about the differences between those sections?

MR. JANDA: Dennis Janda, Broadwind. Typically the base, as you noticed from the presentation, has a door in it to give access to the interior of the tower. So that is one differentiating feature of the base section relative to the others, and the base and intermediate sections all will typically have a single platform near the top flange of that section, and that platform is used during tower erection at the wind site.

Sometimes the base will have a second platform roughly at the elevation of the door, because there may be some equipment that is installed in the base in that area as well, or there may even be an elevator and it will stop in the base. The midsections are the most straightforward, and typically they will have just the ladder, the lighting system, the power cables or conductors and a platform.

If there is an elevator, of course it will run through that, and then the top section oftentimes will have two platforms as well like a base could, but it would not have the door frame. It will have a platform at the very top flange for securing the bolts to the nacelle bearing, and it will oftentimes have an intermediate platform for the cable loop.

The cables that run out of the nacelle drop down and loop, loop down and then come back up to run downtower, and the cable loop is there because as the nacelle rotates, there's got to be a lot of slack cable that it can twist without getting kinks. So you have another platform for that.

MR. THOMSEN: Okay. Thank you very much for that. That's very helpful.

MR. BOURLAND: Wesley Bourland, Arcosa. Real quick to add to that. Even though some of the difference between the sections, the manufacturing process between each of those is fundamentally the same.

MR. THOMSEN: That makes sense. Thank you. Yeah, they looked very similar, but there did seem to be some differences between their base on here. So I just wanted to hammer those out. Okay. With respect to your production facilities, how many facilities do you have at Broadwind?

MR. JANDA: Dennis Janda. Broadwind, we have two tower plants currently.

MR. THOMSEN: Okay, and for Arcosa?

MR. COLE: We currently have three facilities open and one idled.

MR. THOMSEN: Okay, and when you're trying to plan one of these wind towers, are you taking towers from your different production plants and putting them together, or you're selling them on an FOB basis. Are purchasers buying them at different facilities, or are they typically from the same facility? Mr. Cole?

MR. COLE: I'm sorry. Can you repeat the question?

MR. THOMSEN: That's okay. When a purchaser is buying a tower or when you're planning on meeting the obligations of your sales contract, are you making them in this -- all of the sections in the same facility, or are you making these sections in separate facilities and then transporting them separately to where they need to be or will they be picked up separately by the purchaser at the different facilities, or are they all usually just made in one facility?

MR. COLE: So Kerry Cole with Arcosa. Today, our contracts call for complete towers in each individual facility. So when you negotiate a contract, you set a set number of volume per year of a complete tower and like we said, we just deliver them to the side lot next to the plant, and our customers come and pick them up whenever they need to and in whatever order they need to. They don't necessarily pick them up in any sequence or any serial number.

MR. THOMSEN: Okay. How about Broadwind? Are they -- do you provide full towers or are they getting different sections from different, your different facilities?

MR. JANDA: Dennis Janda, Broadwind. Typically they will get a complete tower from a given facility. There have been circumstances where we have produced sections in either location and mixed them. But typically they do it by the facility.

MR. THOMSEN: Okay, and how often does that happen, the separate facilities? You know, what proportion of your sales would be of your complete towers all made in one facility versus separate sections made in different facilities?

MR. JANDA: I can't answer that. I don't know. We could --

MR. THOMSEN: For post-hearing?

MR. PRICE: Yeah, we can provide that in the post-hearing.

MR. THOMSEN: It was edging on CBI anyway, so I understand. Mr. Cole.

MR. COLE: So Kerry Cole, Arcosa. In previous years, we have built them in separate facilities. We had a facility in Fort Worth, Texas and we had a facility in Tulsa, Oklahoma. In the Fort Worth facility, due to the crane capacities and other things, we would build the heavier base sections and the mids there. But then we would built the tops in Tulsa and deliver them both the paint shop simultaneously, because everything's interchangeable.

So it really doesn't matter where you build them or in what sequence you build them. A base is a base, a top's a top, a mid's a mid and when they come pick them up, they're not even asking for a serialized tower. So even though you'll have a serial number one and a mid, a base and a top, when they come and ask you to load the trucks, they'll just say give me five towers and you're free to pick whatever section you want to load.

So when they install them in the field, you may have serial number one on the top, serial number five on a mid and serial number 12 on a base because it's irrelevant. They all go together.

MR. THOMSEN: Okay, and when you're bidding for a tower, are you -- do bidding events occur on a section basis, or are the bids per section or are they per tower?

MR. COLE: So Kerry Cole with Arcosa. We bid on a tower, per tower basis.

MR. THOMSEN: Okay. Mr. Janda from Broadwind?

MR. JANDA: Yes. We bid on a tower basis.

MR. THOMSEN: Okay. All right.

MR. JANDA: We also have sold individual sections as well. But mostly it's always the entire tower.

MR. THOMSEN: And as with my prior question, I would be interested in knowing post-hearing or post-conference, how large those sales were.

MR. DeFRANCESCO: We'll be happy to provide that in the post-conference brief.

MR. THOMSEN: Great. Thank you Mr. DeFrancesco.

MR. COLE: Mr. Thomsen, Kerry Cole with Arcosa. One thing I did want to elaborate on is that we have one customer that even though he buys them in complete towers, each individual section is broke out in the PO, and each individual section has a value that adds up. So they'll take purchase price and they'll divide it then by the sections for their own internal bookkeeping or whatever methods they have.

So even though the contracts are for tower, they're priced on individual sections by certain OEMs.

MR. THOMSEN: Okay. That's very helpful. Thank you, Mr. Cole. In terms of transporting, do the Rocky Mountains or other mountain ranges present any difficulties for transporting the towers, tower sections I should say?

MR. COLE: Kerry Cole with Arcosa. I would love to help you with that, but since we don't handle the transportation, we don't know. I wouldn't envision. I mean big, heavy, large objects ship everywhere. So we've had our towers end up on the west coast, we've had our towers end up on the east coast before. So you can get to anywhere and at any place in the U.S.

MR. THOMSEN: I wasn't sure exactly, based on what Mr. Benetto was saying, whether you were shipping to the west coast via barge, you know, barge or ship trying to get there that the Rockies would present any problems, or whether you would be doing them overland.

MR. COLE: Yes. So Kerry Cole with Arcosa.

The vast majority if not all the towers that we have shipped have gone by truck.

MR. THOMSEN: Okay. Yeah, and I guess I was looking. I know that Arcosa was spun off from Trinity Towers last year, right, and Trinity has locations still -- what it's saying on its website in Illinois, Iowa and Oklahoma, correct. It also notes specifically, and let's get the exact writing or wording, that its "facilities are strategically located near the richest wind energy resources in the country.

"Being located close to the end project site ensures minimal transportation expense and risk." So I'm trying to figure out how that, what they have presented in really large wording on their website, squares with the argument that you're selling on an FOB basis and that negates the importance of transportation costs in this industry. That seems like something that they're really trying to use as a selling for here, and it seems like it's really important.

So can you help me out with trying to square that, how you know you're selling on an FOB basis. Someone else is picking up the transportation, but that transportation costs don't matter and the only point that matters is the FOB cost?

MR. COLE: Yeah. So Kerry Cole with Arcosa.

So Arcosa was a tax-free spinoff from Trinity. So spun off on November 2nd of last year, so we're a completely separate company, completely separate ticker symbol on the New York Stock Exchange. So we're completely spun off.

So on the website, the only thing we were notating is is that we were in the wind rich corridor where the vast majority of the wind goes in. Every plant that we have put in has been at the request of our customers. We didn't just go build a plant and hope that they would come. We actually got with our customers and said where would you like our next plant to be, because our customers wanted that capacity and actually contracted for that capacity and asked for that capacity.

So we spent that capital, put those facilities in exactly where they wanted them to be. So that was their choice. If they asked me today if I would put one in the Northeast, I absolutely would if they'd give me orders. If they asked me to put on in California, I would absolutely put one there if they were going to provide me the orders. We have a history of doing that and we're everywhere they wanted us to be.

MR. THOMSEN: And what was the reason why they wanted you to be in those locations?

MR. COLE: At that point in time, they want to take the opportunity for where the vast majority of the volume was in the country, which was in the Midwest at that time. We had a plant like I mentioned before in Fort Worth and in another part of Tulsa on Yale Street, and when the market died in Texas in 2012, they asked us to shut it down because they didn't have any volume and we did what they asked. We shut that plant down and we moved all the volume to the other plants to accommodate them. So we've always accommodated our customers with putting facilities wherever they wanted them to be.

MR. THOMSEN: Okay, and was that to minimize transportation expense as it had said on Trinity's website?

MR. COLE: I'm not clear what their motives were. I just put them where they wanted me to put them, and I believe it was -- the majority is because that's where the vast majority of the volume is. If you look in the United States, the vast majority of the volume are in the wind rich states between the Colorado Rockies and the Mississippi River. If you look at the vast majority of my competition, they're there as well. There's nobody outside of those regions in the United States.

MR. THOMSEN: Okay. No one in the Northeast?

MR. COLE: There is no plant. There is no plant out -- the farthest east plant is in Michigan of any of the domestic competitors.

MR. THOMSEN: Great, thank you. A couple of other little things. You noted that a three year contract doesn't really give you enough guidance as to what's going to be built three years from now. When do you know, how far out do you know where you're going to have projects? Is it going to be, you know, one year out would you know what projects are going to be coming in the next year, the next two years.

MR. COLE: So Kerry Cole with Arcosa. So the three-year contracts are volume based because they're so far out. They'll let you know based on a PO by PO basis what specific tower models they want as you get closer. So a normal PO to build cycle could be three to six months, just depending on the availability of raw materials.

The expectations of those three year contracts is that they're going to take those towers at every month, at every week for the full three years. If you look at the contracts, the detail of the contracts allow for a monthly and a weekly production schedule. The PO only comes off of that contract to indicate what type of tower they want during that period of time, because the contracts have lasted so long in their nature.

MR. THOMSEN: Okay. So the contracts are for a set production figure then over those three years?

MR. COLE: Correct, a steady production figure week-in and week out for that three year period.

MR. THOMSEN: And then the deliveries or pickups that they have, would they be evenly spaced throughout those three years?

MR. COLE: The pickups are lumpy. The pickups are lumpy because there is some seasonality to the installations of wind energy. The first quarter due to the winter is traditionally slow. The second quarter picks up a little bit, but traditionally the vast majority of the installations for the year are done in the fourth quarter of every year.

MR. THOMSEN: I know that sometimes there are bids that may be split among producers or among countries or among different suppliers. What would be a reason why a purchaser would split the purchase between say Broadwind and Marmen or Broadwind and Arcosa?

MR. COLE: Kerry Cole with Arcosa. So I can only imagine that the reason they would do that is because the installation cycle is really cycle and the build cycle to build the towers are longer. So what they may do is they'll maybe pick the towers from two different manufacturers because the installation cycle is far more accelerated than what it would take to build the towers.

MR. THOMSEN: So would that -- when you say "far more accelerated," do that mean that there is a capacity constraint that one producer could only produce so much during that time frame because it's accelerated so much?

MR. COLE: There's never a capacity constraint with the proper planning. There's only capacity constraint -- there's never a capacity constraint. I don't know why they would do that or why they would pick that? I mean you know, why a project -- a project may take all the towers at one time and lay them down in a yard and pick from them as they need. You know, the whole industry's pretty lumpy on deliveries.

MR. PRICE: Alan Price, Wiley Rein. There's some proprietary information in the record that will address the post-hearing brief, but there are some other answers to that that we'll address. But I don't want to touch on questionnaire data.

MR. THOMSEN: Okay. Thank you very much, Mr. Price. I understand that that may be CBI also, so I was just going for a general sense but I love specifics, so okay. In terms of the passthrough for steel prices and steel escalators, how often do those change?

MR. COLE: Kerry Cole, Arcosa. In our case it's a monthly.

MR. THOMSEN: And when you're having these contracts, are there any other services that are included with the sale of your wind towers, any kind of installation or maintenance or warranties or anything else that might affect the prices?

MR. COLE: So Kerry Cole, Arcosa. I mean we have warranties on our towers when they go out, but there is not post-billed services that we provide in the field.

MR. THOMSEN: How about for Broadwind Mr. Janda?

MR. JANDA: Dennis Janda, Broadwind. The same thing. We provide the warranties on workmanship and the coating system longevity, but no post-production services of any kind.

MR. THOMSEN: Okay, okay. Are there any local content requirements for domestic purchasers or with respect to any real estate tax credits?

MR. COLE: Kerry Cole with Arcosa. Not that I'm aware of.

MR. THOMSEN: Okay. I guess I think I have just one last question. Mr. Cole, you had earlier noted that you're basically competing on the price of labor; correct? But and there are also these Section 232 steel tariffs that we have in the United States, which might cause some differences between the price of steel in the United States and those in subject countries. Have you noticed any differences in the prices between, you know, the steel prices in the U.S. versus steel prices in Indonesia, Vietnam, etcetera?

MR. COLE: So Kerry Cole, Arcosa. We were very fortunate in 2016 to do an optimistic, opportunistic steel buy. So by the time the Section 232s were in place, our steel prices were at traditionally low levels. They've been at those low levels through the whole period that we're discussing. So Section 232 has not affected us with the steel prices whatsoever.

MR. THOMSEN: Okay. What about with Broadwind? Do you know Mr. Janda? I know you're on the production side of things but --

MR. JANDA: Dennis Janda, Broadwind. For us, the steel pricing is a passthrough and so we typically only have the ability to adjust our conversion pricing, and the steel pricing is negotiated by the OEMs.

MR. THOMSEN: Okay. So would any effect then of the 232 be passed through to your customers?

MR. PRICE: This is Alan Price. I suspect it depends on your OEM, the OEM's contract on the steel prices, which is something you don't really have access to.

MR. JANDA: Right, thank you.

MR. PRICE: But we'll address -- we'll have to get this proprietary information. It may not even be ours to know. It may be the OEMs I suspect, so --

MR. THOMSEN: All right, okay. Well, I would look forward to it if you're able to get that, Mr. Price. I don't have any further questions, but I'm going to look to the rest of the staff to see if they have any follow-ups. Looks like Ms. Bavari first and then Mr. Benedetto, and Mr. Tsuji after that.

