

Staff:

MARILYN R. ABBOTT, Secretary to the Commission
BILL BISHOP, Hearings & Meetings Coordinator
SHARON BELLAMY, Hearings and Meetings Assistant
ELIZABETH HAINES, Investigator
MICHELLE KOSCIELSKI, International Trade Analyst
CRAIG THOMSEN, Economist
CHARLES YOST, Accountant/Auditor
MICHAEL HALDENSTEIN, Attorney
JAMES MCCLURE, Supervisory Investigator

APPEARANCES:

Congressional Appearance:

THE HONORABLE PETER J. VISCLOSKEY
U.S. Representative, 1st District,
Indiana

Embassy Appearance:

SALVADOR BEHAR
Legal Counsel for International Trade
Embassy of Mexico
Washington, D.C.

In Support of the Imposition of Antidumping and
Countervailing Duty Orders:On behalf of Resco Products, Inc.:

WILLIAM K. BROWN, President and Chief Executive
Officer,
Resco Products, Inc.

RICK COPP, Vice President of Sales and Marketing,
Resco Products, Inc.

PATRICK J. MAGRATH, Economic Consultant,
Georgetown Economic Services

APPEARANCES: (Continued)

On behalf of Resco Products, Inc.: (Continued)

CAMELIA C. MAZARD, Esquire
ROBERT W. DOYLE, Esquire
ANDRE P. BARLOW, Esquire
Doyle, Barlow & Mazard, PLLC
Washington, D.C.

On behalf of ANH Refractories Company (ANH):

TOMAS RICHTER, Senior Manager of Marketing
North American Refractories Company

STEPHEN CLAEYS, Esquire
Cadence Global Strategies, PLLC
Washington, D.C.

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

On behalf of RHI-Refmex S.A. de C.V.; RHI
Refractories Liaoning Co., Ltd; and Veitsch-
Radex America, Inc.:

MARTIN BESCHEL, Commercial Director,
Steel Americas, Veitsch-Radex America, Inc.

VICTOR GARCIA, Director General,
RHI-Refmex S.A. de C.V.

BRUCE MALASHEVICH, President and CEO,
Economic Consulting Services, LLC

ALEX COOK, Economist,
Economic Consulting Services, LLC

RITCHIE T. THOMAS, Esquire
CATHY KETTLEWELL, Esquire
IAIN R. MCPHIE, Esquire
Squire, Sanders & Dempsey, L.L.P.
Washington, D.C.

I N D E X

	PAGE
STATEMENT OF SALVADOR BEHAR, LEGAL COUNSEL FOR INTERNATIONAL TRADE, EMBASSY OF MEXICO	6
STATEMENT OF HONORABLE PETER J. VISCLOSKY, U.S. REPRESENTATIVE, 1ST DISTRICT, INDIANA	16
OPENING STATEMENT OF CAMELIA C. MAZARD, ESQUIRE	19
OPENING STATEMENT OF RITCHIE T. THOMAS, ESQUIRE	23
TESTIMONY OF WILLIAM K. BROWN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, RESCO PRODUCTS, INC.	27
TESTIMONY OF RICK COPP, VICE PRESIDENT OF SALES AND MARKETING, RESCO PRODUCTS, INC.	35
TESTIMONY OF PATRICK J. MAGRATH, ECONOMIC CONSULTANT, GEORGETOWN ECONOMIC SERVICES	42
TESTIMONY OF TOMAS RICHTER, Senior Manager of Marketing, North American Refractories Company	58
TESTIMONY OF MARTIN BESCHEL, COMMERCIAL DIRECTOR, STEEL AMERICAS, VEITSCH-RADEX AMERICA, INC.	155
TESTIMONY OF VICTOR GARCIA, DIRECTOR GENERAL, RHI-REFMEX S.A. DE C.V.	169
TESTIMONY OF BRUCE MALASHEVICH, PRESIDENT AND CEO, ECONOMIC CONSULTING SERVICES, LLC	176

P R O C E E D I N G S

(9:33 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation Nos. 701-TA-468 and 731-TA-1166-1167 (Final) involving Certain Magnesia Carbon Bricks from China and Mexico.

The purpose of these investigations is to determine whether an industry in the United States is materially injured or threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of subsidized and less than fair value imports of certain magnesia carbon bricks from China and Mexico.

Schedules setting for the presentation of this hearing, notices of investigations and transcript forms are available at the public distribution table.

All prepared testimony should be given to the secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the secretary before presenting testimony. I understand the parties are aware of the time allocations. Any questions regarding the time allocation should be directed to the secretary.

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

6 Finally, if you will be submitting documents
7 that contain information you wish classified as
8 business confidential, your request should comply with
9 Commission Rule 201.6.

10 Madam Secretary, are there any preliminary
11 matters?

12 MS. ABBOTT: No, Madam Chairman.

13 CHAIRMAN OKUN: Very well, will you please
14 announce our congressional witness.

15 MS. ABBOTT: Congressman Visclosky is
16 running late this morning. We will let you know when
17 he arrives.

18 CHAIRMAN OKUN: Okay.

19 MS. ABBOTT: Our first speaker will be
20 Salvador Behar, Legal Counsel for international Trade,
21 Embassy of Mexico.

22 CHAIRMAN OKUN: Welcome.

23 MR. BEHAR: Thank you very much. My
24 pleasure to see you all again. First of all, let me
25 thank the Commission for the opportunity given to

1 express our views in this case.

2 For the record, as stated I am Salvador
3 Behar, Legal Counsel for International Trade for the
4 Embassy of Mexico.

5 The opportunity to refer to the merits of
6 the case which we believe will help to conclude that
7 there is no material injury or threat of injury. Let
8 me refer recent developments in import policies in
9 Mexico and the United States. As you know, the trade
10 relationship between Mexico and the United States is
11 vital for the economic recovery for both of our
12 nations which face the effects of the global economy
13 recession.

14 Mexico is the second largest export market
15 for the United States followed by Canada. In 2009,
16 U.S. exports to Mexico were approximately \$129
17 billion, particularly in the electronic equipment and
18 motor vehicle parts. The U.S. is also an important
19 trading partner for Mexico. The U.S. is also an
20 important trading partner for Mexico. For both the
21 U.S. and Mexico after the great recession export
22 policy became an important issue to reactivate the
23 economy. Exports and in general trade with reliable
24 partners is a matter of the highest importance
25 highlighted by President Obama who recently launched

1 an international export initiative, NEI, that will
2 have farmers and small businesses increase their
3 exports and reform extra controls consistent with the
4 national security. As NEI executive order outlined,
5 INAI is meant to improve and I quote, "Conditions that
6 directly affect the private sector's ability to
7 export." It will also, and I quote again, "help meet
8 the administration's goals of doubling exports over
9 the next five years by working to remove trade
10 barriers abroad, by helping firms, especially small
11 businesses, overcome the hurdles to enter the new
12 export markets by assisting with financing and in
13 general by pursuing a government-wide approach to
14 export abroad and other steps."

15 In this sense, Mexico plays a strategic role
16 as one of the U.S. leading partners in production and
17 exports of goods. Joint production in aerospace,
18 automotive, telecom and electronic sectors are just
19 some examples of successful joint ventures that make
20 the most of comparative advantages and geographic
21 proximity. They are proof that working together we
22 increase our regional competitiveness, create jobs for
23 both sides of the border and enhance the quality of
24 life of our citizens.

25 The certainty of market access, clear rules and

1 transparency under the NAFTA undoubtedly led to
2 increased trade and investment among the parties.
3 Nowadays we face different challenges. As mentioned
4 above, we are working our way to the deepest economic
5 crisis since the Great Depression facing new economic
6 agents in the world market. The success of the
7 National Export Initiative rests on the more
8 integrated North American market that takes advantage
9 of our geographic proximity to create the North
10 American export strategy. Moreover, as part of the
11 G20 meetings, both countries have committed to avoid
12 implementation of protective measures that could
13 affect the flow of trade globally.

14 We applaud the commitment taken by the U.S.
15 government officials and Obama administration that are
16 actively engaged in promoting the enforcement of
17 international trade laws and to help remove those
18 barriers that are preventing U.S. companies from
19 getting free and fair trade market access.

20 For example, as mentioned by Undersecretary
21 Jim Miller from the U.S. Department of Agriculture it
22 is, and I quote, "of critical importance to improving
23 our export future is to continue our work in terms of
24 enforcing our international trade laws and to help
25 remove those barriers that are preventing the U.S.

1 companies from getting free and fair market access.
2 These involves a significant amount of engagement with
3 a number of trading partners and we are going to be
4 moving ahead very aggressively in conjunction with our
5 partners at the Office of the United States Trade
6 Representative and other departments within the
7 government."

8 Now let me go to the merits of the case.
9 Regarding the ongoing investigation, the government of
10 Mexico is very much concerned about the inherent
11 unfairness of imposing excessive import duties on --
12 for such a small player in the U.S. market.

13 First, the loss of market share of the U.S.
14 domestic producers from 2007 to 2009 could be
15 attributed more to the significant brick imports from
16 certain other countries than imports from Mexico, and
17 to a drop in consumption. This is confirmed by the
18 staff report where it indicates that some producers,
19 importers, and responding purchasers stated that
20 demand for MCB in the U.S. has decreased.

21 Second, the decline in sales claimed by the
22 Petitioners may be due to the decline in steel
23 consumption because consumption of MCB is closely
24 linked to steel production. Some of the U.S.
25 purchasers who responded to ITC questions said that

1 their purchasing practices have changed as a result of
2 the decreasing steel demand. Indeed, the ITC staff in
3 their briefing report notes that the demand of steel
4 decreased from 2008 to 2009.

5 Third, Mexican exports face no restriction
6 in fair markets. Therefore Mexican products will not
7 likely to divert it to the U.S. market.

8 Fourth, imports made by U.S. producers are
9 not the cause of the alleged change.

10 Commissioner Aranoff, Vice-Chairman Pearson
11 and Chairman Deanna Okun, in their dissenting views,
12 consider that:

13 First, during the period of investigation
14 there are no objective elements regarding the behavior
15 of Mexican imports that could evidence even an
16 increase of imports of -- goods.

17 Second, according to findings in the
18 dissenting view, the production capacity of the only
19 Mexican producer remained stable from '06 to '08, and
20 it's projected to remain so through 2010.
21 Furthermore, the Mexican industry is relatively small
22 and has no significant unused capacity in relation to
23 U.S. consumption.

24 Third, the unused capacity predicted by the
25 Mexican producers does not indicate that it's capable

1 of increasing its shipments to the U.S. in significant
2 levels.

3 Fourth, the Mexican brick industry is less
4 export oriented and depends mainly on its domestic
5 market. Let me be more precise. Mexico considers
6 that imports from China and Mexico should not be
7 cumulated for the following reasons:

8 First, imports from each country did not
9 raise their similar rates of growth in the U.S.
10 market. In its dissenting opinion, Commissioner
11 Aranoff, Vice-Chairman Pearson and Chairman Okun noted
12 that Chinese imports have increased steadily and
13 significantly from '06 to '08, while Mexican imports
14 decreased during that -- more than half the period of
15 investigation, particularly from '06 to '07.

16 Second, the analysis in the staff report
17 that establishes that imports from Mexico increased
18 between '07 and '09 are also increased from interim
19 '09 to interim 2010 is based on information classified
20 as confidential. Thus Mexico kindly requests that the
21 Commissioners verify the market share of Chinese and
22 Mexican subject imports and conclude that they are not
23 similar.

24 Third, while the size of the Chinese
25 industry has expanded rapidly from '06 to '08, the

1 size of the Mexican industry has remained constant
2 during that period. In their dissenting opinion
3 again, Commissioners Aranoff, Pearson and Okun noted
4 that the Chinese industry has expanded whereas the
5 size of the industry in Mexico remained static over
6 the period, indicating that while China could have
7 incentives to increase exports to the U.S., Mexico
8 would not.

9 The situation of the Chinese industry is
10 confirmed by the staff report as it indicates that the
11 Chinese capacity increased from '07 to '09, and
12 remained level during the interim periods as predicted
13 to increase from '10 to '11. Furthermore, we request
14 that the Commission evaluate objectively the
15 following:

16 The Commission has compiled information
17 indicating that RHI-Refmex, the Mexican company, is a
18 comparatively minor player in the U.S. MCB market.
19 While this is an important company in its community in
20 Saltillo, its exports of MCB to the U.S. have always
21 been relatively low level.

22 Moreover, Refmex faces very high
23 transportation costs in shipping of its product to
24 customers in the U.S., particularly in the northern
25 regions of the U.S. where the steel industry customers

1 are concentrated. As the Commission may be aware, due
2 to the fact of the lack of compliance of the U.S.
3 government, Mexican producers still face the challenge
4 of cross-border trucking issues where they are forced
5 to pay additional costs to ship by land to the U.S.
6 requiring logistical operation that even further
7 increases the already high transportation costs. For
8 these reasons, Refmex exports to the U.S. are focused
9 primarily in the southern tier of the U.S.

10 MCB imports from Mexico could not possibly
11 cause material injury or threaten to cause material
12 injury to the U.S. domestic MCB industry as the --
13 where the hold of the U.S. domestic industry over the
14 past few years undoubtedly has been much more strongly
15 affected by the severe economic recession and by the
16 sharp drop in steel production than by the limited
17 imports of Mexico during that period.

18 Moreover, from what we can see in the public
19 record it is apparent that the U.S. MCB industry has
20 been recovering along with the steel industry as the
21 effects of the recession have subsided, and the
22 results from the more recent periods show marked
23 improvement, even though imports from Mexico have
24 continued.

25 In addition, Mexico also considers that the

1 Commission should carefully examine:

2 One, the effects of the economic recessions
3 of '08 to '09 in the domestic bricks industry. As
4 recognized by the Commission, it's possible that it
5 could have adversely affected the industry. We
6 request not to attribute the effect of economic
7 recession to Mexican imports and objective non-
8 intuition analysis for the industry in each of the
9 factors listed by Article 3.4 of the antidumping
10 agreement.

11 Second, separate effects of possible
12 subsidies on Chinese products from the effects of
13 Mexican imports in analyzing the factors listed in
14 Article 3.4 and 3.5 of the antidumping agreement. We
15 consider that from an objective viewpoint subject
16 imports from Mexico and China should not be cumulated
17 given that they behave differently and thus have
18 different effects on the U.S. market and the U.S.
19 domestic industry in addition to the fact that the
20 imports from each country are being investigated for
21 different reasons. Mexican imports are not being
22 investigated for subsidies.

23 Therefore, we respectfully request that the
24 Commission to analyze separately and individually
25 Mexican and Chinese imports, and secondly, determine

1 that there is no recent indication that Mexican
2 imports threaten to cause or cause injury to the U.S.
3 industry and therefore conclude the procedure without
4 imposition of antidumping measures against imports of
5 magnesia carbon bricks from Mexico.

6 Commissioners, I appreciate your time.
7 Thank you very much.

8 CHAIRMAN OKUN: Thank you very much for your
9 testimony here today. Let me just see if there are
10 any questions for you. We want to thank you again for
11 your willingness to appear today.

12 Madam Secretary, now you can present our
13 congressional speaker.

14 MS. ABBOTT: Our next speaker is The
15 Honorable Peter J. Visclosky, United States
16 Representative, 1st District, Indiana.

17 CHAIRMAN OKUN: Welcome back, Congressman.

18 REP. VISCLOSKY: Thank you very much. It is
19 good to be back, and if you have any questions I would
20 simply answer them by saying this is young and stupid
21 and too much sun as a young person, so I would answer
22 any questions that linger in your mind.

23 I simply want to thank the Chair and the
24 members of the Commission for allowing me to come back
25 to testify before you on the magnesia carbon brick

1 case. Typically, as you know, I am here testifying on
2 behalf of steel products, but in this case it is an
3 ancillary industry but ultimately it's the interest of
4 keeping manufacturing jobs in the United States.