MS. BAVARI: Yes. I have two questions, one dealing with the raw material suppliers, and then the other one dealing with the scope. So I noticed in the fourth paragraph of the scope, the scope now includes unattached components if they're shipped with sections of the wind tower. I just want to clarify probably with counsel how the Commission should examine those unattached components.

MR. DeFRANCESCO: So Robert DeFrancesco from Wiley Rein. That's actually not a change from the original investigation. It's simply moving that language from what was in a footnote, now it's more prominently displayed in the text. What that's referring to is whether or not you have integral components shipped separately or in the same shipment but not attached yet to the conical structure of the tower yet. But they're in the same shipment, and they're intended to be assembled once they arrive in the U.S. So it's intended to capture that, and so that's why it's there.

It's always been there. It was in that same language or similar language was in the original scope of the original investigation.

MS. BAVARI: And then as far as the sort of pre-selected raw material suppliers, Mr. Cole I think you used that term, do you know if these are usually domestic companies from which your receive your raw materials?

MR. COLE: So Kerry Cole with Arcosa. That's some domestic but some are foreign countries as well that are supplying the components.

MS. BAVARI: Okay, and then you also mentioned that you did an opportunistic steel buy. Was this just for the plate, is this also for the flanges?

MR. COLE: This was for the plate. So our customer saw and I saw a potential that the steel market was going to go up. We didn't foreshadow 232 by any stretch. But we felt the timing was right to go out in advance when we normally do and lock in the steel, and for a smaller price increase over that point in time, but it ended up being very opportunistic for our customer and allowed them to keep their prices down. So we locked in early so they weren't affected by the 232.

MS. BAVARI: Okay. That's all I have for now. Thank you.

MR. THOMSEN: Mr. Benedetto.

MR. BENEDETTO: John Benedetto. This will be very quick and mostly for counsel. Mr. Price, you talked about the Canada demand collapse. Could you please briefly document that in the post-conference brief? You talked about there being more local requirements in other countries. If you could document some of that, that would be very helpful.

Mr. DeFrancesco you talked about -- you told the history of the Canadian subsidies by province. Probably you might have done some of this in the Commerce part of the petition, but if you could just document a few examples in the post-conference brief, that would be super helpful. Then I believe what both Mr. Thomsen's questions and I were getting at, was just sort of wondering if someone were to come along and say well, the reason why subject imported wind towers are less expensive is because of the 232 and the 301 tariffs, does your process allow you to sort of --

The conversion cost, the pricing process allow you to see that that's not the reason? If you could talk a little bit about that in the post-conference brief, that will be helpful.

MR. PRICE: We'll be happy to address these in the post-conference brief.

MR. BENEDETTO: Okay, and then I'm just curious. Does the guy going up the ladder, does he have a place to stop anywhere or ^^^^ okay, all right. I'm glad to hear that. Thank you all very much for your testimony.

MR. THOMSEN: Mr. Tsuji.

MR. TSUJI: Okay. One quick follow-up question, most likely for Mr. Price. Wiley Rein's PowerPoint presentation on page 16 at the very bottom under the source for their quantities imported, it says "One tower is equal to 133,961 kilograms." Is that just an average weight of the towers that were imported? Or is that considered a standard size tower equivalent within the industry?

MR. DeFRANCESCO: Sure. So we actually pulled that from the Commission's and applied that conversion in the sunset review. I don't have it in front of me. I can point you in the post-conference brief to the portion of the Commission report where it came from. But that's what we used, and that's why we used it.

MR. TSUJI: Okay. Thank you very much.

MR. THOMSEN: All right. We do have one more question from Mr. Boyland.

MR. BOYLAND: My apologies, just one -- just for confirmation. The buy that you were referring to in terms of raw material, the plate, from your perspective it's still a passthrough? It's just a passthrough of a lower cost plate, because you were able to lock in; is that correct?

MR. COLE: Kerry Cole, Arcosa. Yes, that's correct. So every year we go out and get steel pricing on behalf of our customer, then get with our customer and determine if that's a price that's acceptable to them, to lock into the base price, and then there is a month to month escalator based on a scrap collar. So that's what gets passed through.

So once a year the base prices are set based on the base price of the steel, and month to month there's an escalator or a deescalator, a scrap collar I would say. So as long as the scrap stays in a certain range, no money trades hands. If the scrap goes above the collar, then it's a dollar for dollar from the mill that we get we pass through. There's also a de-escalation. So if it goes below the collar, then we'll pass that savings on to our customer as well.

MR. BOYLAND: Okay.

MR. COLE: And that's a monthly negotiated. So it comes out on like the second Tuesday of the month what that number is, and you apply it and it rolls into that monthly invoicing.

MR. BOYLAND: Okay, all right. Thank you very much.

MR. COLE: Absolutely.

MR. THOMSEN: Okay, we're going for the full house. We're going to have an extra question by Ms. Dempsey as well.

MS. DEMPSEY: I just wanted to follow up with your explanation. When does this agreement end? When are you -- when is that locked down?

MR. COLE: Kerry Cole, Arcosa. So we have two agreements in place. One agreement was supposed to expire at the end of this year, but some of the volume at the request of our customer got pushed out into 2020. So then there's a subsequent negotiation that took place to add, recently to add additional volume in that year, but the prices dramatically dropped because we're compared to the subject towers at that point in time.

The other contract that we have was supposed to end in 2019 as well. It was a three year contract, and so at this point in time that customer has only taken half the towers that are due to us and that, and is constantly coming back to us and saying unless we lower our price to match subject towers, that we're not going to get any orders.

So every periodically when they want -- when they want an order, they come to us and demand that we load. In our contract there's a mechanism to raise or lower the price based on tower design changes, and they chose to disregard that clause in the contract, and have just refused to buy any towers from us unless we matched the pricing, even though it's a take or pay contract.

MR. THOMSEN: All right. As I said, we'll go for a full house and I'm going to ask one follow-up question as well, and actually I'm going to thank Ms. Dempsey for first urging me to ask this, or at least urging me in my mind. In terms of the contracts, and this is probably CBI on here. In terms of your steel raw materials costs, contracts, if you could just let us know when those are going to expire as well? I thought that's where you were going with -- as was your sales contracts, your purchase contracts on there. I believe it is proprietary, and so you can answer it in post-conference. Thank you. All right, thank you. All right.

I see we have passed the noon hour as of now, and so rather than hold everyone past 2:30, I think we have an equal amount of wonderful discussion here, we will take a one hour lunch break until 1:00 p.m. But I wanted to thank all of the panelists for showing up today. It's been very informative, and I look forward to learning even more about this in the post-conference briefs. Thank you.

(Whereupon, a luncheon recess was taken.)

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

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

MR. THOMSEN: Welcome back to the afternoon panel of the Utility Scale Wind Tower investigations. Without further ado, I believe Ms. Yang, you may proceed.

MS. YANG: Sure. We're going to start this afternoon with Amy Farrell from the American Wind Energy Association, to be followed by John Chase from Vestas, and then Marmen will wrap it up.

MR. THOMSEN: Thank you.

STATEMENT OF AMY FARRELL

MS. FARRELL: Thank you and good afternoon. My name is Amy Farrell, and I'm the Senior Vice President of Government and Public Affairs at the American Wind Energy Association, otherwise known as AWEA, which is the largest trade association for the wind industry in our country. We represent about 1,000 member companies and over 114,000 jobs in the U.S. economy.

AWEA's diverse membership includes global and domestic leaders in wind power development, and turbine and component manufacturing, including wind towers and component and service suppliers. Since 1974, AWEA has supported its members in developing a thriving domestic wind energy manufacturing sector. As the U.S. wind industry has matured and technology has advanced, domestic manufacturing in the wind industry has also increased. For instance, the U.S. wind industry's tower demand is primarily met through domestically manufactured towers.

Since 2014, imported wind towers have only represented approximately 21 percent of total annual wind tower installations. In addition, more than 500 U.S. factories now build wind-related parts and materials in the United States. At the end of 2018, the domestic wind industry supplied 24,000 direct manufacturing and supply chain jobs.

While we support the goal of growing the U.S. wind manufacturing industry, we respectfully oppose the petition that is the subject of this proceeding. The wind industry has grown in part because of its ability to compete with other energy suppliers and developers, and provide electricity customers with reliable energy at a reasonable cost.

However, price certainty and supply chain predictability play a major role in wind development, and the imposition of the duties in question will have a detrimental impact on the industry as a whole, leading to higher prices and impairing the supply chain, and in turn ultimately undermining the growth of the domestic wind tower manufacturing sector as well.

Wind developers, for example, typically compete in a bidding process that is primarily driven by total costs. After the bid is won, contracts must be finalized and financing must be secure before turbines can be purchased. The process can take a number of years from when a bid is calculated to the actual purchase date. Therefore, unexpected increases in towers costs would put these projects at significant risk, forcing turbine manufacturers or developers to absorb significant costs or break contracts or cancel projects, which would in turn discourage future wind deployment in the country.

While the total cost of towers is typically what matters in which tower supplier is selected, reliability, capacity and availability of supply also play a large role. Therefore, even though developers generally prefer buying wind towers sourced in the U.S. due to reduced transportation costs, they have imported towers if, for example, a domestic seller was not really available.

AWEA is currently tracking 40 gigawatts of projects under construction or advanced development. Most of these will be online in the next two to three years. We expect over 13 gigawatts installed in both 2019 and 2020, which would be approximately equivalent to about 5,200 turbines and in turn towers per year.

According to DOE's 2017 data, domestic tower manufacturers have the capacity to produce 3,200 towers per year. So the expected deployment is greater than 60 percent higher than current domestic production capacity can accommodate. Thus, if the petition were granted, the lack of domestic manufacturing capacity would increase bottlenecks for the wind industry, as developers are left without supply alternatives. We estimate that if the petition were granted, the average cost of wind towers would be raised 10 to 18 percent, leading to a 1.4 to 2.5 percent increase in the localized cost of energy.

This increase in cost will have a detrimental impact on wind power capacity deployments, resulting in as much as 1,320 turbines not getting built. This drop in demand for wind power installations will in turn have negative impacts on domestic manufacturing in the factories producing parts and components for the industry.

It is also worth noting that the petition, even if granted, would not address the root cause of the economic harm to the U.S. wind tower manufacturing industry. In general, U.S. steel demand has consistently exceeded domestic steel production. Section 232 tariffs on steel imports have generally added to this problem, increasing input costs for the U.S. manufacturers along the entire supply chain.

These cost increases are in addition to the costs the industry is facing from Section 301 tariffs on turbine components. As the ITC recognized earlier this year, these tariffs have harmed U.S. manufacturing workers supporting the domestic wind industry's rapid growth. Specifically, ITC noted that participating wind tower producers, importers and purchaser firms reported Section 232 tariff would increase wind tower prices by an additional 12 to 14 percent, while increased prices for components subject to the Section 301 tariff remedies would increase wind tower prices by six to eight percent.

Taken together, these tariffs have raised the cost of wind power by up to an estimated five percent. The significant profitability pressure from these existing tariffs further reduces the ability of turbine manufacturers and developers to absorb cost increases from the additional duties being sought by Petitioners.

Further, the impact of these tariffs on the wind industry is compounded by its alignment in time with the 2019 phase out of the production tax credit, a tool used by the wind industry to secure financing for investment in U.S. wind projects. Projects must be online within four calendar years of qualifying for the tax credit, meaning the next few years are critical years for projects whose financing, contracts and offtick agreements were predicated on receipt of the PTC.

Thus, the proposed additional duties in this case and the bottlenecks in cost increases that would result from them, concurrent with the PTC phase out and added to the existing tariffs will likely cause wind projects to be cancelled and future wind deployment growth to be stunted. While AWEA is sympathetic to the issues the U.S. wind manufacturing industry has faced, we do not believe that granting the petition is the right way to address Petitioners' concerns or in general help grow the wind industry in our nation.

In conclusion, we oppose putting in place the requested anti-dumping and countervailing duties on wind tower imports, as it would stifle investment, increase the cost of construction and result in delays or cancellations of wind projects and thus harm the economic growth of our country. Thank you.

STATEMENT OF JOHN CHASE

MR. CHASE: My name is John Chase. I'm Vice President for Public Affairs for Vestas American Wind Technology. I'm here on behalf -- I'm here to provide a statement on behalf of Vestas American Wind Technology and our sister company, Vestas Towers America, Incorporated, in opposition to the petition.

Vestas is the leading global energy company dedicated exclusively to wind energy. Vestas' core business is the development, manufacturing, sale and maintenance of wind power plants, with competencies that cover every aspect of the value chain, from site studies to service and maintenance. Vestas has made substantial manufacturing investments in the United States, including four factories in Colorado. Vestas' U.S. installations total 2.8 gigawatts in 2018, the most in the U.S. wind energy sector.

There are over 6,000 people employed across 124 project sites in the United States. 3,500 of those workers are located at our factories in Colorado. Vestas Towers is the largest producer of utility-scale wind towers in the United States. Over 800 workers at our factory in Colorado produced over 1,000 units of wind towers in 2018.

First of all, as we have explained to the Department of Commerce, the petition should be dismissed because the petition does not have the requisite industry support. We estimate that Vestas Towers 2018 production of towers constitutes approximately 40 percent of those produced by our U.S. producers last year.

While Vestas Towers' sister company Vestas American wind technology imports towers from certain subject countries, the imports are insignificant relative to Vestas' U.S. tower production. In other words, our primary interest is in U.S. tower production. Together with Marmen Energy, which is also appearing today to oppose the petition, we constitute over 50 percent of the U.S. tower industry.

We believe the petition should be dismissed because less than 50 percent of the industry supports the petition.

Second, as a leading U.S. wind tower producer, Vestas opposes the petition because in our view the subject imports are in the U.S. market for reasons other than those alleged by the Petitioners. Vestas supplements its use of U.S. produced towers with imported towers. The decisions on what Towers to use are based on a variety of factors, including the requirements and schedule of the project, suppliers' eligibility under our rigorous technical qualification process, the availability of the towers and transportation costs.

Wind towers are sourced and produced based on the requirements of the wind turbines Vestas builds for each project. When looking to source towers, Vestas' foremost consideration is the tower suppliers' capability to meet our technical and quality requirements of the project, and its ability to deliver the towers in accordance with the installation schedule of the project.

Any delay in the delivery or inability to meet the technical requirements could put Vestas in breach of its commitment to customers and be extremely costly. The ability to meet Vestas' quality requirements, the ability to meet our delivery schedules and supplier capacity are more important considerations than price in our sourcing decisions.

Due to the size and weight of tower sections, transportation costs is a substantial factor in the total landed cost of towers. For towers produced in our Colorado factory, inland transportation costs is up to one-third of the final cost of the towers reaching the project site. As a result, for projects that are along the coast, for example, imported towers have a lower final landing cost due to the efficiency of ocean shipping.

In other circumstances, we use imported towers because of constraints of U.S. transportation routes. Some tower products do not have ready access to rail transportation. Others, like Vestas do have access to rail transportation, but that system often cannot handle tower sections that exceed 4.1 meters in diameter.

Over the road transportation of oversized tower sections can be prohibitively costly and requires extremely restricted transportation windows and permits in multiple states and locales for the oversized loads. Minimizing such transportation is critical to the success of many projects and is therefore a key factor in tower selection.

Third, factors other than subject imports impact Vestas' operation as a producer of wind towers. The Section 232 tariffs on steel have had an impact on our operation. The tariffs have led to substantial increase in costs of the steel we use to make the towers, which in turn is affecting our cost of production profit margins, and we believe they are equally affecting the Petitioners.

Finally, imposing anti-dumping and countervailing duties on the subject wind towers is bad for the U.S. wind energy industry including U.S. wind tower producers. The growth of renewable energy, lower levelized costs of wind energy relative to traditional energy sources and the availability of the PTC all impact the demand for wind towers. The availability of foreign towers to serve certain projects based on the factors above increase the competitiveness of the primary purchasers of wind towers.

Their competitiveness in turn enhances the competitiveness of the industry against traditional energy sources. The elevation of the wind energy sector will in turn increase demand for towers and benefit U.S. tower producers. Thanks.

MR. CAMPBELL: This is Jay Campbell with White and Case. Next, Patrick Pellerin of Marmen, Inc. will testify.

STATEMENT OF PATRICK PELLERIN

MR. PELLERIN: Good afternoon. My name is

Patrick Pellerin. I'm the president of Marmen, Inc., a Canada and U.S.-based producer of wind towers. I have worked for Marmen for 29 years and I have worked in the wind tower business since 2002, when wind was just beginning to grow as an important energy source in the U.S. I will provide an overview of Marmen and our participation in the North American wind tower market. I will also comment on Canada's wind tower industry. I am well qualified to do so because Marmen in fact is Canada's wind tower industry.

The other Canadian companies identified in the petition either do not produce steel wind towers or component production. Marmen is a family-run business with its headquarter in Quebec, Canada. My father, Fernand Pellerin, started the business in 1972 as a small machine shop in Trois-Rivi res, a mid-size city in Quebec.

Marmen is actually my mother's maiden name. My father named the company in her honor. The company actually is owned by me and my two sisters, so it's a majority woman-owned company. From $14,000 in total sales revenue in 1972, we have grown to employ close to 1,400 people in Quebec and the U.S. Our employees are proud to work for a company that is world class in the specialized area of high precision machining, fabrication and mechanical assembly.

We first learned of the wind tower market in

2001. At that time, the U.S. had most of the wind project firms in North America. The market then was small compared to what it is today. Nevertheless, we saw an opportunity and after studying the product determined that producing wind towers might be a natural fit for our company, particularly because of our expertise in heavy duty steel fabrication.

In 2002, we built in Trois-Rivieres a facilitated to the production of wind towers. We produced wind towers for sale in both Canada and the U.S., exporting -- we produced at that time exporting most of our wind towers at that time because the U.S. was a much larger market than Canada. In 2005, we opened a new wind tower plant in Matane, which is further northeast in Quebec.

Initially, we constructed the Matane plant to supply towers to wind farm projects in Quebec. Our two existing wind tower facility in Trois-Rivi res and Matane are the oldest such facilities still operating in North America. As one of the few wind tower producers in North America, our business grew until 2008, when exports to the U.S. peaked.

After 2008, our U.S. business suffered due to the financial crisis and because wind tower producers began to open online -- began to come online in the U.S. Nearly all of the current U.S. wind tower facilities started operation around that time. Arcosa's three facility 2007 and 2008, Broadwind's facility in 2006 and 2009, Vestas' facility in 2009, Vent Tower facility in 2011, and GRI opened its plant much later at the end of 2016.

Wind towers are shipped by section, each of which is large and heavy. Transportation costs are high. Wind tower purchasers, the OEM that manufactures wind turbines, are the ones who arrange and pay for transportation to their project sites or storage yard. Although we see wind towers on an FOB plan basis, the OEMs consider the total delivery cost of the wind tower, the price of the wind tower plus transportation costs.

As new facilities opened in strategic locations within the central and Midwest states, we found ourselves at a serious disadvantage because of our more remote location in Canada. From 2008 to 2013, although we were one of the first and most established wind tower producers in North America, we lost significant business in the United States to new U.S. producers, simply because they were closer to the project sites.

Because of our transportation cost disadvantage, we needed U.S. production to remain a valuable supplier of wind towers to the U.S. market. So in April 2013, we purchased a wind tower plant from Broadwind that is located in Brandon, South Dakota. If you look at the screen, you will see on your upper left corner the facility that we bought. That's the way it was in 2013, and the big picture, which was one year later, only one year later. So there was major transformation.

Broadwind in 2010 had begun constructing the plant in 2010. Although the building was in place when we purchased the property, construction was incomplete and the plant was missing most equipment. Broadwind was never able to find work for their facility. We added two buildings, expanding the manufacturing floor space by 35 percent to give us optimal production. With our improvement, the facility capacity increased by 100 percent, giving us the cost efficiency needed to operate Brandon facility profitability and restore Marmen as a top choice for wind towers in the U.S. market.

We have so far invested 60 million in our South Dakota. Within two and a half years of producing our first tower in Brandon, we were operating at full capacity, producing 350 towers a year. If you look at the graph on the screen, you will see the first two years and that was the big ramp-up that we did, and after that -- and by the way, the first years were complete towers. It was not a mix of different towers made out of Quebec. It was complete towers. That changed later on.

If you can see on the top some time there is slight variation in volume. This is simply because of the different type of towers that we're making. Our South Dakota facility has been profitable since 2014, by any performance measures such as profit, wages, benefits, reliability, quality of the product and customer satisfaction. The Brandon facility has been successful each year without exception.

With our wind tower facilities located in Quebec and South Dakota, we were able to supply wind towers to regions in both Canada and the U.S., and are able to do so in a way that is economical for our customer, particularly from a delivery cost perspective. If you look on the screen, you see exactly where our three facilities are located. In Canada, we are able to produce wind towers at our Trois-Rivi res Matane facility for wind farm projects located in Quebec and nearby provinces, including Ontario and Atlantic Canada.

For the U.S. market, we produce two wind towers product in Quebec. First, complete towers; second, top sections. Due to transportation costs, we are able to supply complete towers manufactured in Canada to the Northeast and Great Lakes region of the U.S. In our experience, Asians import were rarely, very rarely compete for wind tower business in these parts of the U.S.

In fact, our customer never mentioned Asian suppliers or referenced their prices. For our Canadian facilities, the most serious competition in the U.S. by far comes from Spain. If you look at the chart we have on the screen, we have shown for 2018 both -- we have divided the U.S. in to these big six geographical area, and you look where you have the Canadian flag. This is where our complete towers were shipped in 2018, in the Northeast the black flag is all the other Asian subject imports, and we have the same thing which is mainly in the Texas area and on the west coast.

For 2017, we have exactly the same thing. The number below the flag are the number of towers that were shipped. So you can see that in 2017, it was once again the Northeast and the Great Lakes area, and for the Asian subject imports it was once again the Texas area and the west coast.

Before I discuss Marmen's sale of top sections to the U.S. market, it is important to provide some background information. Wind tower consists of multiple section in conical or cylindrical shape. Typically, a wind tower include three to seven sections, consisting of the top section, one or more midsections and the base section.

The mid and base sections are the largest expansive to transport. The top section is the lightest, the smallest in diameter and is the least expensive to transport. Earlier this morning the question was asked what's the big difference between a top section and other section. You have it right there on your screen. That answer was not mentioned this morning, but this is it. Smaller in diameter, cheaper to transport, less, less, less area. That is the key difference between the top section and the base section.

All of the wind towers are transported in sections and assembled in two towers at the project sites. Wind towers OEMs purchase complete towers from suppliers. Wind towers are designed to meet OEM specifications. Nevertheless, quality and consistency vary from one producer to another, and internal components are not always interchangeable.

Moreover, purchasing the tower section from multiple suppliers creates risk and logistical issues. Consequently to avoid issues in the field or customer complaints, OEMs purchase the complete tower from a single producer. This is where Marmen is unique. With production facilities in Quebec and South Dakota, we can supply what we call hybrid towers to the U.S., all in steel.

For these towers, we produce the top section at our Canadian facility and the mid and base sections at our facility in Brandon, South Dakota. Because the top sections are much less expensive to transport, transportation costs from Quebec to the U.S. are manageable. As one company Marmen, we can produce tower sections in this manner, splitting production between Quebec and South Dakota and still satisfied the turbine OEM specification for complete wind tower.

Approximately one-third of the hybrid tower value is added in Canada and two-thirds of the hybrid tower value is added in the U.S. We believe we're the only exporter able to supply top section to the U.S. For this reason, Marmen is unique among all foreign wind tower producers and all other foreign producers must export and sell complete towers. At the risk of stating the obvious, top section is not a substitute for complete tower. The top section alone cannot reach the required height.

In fact, the top section is shorter than the blade. The top section is used less without the base and the midsection. I think just by looking at that drawing, that it's not even technically feasible to use just the top section. Commercial innovation is not the only way Marmen differentiates itself. At Marmen, we also pay a lot of attention to metal procurement, storage and transportation logistics so that we can provide super service to turbine OEMs.

Steel materials, steel plate alone can account for 40 to 50 percent of the wind tower cost. Because most of our wind tower production is driven by large volume and annual agreements, we have the ability to complete purchase agreements for large volume of steel plate and can conclude purchase agreements well in advance of our actual supply needs.

This gives us an advantage over most wind tower producers that buy steel on the spot market. Securing low prices for steel plate as giving us an advantage simply by virtue of our good timing and decision-making. This graph shows the importance of the purchase agreement and conclude for steel purchases in 2018 and 2019.

The blue line is the spot, the U.S. spot price for the steel for plate steel per ton. The horizontal orange line is the price that we were able to negotiate because we were able to negotiate our prices before anybody, okay. So the yellow vertical line is the negotiation that we did for our 2018 production. That was done in September of '17, and the blue vertical line is the negotiation that we did for our 2019 supply. We did that in December of '17, just before the big impact of 232, okay.

If you look for people that bought on the spot market, which is the case for many producers of wind turbine, the difference between the blue line and the horizontal orange line on the complete tower is about 10 to 14 percent, and this is exactly in the sunset review of

April 2019 concerning the towers from China and Vietnam, okay.

It says that the U.S. producer stated that Section 301 tariff against China on the raw material will increase wind tower price by six to eight percent, and an additional 12 to 14 percent increase because of field prices increases resulting from Section 232. This is it. You have it right there. That's no subsidy, that's no dumping. Right there you have it.

By locking in our steel plate cost for 2018 and '19, we could guarantee our customers stable and competitive wind tower pricing for these years. We also have invested in logistics to reduce storage and transportation costs for our customers. As mentioned here, because our more remote location in Canada, we had to be creative in finding solution. We did so by focusing on three specific logistic area, storage, train transportation and vessel transportation.

We have constructed three very large storage areas at each of our facilities, with a combined capacity of 1,900 sections, so that our customers are able to reduce the quantity of towers they maintain at their own temporary storage area in the U.S., lowering their storage costs. We cannot have picture that will at each site. We cannot have a picture that will show the total storage area because it's just too big.

So each picture that you see here just represents part of each storage area. With our on site storage capacity in Quebec, we are able to provide the service that adds to upset our disadvantage of remote location, compared to other U.S. wind tower producers. With respect to transportation, Marmen distinguish itself in the following ways. At Trois-Rivi res and Matane, we offer shipment by truck, rail and boat. We're the only North American supplier that is able to offer all three modes of transportation.

What you have on the screen is what you have on the upper left corner. You have a shipment by boat and that picture was taken in Trois-Rivi res and Matane where we have the same kind of facilities. The upper right corner picture is the top sections being shipped by train. This is a picture out of Matane. We have the same thing out of Trois-Rivi res, and the bottom section is the typical truck transportation.

The other suppliers ship by truck, with just one section per truck. This is too expensive for long distances. By rail, 60 sections can be delivered at a time. By boat, 40 sections can be delivered at a time. Our ability to deliver from Quebec by rail or by boat is an attractive offering for customers.

We also created a vendor management inventory system to resolve the sometimes conflicting needs of our customers, who might not want towers for specific period of time, and now are in need to have steady production all year long. It has been a real win-win. Marmen also constantly strives to provide the customer with superior services. Here, I will let one of my customers talk for us. It's September 2018. We won the quality supplier award from GE Renewable.

This award was not for the best tower producer in North America, but for GE Renewable best supplier in the world, all products and services included, okay. I will quote from comments GE made during the awards ceremony, okay. "Marmen Energy has been a great partner with GE Renewable Energy for years. They produce hundreds of G wind towers annually at their Brandon, South Dakota, Trois-Rivi res, Canada and Matane Canada factories.

"Marmen differentiates themselves with their genuine interest in partnering with GE in many areas beyond quality such as new ideas, technology and cost model. Marmen is open to GE inquiries about GE design and associated processes, and takes the time to understand GE request before proposing ideas that encompass both GE and Marmen needs. Marmen performed trials for GE to validate design and process changes and recognizes that GE's customer success translates to GE and Marmen success.

"Last but not least, Marmen truly practices a continuous improvement philosophy and embodies a deep quality culture company-wide," end of the quote. Looking ahead, we think the U.S. market for wind towers will continue to be strong in 2020 and beyond. Demand will be strong in 2020 as sales are made before the production tax credit expires.