5 I understand that the petitions before you
6 involved countervailing duties for the country of
7 China as well as countervailing duties and
8 antidumping, or antidumping for Mexico and China.

9 Commerce has found that the products, these
10 bricks have been sold below fair value anywhere
11 between 50 to 236 percent. There are four major
12 companies in the United States of America that are
13 engaged in the manufacture of these products. I would
14 suggest to you that it is impossible on a fair basis
15 to compete with that type of price differential. And
16 given the fact that the initial review period spanned
17 the years of 2006 to 2008, I certainly think that time
18 is of the essence.

19 Many times in the past I have talked about
20 the hundreds or thousands of workers who have lost
21 their jobs. In this case I would talk about the tens
22 of workers who have lost their jobs because it is
23 anticipated that over 30 people have lost their jobs.

24 Is this a matter of great national import
25 because perhaps less than 100 Americans have lost

1 their jobs? I would argue to the Commission
2 absolutely not.

3 The state of Indiana, it was reported in the
4 spring of this year, for the first time since the
5 Civil War-- I am relating a news account because I
6 cannot believe these statistics have been kept that
7 long -- now have more government employees and people
8 engaged in manufacturing. And so from a national
9 security and a natural industrial-base issue, this is
10 vitally important, and for each one of those tens of
11 American families that have now been rendered without
12 a job because they cannot compete with an unfair price
13 differential of 50 to 236 percent, I would suggest to
14 the members of the Commission that injury has
15 occurred.

16 I would simply conclude, as I always do,
17 that this Commission, regardless of the members who
18 have been on it over the years, has always been fair.
19 I have always been struck that you have been
20 deliberate and that you have been thorough. I would
21 ask that you bring those same qualities to this case
22 and would leave here assured that the right thing
23 would be done. But again, recognize I am allowed to
24 speak out of order and appreciate that courtesy very
25 much.

1 CHAIRMAN OKUN: Thank you. Let me turn to
2 my colleagues to see if they have any questions.

3 Thank you very much for your appearance here
4 today.

5 REP. VISCLOSKY: Thank you very much.

6 MS. ABBOTT: Opening remarks on behalf of
7 the Petitioner will be made by Camelia C. Mazard of
8 Doyle, Barlow & Mazard.

9 CHAIRMAN OKUN: Good morning.

10 MS. MAZARD: Good morning, Madam Chairwomen,
11 members of the Commission and the Commission staff.

12 My name is Camelia Mazard and I am with the
13 law firm of Doyle, Barlow & Mazard. Also with me from
14 my firm are Andre Barlow and Robert Doyle in addition
15 to Dr. Pat Magrath, our economic consultant in this
16 case.

17 With me today on behalf of Petitioner are
18 Bill Brown, Resco's President and CEO; Rick Copp,
19 Resco's Vice President of Sales and Marketing, Tim
20 Powell, Resco's Chief Financial Officer, and Mike
21 Purnell, Resco's marketing manager. Also testifying
22 in support of the petition today are Mr. Tomas
23 Richter, the Senior Marketing Manager for North
24 American Refractories Company, or NARCO, which is part
25 of ANH and its counsel, Mr. Steve Claeys of Cadence

1 Global Strategies.

2 We first want to thank Congressman Visclosky
3 for appearing to testify today. In addition, we have
4 provided copies of the statements of support received
5 so far in this case from five members of Congress, the
6 Steel Manufacturers Association, the United Steel
7 Workers, and The Refractories Institute.

8 As a result of the substantial and
9 increasing level of imports from the subject countries
10 over the POI, domestic producers' production,
11 capacity, capacity utilization, shipments, and
12 employment indicators all declined. Essentially the
13 U.S. MCB industry reported deterioration in nearly
14 every trade indicator. In particular, the substantial
15 decline in operating income indicates the injury
16 suffered as a result of these unfair imports.

17 In September of last year, the Commission
18 determined that there was a reasonable indication the
19 MCB industry in the U.S. was materially injured or
20 threatened with injury by reason of imports from China
21 and Mexico. However, there has been virtually no
22 improvement to the U.S. industry since then nor has
23 there been any new capacity added or new investment
24 made by the domestic industry. In fact, the minimal
25 improvement after the filing of this case resulted in

1 U.S. producers taking little market share from subject
2 imports because many foreign producers and importers
3 flooded the U.S. market with MCB in an attempt to beat
4 the duties.

5 What caused this severe and long-term
6 injury? The nexus with unfairly traded imports from
7 China and Mexico is clear. Imports from China and
8 Mexico increased substantially over the POI from an
9 already significant share of the market. From the
10 outset Chinese and Mexican producers planned to grow
11 their market share in the United States with lower
12 priced imports and this growth is in fact what
13 occurred.

14 The result has been a correlation over time
15 between the financial harm suffered by the domestic
16 industry and the flood of aggressively priced imports
17 from China and Mexico. Subject imports' market share
18 over one-third of the market at the start of the POI
19 increased. Further, as to the price effect of subject
20 imports, the causal connection is shown by what
21 happened since the unfairly traded imports were
22 restrained by Commerce's preliminary determination in
23 March and its finding of critical circumstances
24 against China in May.

25 In defiance of the filing of this case and

1 the severe duties assessed them, subject imports not
2 only continue to undersell their U.S. counterparts by
3 large margins, but the underselling and import volumes
4 actually increased.

5 The flicker of life in the U.S. industry in
6 the fourth quarter of 2010 cannot lead to a conclusion
7 that the U.S. industry is not injured. This recent
8 development is the result of the effects of the
9 preliminary determination and the finding of critical
10 circumstances. The data the Commission gathered in
11 the final phase of this investigation show that the
12 trends in the past three years were relentlessly
13 negative. That picture is the real story of this
14 industry.

15 Importantly, the Chinese and Mexican imports
16 serve the entire market. Contrary to assertions by
17 RHI, the Mexican producer competes directly with the
18 U.S. producers in all parts of the U.S. market.

19 With respect to threat, the Commission
20 cannot ignore the staggering growth in capacity and
21 inventories of the Chinese and Mexican producers. The
22 increase in capacity of the Chinese producers alone
23 over the POI is three times the size of total U.S.
24 consumption in its highest year, and like Mexico,
25 Chinese capacity far exceeds its domestic demand.

1 Hence, the threat of what will occur in the United
2 States is neither conjecture nor supposition. It is
3 before our eyes. Thank you.

4 CHAIRMAN OKUN: Thank you.

5 MS. ABBOTT: Opening remarks for Respondents
6 will be by Ritchie T. Thomas of Squire, Sanders &
7 Dempsey.

8 CHAIRMAN OKUN: Good morning.

9 MR. THOMAS: Good morning. I am Ritchie
10 Thomas of Squire, Sanders & Dempsey, counsel for the
11 Respondents in the RHI group.

12 The story told by the staff's admirable
13 report in these proceedings is a story of an industry
14 whose fortunes followed the extreme changes in the
15 magnesia carbon brick consuming U.S. steel industry as
16 it went from boom in 2007 and early 2008, to bust in
17 the last quarter of 2008 and the first half of 2009,
18 and then began a recovery in the second half of 2009
19 that extended into the first quarter of 2010.

20 The domestic MCB industry's results followed
21 the same trajectory. Falling in 2008 and the first
22 half of 2009, only to recover in the second half of
23 2009, and by the first quarter of 2010 reaching levels
24 generally similar to or even higher than those
25 attained at the beginning of the period. It lost some

1 market share in the middle of the period but regained
2 a preponderance of that in the second half of 2009 and
3 2010. The industry's prices increased during the
4 period except when U.S. steel industry customers
5 insisted on give-backs of raw material surcharges as
6 raw material costs declined.

7 When the spread between the domestic
8 industry and subject import price increased, it was
9 because the domestic industry's prices increased at a
10 faster rate. The domestic industry was able to
11 recover increases it experienced in raw material costs
12 in the period. There are some oddities in the
13 domestic producers' results in the POI, but as the
14 data at Table 6-2 of the prehearing report show they
15 do not appear to be the effect of some external force
16 such as imports whose effects presumably would be felt
17 more or less uniformly by individual industry members.

18 This is not an industry that has been
19 materially injured by reason of the subject imports
20 from China and Mexico, or indeed, that is currently
21 experiencing material injury at all. It is also not
22 an industry that is threatened with material injury by
23 reason of imports from either China or Mexico
24 individually or collectively. RHI's prehearing brief
25 demonstrates this with extensive citations to the

1 record and publicly available information.

2 In contrast to Respondent's case, Petitioner
3 Resco brings to the Commission a case that relies on a
4 number of factual statements that are not accurate,
5 makes contradictory assertions, and repeatedly asks
6 the Commission to involve its authority to employ
7 adverse inferences. All of these are symptoms of a
8 lack of merit in Petitioner's case. The following are
9 just a few examples of factual errors made in
10 Petitioner's prehearing brief which may be repeated in
11 the testimony this morning.

12 Resco: There was a "near 100 percent
13 increase of subject imports in 2008." Fact: subject
14 imports increased very modestly in 2008, and in 2009,
15 fell back to the 2007 level.

16 Resco: Respondent RHI "offered only one
17 additional price descriptor" for which sales of
18 Mexican product were reported in few quarters. Fact:
19 RHI offered two additional price descriptors for one
20 of which RHI reported sales of Mexican product in 11
21 of 13 quarters.

22 Resco: There was a "modest rebound" of
23 domestic producers' share of the U.S. market "in the
24 most recent interim period concurrent with the
25 imposition of preliminary duties." Fact: Preliminary

1 duties were not effective until March 12, at the very
2 end of the first quarter of 2010.

3 Resco: There has been "staggering capacity
4 expansion in the subject countries". Fact: There has
5 been no capacity expansion in Mexico.

6 Resco: "The latter part of 2009 restraints
7 imposed by this very investigation caused a reduction
8 in imports." Fact: In the second half of 2009,
9 subject imports increased substantially over the first
10 half of the year.

11 The most glaring of Petitioner's
12 inconsistencies is its inability to decide, whether as
13 it claimed in the just quoted passage, the pendency of
14 the investigation caused a reduction in imports or
15 whether, as it asserts when arguing critical
16 circumstances, after the filing of the petition early
17 in the second half of 2009, "U.S. importers and
18 purchasers attempted to accelerate deliveries and
19 stockpile MCB."

20 The fact show that the domestic MCB industry
21 second half 2009 and 2010 gains occurred as both
22 subject imports volume, and importantly, MCB market
23 demand increased, and the result was a net loss of
24 market share for subject imports. They support
25 neither a finding of post-petition stockpiling nor a

1 finding of post-petition withdrawal from U.S. markets.

2 We urge the Commission to make negative
3 determinations in these investigations. Thank you
4 very much.

5 CHAIRMAN OKUN: Thank you.

6 MS. ABBOTT: Will the first panel in support
7 of the imposition of antidumping and countervailing
8 duty orders please come forward. All witnesses on
9 this panel have been sworn.

10 (Witnesses sworn.)

11 COMMISSIONER OKUN: Looks like the panel is
12 well-prepared. You may proceed.

13 MS. MAZARD: Thank you. The first
14 presentation today will be from Bill Brown, the
15 President and CEO of Resco. Bill, take it away.

16 MR. BROWN: Good morning, Madam Chairman,
17 and Members of the Commission. My name is Bill Brown,
18 and I'm the President and CEO of Resco. I would first
19 like to thank you for the opportunity to testify here
20 today. I'm here to try to save American jobs, jobs of
21 domestic MCB producers. Saving American jobs, now
22 that's quite a novel idea, isn't it? I'm guessing
23 today is not the first time that you've heard a CEO
24 make this statement. My mission is to convince you
25 that MCB imported from China and Mexico are unfairly

1 entering this country and have, and will, result in
2 the loss of American jobs if not addressed by
3 Commission actions.

4 As background, I worked for the past 12
5 years with Resco, and before then, for 33 years at
6 Harbison-Walker Refractories, part of ANH, one of the
7 other four domestic producers in this investigation.
8 In 1998, I became President and CEO of Resco. Two
9 years later Resco acquired Harbison-Walkers' MCB plant
10 in Hammond, Indiana, as the result of a divestiture
11 required by the FTC. Hence, the very MCB production
12 facility and technology with which I was familiar and
13 helped develop when I worked at Harbison became part
14 of Resco. Resco is a privately owned company with
15 headquarters in Pittsburgh and an MCB plant in
16 Indiana. The company is known as the leader in the
17 refractories industry, striving to develop proprietary
18 heat-resistant products and special formulations.

19 Let me begin by stating the obvious,
20 something that everyone in the industry knows very
21 well. MCB have become a commodity-type product where
22 competition focuses primarily on price. Hence,
23 domestic and imported MCB are undifferentiated
24 products where price is the key factor in purchasing
25 decisions. We bought a sample of an MCB with us today

1 for you to be able to look at and see what one shape
2 looks like. This is called a semi-universal ladle
3 brick. It is comparable to semi-universal ladle brick
4 made by any other U.S. producer, a Chinese producer or
5 Refmex. There's really no visual difference between
6 them. Although MCB requires technical experience to
7 produce, from a marketing standpoint, it's a very
8 simple product.

9 It varies in carbon content, the magnesia,
10 fused grain percentages and whether antioxidants are
11 added to the mix. Producers in the U.S., China,
12 Mexico or elsewhere can all make these variations in
13 comparable quality. Given the commodity-type nature
14 of MCB, one would expect price to be a primary factor
15 in sales negotiations, and it is. Most of our valued
16 customers, global steel companies with sophisticated,
17 worldwide purchasing networks, negotiate fiercely to
18 lower MCB pricing. They do not haggle, however, about
19 carbon content, fused grain percentages and
20 antioxidant addition. The only real issue negotiated
21 with our customers, as Rick will explain later, is
22 price.

23 Given the realities of competition in the
24 MCB market, to claim, as RHI does, that the presence
25 of Chinese and Mexican MCB play no role in price

1 negotiations is ludicrous, quite frankly. It would be
2 naive to believe that Mexican and Chinese importers
3 gained the dominant market share that they did so
4 quickly by any other means than competing hard on
5 price, and, as we thought, unfairly on price. With
6 well over one-third of the U.S. market, we know that
7 our customers purchase substantial quantities of
8 Mexican and Chinese MCB. However, if we had not
9 responded to the presence of that large quantity of
10 lower priced imported product in this investigation by
11 filing these cases, Resco would have been compelled to
12 import Chinese product itself and close down its
13 Hammond MCB plant in order to compete with the
14 unfairly dumped imports.

15 From the perspective of an MCB competitor in
16 the market on a daily basis, there's just no question
17 that unchecked imports from Mexico and China severely
18 impacted our industry's profits. If we compare the
19 performance of MCB over the POI with other steel
20 refractory products not yet competing with unfair
21 imports but produced in the same facilities and sold
22 to many of the same customers, the results are
23 telling. The critical operating to profits ratios for
24 these other refractory products for the steel market,
25 again not yet battling unfair imports, are an entirely

1 different story in each period of the POI, showing
2 much higher profit ratios than MCB. These broad and
3 beneficial contributions of other steel refractory
4 products to Resco's bottom lines are not just true for
5 Resco. I've been informed by counsel that they are
6 also true for others in the industry and we plan to
7 submit such evidence in our posthearing brief.

8 Over the past several years, the domestic
9 MCB industry has been squeezed between the pressures
10 of increasing imports and rising production costs.
11 One of these costs is magnesia. As a result, Resco
12 and other U.S. producers experienced a cost price
13 squeeze during the period examined, as the affirmative
14 preliminary injury opinion observed. After we filed
15 the petitions in these cases, several large importers
16 abandoned the U.S. market to the benefit of U.S.
17 producers. Preliminary determinations were then
18 announced and critical circumstances were found
19 against China by Commerce due to the flood of imports
20 from that country as a result of our filing in this
21 case.