Demand in 2021 should remain very solid, similar to 2019. The industry has been preparing for years for the post-PTC period. The increasing competitiveness of wind energy itself is the proof that all these efforts have been successful, and the wind industry has proven to be very resilient over the years. With concerns about climate change, there is every reason to expect a great future for that business.

As mentioned at the outset of my remarks, Marmen is the sole Canadian producer of wind towers. We ran both our Canadian facilities at full capacity throughout the Period of Investigation, and do not have any plans to expand capacity. We think our capacity in terms of numbers of wind tower sections we can produce. From this standpoint, our capacity has been roughly the same over the POI and will not increase for the foreseeable future. To the extent the capacity numbers reported in our questionnaire responses fluctuate, this is because capacity is reported in terms of tower units, which can consist of varying numbers of section, not because we have decreased or increased production capacity.

For example, Marmen is the expert in North American making larger towers, including five, six, seven section towers. Producing larger towers with more section means lower capacity to produce towers. In Canada, our total tower capacity decreased from 800 units in 2008 to 400 units in 2018. This is the new reality of the tower market.

Our wind tower facilities are also dedicated to the production of wind towers. They are designed for wind tower production. We do not make other products at Trois-Rivi res and Matane. We have three other production facilities in Trois-Rivi res, two machining facilities, one fabrication facility.

The machining facilities do not have the physical capacity to produce wind towers, and the fabrication facility does not have the equipment to make wind towers and it would be too costly to convert the fabrication shop to a wind tower plant, and there is no economic reason to do so.

Let me conclude. I've been in this business longer than most people here today. The wind tower business has been good for us. In the beginning, even though we were in Canada, we were the central supply source for the U.S. market, which dependent on our production. From Canada, we have always purchased a large share of our raw materials from the U.S. The last three years we have bought over $114 million in metal from U.S. supplier for our Canadian facilities. No other foreign producers do so.

In fact, I think it's likely we buy more steel plate per year from U.S. steel mills for our Canadian facility than three of the four members of the coalition. In addition, we opened a facility in South Dakota that now employs 264 Americans, and as always run at full capacity. Today, after years of meetings and market analysis, we are actively looking at the possibility of opening a manufacturing facility in the northeastern U.S. to respond to the new and growing offshore wind market.

We have always looked at ourselves as an integral and dynamic part of the U.S. wind industry. We are proud of everything we have done to support and develop this industry for nearly 20 years. Thank you, and I will be happy to answer your questions.

STATEMENT OF JAY C. CAMPBELL

MR. CAMPBELL: Good afternoon. This is Jay Campbell for Marmen. I will comment on two issues, related parties and decumulation. First related parties. The domestic industry should be defined to include all six U.S. producers of wind towers. Not only Arcosa, Broadwind, GRI and Ventower, but also Marmen Energy and Vestas. Marmen Energy is located in Brandon, South Dakota. Marmen Energy is a related party because it is affiliated with Marmen, the Canadian subject producer.

The following factors demonstrate that Marmen Energy should be included in the domestic industry. First, Marmen Energy is a significant U.S. producer with roughly 350 towers produced and sold in 2018. Second, Marmen Energy's U.S. operations do not rely on subject imports from Canada to be successful. Quite the opposite. Marmen's Quebec facilities rely on Marmen Energy.

As Mr. Pellerin explained, Marmen purchased the South Dakota facility because its Quebec facilities were losing ground to more strategically located U.S. facilities. Marmen Energy is well positioned in South Dakota, has excellent management, and would succeed without Marmen Canada.

Third, Marmen Energy's primary interest lies in domestic production. That's all it does, produce wind towers in sections. It does not import. Lastly, we will demonstrate in our post-conference brief that inclusion of Marmen Energy does not skew data for the rest of the domestic industry. Vestas produces wind towers at its facility in Pueblo, Colorado. Vestas is a related party because it also imports some quantities of subject merchandise.

The following factors demonstrate that Vestas also should be included in the domestic industry. First, Vestas is in fact the largest U.S. producer. The Commission's analysis of the domestic industry would be unrepresentative if it failed to account for Vestas. Second, the ratio of Vestas' imports to its U.S. production indicates that its primary interest lies in U.S. production.

Third, inclusion of Vestas would not skew the data for the rest of the domestic industry, as we will show in our post-conference brief. I will now turn to decumulation of Canada. For present injury purposes, the Commission must cumulate subject imports from multiple sources if it finds a reasonable overlap of competition between them.

Here, two factors, geographic overlap and fungibility demonstrate that competition in the U.S. market between Canadian subject imports and Asian subject imports falls well short of the reasonable overlap required to cumulate. As Mr. Pellerin explained, Marmen's Quebec facilities produce two types of wind tower products for the U.S., complete wind towers and top sections of towers.

Complete wind towers include all sections of the tower, the top section, one or more midsections and the base section. For complete wind towers, competition between Canadian subject imports and Asian subject imports is negligible at best. This is largely due to transportation costs, which are borne by purchasers, the manufacturers of wind turbines.

From Quebec, complete wind towers can be economically shipped to the Northeast and Great Lake regions of the United States. Beyond these limited areas, the transportation costs are simply too high. Subject imports from Asian predominantly enter the U.S. at ports located in the west coast and Texas. From these locations, it is uneconomic for purchasers to ship towers to the Northeast and Great Lakes regions of the United States.

Because shipments are concentrated in different regions of the U.S., there is not a reasonable overlap of competition between the complete towers imported from Canada and the complete towers imported from Indonesian, Korea and Vietnam. Other than complete towers, Marmen supplies top sections of towers to the U.S. Marmen is unique in this regard.

Acting as one company, Marmen can sell hybrid towers consisting of top sections manufactured in Quebec, and the larger diameter mid and base sections manufactured in South Dakota. All other foreign producers must sell complete towers in the U.S. market. With respect to Marmen's hybrid towers, only the top sections are subject merchandise, and these are not fungible with the complete towers imported from the Asian subject countries.

In Lightweight Thermal Paper, the Commission found that the fungibility criterion was not satisfied because jumbo rolls imported from Germany and slit rolls imported from China were not functionally interchangeable upon importation. I'll point you again to this slide that was included in Mr. Pellerin's presentation. To the left is a complete tower with the blades and the nacelle attached at the top, and to the right is a top section.

It should be obvious from the picture that a top section is not functionally interchangeable with the complete tower. It wouldn't even work. It's not high enough and the blades are too long. They wouldn't even spin. This is not -- this is an easy question. As Mr. Pellerin explained, without the mid and base sections, the top section is useless.

Now I also want to clarify a few points about decumulation to make sure our argument is clear, because I think it was muddied a bit by Petitioners' attempt to respond to it this morning. First of all, we are arguing there is a lack of a reasonable overlap in competition between the imports from Canada and subject imports from Asia.

That's it. The domestic like product is irrelevant. What U.S. producers do is irrelevant. Now Mr. Cole from Arcosa said that well, we can do it. They're not doing it right now, but yes, they could in theory produce perhaps top sections at one of their U.S. facilities and the mid and base sections at another. But that doesn't matter. The point is that no Asian subject producer does it and none could do it. None of them have U.S. production.

Asian producers must sell, manufacture and ship complete towers. Otherwise, they would not have any business in the U.S. market. Even for Marmen, this was a tough sell. This was not easy. Mr. Pellerin will expand in response to answers from -- I'm sure the Commissioners will have -- I mean the ITC staff will have questions.

But you know, it took them quite a bit of time to sell GE on this idea, even though Marmen has facilities, it's totally in North America with facilities in Quebec and South Dakota. This took a lot of work to convince GE that this, the production and sale of hybrid towers would work for them. This is not an easy thing to do. It would be impossible for an Asian subject producer to do it.

Petitioners' counsel this morning also said that look, you know, the interchangeability, fungibility criterion is clearly satisfied because, you know, a complete tower, whether it's a complete tower or a hybrid tower, they are identical and interchangeable to subject imports. But no, that's the wrong test. The test is whether the subject imports from one country and the subject imports from another country are functionally interchangeable at the time of importation.

The top sections coming from Canada, from Quebec are not functionally interchangeable with the complete towers exported from Asia. It's just a fact. As Mr. Pellerin described this morning, OEMs do not mix and match sections from different suppliers. It would be too risky for them to do so. It's not done.

Another point Petitioners' counsel made was that hey look, the scope covers both. It covers complete wind towers and tower sections. That's completely irrelevant, or else the question is is one subject product, which is subject to the scope, fungible or functionally interchangeable with another subject product that is also covered by the scope?

We of course know that wind tower sections are part of the scope, but the point is a top section is not functionally interchangeable with a complete tower. It's just not. So there you have it. Complete towers imported from Canada are not competitive in the same geographical locations as Asian subject imports, and top sections from Canada are not fungible with Asian subject imports.

These facts demonstrate a lack of a reasonable overlap of competition, and therefore require a decumulated injury analysis for Canada. My colleague Ting-Ting Kao will explain why Canadian subject imports do not injure or threaten to injure the domestic industry. But first it bears noting that Canada would also need to be decumulated for purposes of threat.

Here, the same factors that preclude cumulation for present injury, lack of geographic overlap and fungibility, also preclude cumulation for threat. Moreover, because cumulation for threat is discretionary under the statute, the Commission considers other factors when determining whether to cumulate for threat, such as whether imports from the subject countries participate in the U.S. market under significantly different conditions of competition.

Here, there can be no question that Canadian subject imports satisfy this test. First, only Marmen can offer U.S. purchasers logistical advantages, such as high capacity storage at Marmen's Quebec facilities and inland transportation via rail car, boat or truck. Second, only Marmen has U.S. production, enabling it to export top sections to the United States as opposed to complete towers.

Third, unlike Asian producers, Marmen sources steel plate from U.S. steel mills. Canada should also be decumulated for threat. Thank you for your time, and I will now turn it over to Ting-Ting.

STATEMENT OF TING-TING KAO

MS. KAO: Thank you. With respect to present material injury, the Commission examines the volume of subject imports, the price effects due to subject imports and then determines if the subject imports have adversely impacted the domestic industry. Here, the data is clear that there is no adverse impact on the domestic industry due to subject imports from Canada.

As an initial matter, we note that the staff should use questionnaire responses and not import statistics for its volume analysis. This is consistent with the Commission's practice in the prior wind towers investigation and recent sunset review, where the Commission noted that import statistics may be over-inclusive.

The questionnaire responses show that the volume of subject imports from Canada over the Period of Investigation declined in absolute terms and relative to consumption and production. Consequently, the volume of Canadian subject imports is not significant. Since much of the data is confidential, we will discuss this in more detail in our post-conference brief.

There have also been no significant price effects due to subject imports from Canada. As you heard from others today, OEMs make their purchasing decisions based on total delivered cost. In particular, raw material and transportation costs are large components that affect the total delivered cost, which is where the price competition for wind towers takes place. Consequently, comparisons of wind tower prices on an FOB basis are not indicative of underselling.

Moreover in questionnaire responses, no purchasers reported purchasing Canadian subject imports instead of the domestic products because of price, and no U.S. producers lowered their prices due to Canadian subject imports. Moreover, there is attenuated competition between subject imports from Canada and domestic wind towers. Complete towers from Canada are sold in the Northeast, where they compete with imports from Spain.

Wind tower tops from Canada are sold in the Midwest and Central regions as part of hybrid towers. The hybrid towers, which are primarily a U.S. product, compete against complete towers from other U.S. producers. Thus, Canadian subject imports have limited if any volume and price effects on the domestic industry.

As you heard today, the Section 232 tariffs on steel significant increase the cost of the primary raw material for wind tower producers. The ability or inability to mitigate these costs had a significant impact on U.S. producers' profitability. For example in its 2017 annual report prior to the imposition of Section 232 duties on steel, Broadwind stated that in the event of limitations on the availability of raw materials or significant changes in the cost of raw materials, particularly steel, our margins and profitability could be negatively impacted.

Section 232 was in fact a significant change in the price and availability of the primary raw material for steel tower producers. As we will explain in more detail in our post-conference brief, any alleged injury suffered by the Petitioner was due to reasons other than subject imports from Canada. Subject imports from Canada also do not pose a threat of material injury.

First, as you've heard from witnesses here, the demand for wind towers is expected to be strong for 2020, even into 2021, despite the expected expiration of the PPC. Second, Marmen is the only Canadian wind tower producer and is operating at maximum capacity. CS Wind Canada shut down its operations last year, and has ceased operations. Marmen has no plans to expand its capacity in Canada, and to the extent Marmen expands capacity it would be here in the United States.

Third, there is no threat from product

shifting. Wind tower production requires specialized machinery and large factory spaces. It would be cost-prohibitive for Marmen to change its existing production lines to produce wind towers. And for some of its facilities it would be physically impossible because of the space limitations.

Fourth, there is no threat from inventories of subject imports from Canada. As the Commission previously noted in the recent sunset review of wind towers, inventories are typically low in this industry, since wind towers are specifically produced to order for specific end users or are assigned a project before manufacturing is completed.

While it is rare for the Commission to decumulate and find no material injury or threat of material injury at the preliminary determination stage, this case presents clear and convincing evidence requiring that result. The facts demonstrate that there is no reasonable overlap in competition between subject imports from Canada and subject imports from Asia.

They also show there is no reasonable indication that the domestic industry is injured or threatened with injury by reason of subject imports from Canada. Accordingly, this case against Canada should be ended now at the preliminary stage. Thank you and we'll be happy to answer any questions. We'd also like to reserve our remaining time for rebuttal.

MR. THOMSEN: Thank you very much for this panel. We will again start off the questions with Ms. Ahdia Bavari from the Office of Investigations.

MS. BAVARI: Good afternoon, Ahdia Bavari, Office of Investigations. Thank you everyone for providing testimony today. This is very helpful. I have several questions. Let's see. First off, this is probably going to be for Mr. Waite, if you could please in a post-conference brief not publicly provide data on the allegations that the Petitioners don't have industry support. I appreciate that.

Then I just want to put a definition of the term "hybrid." Just would appreciate a definition. Is your mic on?

MR. PELLERIN: Sorry. It's important. This is our own terminology I mean that it means a top made in Canada, and a mid and base section made in the U.S. So the production facilities are not the same. Your comment is important because in the literature, you may read sometimes stuff about hybrid towers, where that name will be for concrete tower plus a top in steel.

So this is our internal stuff and this is because our customers also using that term. So we have decided to keep that name. But if you read sometimes some of the technical magazine about wind stuff, you will see that when they talk about an hybrid tower, it's a concrete tower plus a top in steel.

MS. BAVARI: Then Mr. Pellerin, you mentioned that your company purchases U.S. steel. Why U.S. steel as opposed to Canadian steel?

MR. PELLERIN: Oh no. It's mainly there is one Canadian steel mill that can produce plate for the wind tower. It's in Ontario, and there are many in the U.S., and honestly everything that we look, we look at the North American market. We always, our thinking is North American, and honestly from a quality, reliability and delivery and prices, we have way, way, way better success with U.S. steel mill.

MS. BAVARI: Okay, and that's for the plate, for the --

MR. PELLERIN: Plate, for the plate.

MS. BAVARI: Plate only?

MR. PELLERIN: The plate only. The flanges are not being made in -- there is nobody in Canada or in the U.S. that make flanges for the wind.

MS. BAVARI: And so in Marmen's experience, do OEMs also provide sort of -- I believe it was Mr. Cole mentioned that sections of tower are normally broken out so that you could see a price per section. Has that been

Marmen's experience?

MR. PELLERIN: No. There is no, except one. There is one customer that all the customers what you quote is a complete tower price. There is one customer when you quote it's a complete tower price, okay. If you win the job, he will ask you to split it and mainly for us it's a transportation issue when we send each section separately with Custom paper, and they have to go to the Customs separately. That's why on the PO even you always negotiate a complete tower price. That specific customer on the -- he splits it, the section. But you always quote a complete tower.

MS. BAVARI: Okay. So you quote and negotiate on a complete tower?

MR. PELLERIN: Always, always.

MS. BAVARI: You also negotiate on a, I guess an FOB basis or --

MR. PELLERIN: Always FOB.

MS. BAVARI: Okay. That said, I have to be precise. There is no doubt whatsoever, no doubt that customers think with landed cost. You know, we would not -- we would -- of all the facilities still existing in the U.S., we're the oldest one. If the -- and all the others came online at a great location, perfect location. They were very smart to put their shop in perfect location, reducing transportation costs and our business went down massively because transportation costs is fundamental.

We would not be in the U.S. without that, you know. So our business in Quebec went down massively because transportation cost is expansive from Quebec to the U.S., and also when we quote, we quote FOB. But very often we suggest mode of transportation, you know. We have like these long term agreements and we have these contracts, okay.

There is one OEM that works in long-term agreements. The other OEM is work more by contracts, by contracts. When you work by specific contracts, you know where you will ship the part.

Being in Quebec and being disadvantages, we know or have been told it's in Pennsylvania. We know that we have to be smart from a cost point of view. That's why we always suggest well, have you thought about the boat, have you thought about the train?

Even sometimes we will find quotations for them and we will give them those quotations to their transportation department, you know, have you look into that because we know that how they think is in the total landed cost. That's how they think. But we don't manage transportation, so we cannot -- we can only quote FOB prices.

MR. CAMPBELL: Jay Campbell, White and Case, right. To expand on that, I mean yes, tower prices are negotiated and quoted on an FOB basis. But that's because the turbine OEMs are the ones that assume the transportation costs. So obviously when Marmen quotes for a tower, you know, quotes towers for a wind turbine, I mean a turbine OEM project, they're quoting an FOB price because that's all they can quote. They're not quoting the freight costs, although Marmen does get into those discussions with customers, to try to give them some cost advantages.

MS. BAVARI: And just to kind of keep rolling with that, so at what point would Marmen make recommendations as far as mode of transportation? Like when in the contract base does that occur. I'm just trying to get a sense as to when you all find out where the sections would be delivered?

MR. PELLERIN: One, hen the negotiations are per contract, okay. Let's say it's not the annual agreement, the customer is calling you and they are telling you -- per project, per project. They are calling you and they are telling you I have that project of 32 towers that I need, okay. We know because of where we are located that we have a disadvantage from a transportation point of view.

So the first thing we'll ask where is that project, okay. When they will tell us where is that project, we'll look on the map. If it's close to these -- because our two facilities are along the St. Lawrence Seaway, where is it located? Can we go there by train, can we go there by truck, can we go there by boat, and then we will make them some suggestions, you know. Have you talked about the train, have you talked about the boat, because we know that our FOB price is only part of their -- in their decision-making. It's an import in part, but the transportation may be a very expensive part also. So we just, we are just thinking ahead of time.

MS. BAVARI: And I also just wanted to clarify. Has Marmen ever been asked to supply top sections only or middle or bottom sections only to a certain OEM's specs?

MR. PELLERIN: No, it don't make sense to do that.

MS. BAVARI: And then this is probably more for counsel. If you could also state either now or post-conference whether you believe the Commission should use import stats or questionnaire data as a reflection of import data?

MS. KAO: Yeah, we can definitely address that in the post-conference brief. But as I mentioned before, we think import statistics are an appropriate way for the Commission to look at volume. That's how they've done it in the past, and the responses that the Commission has received so far are complete.

MR. CAMPBELL: Jay Campbell with White and Case. Just to add to that, I mean Petitioners acknowledge in the petition that the HTS classification number is over-broad. So I think the choice is pretty simple. The Commission should use the questionnaire data because it's complete and it's more reliable.

MS. BAVARI: And the Ms. Farrell, I actually had a question for you. As sort of the trade association, if you will, for wind energy, have you seen any sort of aggregate trends in labor and employment? If you could just comment on --

MS. FARRELL: Yeah. The numbers we have are based on the jobs study that we did, and that was at 114,000 jobs in the wind industry total that I mentioned, and then the 24,000 was the direct manufacturing jobs, and that was just based on a study. We don't have any sort of annual tracking, where companies kind of give us their employment numbers. It was a study that we did for more of communications and advocacy purposes.

MS. BAVARI: Okay. I'm sorry, that study was done when?

MS. FARRELL: I'll check with my economist and give you that date when we turn in our written.

MS. BAVARI: Thank you. And then I had -- I was looking at Petitioners' slides from this morning. I don't have a slide number. It's the slide containing all of the import data. I'm just looking at just overall imports, and it looks like imports from both Indonesia and South Korea in 2017 decreased. So I was wondering if, and I'll open this up to all parties, if anyone could comment on why there might have been a pretty substantial decrease in production in 2017, I would appreciate that.

MR. PELLERIN: Honestly, as we said earlier, we just don't hear about Asian supplier. Our customer just not talking to us about Asian supplier. Honestly we cannot provide any info on that. Sorry about that.

MS. BAVARI: I think that's all I had for now. Thank you.

MR. THOMSEN: Thank you Ms. Bavari. Let's turn to John Benedetto, the economist.

MR. BENEDETTO: Thank you all very much for your testimony. If any of my questions touch on anything that's business proprietary, please just indicate that and you can follow up in the brief. So this afternoon, I think you all have generally told us a very different story about what you expect demand to be going forward than what we heard this morning. This morning we heard that with the expiration of the tax credits, there would probably be a large negative shock to demand.

But I think Ms. Farrell, you said that you thought demand was going to increase enough to use all U.S. capacity in the future, and I think the witnesses from Marmen said that demand would stay strong after the expiration of the tax credits. Can anyone elaborate on that a little bit? Any reasons why you think demand is going to stay strong without the tax credits, because this morning it was definitely a sense that the tax credits were the root of demand.

MS. FARRELL: Yeah, I can talk about. What we've seen is the demand increase and the growth increase because the tax credit was put in with a five year phase out, and that allowed for a glide path and regulatory certainty. That actually is what gave us the ability to increase the domestic supply chain and help bring costs down and we're at the end of that.

But the way it works is even though the tax expiry of four years to put these in place, and that's why we're talking about still expecting in the next two to three years strong growth and continued deployment of wind, because of the fact that these projects are still projects that would be qualified under the PTC. They're just coming online.

MR. BENEDETTO: I see. Does anyone else have any comments on that or --

MR. PELLERIN: We started in wind in 2002. When we got our first order, as a matter of fact we had an order without the equipment. So it was like an emergency. We had to go to the bank and to borrow money for that. At that time, the bankers told us for what? We said for wind towers. They said what the hell is that? So we explained a little bit what the wind tower, and they said that's not a serious business. That's peace and love stuff, you know.

Anyway, we were able to convince them, and that business has been phenomenal between 2002 and where it is today. All these years, we have hear pessimistic stuff all the time. It's like part of that business. Even though you say people look at that, it's growing, there's always that group of people within and outside that industry that always have a pessimistic view of that business. That's the first thing.

We at Marmen were in the gas turbine business, the steam turbine business, the oil and gas business, offshore oil business. Movement up and down are all over the place. There is no market. In all these markets that I'm talking about that where we can see two years in advance, we just don't see that. There is no market where we have that great shape, and all these other markets that I'm in, I would really, really like to be as strong as wind.

Is there some uncertainty? In any market there is some uncertainty. But the fundamentals are very good from the competitivity, from the demand because of the green issue, the green thinking which is part of society now, from the super cost effectiveness of electricity produced by wind. These are all very strong factors that are here.

Will there be a slowdown from year to year? For sure. In any business, any business. But when I look at all my other business and I look at that one, that one is phenomenal, and there is no business. Oil and gas. Oil industry with these super-huge companies, nobody can see a few weeks in advance about where it's going, and I'm not joking you know. That's my job, to follow that. That business is -- that's a very strong business.

MS. KAO: May I add one thing --

MS. FARRELL: May I add one thing to my earlier response, too? The other thing that we're seeing is, because of that certainty of significant cost declines, then I think that's something to build on the answer that he just gave. The significant cost declines have made wind energy very competitive. There's an annual report that's called The Lazard Report, and that looks at the LCOE across energy sources. And in many parts of the country now the unsubsidized cost LCOEs for wind energy is the lowest cost form of energy in many parts of the country.

So it is the economic competitiveness of new wind capacity that is also going to continue to drive wind deployment.

MR. BENEDETTO: It would be super helpful for me if you could put that on the record in the postconference.

MS. FARRELL: Sure. We'll add it to the written things that we submit on Friday.

MR. BENEDETTO; What is the outlook on continuation of the tax credit? I asked the panel this morning. Is there any introduced legislation or any push on to continue them?

MS. FARRELL: I'm sorry? Could you repeat the question?

MR. BENEDETTO: What is the outlook on any continuation of the tax credit? Is there any introduced legislation, or anything like that?

MS. FARRELL: So right now there is an extender that would just blanket extending tax credits, including the TPP for one year. There have been other proposals talked about and discussed. If I had a crystal ball to tell you what would exactly pass Congress, I think I'd be dialing in from my private jet. But--

MR. BENEDETTO: So there is a bill, then?

MS. FARRELL: Yeah, there is a bill. And there's active conversation about what's going to happen, and what actually will pass by the end of the year.

MR. BENEDETTO: So a question for Marmen, and actually for Vestas, as well. I got the sense from Marmen this afternoon that--well, I definitely understood you disagreed with this morning's panel on the importance of delivered cost. Otherwise, it sounded like you agreed with this morning's panel about how contracts are long term, you bid on a long term contract. So tell me if I'm wrong about that. And also for Vestas, is the characterization of the contracts this morning basically correct brought by the issue of was there a debate over whether just how important delivered costs are?

MR. WAITE: Can you repeat the characterization?

MR. BENEDETTO: So the characterization was that there were these--there were bids on long-term contracts that might be three years long, that the bid would often be quoted in the end on FOB price even if, as Marmen was arguing this afternoon, that actually what matters most is long-term delivered cost. Is that basically your understanding of how the pricing products process works?

MR. WAITE: Definitely that's the experience and I understand the practice to consider the total cost of delivery to the project site. That's how (off microphone).

MR. BENEDETTO: So it's a delivered cost. Was it the delivered cost in the contract, or the FOB cost in the contract, but the delivered cost was actually the decision being made on?

MR. WAITE: Among other things.

MR. BENEDETTO: Among other things. Can you make sure your mike is on?

MR.; PELLERIN: May I add? Most contracts are one year. And if anyone is two years, as we said, we made the complete towers, and we make ivory towers. On the complete towers out of Quebec, the original area where we are complicated, it's much more committed. And our customers, they have--because the utility UPC, what they will do, for example, in '19 and '20, that's money--in most cases, that's money that they got, let's make it simple, that they got as a down payment many years ago. So they knew the customers. They talked to the customers. It's not an order coming out of nowhere, and most of the time they got money as a down payment two years in advance when they knew the costs. They talk constantly to the customer. They know very well the geographical area where most will end up. So when they are telling us that they are the program, and now they recheck every month where the location of the site, and when we negotiated with them, they are very open about, no, we won't make that many complete towers because we don't have projects in your area.

They know what's a very good idea what will happen, and sometimes it does for the PTCs, the 48 PTCs. That's why it was so special, to know something two years in advance. We had a very, very good idea. We wouldn't have had complete towers in Quebec if there were no projects in the Northeast or the Great Lakes area. It's as simple as that.

MR. BENEDETTO: I guess for the whole panel, if you could give some information in the posthearing brief in terms of what share of the U.S. market is on the Coast. What are we talking about there in terms of what's on the East Coast and what's on the West Coast, that would be very helpful as well.

I think that's all my questions right now. Thank you all very much.

MR. THOMSEN: Thank you, Mr. Benedetto. We will now turn to Ms. Dempsey, the attorney.

MS. DEMPSEY: Thank you for appearing here today. I have a couple of questions.

My understanding is that Marmen mid-sections are only sold with Marmen top sections from Canada. How much of Marmen's South Dakota production is geared toward space and mid-section only as opposed to whole wind towers?

MR. PELLERIN: It depends on the year. You know, the first three years, two-and-a-half, three years, it was complete towers done in South Dakota. The three sections were done in South Dakota at the beginning.

What happened, the story is the following, is that GE asked us, GE Products, that can we do more at the South Dakota facility? And the South Dakota facility was just totally booked. And just to give you rough numbers, if you make 1,050 sections, that's equal to 350 complete towers, three sections. But if we make only mid and base, then we can do 525 base, 525 mid and then we need 525 top. So when they asked us can you produce more towers out of that facility because we like the location, the price, the delivery, everything, we started to put the thinking in process.