22 Resco is keenly aware that some large MCB
23 customers are not happy with the remedy we seek.
24 We've become a little unpopular with them. They want
25 continued access to unfairly priced Chinese and

1 Mexican MCB. However, we did not take the steps to
2 file these cases lightly. The truth is that without
3 protection from unfairly traded imports, it's only a
4 matter of time before one or more of us in the
5 domestic industry are forced to close our U.S. plants.
6 Resco is not seeking to force the Chinese and Mexican
7 producers out of the U.S. market, but only to compete
8 fairly. Although the recent decline in steel
9 production explains the decline of MCB partially for
10 the U.S. industry, the substantial deterioration of
11 our MCB business is due in large part to the subject
12 imports.

13 I had the unfortunate job of reducing
14 employment at our Hammond facility and at our
15 headquarters in Pittsburgh over the last few years as
16 a result of the injury caused by the volume and low
17 price of these imports. This role is the most painful
18 part of my job as CEO. As a result of imported MCB
19 from China and Mexico, I had to terminate over 30
20 percent of the United Steel Workers at our Hammond
21 facility. We also began to source a percentage of our
22 U.S. sales from China as the only way to compete with
23 low priced Chinese and Mexican imports for customers
24 who in no way differentiate products except by price.
25 However, when imports grew to threaten the very

1 existence of our U.S. MCB plant, we filed this
2 petition as a last resort.

3 As it stands, in order to survive, Resco
4 reduced the work week at Hammond by 20 percent, made
5 similar cuts in salaried personnel and benefits at
6 both Hammond and our Pittsburgh headquarters, but
7 after having cut MCB operations to the bone, we have
8 exhausted our options. If we do not get relief from
9 these unfair imports in this case, we will either have
10 to become full-time importers ourselves or shut down
11 MCB operations at Hammond altogether. Our extreme
12 cost-cutting measures allowed Resco to keep its
13 operation at Hammond going the past two years. Those
14 employees who have remained are subject to further
15 reduction in compensation due to shorter work weeks
16 and lower benefits. Dumped and subsidized imports
17 forced Resco to sharply curtail production of this key
18 product.

19 In the unfairly competitive market of MCB,
20 we must continue to invest in R&D; however, given the
21 injury caused by MCB imports, the domestic industry
22 has been unable to increase investments in product
23 development. In fact, both CapEx and R&D funds
24 plummeted over the POI period.

25 In addition, when the U.S. steel industry

1 was robust from January of 2007 until September of
2 2008, that resulted in a strong demand for MCB, but
3 low priced imports from China and Mexico still
4 captured a large share of the market. If there is an
5 order against China and not against Mexico, or vice
6 versa, all the RHI volume will enter the U.S. from the
7 country not under the order and capacity will be
8 readily shifted to the country not under order.

9 Just to comment, I was with Harbison-Walker
10 when it acquired Refmex in 1993 and am familiar with
11 the Refmex product line and its facilities.
12 Essentially, both the Chinese and Mexican producers
13 are export-oriented. In this context, it should be
14 recognized that over the longer term these companies
15 can only achieve significant growth by continuing to
16 increase exports to the United States, even if there
17 is a downturn in demand. The reality of the MCB
18 market today is that pricing levels are set by the
19 unfair dumping which is the result of gross excess
20 capacity built in China and Mexico. We simply cannot
21 continue to operate at the present levels and expect
22 the domestic industry to make the investments needed
23 to maintain its plants and continued production in the
24 U.S.

25 Hence, if unfair imports are allowed to

1 enter the U.S. market unrestrained, it will become
2 more difficult for the U.S. industry to sell
3 domestically produced MCB and we will all be forced to
4 sell imported MCB or not participate at all in this
5 key refractory market to the detriment of all key
6 stakeholders, customers, employees, suppliers and the
7 local communities where domestic MCB production is
8 centered. Today I respectfully ask the Commission to
9 please help save our domestic industry. I'll be happy
10 to answer any questions you may have at the conclusion
11 of our presentation.

12 MR. COPP: Thank you, Bill. Good morning,
13 Members of the Commission.

14 CHAIRMAN OKUN: Can you bring your mic
15 closer?

16 MR. COPP: Thanks, Bill. Good morning,
17 members of the Commission, Commission staff, ladies
18 and gentlemen. My name is Rick Copp. I am currently
19 the Vice President of Sales and Marketing at Resco
20 Products, Inc. I am the chief representative of the
21 company for sales and contract negotiations for steel
22 companies for MCB products. In total I have been in
23 the refractory business for 30 plus years, nine of
24 which with Resco and I started my career with
25 Harbison-Walker Refractories in 1979.

1 My testimony will serve to describe the
2 market for MCB in the United States, the sale of MCB
3 and the difficulties we face in the market every day
4 because almost one-half of our market has been taken
5 over by imports from China and Mexico. I also hope to
6 answer from Resco's perspective, issues that have come
7 up in the investigation that are in the public ITC
8 report and one importer's brief, which I have
9 reviewed.

10 Let me start by describing how MCB products
11 are sold. It is a very competitive process with Resco
12 and other refractory producers, importers and
13 distributed bidding for the chance to supply the
14 various refractory linings in ladles, EAFs, and BOF
15 applications.

16 RHI states that the sales of basic furnace
17 linings are a significant sector of the U.S. MCB
18 market. This statement is the first of many
19 inaccurate ones by RHI in its brief that I want to
20 address. Of the three categories of refractory
21 linings, ladles are by far the largest user of MCB,
22 followed by EAF. Sales of MCB for the BOF linings as
23 of today, are only a minor portion of sales, about
24 five to ten percent. This small percentage is due to
25 process control techniques like slag splashing and the

1 growth of mini-mills in the United States over the
2 past 15 years. Hence, the BOF end users are no safe
3 haven for the U.S. producers. It is a small part of
4 the market and there are unfair imports there as well,
5 despite RHI's assertions to the contrary.

6 Exhibit 1 of our brief is a bid sheet from
7 an integrated producer requesting the best price on a
8 number of MCB for both ladle and EAF applications.
9 This sheet was included because the buyer, a very
10 large steel company, listed several MCB vendors, both
11 foreign and domestic, and sent it to those suppliers
12 to cross-reference their brands and provide a price.

13 This process is typical. All product from
14 the potential suppliers are assumed to be of equal
15 quality and availability and equal in other non-price
16 factors, as well. The only way to win this
17 substantial contract was to bid the lowest price. In
18 fact, the price to obtain the business was identified
19 by the purchaser to get the lowest price. The bid
20 request process from this customer is duplicated for
21 the BOFs by using a similar bid spread sheet. Price
22 is the only thing in which this major purchaser was
23 interested.

24 I have been told that the Commission and its
25 staff knows a great deal about the steel industry.

1 Therefore, I will not spend much time on it except to
2 emphasize that in its current consolidated state,
3 facing stiff and many times unfair foreign competition
4 of its own, steel companies are tough negotiators, who
5 demand constant product performance and the best total
6 value with the lowest cost solutions from their
7 suppliers. This statement is particularly true for
8 MCB, which are high valued products used in only the
9 most critical and demanding applications.

10 To be clear, steel companies want consistent
11 product performance and the best total value with the
12 lowest cost solutions. There has been an attempt to
13 separate MCB sales into price only and
14 price/performance sales. Every sale is a
15 price/performance sale.

16 We believe that Resco's products are of the
17 highest quality, and we try to market on
18 price/performance, as everyone does, including non-
19 price factors such as quick delivery times, after sale
20 technical services and quality. Back in the early
21 years of import from China, MCB came into the United
22 States at very cheap prices but had limited success
23 because of quality issues and reliability.

24 But then they gradually came back over time,
25 again at very low and as it turns out dumped and

1 subsidized prices. Seizing the unfair advantages that
2 mainline China provides to its domestic manufacturing
3 base, other established, knowledgeable, multi-national
4 refractory companies like RHI and Cookson, began
5 production in China to export product into the United
6 States at these dumped prices, as well.

7 They are equal to domestic quality, or at
8 least acceptable to industry standards and now they
9 compromise almost 50 percent of the U.S. market and
10 they continue to grow.

11 The Commission should note that one-half of
12 the price/performance equation is price. With
13 acceptable, mostly equal performance. Price is not
14 the only factor, but is the only variable in the
15 equation and, therefore, price is often the deciding
16 factor in a sale. Please also remember that the
17 price/performance ratio can move in two ways. A
18 product inferior in performance can sometimes be
19 tweaked to where it performs okay in the application -
20 - if it is priced low enough.

21 In short, Resco is not saying quality is not
22 important in the MCB sale, but all products, U.S.,
23 China and Mexico, are comparable, which we stated in
24 our preliminary statement and the Commission
25 subsequently verified in the prehearing report. So

1 increasingly, in a dumped market, the only way to keep
2 or pick up customers is price.

3 We can and do make price concessions. It's
4 hard to do so when the competition is selling for 20,
5 40 and sometimes even 60 percent below what they
6 should. More importantly, the import price is so
7 far beneath ours, we are forced to concede the sale.
8 Our market share meanwhile continues to drop. This
9 impossible to meet competition is just as bad in cost
10 "per" performance, cost per ton or project sales.
11 There are several different never for these programs
12 or deal.

13 RHI seems to be saying that such
14 arrangements in which the supplier quotes and is paid
15 for supplying many different refractory products,
16 including MCB, as well as manages the installation and
17 other technical services, are innovations sweeping the
18 market and the way most MCB's are sold.

19 This representation by RHI is just not so.
20 Resco and other U.S. producers currently take part in
21 these programs, and I personally negotiated cost for
22 performance arrangements with Harbison-Walker,
23 beginning back in 1989, so they are not something new.

24 Whether they are gaining in popularity is an
25 open question. There are pros and cons to them on

1 which we could elaborate, but what I do know is that
2 price competition from unfair imports, such as RHI's,
3 are just as bad in these project sales as individual
4 MCB product sales.

5 This situation is because MCB is many times
6 used as a wedge product or a loss leader in such
7 programs. The MCB component of such deals is
8 typically 30 to 40 percent of the total package value.
9 MCB is a key component, just as MCB is a key component
10 in any EAF or ladle reline.

11 It is the product used for the most
12 demanding environments and has no real substitute,
13 except that in a few special cases where steel quality
14 does not demand it.

15 MCB is the key product in cost per ton
16 performance steels, and RHI and others use dumped
17 products here to win the contract and pick up volume
18 on sales of other refractory products in the package.
19 These types of sales, when won by unfairly low pricing
20 on the MCB portion, have a doubly injurious impact on
21 U.S. producers, who then lose both the MCB and other
22 refractive product sales.

23 In conclusion, we at Resco saw the large
24 dumping duties assessed against all imports from
25 Mexico, as well as China, and were not surprised. The

1 large dumping and subsidy margins which the import
2 community knew about last fall were put into effect in
3 March.

4 These margins only started to impact U.S.
5 producers favorably as large inventories brought in
6 immediately before the duties were put into effect are
7 just now cleared off the market.

8 We are now finally in a position to close
9 the huge price gap and retake and serve this market on
10 a level playing field, but only if the ITC votes
11 affirmatively to impose duties in this case.

12 Thank you.

13 MR. MAGRATH: Good morning. My name is
14 Patrick Magrath on behalf of Petitioner Resco
15 Products.

16 First as to the effect of volume of imports.
17 In its preliminary determination all six Commissioners
18 found the value of imports from both countries to be
19 substantial. That finding is important because import
20 volumes, both on an absolute basis as well as relative
21 to domestic consumption, have actually gone up
22 substantially since that determination was made.

23 Honestly, I was surprised by this. Resco
24 did tell us the imports were flooding into the market
25 after the filing of the case to quote, beat the clock,

1 unquote, of the preliminary duties. With the size of
2 the margins rumored, I thought that, like most such
3 cases, imports would go down drastically in volume. I
4 also thought critical circumstances was not likely to
5 succeed.

6 An underappreciated fact in this case is
7 that imports and import market share were already huge
8 at the start of the POI, and actually grew
9 substantially from those already lofty levels. You
10 can choose either base year, 2006 or 2007. The
11 subject import penetration, already over one-third of
12 the market, went up in each year, including the
13 recession year of 2009, and between the preliminary
14 interim periods. Import penetration went down finally
15 in the last half of 2009, but remained larger than the
16 base year of 2007.

17 Let's get the big question out of the way
18 right now. Respondent RHI's main argument is that the
19 domestic industry was negatively impacted by the
20 recession only. Well, why were imports not impacted,
21 as well? Their market share grew from 2007 to 2008,
22 the year in which the nation's economy, U.S. steel
23 production, and MCB demand all fell off the cliff.
24 The market share of imports from China and Mexico also
25 rose, compared to the flush period, January-June,

1 2008, with the bottom of the U.S. economic
2 performance, January-June, 2009.

3 And yes, the growth in market share
4 receded but it reached its peak in the recessionary
5 first half of the year 2009. As the market recovered,
6 import penetration went down in July-December, 2009
7 and first quarter of 2010.

8 So it wasn't the recession. The real change
9 in this market is the filing of this case in July,
10 2009, when the import community knew that their time
11 was up. The rumor of big margins were coming in the
12 fall of 2009, and then the imposition of those large
13 margins.

14 Two additional points before leaving the
15 volume issue. I doubt the Commission's decision-
16 making process works like this, but there should be
17 two mental strikes against Respondents, due to the
18 fact that their share of the market grew and peaked
19 during the worst economic period since the Great
20 Depression.

21 Then one more strike (and out) for the
22 recognition by Congress of critical circumstances in
23 the month immediately preceding the preliminary
24 determination.

25 Finally, by citing critical circumstances

1 against China, we don't mean to absolve Mexico. Yes,
2 Mexico's MCB's exports are a fraction of the very
3 large China's but the MCB industry in Mexico is not
4 operated by friendly neighbors to the South. RefMex
5 is part of a large global company that is owned and
6 controlled by and from Austria.

7 Please note in what time period Mexico's
8 modest market share suddenly increased three-fold.
9 Note especially the huge jump at the bottom of the
10 recessionary market. In fact, the reason Resco was
11 forced to file against Mexico was the basket category
12 import data from Mexico showing a import jump in
13 volume, just as the economy and the MCB market
14 cratered in late 2008. So in the midst of this
15 crisis, imports statistics showed unusually large
16 shipments from Mexico, when the U.S. industry was in
17 its most vulnerable state.

18 We ask that the Commissioners who did not
19 find any indication of injury from Mexico in the
20 threat context, to reconsider their decisions in light
21 of the cynical timing of these volumes of imports from
22 Mexico in the recession, and the important fact that
23 one organization controls not just the Mexican
24 operations but also a large Chinese MCB facility that
25 was also found guilty of unfair pricing by triple

1 digit margins.

2 Add to that the level and trend of inventory
3 here and in Mexico. Finally note the ease and
4 rapidity with which capacity can be added in this
5 industry and the flexibility of the equipment needed
6 to make MCB. In short, please take another look.
7 Better yet, vote present injury.

8 The initial price effect is just as clear on
9 the issue of underselling specific product comparisons
10 show 88 percent underselling by imports from China and
11 69 percent from Mexico.

12 Petitioner estimates with some confidence
13 that underselling of imports from Mexico was worse
14 than that 69 percent. In our prehearing brief we
15 reminded the Commission that all parties were
16 requested to supply additional representative products
17 for pricing purposes for the final questionnaire.

18 The request is of particular urgency in
19 regard to Mexico, but RHI came up with only one with
20 one additional product. Look at their submission.
21 That product offered by RHI, Product 3 of the staff
22 report, showed RHI importing this product in only five
23 of a possible 13 quarters.

24 What is unfortunate is that Refmex had
25 readily available all its MCB export sales by

1 individual product due to Commerce's contemporary
2 investigation and they could have easily made the
3 large volume product descriptions available.