And after a very long negotiation process, we ended up with that idea of the hybrid tower. It's not something that came like that (snapping fingers). It took some time for both companies to look at the economics of it, everything around it, and then we came with the solution was what we think is a win/win for both companies. So this is how we ended up like that.

It depends on the year. Some years we made almost 100 percent. Some years it's 80 percent. We have done for another customer where it was complete tower. They changed it from us. But it's the vast majority, at the moment the vast majority are ivory tower.

MS. BAVARI: With respect to cumulation, TS Wind was the Canadian producer for most of the Period of Investigation. Why would we not consider TS Wind in this analysis since we are looking at POI data?

MR. CAMPBELL: Jay Campbell with White & Case. I'm trying to be careful because I don't want to divulge confidential information, but I guess the short of it is we consider that TS Wind--first of all, we're not disregarding them. We acknowledge that they were producers during the POI, the earlier part of the POI. But even then they were a minor player. And they don't make--they obviously did not do the top sections and ship those to the U.S. market, but in terms of the lack of geographic overlap, that still applies to TS Wind for the early part of the POI where they were producing and exporting complete towers to the U.S. market.

So in a nutshell, TS Wind is a minor participant over the POI, and it was limited to the early part of the POI, so certainly no way TS Wind's previous existence undermined our decumulation argument. And we can elaborate in the postconference brief.

MS. BAVARI: Okay, if you could do that that would be great. With respect to the wind towers that Marmen shipped to the Northeast, were they whole wind towers? Is that correct?

MR. CAMPBELL: Jay Campbell with White & Case. Right. So in terms of what from Marmen Quebec facilities in terms of complete towers. Well, in terms of what Marmen Quebec sells to Connectsport to the Northeast, it's complete towers.

MS. BAVARIN: And how many OEMs have project sites in the Northeast?

MR. PELLERIN: I'm unaware that Northex has project sites in the Northeast, but I think the three others, Vestas, Siemens, and Geed, they all have project sites in the Northeast. Not every year, but--

MS. BAVARI: In any year of the POI, have subject imports in the Asian countries been imported to that Northeast area? Or been shipped to that area?

MR. CAMPBELL: Jay Campbell with White & Case. We'll elaborate in postconference, but based on our analysis of not only the official import statistics but Marmen went behind and used Import Genius, which is a proprietary commercial site, but to get more detailed information. Import Genius uses the official import statistics data, but it goes deeper and gets more information than what is presented. So you can figure out more precisely where the towers from Asia were imported. And based on Marmen's review of the detailed import data and its review of the markets, we confirmed that there were no shipments of Asian complete towers to the Northeast in 2017 and 2018.

There were one or two isolated shipments, we believe, in 2016, and we'll address that. We'll address that in postconference, but when you're talking about the POI as a whole, the more recent period of the POI and what's normal, it's extremely rare that you would see Asian subject imports shipped all the way up to the Northeast.

And to further corroborate that point is the fact that when, as Patrick Pellerin testified, when Marmen does business for complete tower shipments to the Northeast and talks to the turbine OEMs about projects in the Northeast, it never hears about Asian imports at all. Those prices are never referenced.

MS. DEMPSEY: Are Marmen's Canada products ever shipped to other geographic areas other than the Northeast, during the Period of Investigation?

Mr. CAMPBELL: Yeah, with respect to complete towers, as we--let's see--as we show in this slide, and as Mr. Pellerin testified, with respect to complete towers coming from Quebec they're limited to the Northeast, and predominantly to upper--the Great Lakes region, the Upper Midwest. That's predominantly where they're--it's economic for their complete towers to be shipped. And beyond that, extremely limited.

And just--I'll try to interrupt, to clarify, on the hybrid towers, the shipment range is greater. It's more in the central region of the United States. Because, you know, with respect to the mid and the base sections produced at South Dakota, with that location it's economical to ship those pieces by truck, those sections by truck, to locations in the Midwest and the Central Region of the United States.

And with respect to the top sections, from Quebec those are shipped directly to the project site. They don"t go through Brandon. But those are shipped directly to the project site and, using a combination of rail, boat, or truck, because they're lighter they can be transported economically to a broader range. Also to the Midwest and the Central Regions of the United States.

MS. DEMPSEY: Do you agree that the Commission should focus on the merchant market, or another analysis?

MR. CAMPBELL: Jay Campbell with White & Case. We'll address the captive consumption provision in our postconference brief in greater detail, but to be quick here, we do not agree that the captive consumption provisions are satisfied. Specifically, with respect to the second prong, or element, or factor, which is whether the domestic like-product that is internally transferred is a predominant share of the material for the downstream product.

I think earlier Petitioner's counsel referenced that, well, the wind tower sections are predominant by weight. We don't dispute that, but the Commission's practice in applying the second factor is to look at the percentage of the domestic like-product accounts for in terms of cost. And when you look at the cost of a wind tower compared to the total cost of a wind turbine, it's clearly not a predominant share of the cost. It's a minority of the cost.

So we believe the captive production provision is not satisfied; that the Commission should therefore look at the total market and not focus on the merchant market. But I will say that this is not a big point for us, so we still believe that the facts demonstrate clearly that Canada should be decumulated. And even if the Commission were to focus on the merchant market, there is still no subject imports or threat of--not no subject imports--no material injury or threat caused by the subject imports from Canada.

Thank you.

MR. WAITE: This is Jason Waite from Alston & Bird. We also agree, but it is an important point to us, and to anybody who can read the statute, because it requires that it not be the predominant material in the downstream product. And we can walk you through. I've been through the Vestas Blade Factory in Colorado. I've been to the

Nestel Factory in Colorado. We have seen the sophisticated wind turbine generators that Vestas makes, and I can tell you I've been trading some emails on the percentage of the value of the tower in a finished generator, and we're happy to provide more information in our confidential posthearing brief. But it is nowhere near a predominant material in the finished downstream product of the wind turbine generator. The statute requires it, and to me (off microphone).

MS. DEMPSEY: Even if it were not to apply, could the Commission consider it a significant condition of competition because the merchant market is where subject imports and the domestic like products are competing?

MR. WAITE: We don't think so.

MR. CAMPBELL: Jay Campbell. Could I just add to that? We do think that Vestas's captive consumption is significant and should be taken into account as a condition of competition. But we think it's significant because what it demonstrates is that a substantial portion of the U.S. industry's production of wind towers is shielded from import competition. That's the significance.

MS. DEMPSEY: With respect to demand, I think--in the petition, Petitioners have indicated that they believe demand will increase through 2020, and then after year 2020 it was expected to climb because that was when I guess the benefits to the TPC is diminished. Would you agree that if the TPC were not to be renewed, demand would be expected to decline after 2020?

MS. FARRELL: I think that, relative to--because people are moving to capture the value of the TPC, you're getting a bit of what some might consider an over-build, more than what you're front-loading some of the demand that would otherwise be spread out. So you will see--we are expecting some decline and leveling out relative to that piece that we're going to hit as companies move to make sure that they capture the value of the TPC.

MR. WAITE: Jason Waite. If you're going to handicap demand based on TPC, you have to look at also the increase in demand that follows a renewal. And imports and the production and the installation that followed in 2016, that was driven by this demand.

So, you know, if we're going to consider it on the back end, let's consider it on the front end, as well.

MS. DEMPSEY: Thank you. I think that's all I have for now. Thank you.

MR. THOMSEN: Thank you, Ms. Dempsey. Mr. Boyland?

MR. BOYLAND: Thank you for your testimony. I've sent the companies follow-up questions. I appreciate your time in responding to those. I do have a couple of questions here.

With respect to Marmen, the conversion price that Petitioners were discussing this morning, is that model used by your company?

MR. PELLERIN: There is no doubt that I don't really--our situation does not correspond to what we heard this morning. On the steel part, which is steel can be 40 to 50 percent of the total cost, we are totally free to buy from wherever we want. With the major OEM, and the two other OEMs, they compared their price that they can get with our price. Most of the time, if not always, we beat that price.

We have put a lot of effort--and it all comes because our difficult location, we have to be imaginative to try to find ways to compensate that. So we put really a huge purchasing department in place to go all over the world.

Everything that can be bought in the North America, mainly the U.S., not much in Canada than the U.S., but in the U.S. Among other things, to protect ourself against the exchange rate and things like that. But there are big items, flanges, like that, that are produced in Canada and the U.S. and all over the world. Because of that, these two big components, which are the steel and the flanges, which for all the metal is 70, 80, 85 percent, on the steel up to now was complete freedom. And on the flanges, it's more they will double-check their negotiations with us.

So the steel and the metal costs are very important for us. We think we have a big advantage in our negotiations. And for reasons I explained earlier on the transportation costs, that's why we have invested in the rail, because it's important. If it would not be important, we would not have invested. It's the baggage.

And when people negotiate with us, they never negotiate that conversion cost. Sometimes they will ask us the conversion cost, but the final stuff is always the FOB price. It's always the FOB price. And are they tough negotiators? For sure. They have been working for GE for 30 years almost in different sectors, gas, and close to 25 years. These are the professionals. That's what the do, price negotiations.

My father always told me, these people are the devil. It's okay as long as you know it's the devil. If you think they're angels, you have problems. This is part of the game. And they will come with different tactics, all kinds of tactics, but it's a negotiation. It's a game. These are big boys. A hundred times bigger than you. They will come with all their pressures.

If you think your product is a commodity, you have problems. Because a commodity is like a bowl in a nut and (off microphone). If you think of yourself as providing something special, we offer a package. Price is a big part. Top quality. Top reliability. Capacity. Just what my customer wants. I don't know, but it's expensive. What the customer might do if I'm late. And you will have to pay penalties. I don't know what' important. What if I have capacity and he doesn't have outsource to two or three suppliers and there are technical people there and it's a cost.

But even more important, all this stuff that we do for transportation, the end is in the system, all these things that we add to our package, and just the award that we won--I will explain to you something in the award just for you to understand. There's way, way more stuff than just the price. On the award, we won for ideas that we worked out to reduce the cost. It is not true, contrary to what was said this morning, that we do not have an impact on the design of the top.

For about, I would say from 2004 to about a few years ago the internal, all the internals has been done by us to make it cheaper. We don't do that anymore. When we got the award for our quality, at the same time during that award ceremony and during the conference, they said--I would say like one month in advance. These were all the best suppliers in the world, all the biggest and best suppliers from all the world on the onshore stuff. They said, please provide ideas to reduce the cost. And during that supply conference, they said, okay, all of you guys, we got that many numbers of ideas. I don't remember exactly, but what I remember very well is that ours was 25 percent, the numbers of ideas, 25 percent.

If you find something you reduce drag, you eliminate that, it's never $10,000, but it's tough. The length of a bus part. I know I'm taking time. But let's say you reduce something by $500, which is a big reduction, $500, and the tower may be $20,000. And let's say you make $400. But your customer buys $2,000. The impact is, $500 on $2,000, you just saved $1 million.

So when he looks at you, he doesn't look at you as my tower costs have been reduced, but because he's taking your idea and he's selling to all the suppliers, you know, remove that bracket, do this, everybody has the price relief. Not their labor in that.

So when he looks at you, he knows that you're a source of cost reduction ideas. He knows that. There is a value to that. Can we quantify that stuff? We cannot. But when we are at the negotiation table, we bring that. We know they will come with the big hammer on the price. It's always that. All my business from oil and gas, it's always that all day long. That's the game. You know, you have to be big boys because they're coming at you. And they are competitive. Whatever, they will come. That's okay. That's their job. You have to prepare yourself and say, okay, what am I offering? And you have to parade that package. That's what we do.

And it's not only conversion. You can have a great steel deal like we had in '17. It's flanges. It's all these things. That's what we bring to the table.

MR. BOYLAND: Thank you. One question, and I think this is going to be--I'll try to ask it in a way that's intelligible, but the fact that your company is selling a hybrid tower, at least the brand that's the South Dakota part of the operation, which we're interested in specifically because this is a U.S. manufacturing part of it, the financial results that you're reporting to us is essentially the manufacturing part of that, which would be the base and the middle part, maybe some complete towers. I guess here's the question:

In terms of the revenue that's being reported, and calculating an average unit value, is it fair to say what I'm looking at is an average for the base and the middle? Or is it more like an average for the entire tower that's been assigned to the entire--to the segments being sold in the United States?

MR. PELLERIN: Patrick Pellerin from Marmen. I know I excused myself that I've been talking without mentioning my name each time. I'm really sorry about that.

No, all the data that you are looking at in the questionnaire, everything reports only to the mid and the base.

MR. BOYLAND: Okay, okay. So--

MR. PELLERIN: The sales, the profit, everything relates only to that.

MR. BOYLAND: So for purposes--and you answered the question I think Ms. Dempsey asked about the shipment of the top to the job site itself. So it is correct that the revenue being recognized there is in Canada by that? So it has nothing to do with what's being reported here?

MR. PELLERIN: Nothing to do.

MR. BOYLAND: Alright, thank you. That answered my question in terms of essentially what we're looking at is an average for the base and the middle.

And in terms of how those would actually be assigned revenue, do those have a specific like a PO for the base, a PO for the middle that would actually have a revenue that's discrete? Or is it project by project, here's the tower, and then it's just--how does that work, the assignment of revenue?

MR. PELLERIN: Patrick Pellerin, Marmen. Sorry about that. I just wanted to make sure that I understood your question.

No, we got it for the full tower in Brandon. We got--so Brandon is selling the full tower. But in the numbers that we have reported in our questionnaire, we have removed the price of the TUP out of that.

MR. BOYLAND: Okay, great. Obviously the cost associated with that.

MR. PELLERIN: And all the costs associated with that.

MR. BOYLAND: Okay, thank you. That helps. One additional question. You mentioned the establishment of a prospective facility in the Northeast for the offshore, supplying offshore? Would that be in the United States?

MR. PELLERIN: Patrick Pellerin from Marmen. Yes, in the United States on the Northeast of the United States, I would say from exactly at the moment Maryland, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, all these states have either awarded contracts or said that they are going--well, as a matter of fact, at the moment all of them have awarded contracts for offshore stuff. At the same time, they publicly said that they want manufacturing facilities. If that business is to continue, they need manufacturing facilities. Because, let's face it, the first few years everything will come from Europe, 100 percent from Europe. But the politicians were very clear, you know, we believe in that business, but we need manufacturing facility in the Northeast, in our state. We need to see manufacturing in our state.