4 What would those product comparisons have
5 yielded in the underselling analysis? Neither you or
6 we who made the request will ever know. But wait,
7 there is more, as they would say on late night TV.
8 Price comparisons of Product 1 were used in both
9 preliminary and final questionnaires. Much of the POI
10 of the two investigative phases overlapped.
11 Specifically the ten quarters of January-March, 2007,
12 through April-June of 2009. In the preliminary RHI
13 reported six quarters of pricing in Mexico, with four
14 of which were in the overlapping quarters in the final
15 investigation.

16 Yet RHI reported absolutely no prices for
17 that same product in the final. The preliminary
18 report of the ITC shows that in the pricing
19 comparisons for Product 1, there are five instances of
20 underselling from Mexico. How many more quarters did
21 RHI really sell Product 1 and 2 to the United States
22 and by how much? Again, neither we or the Commission
23 will ever know.

24 In addition, there is ample evidence of
25 price suppression here. Again, there is a good

1 correlation of the cost of goods sold, sales ratio,
2 breaching certain percentage (confidential), to
3 declines in the profitability to sales ratio of the
4 U.S. industry.

5 This breaching of the certain COGS sales
6 percentage is contemporaneous with industry
7 profitability declines. The lowest COGS to sale ratio
8 of the U.S. industry calculated in the staff report is
9 the most recent period, January-March, 2010, the
10 period in which the duties were imposed, import market
11 share finally fell, and the high point of industry
12 profitability was attained.

13 These events are not coincidental. I will
14 conclude the discussion of the impact of the volume
15 and prices of unfair imports. They show that
16 production, shipments, capacity organization, workers,
17 hours worked and wages paid, all declined steeply from
18 2007 to 2009. Inventories rose. There was large
19 unused capacity in the industry throughout the POI.
20 Financial variables declined, as well, including net
21 operating profit, unit operating profit and the
22 important and operating to profit sales ratio.

23 Lost sales involving several millions of
24 dollars were confirmed. These declining financial
25 indicia continued through the January-June, 2009

1 period, when they were reversed due to the filing of
2 the petition, after which the subject countries'
3 market share finally fell for the first time in the
4 POI.

5 Again, we can ask the converse of our former
6 question of why import shares went up in the
7 recession. Now we ask why did they go down in the
8 beginning of the recovery in the second half of 2009,
9 if the general economy is the only cause of the change
10 of fortunes of MCB market participants?

11 I will close with this. The ITC analyzes
12 these cases by looking at levels and trends. When
13 Resco originally compiled its profit and loss
14 statement for us to evaluate the prospects of the case
15 in mid-2009, we noted that Resco's operating
16 profitability had actually picked up in that latest
17 period in spite of the imports increasing and the fact
18 that we were in the middle, or at the end, it turns
19 out, of a recession.

20 Not a good development for the case, I
21 thought, but Mr. Brown explained the reason, the
22 severe cost cutting measures undertaken by Resco
23 involving layoffs, reduced work hours and the
24 elimination of retirement programs for salaried
25 employees. The Resco executives sitting here at the

1 table today took a 65 percent reduction in
2 compensation and benefits beginning in mid-2008, which
3 was before the start of the recession.

4 Without these drastic measures Resco would
5 have reported operating losses in both 2008 and 2009
6 and the industry data would have been affected, as
7 well. ANH also made painful cutbacks, as you're going
8 to hear. This is a conundrum for the Commissioners.
9 It goes far beyond this case.

10 If domestic companies cut to the bone and
11 beyond, their profits may increase for a while. The
12 ITC sees less injury. We request that you analyze
13 this data within the context of these companies taking
14 these drastic measures to stay in the MCB business, a
15 key market for any refractory producer.

16 Thank you.

17 MS. MAZARD: Let me begin by first
18 addressing the domestic like product. The Commission
19 found the domestic like product as co-extensive with
20 the scope of these investigations consisting of MCB.
21 Respondents agreed with Petitioners' definition of
22 domestic like product in the preliminary. Therefore,
23 we submit the Commission should continue to find the
24 domestic like product is co-extensive with the scope
25 of the petition in the final.

1 Also, appropriate circumstances do not exist
2 to exclude any domestic parties that are either
3 related to a producer or exporter or that imported the
4 subject merchandise. In the preliminary the
5 Commission did not exclude any domestic producers from
6 the U.S. industry and should continue to do so in the
7 final. The Commission should also continue to find
8 that the factors indicating cumulation is appropriate
9 have been met in the final. U.S., Mexican and Chinese
10 imports are all in end use markets. They're all
11 simultaneously present in the United States throughout
12 the POI. Their products all shipped to all
13 geographic areas of the United States, and they are
14 sufficiently fungible.

15 For purposes of cumulation in the context of
16 a threat analysis, we submit that the Commission
17 should cumulate imports from Mexico and China. Even
18 if the patterns of volume are underselling or
19 substantially different from Mexico and China, the
20 Commission may cumulate imports if they complete with
21 each other and the domestic like product.

22 In the prelim the affirmative determination
23 found a reasonable overlap of competition among the
24 domestic life product, subject imports from Mexico and
25 subject imports from China, then cumulatively assessed

1 the volume and effects of those imports. However, it
2 should be noted that in the final investigation
3 margins of underselling from both countries actually
4 followed similar pervasive patterns, with margins
5 generally increasing in the most recent period.

6 Furthermore, common control by RHI of
7 imports from Mexico and China suggest that they would
8 operate under similar competitive conditions in the
9 U.S. market. As to the threat of material injury, the
10 Commission should first recognize the lack of
11 cooperation by the Chinese producers in the final
12 stage of this investigation. To that effect, the
13 Commission should draw adverse inferences from the
14 poor Chinese response rates, given that only six
15 Chinese producers responded in the final phase.

16 That being said, the case for threat is
17 pretty straightforward, if you follow the statutory
18 factors.

19 Coming out of this recessionary period, the
20 U.S. industry is threatened even more by increased
21 Chinese and Mexican imports, as the record shows.
22 Those imports enter the United States at prices that
23 are likely to suppress U.S. prices, given their large
24 margins of underselling, not to mention the domestic
25 industries being threatened by the high level of

1 inventories of those subject imports.

2 Finally, the potential for product shifting
3 exists in this case. Imports have limited the ability
4 of the producers to expand or upgrade capacity.
5 Nevertheless, it is useful to put the issue of threat
6 in perspective. As the record shows, imports from
7 China and Mexico are the two largest sources of
8 imports into the United States. Not surprisingly,
9 production in China far exceeds consumption. What is
10 remarkable about China is that the major capacity
11 expansion undertaken in this country will in no way be
12 justified by the size of this domestic market.

13 Further, as evidenced in the prehearing,
14 this Chinese capacity is being targeted toward export
15 markets like the United States. This same export
16 strategy holds true for Mexico, as noted in the
17 prehearing report. RefMex operates an MCB plant just
18 over the border from the United States. Although
19 RefMex does sell to its home market, the evidence on
20 the record demonstrates that over the POI, it became
21 more, not less, reliant on the U.S. market, where our
22 steel industry is seven to eight times larger than the
23 one in Mexico.

24 Further, contrary to promises made right
25 here at the preliminary conference, Mexico's

1 subsequent shipments to the United States in 2009 were
2 far greater than in the first or second year of the
3 POI. RHI controls imports from both Mexico and China.
4 As the Commission knows, common control is key here,
5 which means that RHI could reallocate resources to
6 ship more MCB to the United States from Mexico, if an
7 AD or CD order were imposed only on China. Or from
8 China, if an order were only imposed on Mexico.

9 Therefore, VRA, which is RHI's sales arm
10 here in the United States, can import from either
11 Mexico or China to support RHI's sales and marketing
12 effort in the United States.

13 Indeed, in a presentation at one of RHI's
14 road shows earlier this year, which we blew it up and
15 brought it with us today, and is also available on its
16 website, RHI stated its intent to use its new plant in
17 China to improve its global market presence.

18 Furthermore, this same document states that
19 RHI plans to transfer production in its steel division
20 to China, then reimport to key markets like the United
21 States and Europe. Given that VRA is trying to gain
22 share in the United States by importing, it means that
23 the level of exports from RHI to the U.S. market will
24 only increase.

25 Therefore, if there is an order against

1 China and not Mexico, RHI can simply ship MCB to
2 Mexico from China for sale in the Mexican market, then
3 turn around and sell MCB produced in Mexico into the
4 U.S. market.

5 Apparently it is actually cheaper for RHI to
6 ship to the western coast of Mexico from China than it
7 is for them to truck MCB from Mexico to the United
8 States.

9 Simply put, both China and Mexico added more
10 capacity or plan to do so than they can consume. In
11 the case of China, this increase will be funded by
12 government support. Chinese producers supplying the
13 U.S. market receive subsidies related to export
14 restraints on magnesia and the provision of
15 electricity at less than adequate remuneration.

16 Furthermore, this capacity cannot be dumped
17 in EU or Turkey, due to Chinese dumping already in
18 those markets. RHI's assertion that the EU order on
19 Chinese MCB in which Resco served as a surrogate is
20 expected to expire in October of this year is just
21 plain wrong. Magnesita requested a review of EU order
22 on July 8th, which means that order cannot be lifted
23 until the review is completed, if it is lifted at all.

24 This excess capacity also cannot be absorbed
25 by the Chinese home market. Much may be said later by

1 Respondents about demand in China. Please view these
2 statements with the following caveats in mind. First,
3 Chinese producers' domestic shipments actually
4 declined over the POI. Second, Chinese exports
5 actually rose over the past three years relative to
6 home market shipments. These two indicators, real
7 data collected by the Commission, contradict any
8 theories put forth today or previously by Respondents
9 of exploiting Chinese demand for MCB that would
10 somehow eliminate China's excess capacity.

11 Further, that Chinese capacity is projected
12 to increase over the next two years, however, Chinese
13 domestic demand is not growing nearly as rapidly as
14 production capacity, and because of the expected down-
15 turn in the demand for steel in China, there is in no
16 way that the Chinese home market will be able to
17 absorb the additional projected capacity.

18 If final AD and CVD orders are not imposed,
19 we can expect to continue to see U.S. markets flooded
20 with these imports, threatening the very existence of
21 the domestic industry, and I am not crying wolf.

22 My prediction follows a pattern of behavior
23 we already saw exhibited by both Chinese and Mexican
24 producers over the POI.

25 Finally, let me address critical

1 circumstances. Commerce made an affirmative finding
2 as to China. We submit the same finding ought to be
3 issued by the Commission, as well. Commerce's
4 determination was premised on information RHI
5 provided, showing a rapid increase in imports over the
6 seven-month period examined. Specifically, MCB
7 imports from China surged a dramatic 156.78 percent
8 based on the seven-month comparison period.

9 In considering the timing and the volume of
10 imports, we urge the Commission to also rely on the
11 same period used by Commerce.

12 With respect to inventory, most of the
13 evidence we presented was confidential, but we also
14 want to note that the problem with inventories in this
15 case is that we do not have complete data, given the
16 lack of cooperation by many Chinese producers in this
17 ITC final.

18 Hence, we do not know what the complete
19 inventories really are in this case. That being said,
20 the data we presented in our prehearing brief indicate
21 a rapid increase in inventories.

22 Last, we also presented data demonstrating
23 the potential to undermine the remedial effect of
24 these orders. Despite RHI's assertions to the
25 contrary, we presented evidence showing that the

1 increases in imports were a direct result of the
2 stockpiling of inventories in anticipation of the AD
3 or CVC order.

4 As such, we strongly ask the Commission not
5 to reward these attempts to beat the clock, ahead of
6 imposition of duties.

7 I now turn to Mr. Richter from ANH, who will
8 conclude our testimony.

9 MR. RICHTER: Good morning, Commissioners.
10 I appreciate the opportunity to testify before you on
11 this important matter.

12 My name is Tomas Richter, and I'm the Senior
13 Manager Marketing for North American Refractories
14 Company or NARCO. NARCO is part of the ANH
15 Refractories family of companies and it is on behalf
16 of ANH that I'm testifying today.

17 I have been involved in the development, use
18 and marketing of magnesia carbon bricks or MCB's and
19 other refractory products in the United States since
20 1989.

21 I joined NARCO in 1993 and have held a
22 number of positions in research and development,
23 marketing and technical support, regarding the use of
24 refractories by the steel industry.

25 I am currently responsible for managing

1 ANH's marketing and technical support for refractories
2 sold to the steel industry, including MCB's. ANH
3 manufactures and sells various refractory products to
4 a number of industries, including producers of steel,
5 glass, cement, metals and chemicals.

6 These products include MCB's, which are sold
7 to the steel industry. All of the MCB's produced by
8 ANH in the United States are manufactured at NARCO's
9 facility in White Cloud, Michigan. The White Cloud
10 facility was built in 1980s and employs a total of 107
11 people. It is one of the primary employers in the
12 area.

13 As a result any reduction in employment at
14 White Cloud facility can have a devastating impact on
15 the local economy. ANH and its family of companies
16 are currently operating as debtors in possession in a
17 Chapter 11 bankruptcy proceedings, currently on appeal
18 to the U.S. Third Circuit Court of Appeals.

19 ANH is committed to providing its customers
20 with the highest quality MCB's that meets its
21 customers' needs. This means providing the best
22 product suited for the customer at the lowest cost per
23 ton of produced steel, along with suburb technical and
24 post sales support. ANH is committed to producing
25 MBC's in the U.S. This is proven by ANH's past

1 capital investment in the White Cloud production
2 facility.

3 However, without relief from unfair imports
4 from China and Mexico, ANH may no longer be able to
5 manufacture MCB's at White Cloud. ANH has seen
6 subject imports of MCB's gaining more and more market
7 share over the past several years.

8 This growth has been based almost entirely
9 on undercutting ANH prices. At first U.S. steel
10 producers were reluctant to purchase MCB imports
11 because of concern about performance and post sales
12 support. However, as the performance of imports
13 improved, many of our customers could no longer ignore
14 the cut rate prices and it began losing more and more
15 domestic product sales to imports.

16 This situation was worsened by the increased
17 market acceptance, not only of original manufacturers
18 of imports but also by importing resellers. This is
19 different from domestically made MCB's, which are
20 predominantly sold directly by the producers. The
21 growing acceptance of importing resellers increased
22 the level of competition based on price and decreased
23 competition based on customer service and other known
24 price factors.

25 These imports have materially injured ANH.

1 ANH lost millions of dollars in sales due to subject
2 imports from China and Mexico. The situation was
3 particularly dire in 2009, when the recession caused
4 an overall decrease in demand for MCB's as steel
5 producers cut production. It was difficult enough to
6 just face the recession, but ANH also faced a double
7 whammy of increased priced competition from subject
8 imports. Because of this onset of imports, ANH had to
9 significantly cut production in workers' shifts at
10 White Cloud facility. This resulted in laying off 50
11 hourly workers. Moreover, in 2009 ANH had to cut
12 approximately a hundred out of 700 management, sales
13 and administrative jobs, primarily at its corporate
14 headquarters in Pittsburgh and reduce certain sales
15 salaries in order to remain profitable.

16 The poor performance of ANH MCB sales due in
17 large part to import to unfair import was the primary
18 reason for these cost-cutting measures. Proving the
19 negative Impact from subject imports is ANH's
20 immediate recovery after the initiation of this
21 investigation and the imposition of preliminary
22 duties. Since that time ANH increased its total
23 volume of domestically produced MCB.

24 This allowed ANH to increase the number of
25 shifts at White Cloud and bring back laid off people.

1 ANH believes that if import relief does not
2 remain, it may be forced to decrease production at
3 White Cloud and once again lay off workers. Another
4 negative effect of unfair imports is that they kept
5 ANH from adequately adjusting its prices to reflect
6 production cost increases.