So this is what we are looking at, one of these states.

MR. BOYLAND: Alright, thank you. I have no further questions.

MR. THOMSEN: Thank you, Mr. Boyland. We'll turn to the industry analyst, Mr. Tsuji.

MR. TSUJI: Thank you. Good afternoon, everyone, and thank you for being with us today. I have a few questions. They're sort of scattered in terms of topics.

The first one is for Mr. Pellerin, particularly regarding the figure in your PowerPoint presentation on transportation where you show the power sections being transported by being loaded onto a ship. They are loaded onto what looks like a unit train of flat cars, and finally a base section that is seated on a depressed flatbed truck.

So I'm just curious as to what are the maximum size capacity constraints in shipping by boat, versus by rail, versus by truck? When I say "size," in terms of maximum length of the taller section, as well as the maximum diameters.

MR. PELLERIN: Patrick Pellerin--sorry.

MR. TSUJI: It may be you can put all these details into the posthearing brief, that's fine, too.

MR. PELLERIN: Patrick Pellerin from Marmen. I will let Vincent Trudel speak to the price level of the operation. He's more technical than I am to answer that question.

MR. TRUDEL: Vincent Trudel, DP Operation at Marmen. Just to give you a--more detail will be in the postbrief, but roughly by train into the U.S. you can do up to about 4 meter. So that's we ship top sections by train to the U.S., because you have a weight restriction up to 4 meter by train.

By boat, there's no such limitation. So it's really more depending on site. But the rate is really the diameter, which is the most important thing. On the length, worse case the top section are fairly long. They will have to use three flat cars instead of two to get the extended length. But most of the time they can fit one top per flat car.

MR. WAITE: And this is Jason Waite, if I could just add to that. That's our experience, as well, at least with respect to the trains. We understand it's 4.1 meters, and that's a diameter measurement. And it's literally because these train have to go under bridges and through tunnels and things like this. So the limitation.

MR. TSUJI: Thank you to both of you.

And my second question, it's the same one I asked of the Petitioners' witnesses this morning, so for both Marmen and for Vestas, do you also outsource the production of the flanges for your wind tower sections?

MR. TRUDEL: Vincent Trudel from Marmen. Yes, we outsource flanges production to a foreign producer.

Well have to address that in the postconference brief.

MR. TSUJI: Okay, that's fine. And I just wanted to clarify in my mind for Marmen that both the two facilities in Quebec, and if I try to pronounce the French I will be guaranteed to mispronounce the names, so I'll say the two Quebec facilities, as well as the South Dakota facility. Do you produce all three types of sections? I.e., the base section, the mid section, and the top section, at each of your three facilities? Or is it the case where it's specializing for the Quebec facility the top section, and the mid and base sections at the South Dakota facility, at the optimal production mix?

MR. TRUDEL: Vincent Trudel from Marmen. We can produce every type of tower section in every facility. The main reason for doing that, for our business model actually is just to minimize the shipping costs to our customer. This is really the main reason.

Yes, maybe in some cases you can specialize facilities in having efficiency, but in our business this is really more to reduce the transportation costs. That's the main reason.

MR. TSUJI: Okay, thank you. And the final question will be for the counsel for the Respondents. Again, the same question that I asked of the counsel for the Petitioners. And that is: Are you aware of any other import injury actions--i.e., antidumping countervailing duty--proceedings, or safeguard import actions in third-country markets on wind turbine towers in addition to the ongoing proceedings in Australia on the towers from China and Korea? You can respond in your posthearing brief, if you prefer.

MR. CAMPBELL: Jay Campbell with White & Case. I will respond. For Canada, no, we're not aware of any third-country trade remedy or safeguard actions on imports of wind towers from Canada. But also, kind of irrelevant, or not applicable to Canada, because of transportation costs and whatnot from the Quebec facilities Marmen can only ship within, you know, certain regions of Canada and the United States. So not exporting to any third country outside the United States.

MR. TSUJI: Okay, thank you, Mr. Waite. Mr. Thomsen, I have no further questions.

MR. THOMSEN: Thank you, Mr. Tsuji. I have a few questions for the panel, as well.

My first question is: Does Marmen produce cells?

MR. TRUDEL: Vincent Trudel talking. Yes, we did in the past produce around 700 cells in the past for local customers. We did that in the past.

MR. THOMSEN: And when did that cease?

MR. TRUDEL: It ceased in 2012--2011?

MR. THOMSEN: Okay, thank you. We heard early in the panel this morning that there was a demand collapse in Canada. Does the AWEA also look at North America? Or just in the United States? And if you do look at Canada, can you respond to that?

MS. FARRELL: I don't know. Other people who work on my team probably know about Canada. I do not.

MR. THOMSEN: Okay, how about Marmen?

MR. PELLERIN: As we said earlier, first of all our cost units are not the promoters. Our customers are devoted. And honestly, for us for North American suppliers the end location of our towers are in Ontario and over in Nebraska we make towers. It's up to our customers to decide where is their final location and where they want our towers.

So when we look at the Canada market, it's Canada and in the U.S. it's a total. That's the way we look at it. That's one thing. If we look at Canada in total, there is not a collapse but there is like a movement in the geographical area. What we do in Quebec, at the moment, if you're asking in 2019 in Quebec, there is nothing at the moment in Quebec, neither in Ontario. But there is a big public utility in Quebec that is negotiating massive supply of electricity with all the New York, Massachusetts, and the other New England states. Because in Quebec it is clean energy, either solar or wind. And these states, for whatever reason, that's the kind of electricity that want. At the moment there's a big question about the transmission line and all the things involved in the transmission lines, but we do know that in the offering of Quebec there is a different mix of more wind and things like that. And most of those are secret negotiations. Everybody knows that it's happening, but nobody really knows what will be the end result.

And in wind, the political aspect in wind is important. It has always been like that. So that may come along. That may change the game totally in Quebec. But this is it. But as I said, for us it's always Canada and in the U.S. We are a North American company, and our promoters are not our customers. It's the OEMs, and the OEMs can take the tower out of our facility and they can ship it where economically it makes sense for them.

We have always looked--the same thing for the steel, the same thing for everything. We look at the big North American market.

MR. CHASE: If I could just add to that, it's very provincial here. I wouldn't call it a collapse as much as it's changes in policy focus. The federal government did not have similar tax incentives structure that's in place, the provincial government.

MR. THOMSEN: Thank you, Mr. Chase. Let me switch to transportation for a moment. Mr. Pellerin, can you describe how transportation costs differ between different modes? Which one is the cheapest, by how much, and which is most expensive, and what difficulties the different modes face?

MR. PELLERIN: It's important--Patrick Pellerin from Marmen. It's important and I'm not the transportation expert. It's critical, you know. From what we have heard (off microphone), the system kilometers in miles, but like zero to five hundred, trucks should be more efficient. Over 1,000, trains or boats are best. And in the middle is the case by case, you know. But that's roughly it. And on the train, naturally there is no size impact. For us, when we ship by train, as Vincent said, we cannot ship bases because there is a tunnel between Windsor and Detroit, and the bases don't go through that tunnel. So that's why our export of complete towers out of Canada is very limited. It's very limited because trains, for the complete towers, cannot really be used. But trains for the top, that's why we specialize in those towers.

MR. THOMSEN: Okay. And where can the--given that there is that restriction in the tunnel between Windsor, Ontario, and Detroit, where can they cross over into the United States via train? Are there specific ports that--

MR. PELLERIN: They have to go--Patrick Pellerin from Marmen--they have to go inside, over the Great Lakes, and then they end up in the western province in Canada and go down.

MR. THOMSEN: Sure. Your answer actually preempted what my next question is, so thank you.

If I could switch to contracts, we heard this morning that contracts were based on conversion costs. Are Marmen's contracts also based on conversion costs? Or any kind of steel pass-through?

MR. PELLERIN: All our contracts is always the total cost of the tower, including everything. It is true, as was said earlier, that there is--during the year there is a variation. It depends. When we negotiate the steel, sometimes some steel mill will give us no variation. Some others will give you a price with what you call a step collar.

So when we negotiate at the beginning of the year, that settles and we go with that. That said, we have never seen, never, ever, a renegotiation of the price during the length of the contract. We have never seen that. It's settled. It goes to the end. We have never seen a price renegotiation during the contract life. We have never seen that.

MR. THOMSEN: Okay, thank you, Okay, a question for Vestas, and you may have a little bit different perspective with respect to demand. We heard this morning that three years out is really hard to project in terms of what demand is going to be. I know you may have a little different perspective on it, given that you are more integrated downstream in terms of your offering.

How far out are you able to project your wind tower demand? Are you able to only predict out a year? Or is there something different about being able to already be with the OEMs and be with the power companies that are buying the wind towers, or actually buying the entire wind turbine. Can you see out three years in terms of demand? Or are your projections limited much like the Petitioners?

MR. CHASE: I'm probably not the best person to address it in the company. I can tell you that through the PTC cycle we can see where much of that demand is, and that PTC cycle, as was mentioned, while the tax credit does expire at the end of this year, there's a place of service time frame that allows you a little bit more time to see out.

So I think what wasn't mentioned here was some of the other demand factors that are out there. Amy mentioned the technology improvements that have lowered the price of wind, generally. You've also seen some regional energy focus from states particularly that are pushing for more clean energy on the system.

MR. THOMSEN: Okay, thank you.

Another general question that I had asked this morning about why purchasers might split bids between different suppliers, just in general in the market. Do you have an idea why you would think that those bids might be split between two separate producers if possibly Marmen has a contract with an OEM along with another supplier? Why would that purchaser have been splitting their order?

MR. PELLERIN: Patrick Pellerin from Marmen. Do you mean for the same project?

MR. THOMSEN: For the same project, correct.

MR. PELLERIN: Honestly, the only thing we can see is a capacity issue, but Vincent will answer that.

MR. THOMSEN: Mr. Trudel?

MR. TRUDEL: Vincent from Marmen. Customer don't like to do it. Why? Because the quality--there is a slight difference, even if the project is very, very similar, there is a slight quality difference between different tower suppliers. And our customer don't want to end up having issues in the field. With a customer that wants that big site of let's say 100 towers, with multiple tower suppliers, with some small difference that makes a difference for him. So the main reason, to my knowledge, the main reason why our customer do that is really for a short-term capacity problem, for complete towers.

MR. THOMSEN: Okay. Thank you. And I have one last question, and it's for Marmen also. Have you had any tower projects for which there was a question as to whether it would be a hybrid tower, one supplied out of both South Dakota and Quebec? Or just a complete tower out of Quebec? Was there any projects in the last three years, since January 1st, 2016, where there was a question as to which one, how it would be supplied?

MR. PELLERIN: Patrick Pellerin from Marmen. No. They will tell us at the beginning of the year that's how many ivory towers you'll make. That's how many complete towers. And we know that the complete towers is very minority, and no, honestly we think that for each project it's either complete or hybrid.

MR. THOMSEN: Okay, so is it your firm that's deciding where it's being supplied by? Or is it the OEM that you're selling to that's deciding where it would be supplied by?

MR. PELLERIN: Patrick Pellerin from Marmen. It's always the OEM that decides. Always, without exception.

MR. THOMSEN: Okay, thank you very much.

I have no further questions, but I do want to check with staff to see if they have any follow-ups for this panel.

(No response.)

MR. THOMSEN: Okay, well I have no follow-ups either, so it looks like the only follow-ups were on the Petitioners panel this morning. I guess we all got a little tired of giving follow-ups, maybe, I don't know.

Or did you have one, Ms. Bavari? No? Okay. Okay, with that, I want to thank this panel for all their testimony and I would like to then move on to the rebuttal and closing statements.

MR. BURCH: Closing and rebuttal remarks on behalf of those in support of imposition will be given by Daniel P. Pickard of Wiley Rein. Mr. Pickard, you have 10 minutes.

CLOSING STATEMENT OF DANIEL PICKARD

MR. PICKARD: Good afternoon this is Dan Pickard from Wiley Rein. I think what I'd like to do is, being mindful of the fact that it's 3 o'clock in the afternoon. I don't know if I need to take all 10 minutes. I think what I'd like to do is very quickly recap what you heard from this morning's panel.

I'll talk about very briefly what you heard from this afternoon's panel, and then maybe touch on a few things we didn't hear from this afternoon's panel, and then we'll conclude.

But first and foremost, I'd like to start by thanking the Staff for their time and attention to this matter. Luckily, we believe it's a pretty straight forward case, and it's got a relatively smaller record of evidence. But that being said, there are some interesting issues here.

So, our case in chief as I said is pretty straight forward, that there's been a large increase in subject imports. It's happened over the three-year period, and you've seen it over the interim period.

I think all parties would agree that there is a very concentrated customer base which leads to intense price competition. You also heard -- and I think I'm going to focus a lot of my comments in regard to certain issues connected with Marmen because I think that is the issue that has been most keyed up here today.

That you've heard from Petitioner witnesses that Marmen prices are used to leverage down prices throughout the United States. And I wanted to address one specific --

hopefully, not misunderstanding. I heard Mr. Thomsen ask a question in regard to whether it was our position that delivered costs are completely irrelevant.

That's never been our position, just be clear, right. What we've argued is that the FOB price is the appropriate focus for the Commission's analysis, and it's for three primary reasons. Number one -- prices are negotiated on an FOB basis.

Number two -- the FOB price is the largest component in the delivered price. But number three -- while it would certainly be understandable why you would want to think the delivered price would be the natural, kind of focal point, because we're talking about large contracts, long contracts where ultimately even the purchaser doesn't know where those towers are going.

So, consequently has no idea what the freight costs of those are. That's why FOB price is the most appropriate price to focus on for purposes of these investigations. And obviously, consistent with Commission practice, but in this case in numerous other cases, the merchant market, where imports are competing directly with the domestically produced product is the appropriate focus for purposes of causation analysis.

That is true regardless of whether you apply the captive consumption provision, or if you just take Vestas' internal consumption as an important consideration of conditions of competition.

So, that being said, the evidence of the decrease in the performance of the domestic industry relatively straight forward. Decline in production, decline in capacity utilization, idled facilities, laid-off workers, decreasing profits -- that's all there, as our -- as is, the evidence of threat of material injury, not least of which due to the projected increases in subject imports through the end of 2019.

So, that is our very basic straightforward case put up front. What did the Respondents say? A couple of things to kind of tee up. First off, what I heard AWEA say is that they're opposed to the case because they want rate certainty and that a failure to continue to have access to what has been allegedly dumped and subsidized imports would increase prices.

And what's notably most important about that is that argument is completely and utterly legally irrelevant. None of that goes to the question of whether subject imports are injuring the domestic producers wind powers.

In regard to Vestas, and I believe Ms. Laurie had a question along these lines in regard to whether the domestic industry has standing to bring the case in regard to industry support. It is true that Vestas and Marmen put in a standing challenge on Friday whether the Commissioners had standing to bring this case.

That issue has already been decided. Their standing challenge has been rejected. These cases were initiated around noon, and while the decision is not public yet, or at least I haven't seen it, more likely than not, the reason that their standing challenge was denied was because they were related parties, and due to their import interest.

But regardless of the matter, that issue is now settled. So, really going to the heart of some of the matters. One of the key arguments that you heard were that subject imports from Canada should be -- should not be cumulated because they're not fungible, which honestly I find to be a very bizarre argument, because actually -- while sitting back there, I looked up the definition of fungible which you would think I would know after this many -- these many years in front of the Commission.

But one of the definitions is "able to be replaced by another identical item." Their top section is literally capable of being swapped in interchangeably with the U.S. produced product, or the same spec made from Korea, also made -- or from Vietnam, or from Indonesia.

It is -- and that is literally what they do, right? They swap in a Canadian piece because it is wholly interchangeable. And I think that that fact alone fundamentally undermines all of their cumulation arguments.

On top of that, I think it bears repeating that subject imports, the definition of the scope, are based on sections, right? And regardless if it is a tower and all three sections are sold in, or it's just the top section that's sold in, that's still subject imports. That is all covered merchandise.

And what I believe we've heard Mr. Campbell say was that the top section aren't limited to being distributed just in the northeast part of the United States -- whatever the northeast is, but that they are frequently delivered to the job sites in the heart of the country.

I would also point out that I believe Marmen's industry witness talked about the fact that their facilities are running at full capacity and I think there is very compelling evidence out there that demonstrates that the Canadian market is incredibly small and stagnant.

So, if Marmen -- and then Mr. Campbell also stated under oath, that they don't export to any other market, so if the Canadian market is essentially stagnant, and they don't export to any other market, and Marmen is going full out with their production, well then where are these towers going?

There's only one place that could be, that's the United States. And I think -- one last part and then I'll start to wrap up, is I think you also heard an industry witness on behalf of Marmen talk about why did they start doing this model where they're sending Canadian tops into the United States?

He didn't say it had anything to do with the freight costs, right? It was because GE asked them to do so, because they wanted more low-priced towers. I think that's an important part of the transcript. So, maybe talk a little bit about what you didn't hear. And then I'll wrap up.

While it was stated that Marmen was somehow unique because they ship by rail, truck and water, that is equally true for the U.S. producers, right? Because it's, as you've heard, it's not the wind power producers that's arranging for shipment, it's the OEM, and the OEM have also for U.S. producers, required shipment through rail, truck and by water.

In regard to the idea that putting a top on another tower is somehow unique, the Commission should be aware of a concept called repowering. And repowering is basically when a new top is put on to an existing tower, which is something that U.S. producers have done, which is I would argue again, takes away from any kind of special status that Marmen might seek.

But -- maybe two last points. So, Marmen has said that their products aren't interchangeable, but they are literally capable of being swapped in and swapped out. But they've also said that we shouldn't be cumulated because lack of geographic overlap and when they've done that, and including on their slides, it appears that they're trying to say we'll only look at sales of completed towers.

As we've talked about, one -- segments are subject merchandise. And two -- all towers are shipped by segment. Nobody puts a completed tower together and sends it to the site. Marmen doesn't do that. U.S. producers don't do that. Vietnamese don't do that, Koreans don't do that, the Indonesians don't do that.

So, to the extent that they are sending segments regardless of it's all for a tower, or just for part of a tower, throughout the United States, that's geographic overlap.

And then I guess, which brings me to my final point which is probably the most important thing that you did not hear today is that -- I think all parties agreed that decumulation for purposes of current material injury is a very, vary hard standard to meet in ITC prelim, and I don't believe there was one witness who appeared before you today who offered sworn testimony that denies that cumulated imports -- cumulated subject imports in the United States were injuring the United States, or denied that it didn't injure the United States.

Nor has there been any testimony whatsoever from the Respondents that it didn't threatened the domestic industry. So, with that I thank you again very much for your time and respectfully submit that the evidence of record justifies an affirmative determination at this time. Thank you so much.

MR. BURCH: Thank you Mr. Pickard. Rebuttal and closing remarks on behalf of those in opposition to imposition will be given by Jay C. Campbell of White & Case, and Jason Waite of Alston & Bird. Mr. Campbell, Mr. Waite, you have 10 minutes.

MR. CAMPBELL: Jay Campbell, White & Case, I think Amy Farrell with AWEA will make a few comments, followed by Jason Waite and just to clarify I mean I don't -- we don't want to take much more time, but we appreciate everyone's time today but are we limited to 10 minutes, or do we have additional time that we didn't use in our affirmative?

MR. THOMSEN: In a conference you are typically limited to the 10 minutes, but Petitioners did use an extra two minutes for them, so I'm happy to give the same for you, so 12 minutes for closing.

MR. CAMPBELL: Okay, thank you very much.

CLOSING STATEMENT OF JASON WAITE

MR. WAITE: Just a couple quick points. There was a lot of questions -- there seems to be a lot of interest in the conversion model of pricing that's been talked about. I must be missing something. All I know from Vestas is that what we care about is the getting it out, that's what matters. We will buy towers -- sometimes we will buy towers where there's a conversion component price and sometimes we'll buy it in its entirety, but when we're making the decision, we're looking at the total cost as well as quality, timeliness, capacity, and a variety of other topics.

So, we spent a lot of time talking about conversions, but I'm not sure why that. Number two -- there's a lot of talk about the PTC and about you know, demands decreasing because of it. What we want to -- as Amy said, there are lots of factors and as Jon Chase said, there are lots of factors driving clean energy for our country, and even the PTC itself to be clear, there will be tax credits that will be expanded to products, equipment that's deployed in service through the end of 2023, okay -- through the end of 2023.

Benefits will continue to be enjoyed, and we think that that, as well as the technological improvements as well as policy initiatives in place now across states, as well as policies that may be emerging in the future will continue to drive demand for clean energy and wind energy.

CLOSING STATEMENT OF AMY FARRELL

MS. FARRELL: Thank you very much. I wanted to make a couple points. Following on that, there were a number of questions about demand and the certainty of the demand. I will say I had mentioned that about the 40 gigawatts that we're tracking, and we can provide additional details there, but that is actually very firm.

So, for something to be in our database as something that's under construction or advance development, those that are in advance development they either have to already have a project power agreement, they have to have a turbine order, or there's already been a utility announcement -- so, these are the vast overwhelming majority of these things come to fruition.

And so, that's the kind of information that we'll be able to submit that shows certainty through 2021. I will also note one thing that we didn't mention. I know my colleague, Mr. Chase, talked about the state demand and new state policies. There were a number of states that increased their renewable portfolio standards this year, but on top of that, another big trend that we're seeing is what we call the CNI demand, commercial industrial demand.

A lot of companies are making the sustainability budgets that's out there now. We actually have a report we commissioned that we can put in the record as well. But that also is the significant increase in demand. It's the customer generated demand for renewable energy that is important to note.

And then the other trend that we're seeing in the data again, is the technology not only brings down the costs, but also increases -- or dictates where you can, where wind is deployable if you will, because you know, we did see that heavy concentration in the wind belt for a reason, that's where the good wind is.

But with better technology, taller towers, et cetera, you can actually deploy other places, and so we are seeing a move to increase deployment along the Great Lakes and the coast because of that, and I think that's particularly notable given the discussion we've had around transportation costs.

And then finally, in the counsel's commentary earlier about the relevance of the AWEA testimony, I will note that the Commission is to evaluate all relevant, economic factors, which have a bearing on the state, the industry and the U.S. And AWEA's testimony is directly relevant to that comment. I think I described in there, and we'll again submit additional stuff in the record that the remedy is being sought as described in the testimony will likely have a real -- a very real material negative input in the U.S. wind deployment. Thank you very much.

CLOSING STATEMENT OF JAY C. CAMPBELL

MR. CAMPBELL: Jay Campbell with White & Case. Thanks again for your time today. We greatly appreciate it. This morning what I heard from Petitioner's presentation, at least from their counsel, was this notion that look, this case is easy, we've been here before. We've been here, done that.

In 2013, Commission went affirmative on imports of wind towers from China and Vietnam. No. There's a very big difference between the current case and the 2013 case. The 2013 case involved imports from Asia. This case includes imports from Canada.

Canada is very different than Asia. It's located in North America, and the Canadian industry is different, and it competes under significant differences -- different conditions of competition.

Back to decumulation. Again, our argument is that there is no reasonable overlap of competition between Canadian imports and the Asian subject imports. The domestic product is irrelevant to this question and to our argument.

With respect to complete towers, we repeat, there is no geographic overlap between the complete towers imported from Canada and complete towers imported from the Asian subject countries. I did not hear any rebuttal on this point that I didn't not hear any argument that no, Respondent's counsel is incorrect, complete towers from Asia are competing in the same geographic markets as the complete towers from Quebec, which are limited to the northeast and the Great Lakes region.

The only other product that is imported from Canada with respect to wind towers are the tops sections, the top sections of the tower. Now, Petitioner's counsel just said that look, I looked in the dictionary and here's what fungibility means, and it means that whether something is capable of being replaced with something else.

Well, that's not the test. That's not the test the Commission applies. Commission looks at whether the imported product from one subject country compared to another is functionally interchangeable at the time of importation. The Asian producers themselves, manufacture and ship complete towers.

They do not have U.S. production, only Marmen can do this. A top section that's imported from Canada is not a functionally interchangeable with the complete towers that are imported from Asia. That's it.

Now, even using Petitioner's test -- whether something is capable of being replaced with another -- that test even failed. It's the wrong test, but it still failed. There is no U.S. OEM that is going to buy a top section from one supplier and mix and match that with mid and base sections from another supplier. So, even if you want to in theory assume that top sections are coming from Asia, the top section is coming from Quebec, and the top sections that aren't even really coming from Asia, but let's hypothesize that they were, they're not interchangeable because no single OEM is going to buy the same top section -- is going to mix and match top sections from one producer with the mid and base sections from another.

The Asian producers cannot do this. I'll reiterate that this was even hard for Marmen, okay? Marmen with its Quebec facilities and it's South Dakota facility, it was a tough sell for GE to accept this model.

On decumulation this is not, in my opinion, a close case. The record is complete and compelling now that there is no reasonable overlap of com petition between subject imports from Canada and subject imports from Indonesia, Korea, and Vietnam, so Canada should be decumulated based on the clear and convincing evidence on the record right now.

Now, in terms of present injury I'm going to be brief, but looking at Canada, the subject import volumes declined, and the market shares declined over the POI. On price, transportation costs absolutely matter. Mr. Pellerin testified that GE, which is a major purchaser, and one of Marmen's major customers, it looks out a year ahead.

It is definitely factoring in transportation costs and trying to figure out what would work best. It's considering the delivered costs. And in this regard, the U.S. producers have a huge advantage. They are the first in line. They're the ones with plants located within the wind corridor. OEM's look to them first and are willing to pay higher FOB prices for towers produced by U.S. producers because the transportation costs are lower compared to import.

And Marmen is a great example of this. Even with its locations in Quebec, Marmen was losing ground -- significant ground to U.S. producers beginning around 2008 and through 2013 because of its more remote location in Quebec.

Transportation costs absolutely matter. Granted it had to invest in the South Dakota facility in order to remain a viable supplier in the U.S. market. Also, in terms of price t he U.S. -- I'll reiterate that the U.S. purchasers in questionnaire responses had not identified any instances of purchasing subject imports based on lower FOB price or forcing U.S. producers to lower their prices in response to imports.

There's no injury from Canada. There's no threat from Canada. Canada's capacity shrank, it does not have excess capacity. It's volume and market shares trend over the POI are not indicative of a substantial increase in Canadian exports going forward. There is no product shifting. It's not possible, and inventories are not significant.

So, to conclude, the ITC's duty in the preliminary investigation is to weed out frivolous and unsupportable cases. The injury against the case -- the injury case against Canada is just that -- frivolous and unsupportable. We urge the Commission to look at the facts, not consider Petitioner's conclusory and unsupportable claims about interchangeability and the like.

Canada should not be cumulated and the ADCBD investigations against Canada should be ended now at the preliminary stage, thank you very much.

MR. THOMSEN: Thank you. On behalf of the Commission and the Staff, I would like to thank the witnesses who came here today as well as counsel, for helping us gain a better understanding of the product and conditions of competition in the utility scale wind towers industry.

Before concluding, let me mention a few dates to keep in mind. The deadline for submission of corrections to the transcript and for submission of post-conference briefs is Friday, August 2nd. If briefs contain business proprietary information, a public version is due on Monday, August 5th.

The Commission has tentatively scheduled its vote on these investigations for Thursday, August 22nd and it will report its determinations to the Secretary of the Department of Commerce on Friday, August 23rd.

Commissioner's opinions will be issued on Friday, August 30th. Thank you all for coming. This Conference is adjourned.

MR. THOMSEN: We do have a -- we had an issue with this in terms of timing. And the post-conference briefs are actually not due on August 2nd, they are actually due on August 5th at noon, okay? So, you do have the weekend to work on them, but if I could then have the public version 24 hours after that on Tuesday at noon.

Okay, thank you very much Mr. Pickard.

(Whereupon the Conference adjourned at 3:30 p.m.)

CERTIFICATION OF REPORTER

TITLE: In The Matter Of: Utility Scale Wind Towers from Canada, Indonesia, Korea, and Vietnam

INVESTIGATION NOS.: 701-TA-627-629 and 731-TA-1458-1461

HEARING DATE: 7-30-19

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: 7-30-19

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: Duane Rice

Signature of 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: Bala Chandran

Signature of Court Reporter