7 This was particularly true for the cost for
8 raw materials, such as magnesia. China is a primary
9 supplier and its export restrictions significantly
10 increase the price for magnesia. Downward price
11 pressure from MCB imports greatly constrain ANH's
12 ability to cover increases in raw material costs.
13 Particularly in 2009 ANH experienced classic cost
14 price squeeze. This is demonstrated by the fact that
15 the ratio of ANH raw material cost to net sales
16 significantly increased since 2007 and peaked during
17 the first half of 2009.

18 The increase in price competition from
19 unfair subject imports also caused ANH to limit
20 capital expenditures and R&D investment for MCB's.
21 The return on investment could not justify any capital
22 expenditures or R&D investment targeted towards MCB.
23 As a result ANH was forced to limit MCB's related
24 capital expenditures to only maintenance related
25 projects to keep the production equipment in White

1 Cloud operating.

2 ANH has not been able to make any strategic
3 capital expenditures to improve its production of
4 MCB's and increase its competitiveness. Likewise, ANH
5 has not been able to make any R&D investment related
6 to MCB's. If the current relief against unfair
7 imports from China and Mexico becomes permanent, ANH
8 will likely increase our spending related to MCB's,
9 and will be more able to consider MCB related
10 strategic capital expenditures.

11 I would like to now address the question of
12 why did ANH invest in a Chinese manufacturer of MCB's
13 and resell these Chinese MCB's in the U.S.

14 There seems to be some confusion about this,
15 and I want to set the record straight. As I stated
16 earlier, ANH is committed to producing MCB's in the
17 United States and would prefer that the MCB's that it
18 sells be made in U.S.

19 ANH was essentially forced to either lose
20 these sales or to offer Chinese MCB's. ANH did not
21 decide to sell Chinese MCB's to increase the range of
22 its products offering or because it no longer wanted
23 to manufacture certain types of MCB in the U.S.

24 Because of this a subsidiary of ANH became a
25 minority investor in a Chinese MCB producer that

1 provides MCB's to ANH. I want to make clear that the
2 first priority of ANH's sales force is to sell MCB's
3 manufactured in White Cloud, Michigan.

4 They offered to sell the lower price Chinese
5 MCB's only after the customer refuses to buy our U.S.
6 made MCB's based on price and indicates that it will
7 go to a Chinese supplier.

8 If unfair imports are allowed to enter the
9 U.S. market unrestrained then it will become more and
10 more difficult for ANH's sales force to sell
11 domestically produced MCB's, and we may be forced to
12 sell more imported MCB's. For the present, however,
13 the filing of the petition and the possibility of
14 substantial duties being made permanent, have given us
15 breathing room to replace many of our imports with
16 domestic products and recall 50 production workers for
17 two extra shifts at White Cloud.

18 I would also like to address the question of
19 why is ANH more fully participating in this
20 investigation now, after being less active during the
21 preliminary stage. When the petition for this case
22 was filed, ANH was in the midst of significant
23 personnel reduction. As I mentioned before, a primary
24 reason for eliminating these jobs was the poor
25 performance of ANH sales to the steel industry, which

1 was made worse by subject imports. Managing this
2 personnel reduction and accompanying disruption and
3 the restructuring of responsibilities prevented ANH
4 from more fully participating in the preliminary stage
5 of this investigation.

6 In addition, a new senior business manager
7 responsible for MCB's took his position on August 1st,
8 2009, only days before ANH had to respond to
9 Commission's questionnaires.

10 Now that this difficult process is
11 completed, and time has passed, ANH is more able to
12 devote time and resources to this investigation. This
13 explains both the fact that I'm testifying here before
14 you today and ANH's more informed response to the
15 questionnaire in the final phase of the investigation.

16 Finally, I want to reiterate that relief is
17 needed from unfair imports from both China and Mexico.
18 If only Chinese imports are subject to remedial
19 duties, the Mexican imports will likely increase and
20 expand to new customers.

21 Indeed, after the tariffs were announced one
22 customer switched from buying Chinese MCB to buying
23 Mexican MCB's. Thus, in order to provide effective
24 relief to the U.S. MCB industry, the remedial duties
25 must be imposed on both China and Mexico. Thank you

1 again for the opportunity to testify today.

2 CHAIRMAN OKUN: That concludes your
3 testimony. Before we begin our questioning, I want to
4 thank all of the witnesses for being here, for your
5 testimony today, particularly to the industry
6 witnesses who took the time away from what they would
7 normally be doing to come to Washington and answer
8 questions, so we very much appreciate your presence.
9 We will begin our questioning this morning with
10 Commissioner Aranoff.

11 COMMISSIONER ARANOFF: Thank you, Madam
12 Chairman, and I join the Chairman in welcoming all the
13 witnesses. There's just no substitute for hearing
14 about conditions in the market from the people who are
15 there every day.

16 Let me start by going to this question of
17 The price performance idea in pricing this product.
18 We've had cases in the past where it's actually been
19 true that people were willing to buy a product that
20 was not as good in terms of the quality, in terms of
21 how long it lasted until it wore out, because it was
22 so much cheaper, that you could just keep taking it
23 off and replacing it.

24 It seems to me that that might be true and
25 one case you might want to look at for that was our

1 Diamond Sawblades decision, but that might be true in
2 the case where it basically doesn't take very long to
3 replace -- you don't have a lot of down time. When
4 you're replacing the lining of a ladle or a furnace,
5 you're turning off production for some significant
6 period of time, so can some of you address in terms of
7 how wide that range is, where if it's a lot cheaper to
8 buy something that doesn't perform that well, because
9 it's worth it to you to keep changing it out, that
10 there can't be that much room in this industry where
11 the down time is more costly than just changing a tire
12 or something?

13 MR. BROWN: Let me give this a try at the
14 answer to that question, and then I'll ask Rick to
15 join us. Think about ladles as a separate type of
16 application. Generally in a steel plant you'll have
17 what they call a ladle fleet, and that ladle fleet
18 will have from 14 to 18 ladles in it, depending on the
19 steel production capacity.

20 So that the planners will always have
21 several ladles in various states of replacement of the
22 refractory lining, and in the case of ladles,
23 generally speaking they do not interrupt the
24 production of the facility, because there are so many
25 and they have to do regular maintenance on them.

1 But when you come to furnaces, that's an
2 entirely different process, because there are not
3 replacement furnaces sitting idly by, as you know, in
4 the steel industry, especially in the U.S. steel
5 industry, which is slightly different than the
6 European steel industry, especially in integrated
7 facilities.

8 But there the price performance differential
9 is one that you really don't want to use a cheap
10 product, giving shorter performance, and BLF's and
11 electric arc furnaces, that equation really doesn't
12 work.

13 So you'll find that many of our steel
14 customers are using the most premium products there.
15 While in ladles, you know, say electric furnaces run
16 400 to 1,000 heats. BOF linings can run 10,000 to
17 40,000 heats. Ladles run 50 to 150 heats. So if you
18 have an opportunity to use a lower quality and lower
19 price product, you can find out very quickly whether
20 it's going to meet your price performance guidelines.

21 For some steel producers lower quality
22 products and the prices they pay for lower quality
23 products is a good value equation forum. As we know,
24 every steel producer is quite different and it just
25 depends on what their operating strategies are for the

1 particular plant.

2 Rick, do you have anything to add?

3 MR. COPP: I really don't have anything in
4 addition, other than our customers continually look
5 for consistent performance because it is a maintenance
6 item. Actually, all three applications are
7 maintenance type items, so as Bill stated, they're
8 looking for consistent, measurable performance every
9 time in each application.

10 COMMISSIONER ARANOFF: Is the tolerance --
11 Well, you want to add something -- I'm going to come
12 to you. Let me just add a question. Is it still no
13 tolerance for down time and maintenance on ladles or
14 furnaces greater when demand is not as high or would
15 you say that doesn't really change the equation?

16 MR. COPP: I'd say they're very -- any down
17 time that they have to spend, but as Bill stated, with
18 ladles, in the frequency that you're rebuilding
19 ladles, typically that's not related to any down time
20 in the shop, and the furnace linings are scheduled, so
21 they'll schedule a down time, but if they schedule for
22 four days and it takes five days, they're very
23 intolerant.

24 COMMISSIONER ARANOFF: Mr. Richter, you
25 wanted to add something?

1 MR. RICHTER: Yes, I would like to address
2 your original question, which was how much lower
3 quality product, because they're at a lower cost. And
4 it's interesting -- I mean, there was in the past when
5 the Chinese entered the market, that the performance
6 was lower than the domestic producers. But if you
7 look, if you look at the purchaser's replies, and I
8 think it was also in one of the briefs, which were
9 submitted, that the U.S. purchasers are looking at the
10 Chinese products as better in performance than the
11 U.S., so that means that the price was lower despite
12 the fact that they were able to manufacture high
13 quality products, so it can happen because we as a
14 domestic producer are trying to compete, and when you
15 try to compete and you are limited to 75 or, you know,
16 according to the report, it's s 74 percent of the cost
17 of magnesia carbon, so then we are very carefully
18 selecting the cost of the raw materials.

19 So in those circumstances then you can
20 actually see the performance of the imports to be not
21 only on par, but even maybe some purchasers say better
22 and at the lower price. So I would say in today's
23 environment, and I think it is valid certainly for the
24 period of investigation from 2007 to 2009, that the
25 performance was not an issue. The performance is

1 must. Everybody has to perform and get the lining and
2 the performance to the level of the expectation of the
3 customer.

4 COMMISSIONER ARANOFF: Thank you for that
5 answer. Mr. Copp, you started to address this during
6 your direct testimony, but can you give me some more
7 description about how the bidding process works, when
8 a mill is going to reline a furnace or reline a ladle
9 and maybe it's different. Do they, you know, put out
10 like a request for bids that they send out to whoever
11 is interested, and then they use internet auctions?
12 What does the process look like?

13 MR. COPP: We really don't like internet
14 auctions. What they typically do, especially for BLF
15 linings, because the number of linings has been
16 reduced significantly, they will have a pre-bid
17 meeting where they literally call all suppliers into a
18 meeting and they let you know when the lining is going
19 to be relined, the dates are going to be down, when
20 products needs to be on site. They'll tell you the
21 information altogether so all suppliers hear what the
22 requirements are, and they will ask you to submit a
23 bid by a specific date. And then they'll make their
24 decision.

25 COMMISSIONER ARANOFF: And when you say all

1 suppliers, this is some group of pre-qualified
2 suppliers, not a notice that's posted on the internet
3 and anybody can bid?

4 MR. COPP: Well, it would be suppliers in
5 the refractory industry. It would be Chinese
6 importers would be present. ANH would be present.
7 Resco would be present. RHI would be present.

8 COMMISSIONER ARANOFF: Would people be
9 present who haven't gone through some type of
10 qualification process with the mill?

11 MR. COPP: Not to get a bid.

12 COMMISSIONER ARANOFF: Okay. So it's a
13 group that's limited to who the mill has actually used
14 before or have gone through some qualification process
15 with the mill?

16 MR. COPP: That's correct.

17 COMMISSIONER ARANOFF: And to go through
18 qualification generally, would test the quality of the
19 product, right, before you'd be at that table?

20 MR. COPP: That's correct.

21 COMMISSIONER ARANOFF: Okay. And there is
22 not multiple rounds, everyone just hands in a bid
23 sheet and then they make up their minds, or do they
24 call you back up and go you're ten percent high?

25 MR. COPP: They really try to put everyone

1 on a level playing field or they try to put a spread
2 sheet out and it always comes down to price typically
3 in the BOF market or electric furnace market, because
4 you are already qualified or they know your
5 performance from past practices. Typically you'll
6 find out after the bid. You don't get a chance to
7 have a second bid.

8 COMMISSIONER ARANOFF: Okay. So they don't
9 come back to you and give you another chance or higher
10 -- is that also true for ladles, or is that a whole
11 different process?

12 MR. COPP: It's very similar for ladles.
13 However, typically because you have a ladle fleet and
14 the customer wants will typically want one supplier in
15 the ladle, they break up 16 ladles, they break it up
16 eight and eight. They have two suppliers in the shop,
17 and the purchase order will be probably let for a
18 longer period of time, rather than every ladle being
19 versus probably be for six-month period, or even a
20 year period of time.

21 COMMISSIONER ARANOFF: Thank you very much.
22 My time is up. Thanks, Madam Chairman.

23 CHAIRMAN OKUN: Mr. Williamson.

24 COMMISSIONER WILLIAMSON: Thank you, Madam
25 Chairman. I do want to express my appreciation to the

1 witnesses for coming today and giving your testimony.
2 We also appreciate very much the opportunity to go to
3 the Resco facilities in Hammond and see that
4 firsthand.

5 I want to continue on the line of questions
6 from Commissioner Aranoff. RHI has stated in its
7 prehearing brief that domestic refractory product
8 dominate the U.S. market for BOF linings, and there's
9 no evidence that subject imports have been used in BOF
10 linings during the period of investigation. Do
11 Petitioners agree with that statement? Mr. Richter?

12 MR. RICHTER: What was the question again?

13 COMMISSIONER WILLIAMSON: Are subject imports
14 used in BOF linings?

15 MR. RICHTER: Yes, there has been BOF
16 linings in the United States that have used imported
17 lining.

18 COMMISSIONER WILLIAMSON: Is there any
19 evidence you can submit on this?

20 MS. MAZARD: It's in evidence in posthearing
21 briefs, but I believe products imported BOF linings.
22 We also believe that imported and I believe cost one
23 of the first BOF linings also the continent import BOF
24 linings.

25 COMMISSIONER WILLIAMSON: Thank you for that.

1 MR. RICHTER: Market is very much I would
2 say controlled or not controlled, but it is supplied
3 by domestic producers. And there were instances where
4 the imports were happening in BOF's, however, the
5 important also the fact that the importers are part of
6 the bidding process, so that means if the customer is
7 looking for purchasing BOF's, which is usually is in a
8 neighborhood between maybe four hundred, five hundred
9 thousand dollars on the low end, to maybe close to a
10 million dollars for one furnace at the high end.

11 In that process, some customers are allowing
12 importers to bid and then, of course, through that
13 process suddenly there is a low price on the table.
14 Okay? So that low price then puts a lot of pressure
15 to act as a domestic suppliers to meet that price.
16 And in many instances, you have to lower the original
17 proposals, because there is still a reluctance from
18 the operating people at the plant to go with the
19 Chinese imports because of the reliability and the
20 complexity of the product, because the BOF lining is
21 very complex product. You have a different brand,
22 different shapes, different designs. It's very
23 difficult to copy easily.

24 So there is no comfort level in the industry
25 to use imports, but the purchasing process drives the

1 price down because they're inviting imports.

2 COMMISSIONER WILLIAMSON: Thank you for that
3 additional clarification. RHI claims that the MCB
4 sales to BOF's market is more profitable than the sale
5 of electric arc and ladle markets. I was wondering,
6 do the producers agree with that?

7 MR. BROWN: Maybe we should do that as
8 posthearing. It's a business proprietary comment.
9 Certainly we don't agree with that statement, and can
10 give you factual information on that.

11 COMMISSIONER WILLIAMSON: Okay. Commissioner,
12 I'm sure the Commissioner understands from the briefs
13 that the size of the BOF market is very small relative
14 to the ladle markets, and it's no safe haven for the
15 U.S. producers?

16 COMMISSIONER WILLIAMSON: My next question
17 was actually market, seven to ten percent of the
18 market is -- do you agree with that statement, that's
19 about that the BOF market represents about seven to
20 ten percent of the -- seven to ten --

21 MS. MAZARD: We agree generally with that
22 statement, Commissioner.

23 COMMISSIONER WILLIAMSON: Thank you.
24 Commissioner Aranoff asked some questions about this
25 price to performance ratio. And what I guess the

1 question is is there a kind of standards? How do you
2 away price to performance, given that this is quite a
3 bit of variety in how fast bricks are consumed?
4 Different processes are different ladles or furnaces?
5 So is there industry standards for measuring this?

6 MR. BROWN: Commissioner, there are not
7 standards unfortunately. Generally it's the result of
8 each steel producer's experience with his operations.
9 We have many cases two furnaces, side by side, with
10 the identical equipment attached to both, and the
11 steel plant may find one furnace gets 20 more percent
12 heat life than the other, and in some cases there's no
13 technical explanation as to why the performance is so
14 different. It is just at that steel plant that's the
15 performance results over time. Generally, you know, I
16 talked a little about steel makers operating
17 practices. They could be very different from plant to
18 plant.

19 For example, you could have a steel maker
20 that is entirely focused on making his refractory cost
21 the lowest cost it can possibly be, while at another
22 plant the steel maker will focus on consistency of
23 performance.

24 That is, he knows the ladle will come out at
25 X number of heats every time, and he's reluctant to

1 take a chance to run it to the very lowest cost of
2 refractories he can get, and then finally you may have
3 an operator who has higher refractory cost, believe it
4 or not, because he wants to increase the capacity of
5 the steel mill.

6 For example, you have a steel ladle, which
7 is lined with this brick, and as the steel ladle
8 lining is consumed, that means that there's more
9 volume in the ladle and, therefore, the steel operator
10 can tap more steel out of his furnace than that ladle,
11 and increase his steel production.

12 Well, instead of starting out with the six-
13 inch lining in a shop, why not start out with the
14 partially worn lining concept, and make the lining
15 four inches thick, so that you can actually increase
16 your refractory cost, which is wonderful for us. We
17 like this. This is a good idea. We wish more steel
18 makers used it. Increase his refractory cost, but by
19 increasing his production, his capacity, without any
20 additional capital cost, and being willing to pay for
21 refractory costs, this is a great benefit to the steel
22 producer, so the three instances I described are part
23 of the steel operating -- steel operators operating
24 practices that we have to address. Generally when
25 there's a refractory failure, it tends to be very

1 dramatic. You've seen pictures of flames and steel
2 pouring out everywhere, so there is an element of a
3 safety factor that you don't want to have a ladle on a
4 caster that's too thin, and that it goes through the
5 side of the shell.

6 COMMISSIONER WILLIAMSON: Is the bottom line
7 here that a sales person for NCD's has to know each of
8 his customers and their philosophy or their approach
9 to this?

10 MR. BROWN: They have to know it extremely
11 well. In some cases they have to know it better than
12 the steel operator himself, so that he can make the
13 recommendations that make the operating objectives of
14 that particular mill and they can be very different,
15 even within the large organization, say like Newport
16 Steel, one plant may have one operating philosophy and
17 another plant may have an entirely different one.

18 COMMISSIONER WILLIAMSON: So the sales
19 persons for the importers of the -- how are they
20 acquiring this knowledge, becoming present?

21 MR. BROWN: Importer in our business is that
22 they offer less of this type of service, but they do
23 offer very low prices, and so it's up to the end user
24 customer to balance the two in this price versus
25 performance equation.

1 COMMISSIONER WILLIAMSON: My time has
2 expired. Mr. Richter, can I come back to you in the
3 next round, because I'm going way over, I'm afraid.

4 CHAIRMAN OKUN: Commissioner Pinkert.

5 COMMISSIONER PINKERT: Thank you, Madam
6 Chairman, and I too thank you all for being here
7 today. Mr. Richter, did you want to complete the
8 answer to the previous question from Commissioner
9 Williamson?

10 MR. RICHTER: Well, the original question
11 from Commissioner Williamson was if there are
12 standards in magnesia carbon and how the customer
13 recognized the difference in the quality or
14 performance. There are no standards like there are in
15 the steel making. The MCB's were developed just
16 recently if you look, 30 years ago, and there was no
17 community which would actually drive the standards.

18 However, there are internal understanding of
19 the technology by the producers, not that much by the
20 customers. Some of them have the capacity to test the
21 product and to standardize them internally. But
22 really the comparison is done in the supplier's
23 industry, mainly through understanding the other
24 products, understanding because many of these products
25 are tested by the laboratories, the labs, the

1 companies have their own laboratories for testing
2 competitive products, and then based on that many
3 times you are trying to bid similar product, against a
4 product which we know is required by the customer.

5 COMMISSIONER PINKERT: Thank you. Now,
6 argues that the industry was able to raise its prices
7 in lock step with increases in raw material costs
8 during the period under examination. Does the panel
9 have any response to that? Does this panel have any
10 response to that?

11 MR. MAGRATH: As I said in my testimony, the
12 measure the Commission usually uses for price
13 suppression, which is the cost-sales ratio,
14 conveniently, you know, went up, and went up in 2008
15 and remained elevated in 2009, and when it was over
16 this magic percentage, of course, that was correlated
17 with the decline in profitability of the U.S.
18 industry, so magnesia is the chief raw material in
19 cost of goods sold, and so I think that correlates, as
20 well.

21 COMMISSIONER PINKERT: What about the
22 experience of the other panelists during the period?
23 Mr. Richter?

24 MR. RICHTER: The questionnaire which we
25 filled out clearly from the accounting perspective,

1 but it shows that yes, there was a price increase over
2 the period of time, but it also shows that there was
3 more cost increase than the price increase, means that
4 the difference between price and cost actually was
5 smaller during the period, so it decreased, so we
6 couldn't recover all of the cost increase in raw
7 materials.

8 COMMISSIONER PINKERT: Thank you. Now, I'm
9 interested in this argument that Ms. Mazard was making
10 about how RHI could shift their shipments that are
11 currently occurring from China to the route from
12 Mexico to the United States, if there is an order only
13 on China, and I'm wondering how much of the Chinese
14 industry does RHI control in your understanding?

15 MS. MAZARD: I'll let Bill expand on this
16 further, given his past experience with the Refmex
17 facility, but basically it's our understanding that
18 RHI controls both plants and they can, for example,
19 take that capacity, should there be an order placed
20 upon China and not Mexico, so they can take that
21 Chinese capacity, sell it to Mexico and then take the
22 Mexican capacity and sell it to the United States.

23 MR. BROWN: As a matter of fact, if that
24 happens, if there's only a ruling against China, if I
25 were RHI, I would do that immediately. I would

1 transfer Chinese products into Mexico, which would
2 have no restrictions from bringing in Chinese
3 products, and then take Mexican production capacity
4 and change it to MCB and then import MCB's into the
5 U.S. from Mexico. That would seem to me a perfectly
6 logical strategy.

7 Now, what is the capacity by RHI's plant in
8 China? Is it 50,000 tons a year? Is it a hundred
9 thousand tons a year? Is it 120,000 tons a year? Do
10 they have other Chinese plants that actually make
11 their product and brand them under their names?
12 That's information that I don't have, but I think they
13 have a substantial capacity for MCB's in China, one of
14 which I understand is used in the Chinese market and
15 most of it is targeted for export to the U.S.

16 COMMISSIONER PINKERT: Well, I suppose
17 another way of framing my question is does this
18 argument that you're making hinge on how substantial
19 their production activity in China is currently, so
20 that the shifting would be shifting one for one
21 between the Chinese activity and the Mexican activity?

22 MS. MAZARD: I wasn't implying that it was
23 equal levels of capacity. I was just saying, for
24 example, it's pretty easy to ramp up capacity in
25 Mexico to cover whatever would be missing, given the

1 numbers and Bill is not subject to some of these
2 numbers but given his experience he understands how
3 RefMex works and he knows the capacity there, so it's
4 his understanding that he could easily within six to
5 nine months actually ramp up to similar levels, if
6 needed.

7 MR. MAGRATH: Commissioner Pinkert, RefMex
8 or RHI has said throughout these proceedings that
9 they're going to concentrate on their domestic
10 markets. They said that in the preliminary and it
11 hasn't happened yet, but what we're saying is that
12 they can -- that the facilities in Mexico can be
13 easily added to and if they're not easily added to
14 that entire capacity can be transferred to the United
15 States, and that Chinese capacity, which is under
16 used, can be transferred to Mexico, and they could
17 service the entire Mexican market from China and
18 entire U.S. market from Mexico.

19 And by the way, one way to make sure that
20 they keep their word this time is to vote yes in this
21 investigation on present injury.

22 COMMISSIONER PINKERT: Perhaps for purposes
23 of the posthearing submission, you could put some
24 numbers into the switching analysis to help flush it
25 out a little bit.

1 Now, Dr. Magrath, you've directed some
2 attention to the first and second halves of 2009, and
3 I'm trying to understand the dynamic at play between
4 the first and the second half of 2009. If from the
5 first to the second half of that year, a deep
6 recession is lifting somewhat, and subject import
7 market share is declining, then what are we to make of
8 any improvement in domestic industry financial
9 performance? In other words, I'm asking a question
10 about causation.

11 MR. MAGRATH: Sure. Yes. We're glad the
12 Commission put into its questionnaire, you know,
13 divided 2009 in half, because it does show -- it shows
14 somewhat what happened here in the market. Import
15 penetration went up in the first half of 2009, when we
16 were still in the recession, and market penetration
17 only turned down in the second half of 2009, although
18 absolute imports continued to go up, but import
19 penetration increased in the second half of 2009,
20 decreased when there was an increase in consumption,
21 so this is some sort of what was the main event there?
22 We came gradually out of this recession, as you know
23 from reading the newspapers and looking at TV, we may
24 not be out of the recession, but subject imports had
25 their market share did go down, went down several

1 percentage points and the intervening event was the
2 filing of this case.

3 Mr. Richter.

4 MR. RICHTER: I think if I understand your
5 question is that why the percentage of imports
6 decreased in the later half of 2009 and early 2010. I
7 mean, I don't know the numbers, but I can tell you
8 what we saw in the marketplace. We took the petition
9 quite seriously, and I think many of the importers
10 took it quite seriously, and especially the fact that
11 there could be some duties imposed retroactively. I
12 think that in the board rooms has to have some effect
13 on what the companies will do for the rest of the
14 investigation, and I can't talk for anybody else, but
15 ANH as an importer immediately made a decision that we
16 would actually start lowering the imports of the
17 Chinese MCB's. That's from our perspective.

18 Now, importantly also from the customer's
19 perspective, as the case went further and further and
20 further, that the customer starts looking at the MCB's
21 as a domestic source. They want to have a domestic
22 source. There were concerned that there would not be
23 a domestic source, so that also shifted the attention
24 from the customer base more into purchasing
25 domestically produced products. I think those are the

1 two major factors, one from the corporate perspective,
2 and I can only speak for ANH, but I think that those
3 discussions must have been in other rooms and also
4 from the perspective of the customers seeing this as a
5 major problem.

6 COMMISSIONER PINKERT: Thank you. I've
7 passed my time but I appreciate the answers.

8 CHAIRMAN OKUN: Thank you again for the
9 responses thus far. I wanted to go back a couple
10 issues. I say first, Mr. Brown and Mr. Richter, it
11 was -- for the testimony about the cost-cutting
12 measures that your companies were undergoing during
13 what was a very difficult period, and I think in our
14 analysis one of the very difficult things that we have
15 to sort out is, you know, what is the impact from what
16 was a cycle as you described it in the steel industry
17 and -- the analysis on. In terms of the role of raw
18 materials in the cost price squeeze analysis, could
19 you explain for me again what you saw in 2010 and how
20 we interpret that, and I think, Dr. Magrath, you might
21 have started on that, but -- in other words, if I'm
22 looking at the record of what was going on with the
23 cost to sale ratio during the period, including what
24 happens in 2010, how should I look at that in terms of
25 the impact of subject imports?

1 MR. MAGRATH: The cost-to-goods-sold ratio as
2 we testified, began to lift and Mr. Richter just gave
3 an excellent answer of why, from the customer's
4 perspective, it began to lift after the filing of this
5 case.

6 Magnesite and other raw material costs which
7 had been going up and unfortunately continue to go up
8 during the recession began to abate also in the second
9 half of 2009 and again in 2010. The pressure from
10 imports because of the filing of this case was
11 lessening, although, you know, the imports absolutely
12 were still going up because they were trying to beat
13 the clock, as we have said.

14 But their market shares were going down.
15 And so as Mr. Richter testified, you know, this gave
16 the domestic industry some breathing room and with the
17 prices, it was a happen, you know, combination of the
18 import pressure easing, the price pressure of imports
19 easing and the raw materials costs easing.

20 It went down below the magic percentage
21 that's confidential that I was talking about and was
22 the least in January-March 2010, the latest period.
23 Also the period that the imports went down in terms of
24 market share, went down a lot and also the period in
25 which profitability was largest for the U.S. industry.

1 So to us it all fits together.

2 CHAIRMAN OKUN: But you would agree, Dr.
3 Magrath, you have done lots of cases here. The post
4 petition argument, you often don't see that behavior
5 by the subject imports, right? I mean the direction
6 of subject imports and the direction of where the
7 performance indicators are going. You sometimes see a
8 much different pattern.

9 MR. MAGRATH: Yes, yes, absolutely,
10 Commissioner, and that was my -- that was my
11 testimony, that I really was surprised that, you know,
12 we had opened up the questionnaires and the final
13 report to see that after the case was filed or after
14 the -- we got a look at the final data base, that the
15 imports, you know, were going up and the market share
16 was going way up during the recession. And then they
17 only started to decline, you know, well after the case
18 was filed, as they worked off the inventories.

19 But I mean, I'm sorry, but I think it's sort
20 of piratelike behavior. They wanted to get this --
21 they wanted to get this stuff into the United States.
22 In the preliminary there was testimony about -- from
23 Mr. Brown about a lot of imports being caught on the
24 water when the bottom very suddenly dropped out in the
25 last quarter of 2008 and that explains the pattern.

1 CHAIRMAN OKUN: And then let me turn to the
2 industry witnesses. Just with respect to the
3 inventory issue, and I know the staff report covers
4 it, but just so that I understand. The product from
5 inventory goes where? I mean, if someone's purchasing
6 during that period for inventory, you've talked about,
7 you know, what's going on when you have a ladle or a
8 furnace that's going to be rebid, why would someone go
9 to inventory and would you have issues with that if it
10 wasn't made to specs?

11 MR. BROWN: Many of the Chinese imports are
12 -- because they have such a long pipeline, establish
13 sizeable inventories in the United States either at
14 the steel plant in consignment arrangements or off
15 site in warehouses, so that when we filed the petition
16 what we saw shortly thereafter was an increase in
17 imports coming into those inventories at a period when
18 the steel production was only slightly recovering from
19 the depths from the first six months of 2009.

20 Also, just on raw materials, Summer Olympics
21 was in Beijing, you remember that. Chinese put out
22 this scare to all industrial minerals users that they
23 were going to start -- they were going to stop
24 production of key raw materials during the Olympics so
25 that the air would be clean and the world could see

1 how clean Beijing was. That escalated the cost of raw
2 materials in the second half of 2008 and quite frankly
3 many of us were caught with much higher cost raw
4 materials in early '09 and work through them through
5 the year of '09 and finally came to '10 where those
6 raw materials were now being purchased on what I call
7 a normal basis. And so you saw a little bit of a
8 reduction of Magnesias.

9 Unfortunately, we've seen an increase over
10 the past several months of fused Magnesias and centered
11 or dead burned Magnesias.

12 CHAIRMAN OKUN: And is that -- the up-tick
13 you see in raw materials, what are you looking for or
14 what do you attribute that to right now and where do
15 you see it going? Is it just --

16 MR. BROWN: Well, control of raw material by
17 the Chinese government. You know, their story is we
18 want to use it internally. There's a limit as to
19 these raw materials in China and, therefore, we're
20 going to restrict imports -- I mean exports by putting
21 license fees out there, as well as no VATs and it does
22 increase the cost of raw materials that a producer in
23 the U.S. have to pay, if you're buying from China.

24 And I see that continuing.

25 CHAIRMAN OKUN: Okay. Mr. Richter, could you

1 comment both on the use of product out of inventory
2 when -- if someone would come to you and ask for
3 something out of inventory, since you're dealing with
4 imports as well, and then also just with respect to
5 raw material costs, what you see kind of currently and
6 what you see in the future and why.

7 MR. RICHTER: Inventories are irrelevant from
8 the customer perspective. Customer doesn't care if
9 I'm shipping from my plant in the United States or I'm
10 shipping from a warehouse close to his location. So I
11 think that the inventories is the responsibility --
12 managing the inventories is the responsibility of the
13 supplier. If they are able to control the inventories
14 and shipments with just-in-time manufacture from the
15 plant in U.S., they do that. But they have to have a
16 just-in-time shipment also from China. So it means
17 that they have to plan for the inventories for the
18 business which they have.

19 When you get a business, it's not that you
20 are buying, it's usually for one or two lines, and,
21 yeah, there are situations like that. But in a --
22 with the use of Magnesia carbon, especially the ladles
23 and electric furnaces, when you capture the business,
24 then you have to supply it on time. And that is your
25 management and business decision how you will handle

1 the inventories. But you have to bring those products
2 in a timely fashion to the customer's plant.

3 CHAIRMAN OKUN: Okay, Dr. Magrath, you wanted
4 to add something?

5 MR. MAGRATH: Yes, very quickly. I just
6 looked at these. On this inventory question and how
7 much time they've got to spend on the water, look at
8 the summary data in the staff report. It is
9 astounding how -- just the numbers how much more
10 inventory importers are carrying than U.S. producers.
11 It's like three or four times. All along the period
12 of investigation, every period, three to four times
13 what U.S. producers have to carry.

14 So, you know, you combine that with this
15 very sudden -- you know, we've described falling off
16 the cliff in the fourth quarter of 2008. You had the
17 importers stuck with all this inventory and that was
18 very damaging to the U.S. industry at its most
19 vulnerable point, we would say.

20 CHAIRMAN OKUN: My red light has come on, so
21 I will come back to some of those questions. Thank
22 you very much and we will now turn to Commissioner
23 Lane.

24 COMMISSIONER LANE: Good morning and thank
25 you for being here. Dr. Magrath, I would like to

1 start with you and I have a question about the C-1
2 table and I know it's business proprietary and so
3 you'll have to do it post-hearing, but I was really
4 interested in the data that's reported for the January
5 through March 2010. And I would like for you to look
6 at that and tell me if those trends are continuing up
7 to the present time or are those trends going in a
8 different direction. And you can do that post
9 hearing.

10 MR. MAGRATH: Thank you, Madam Commissioner.
11 All the trends or a particular set of trends? There's
12 a lot of line items in the summary.

13 COMMISSIONER LANE: Some of the line items.
14 Basically profitability and just the ones that look
15 dramatically different than what you might have
16 expected.

17 MR. MAGRATH: Yes, ma'am, I know what you
18 mean.

19 COMMISSIONER LANE: Did I get through that
20 okay, Mr. McClure? Okay, thank you.

21 MR. MAGRATH: I hope he's not asking the
22 question.

23 COMMISSIONER LANE: And these are questions
24 for people in the industry. Could you explain the
25 differences between MCB, Dolomite brick, Alumina

1 Magnesia Carbon Brick and fired brick. Which I
2 understand are all made in U.S. plants using the same
3 equipment as MCB.

4 MR. COPP: When you look at different
5 qualities of refractories, it's really a chemical game
6 and you're trying to match the chemical adaptability
7 of your refractory with the environment that it's in.

8 And Mag Carbon Brick are resin bonded brick
9 that take Magnesium carbon as the bonding agent.
10 Fired brick is where you would just take -- I think
11 you're referring to a magnesite brick of like 98
12 percent magnesite and literally put it in an
13 atmosphere at 2900 degrees F and actually make a
14 ceramic bond to the brick.

15 Aluminum magnesia carbon is a resin bonded
16 brick that was introduced that was formed with those
17 three products, aluminum, magnesia and carbon. It's a
18 different product than mag carbon, it's used in a
19 different area for different wear rates in the ladle.
20 It typically cannot take the aggressive nature of the
21 slags but can out perform other products that were
22 used in the past such as a 70 percent aluminum brick.

23 So what you'll see is in a ladle application
24 is the mag carbon brick is used in the very aggressive
25 slag area which is on the top of the ladle, where a

1 lot of fluid reactions are taking place. And below
2 that you would see an NAMG brick being used to try to
3 duplicate the wear. As the slag goes down the ladle
4 and ladle is empty, the slag line becomes less
5 reactive and you don't need the cost of a mag carbon
6 brick in that portion of the ladle.

7 Mag carbon brick will always typically be
8 the highest cost product in the ladle. And so what
9 you're trying to do is get the lining so it wears
10 evenly at the low point.

11 So I forgot the fourth product. A Dolomite
12 product is a product used that can be burned or resin
13 bonded, typically burned in the steel industry and is
14 used for a different chemistry of steel.

15 COMMISSIONER LANE: Okay, so any of these
16 products that you described, and thank you for that
17 explanation, can they be economically substituted for
18 MCB?

19 MR. COPP: No. No. None of those -- they
20 can be but with detriment to performance. A
21 significant detriment to performance.

22 So as you're trying to get the highest
23 performance level for the customer, in the slag line
24 are and down below with the fluid slags that happen at
25 those temperatures, mag carbon brick perform better

1 than two of them.

2 Now Dolomite is in a different process with
3 a different chemistry of steel and can perform equal
4 to mag carbon but you don't use mag carbon with a
5 Dolomite slap line.

6 COMMISSIONER LANE: Okay, what about burned
7 magnesite?

8 MR. COPP: Burned what?

9 COMMISSIONER LANE: I can't say that word --

10 MR. COPP: Burned magnesite?

11 COMMISSIONER LANE: Yes.

12 MR. COPP: Yeah, that's a product where we
13 take magnesite typically of 98 percent purity and
14 magnesite, we form it in a press, and then we fire it
15 at roughly 2800 degrees F. So you get a ceramic bond.

16 We typically don't use those type of
17 products in ladles. We typically would use them in
18 backup linings and in non-steel contact areas and
19 electric furnaces and in BOF applications of non-steel
20 contact. And maybe impact type contact.

21 COMMISSIONER LANE: Okay, thank you. On page
22 215 of the prehearing staff report, it states that you
23 indicated that while there is substitutability between
24 MCB and some of the products listed on page 214, none
25 provides the safety of MCB. Could you explain what

1 the safety concerns are?

2 MR. COPP: I don't know if the safety
3 concerns were relative to performance, more
4 performance related. But typically I guess all I can
5 say is that mag carbon brick would out perform any of
6 those products in that area. So I guess that I would
7 be safe to -- you know, safety related as far as
8 number of heats.

9 COMMISSIONER LANE: Mr. Richter?

10 MR. RICHTER: I just would like to clarify
11 just in very simplistic terms. The exchangeability of
12 different products in an environment -- in the steel
13 applications, if you go back to the chemistry days, we
14 have alkalies and acids. And we know when we blend
15 them together there is a reaction. It's very similar
16 in a contact of refractories with the liquids.

17 And if you look at the furnace, what you
18 have, you have melted steel and then you have the
19 residues off the metallurgical process which is called
20 slag. And that slag is, in a sense, liquid glass.
21 It's like -- it's like something which has a certain
22 chemical attraction or properties.

23 What is important is that the lining has to
24 be designed the way that this slag, which is in a
25 sense a chemical, will react the least with the

1 lining. And what we found out through the experience
2 and the research is that the two components which are
3 very important for resistance to these slags are
4 magnesia and carbon. And when you combine them
5 together, then you will have the product which will
6 get you the suited performance in that environment.

7 The slag is not in the rest of the furnace.
8 So that means some of the products like Dolomite or
9 alumina magnesia carbon which are not really in a
10 direct contact with the liquid slag, it's only in
11 contact with steel. Steel is not reactive to
12 refractories by itself. Very little. So that means
13 that that's why you seen the different zonings in a
14 furnace and that's why certain refractories cannot be
15 replaced, especially in the slag operations.

16 COMMISSION LANE: Okay, thank you. Can you
17 give me some idea as to how long MCB lasts in a
18 furnace?

19 MR. COPP: It would vary by shock,
20 application and process. You know, as Bill said
21 earlier, it could go -- it could go 400 heats which
22 could be maybe six weeks. In a BOF lining, because
23 they have interjected a new technical practice called
24 slag splashing, they have increased the life of BOF
25 linings significantly over the last 15 years. We

1 probably had about 80 relines available in the U.S. to
2 us in the market for BOF and today we probably have
3 12.

4 And so when I was a salesman in the mid
5 '90s, we were running campaigns and getting record
6 heats at 3,000 heat levels and today they're at 80,000
7 or 60,000.

8 So it's really combined, in a general sense,
9 with the type of steel you're making, the type of
10 practices you have. But does that answer your
11 question?

12 COMMISSIONER LANE: Yes, thank you. And,
13 Madam Chair, thank you.

14 CHAIRMAN OKUN: Commissioner Pearson?

15 COMMISSIONER PEARSON: Thank you, Madam
16 Chairman. Permit me to join my colleagues in
17 welcoming you here today. I found your testimony very
18 interesting.

19 I'm curious to know, how many different
20 types or grades of MCB are there? I mean with some
21 products we think in terms of stock keeping units. Do
22 you count MCB in stock keeping units?

23 MR. BROWN: That's a really good question.
24 If you think about the raw materials that go into an
25 MCB where you have magnesites centered and fused and

1 you have carbon, all different kinds of carbon grades
2 and you have antioxidants, if you did the math on the
3 universe of potential mixed formulations, it runs into
4 the millions.

5 But generally speaking, for example, ladles,
6 maybe mix formulations cover most of the steel plants
7 that we have with a real focus on five or so. We in
8 Resco generally make to order. Our capacity
9 utilization is so low, for reasons we described
10 earlier, that we can react very quickly to customer
11 orders.

12 We've made and shipped a BOF lining in five
13 days from the time we got the order. So we're making
14 to order and we have a program and a strategy of
15 operations in Resco to keep our inventory levels very
16 low.

17 What we see, and I won't speak to A&H or
18 Magnesita, but what we see from importers though is if
19 you think of an MCB that's a higher quality that can
20 be used in place of lower quality MCBs, they can
21 control their inventories by bringing in that higher
22 quality and substituting it for lower qualities. They
23 can't do the opposite though. So I look at that as a
24 scheme or a way for them to control inventories.

25 Pipelines from China are long, 12 to 16

1 weeks. And in order to meet the customer needs, the
2 importer does have to keep significant inventories
3 over here.

4 Does that help in --

5 COMMISSIONER PEARSON: Yes, it does. I'm
6 curious, if you're meeting with a customer to discuss
7 a possible order, do you get involved in a
8 conversation with him suggesting maybe it would make
9 sense to bump up the carbon percentage by half a notch
10 or something because he might get better performance
11 based on what you've seen elsewhere in the industry?

12 MR. BROWN: Absolutely. It's -- you hit on
13 something we struggle with every day. I call it the
14 dog chasing his tail. You have this furnace, whether
15 it's a ladle or a BOF or an electric furnace, and you
16 work with the customer to give him optimum performance
17 based on what his operating strategies are. So there
18 are many tweaks we can do to the brands that are in
19 that furnace and maybe he notices in say a BOF lining
20 that he's getting higher wear in the trunyon area
21 where the vessel rotates and he says I need something
22 that gives me higher strength but is a little more
23 pyro-plastic to take the flex of the shell. So you
24 improve that. That bumps up his heats on that lining.
25 But then he has another area that because he's getting

1 a higher performance, that we need to bump up on the
2 next reline. And the industry, whether it's Resco or
3 RHI or A&H, we would like to take a lot of credit for
4 the increased performance life of BOF linings but it's
5 really of their ability to control their process and
6 give us very specific areas in the furnace where we
7 need to tweak the mixes to give them higher
8 performance.

9 COMMISSIONER PEARSON: So is it correct -- I
10 understand that there's kind of an ongoing
11 conversation between suppliers and customers --

12 MR. BROWN: Never ending. I was a cub
13 salesman in 1975 and we did it then and our guys are
14 out there in the field doing it now.

15 COMMISSIONER PEARSON: With so many possible
16 varieties of MCB that could be manufactured to fit a
17 specific need, is it really fair to describe this as a
18 commodity product? I know you used that term early
19 on. But when you're kind of individually crafting
20 each brick or whatever for the specific need, I mean
21 that seems to me to move a little bit away from what
22 we normally would consider as a commodity product.

23 MR. BROWN: Right, you would think so. But
24 of course all of us are trying to do this at the same
25 time, including the Chinese importers.

1 They have access to as many raw materials
2 and different mix formulations as we do. We as an
3 industry let this become a commodity type product.
4 Where, you know, a purchaser, a good purchaser, is
5 going to have five key points in purchasing and you've
6 probably heard them. Quality, delivery, performance,
7 service and the last one is price. Always the last
8 one is price.

9 And any good purchasing agent will tell you
10 that I never buy on price. However, they go to a
11 school that says you have to level the playing field
12 on the first four so that the only differentiator is
13 price. And that's what we've seen over the last ten
14 years with the import of Chinese.

15 The only differentiator is price.
16 Regardless of the other services that we perform for
17 them.

18 COMMISSIONER PEARSON: But in your
19 conversations with customers, you know, you are trying
20 -- I assume you're trying to persuade them that your
21 product will perform better than the competitor's
22 because you'll make whatever adjustments are needed
23 and that what you can produce for them, custom
24 produce, is different than the Chinese product in
25 inventory; thus, you have some advantage, don't you?

1 MR. BROWN: And that's why we're still able
2 to try -- and do part of the market that we do. And
3 it's not just -- remember I said earlier in my
4 testimony that it's understanding the steel customers
5 production strategies on a shop by shop basis and as
6 we look at how we try to differentiate ourselves, many
7 times it's not the product that differentiates us. We
8 try to differentiate ourselves by service, by being
9 there at 2;00 o'clock on Sunday morning when everyone
10 else is asleep and the customer has a ladle break out.
11 And your buddy is trouble, potentially serious
12 trouble, and you've got to go in and help him resolve
13 whatever problem he has. That's one way that we as a
14 domestic supplier can differentiate ourselves. Even
15 if we can't on price.

16 COMMISSION PEARSON: Mr. Magrath?

17 MR. MAGRATH: Thank you. You know, these
18 guys, the importers in the U.S. industry and Refmex
19 can make hundreds of these mixes. But they all can
20 make comparable products. And I think a real strong
21 evidence of the commoditization of this product in
22 this market is the purchaser questionnaires you got
23 back where a huge, huge majority, practically
24 unanimous, said that there was no difference between
25 the products offered by any of these competitors,

1 except price. And it also said discounts offered, you
2 know, which is price.

3 So that's the definition of a commodity
4 product. Everybody's comparable in quality, service,
5 these other factors. And it's only who has the price
6 that is winning the game.

7 COMMISSIONER PEARSON: Mr. Richter, it's not
8 been my intention to ignore you. Did you have
9 comments at all on the discussion that I've been
10 having with Mr. Brown?

11 MR. RICHTER: Yes, I do. We as a producer --
12 producers, we have a tendency to believe that the
13 products are not commodity and that's what also Mr.
14 Brown was referring to because we were always trying
15 to somehow fit the product, the application. And we
16 believe just fitting the product, appropriate product,
17 into the application will give us advantage over the
18 price.

19 So from our perspective, we don't want
20 really to be a commodity product. However, the
21 pressure from the purchasers, the users as Mr. Magrath
22 said, the commoditization is actually coming from the
23 customers. And they are categorizing the products as
24 a commodity. And I believe that that is -- that is
25 really what is happening. There are, here and there,

1 situations where you have to solve some very unique
2 problem. That's why we have a technical staff and we
3 have research and we have the expertise of the steel
4 making.

5 But overall, the business is driven by
6 commodity type pricing.

7 COMMISSIONER PEARSON: Okay, well, thank you
8 very much. My time has expired.

9 CHAIRMAN OKUN: Commissioner Aranoff.

10 COMMISSIONER ARANOFF: Thank you, Madam
11 Chairman.

12 Mr. Brown, in Respondent's brief they argue
13 that Resco's problems during the period that we're
14 looking at lie with certain acquisitions that were
15 made by the company over the last number of years
16 which added to the cost of doing business. How do you
17 respond to that?

18 MR. BROWN: That's -- I'm very glad you
19 brought that up. I'm not certain where they got their
20 information from. I'll quote what I don't consider to
21 be business proprietary.

22 I mentioned us acquiring National
23 Refractories in 2005, I think I read that. That's
24 erroneous, we acquired them in December of 2002 in a
25 363 bankruptcy case.

1 We acquired inventory, we acquired
2 equipment, we acquired raw materials, we did not
3 acquire any plants. And on a cash basis. Well, we
4 paid for that acquisition within five months.

5 Now, I would say that does not lead one to
6 believe -- and to justify their comment, that
7 acquisitions were a problem.

8 We acquired Worldwide Refractories in
9 December -- or in March of 2006. That's been an
10 excellent acquisition for us, makes Dolomite brick.
11 We are the second leading producer of Dolomite brick
12 in the United States. We have roughly 20 or 30
13 percent of the market share. And that business is
14 profitable for us.

15 We acquired a company called Resco in
16 Wellston, Ohio that made pre-cast shapes. That fit
17 hand in glove with all of our product lines and the
18 performance of that company has been exceptional. We
19 get to see there RHI published financials. And in all
20 cases, the percentage of EBITDA over sales for Resco
21 exceeded any reported financials from RHI over the
22 last five periods. They would be happy to be at the
23 level we are.

24 They talked about us buying United
25 Refractories in 2008 just at the beginning of the

1 downturn. United Refractories was the most profitable
2 refractory company I have ever seen and I've been in
3 the business 45 years.

4 So while there was a downturn, you're
5 starting out at a very high level of profitability for
6 a company. And their profitability level was accreted
7 to Resco, not negative to anything we've been doing.

8 So I would characterize it as being
9 misinformed and we would be very happy to share some
10 of our numbers with you that I think you'll find very
11 interesting in a post hearing brief. We'll be very
12 glad to do it because it's absolutely incorrect for
13 the conclusion they reached and what they filed. I
14 don't know where they got their information.

15 COMMISSIONER ARANOFF: I'd appreciate that
16 and anything that you can add to the record on that
17 would be very welcome.

18 Let me turn to Mr. Copp and Mr. Richter with
19 a different question. During the period of
20 investigation did you come -- either of your companies
21 ever put a customer on allocation, refuse an order,
22 decline to participate in bidding for a specific
23 company or specific mill or any of the other various
24 euphoniums that are used for that sort of thing?

25 MR. COPP: Being in sales I don't think I've

1 ever refused an order or not taken an order. I really
2 can't think of any instances other than the fact that
3 we manage our business, we try to manage our cash
4 flow. There has been times when, you know, customers
5 haven't paid us and we've had to do some things to
6 make sure that we don't continue our risk with
7 shipping products until we get our --

8 COMMISSIONER ARANOFF: All right, okay, let's
9 put that aside. And it's more because you didn't have
10 enough capacity to meet demand or some reason not
11 having to do with a payment risk.

12 MR. COPP: Not that I know of. We wouldn't
13 put anyone on allocations for any reasons other than a
14 business reason.

15 COMMISSIONER ARANOFF: So even when the steel
16 industry was going gang busters in late 2007 and the
17 first part of 2008, you were meeting every order that
18 came in the door or able to meet every order that was
19 --

20 MR. COPP: To my knowledge, yes.

21 COMMISSIONER ARANOFF: Okay. Mr. Richter?

22 MR. RICHTER: We did not.

23 COMMISSIONER ARANOFF: Okay. From the way
24 that a lot of your have described MCB as being sort of
25 the high end refractory brick product, have you ever

1 thought about why there isn't import competition or
2 significant import competition in some of the other
3 refractory products that you produce? Is there a
4 reason for that that I'm missing?

5 MR. BROWN: If you look at the MCB, this is
6 kind of the highest value added that -- in the
7 refractory chain. And -- especially in the steel
8 industry. And I think quite frankly the importers
9 from China and Mexico went after that part of the
10 market first.

11 There is other -- there are other products.
12 The second product in a ladle is of a quality just
13 under the MCBs and it's called alumina magnesia
14 carbon. We have a lot of those imports coming into
15 the United States. They tend to be a little lower in
16 value, but Chinese importers, including RHI and
17 Vesuvius, have shipped significant volumes here.

18 Once you get past some of the higher priced
19 material, freight, as a percentage of the overall
20 cost, becomes higher and less attractive for an
21 exporter for Chinese.

22 COMMISSIONER ARANOFF: Okay, that makes
23 sense, thank you. Mr. Secretary, my clock says I have
24 three minutes and my light is red. Which is correct?

25 MR. BISHOP: You have three minutes

1 remaining.

2 COMMISSIONER ARANOFF: Thank you. Why don't
3 you check that before I ask another question?

4 I have a follow up on a question that
5 Commissioner Pinkert was asking in his last round. He
6 had talked about this issue of the ability of a
7 Mexican producer to substitute for Chinese production
8 in the event that the Commission were to make an
9 affirmative finding only with respect to China.

10 I was going to ask the parties if you would
11 each, for purposes of post hearing -- I like to
12 visualize things kind of in one chart that shows me
13 everything on this point. And I'm curious about, you
14 know, the relative size of either existing excess
15 capacity or existing total capacity of the Mexican
16 producer versus the same for the related Chinese
17 producer to the extent that we know, or the Chinese
18 industry as a whole. Just so that I can see those
19 various percentages of how much of Chinese production
20 could possibly be replaced based on either the excess
21 capacity of the Mexican producer or even the entire
22 capacity of the Mexican producer and any information
23 that people want to add on the relative ease or lack
24 thereof of expanding capacity at of the Mexican
25 producer within what we look at as the imminent time

1 frame. I think I heard some testimony regarding, you
2 know, six to nine months, which is probably in the
3 ball park of what we might look at.

4 So I invite both sides to kind of lay those
5 numbers out and whatever we know about them. That
6 would be very helpful.

7 MR. MAGRATH: Can I make one very quick
8 comment?

9 COMMISSIONER ARANOFF: Sure.

10 MR. MAGRATH: In making your response to
11 that, Gentlemen, don't forget to throw in RHI's
12 capacity in Canada, which could also be moved into add
13 to the capacity of Mexico.

14 COMMISSIONER ARANOFF: Okay, fair enough.
15 And I think one of the witnesses who was testifying
16 was saying, you know, it's cheaper to ship product by
17 ocean freight from China to Mexico than it is to truck
18 product from Mexico to the United States. I'm not
19 sure whether that helps or hurts the argument because
20 if you have to do both you have to pay both costs. So
21 they're relative.

22 So if you wanted to sort of look at the
23 relative versus additive costs issue on that, too, I
24 think that also goes to this issue of how much
25 shifting we could practically see. Anything, thank

1 you in advance for answering that question. And since
2 my time is up, I'll wait till the next round, thank
3 you.

4 CHAIRMAN OKUN: Commissioner Williamson?

5 COMMISSIONER WILLIAMSON: Thank you, Madam
6 Chairman. In your post hearing submissions could you
7 respond to the argument regarding regional sales that
8 RHI presented in his prehearing brief on page 13 and
9 exhibit 4? So if you each could take a look at that
10 and respond post hearing.

11 There's been discussion already about this
12 growing trend in the industry to price refractories
13 according to the quantity of steel produced and what I
14 was wondering about, what share of your total sales
15 now do you think are -- can you attribute to using
16 these sort of alternative pricing methods? I mean, as
17 I said, the quantity of steel produced -- if I can
18 think of some other -- priced on the cost per heat or
19 cost per ton of steel basis, things like that.

20 MS. MAZARD: I'll respond to that in our post
21 hearing brief.

22 COMMISSIONER WILLIAMSON: Okay, thank you.

23 And in particular -- also what share of your
24 sales included installations?

25 MS. MAZARD: We'll respond to that in our

1 post hearing brief as well.

2 COMMISSIONER WILLIAMSON: Okay. Then I guess
3 the final question -- we can do it now or later, how
4 should we take all of these different pricing
5 arrangements into consideration in doing a price
6 comparison in this case?

7 MS. MAZARD: We'll do that then.

8 COMMISSIONER WILLIAMSON: Okay, thank you.
9 How common are refractory failures? And I
10 guess it might depend on the type of furnace, too, I
11 imagine.

12 MR. BROWN: Refractory failures are not
13 common, although when there are failures they're
14 extremely traumatic, including the potential loss of
15 life, loss of equipment. Rick can help me with this,
16 but the former Ruse Steel just had a ladle over their
17 caster get stuck in the open position and basically
18 burned up their caster and 200 tons of liquid steel
19 came out, went all over the caster. I don't think
20 anybody was hurt, but that was within the last three
21 months.

22 But generally in a steel making shop you're
23 trying to make sure you never have a failure like
24 that. It can be costly, shut down production, injure
25 people.

1 COMMISSIONER WILLIAMSON: I was going to ask
2 you how costly are they, but I guess you're saying
3 their --

4 MR. BROWN: Oh, quite costly. I remember ten
5 years ago we had a failure and it was \$200 million.
6 It burnt down the whole caster.

7 COMMISSIONER WILLIAMSON: Okay, Mr. Magrath?

8 MR. MAGRATH: Commissioner Williamson, I
9 think this is what Commissioner Lane was trying to get
10 to about the safety issues. If you use, you know,
11 according to my knowledge from Mr. Brown, if you use
12 an inferior brick at the slag line instead of an MCB,
13 you could do it but that inferior brick burns through
14 the lining at a much faster rate. So you're faced
15 with a situation of, you know, being called on the
16 midnight shift to say that it's totally -- that it's
17 burned through and that it contacted the steel furnace
18 and that there was major damage done, explosions and
19 things.

20 So that's what I think she was getting to by
21 the safety issue. And that's how we should have
22 answered.

23 COMMISSIONER WILLIAMSON: Okay, thank you.
24 In a post hearing brief could you comment on the RHI
25 statements regarding loss sales allegations in their

1 prehearing brief at pages 41 to 43, so if you could
2 just take a look at their comments there and just
3 respond to that? I'd appreciate it.

4 Mr. Brown, you stated that several large
5 importers stopped importing following the filing of
6 the petitions in these investigations. Either now or
7 post hearing, could you identify these importers and
8 where they sourced their imports from before and after
9 the filing of the petition?

10 MR. BROWN: Yes, we will do that.

11 COMMISSIONER WILLIAMSON: And also any
12 indication of why they stopped importing, that also
13 would be helpful. Thank you. I was also wondering if
14 post hearing the petitioners could comment on the
15 projections for Mexican home market sales on -- this
16 is on Table 7-2 of the staff report and the
17 projections for 2010 and 2011. I just wanted your
18 comments on those projections. I think that's all the
19 questions I have for now, thank you.

20 CHAIRMAN OKUN: Commissioner Pinkert?

21 COMMISSIONER PINKERT: I just have a few
22 followup questions. Turning to this critical
23 circumstances allegations, why should we not use the
24 normal period that we use in analyzing the component
25 parts of the critical circumstances test.

1 MS. MAZARD: We can respond to that in our
2 post hearing brief.

3 COMMISSIONER PINKERT: Thank you. Now, this
4 next question doesn't have any necessary connection
5 with my first question but I want to ask the company
6 witnesses to give me some sense of the impact of the
7 filing of the petition on the market place in the
8 United States versus the impact of the preliminary
9 commerce determination, where you had provisional
10 measures and requirements upon importation of the
11 subject goods. Can you give me some sense of the
12 relative magnitudes of the impact?

13 MR. BROWN: Sure, I'll start and then ask
14 Rick and Tom to make their comments. The filing of
15 the case almost immediately sent a -- not a ripple but
16 a huge wave through the steel industry. They're
17 sitting out there knowing they're getting dumped MCBs
18 and that by filing the case they're going to have to
19 pay higher prices in the future. It was almost
20 immediate that customers began to recognize that this
21 was going to be an issue.

22 There were also a group of customers that
23 somewhat ignored it because they knew they were going
24 to have huge inventories on the water in short order
25 from various importers, including RHI, to cover their

1 requirements during the investigative period. So we
2 have one group of customers that almost panics the day
3 the thing is filed, because they know the answer. And
4 the answer is, we're getting dumped MCB here and we
5 immediately heard from them. We need to get a
6 domestic supplier.

7 Others it's taken a little longer. But I
8 think by the end of December there was no question in
9 any of the importer's minds that they were up against
10 a major problem here.

11 Now remember the reason there was a delay in
12 the preliminary determination was weather related. If
13 you remember it was all the snow we had in Washington.
14 It was postponed from, what, December to one date and
15 then maybe another date.

16 But during that time we saw more and more
17 concern from our customers about how this would impact
18 them.

19 Rick, could you add to that?

20 COMMISSIONER PINKERT: Mr. Copp?

21 MR. COPP: Also there were a lot of
22 inventories in the states from importers and
23 especially in -- I would say in the month of December,
24 inventory significantly increased to some accounts to
25 have six to nine to twelve months supply on the

1 ground.

2 I think at the time in March when the
3 preliminary ruling was made of what was going to come
4 out with the dumping duties, that some companies
5 really realized that they had to get other people
6 involved in their shop. Those are some of the
7 questions we've answered and tested to make sure that
8 they had other suppliers that they could put in their
9 furnaces.

10 And so we saw -- we saw some of that happen.
11 As Bill said, some panic from customers that have used
12 import for some long, having to look at alternate
13 sources.

14 COMMISSIONER PINKERT: Now again looking at
15 this sequence of periods, and I'm looking specifically
16 at first half 2009, second half 2009 and then the
17 first quarter of 2010. Is there reason to expect that
18 the financial performance of the domestic industry
19 would continue to improve into the first quarter of
20 2010 to an even greater degree than it had improved
21 previously? Is that a kind of building impact of the
22 petition and the preliminary determination, Mr.
23 Magrath?

24 MR. MAGRATH: Yes, it is. Yes, it is
25 definitely. There are two points in A&H, Mr. Richter

1 may address one of those. The other point is this
2 bringing in of these inventories. These gentlemen
3 have large inventories, these gentlemen have just
4 talked about and the working through of those
5 inventories while the importers try to find some other
6 source.

7 Those inventories in the first quarter of
8 2010 were getting pretty threadbare and U.S. producers
9 -- and don't forget one of the largest -- one of the
10 importers that was doing this was A&H. And as these
11 inventories were worked through, the U.S. could
12 replace more and more of those orders. And as you
13 see, the market share of imports really took -- the
14 only significant drop in the first quarter of -- this
15 latest quarter, January/March.

16 COMMISSIONER PINKERT: Well, what would your
17 outlook be assuming that the border measures continued
18 to be in effect in the imminent future, what would
19 your outlook be for the financial performance of the
20 domestic industry in the next couple of quarters?

21 MR. MAGRATH: It would improve. And, you
22 know, unless you have a cataclysmic demand situation
23 like the fall of 2008. I suppose. But even there,
24 you know, these gentlemen have testified that when
25 you've got to reline your furnace or ladle, you've got

1 to reline your furnace and ladle. And so I think they
2 could -- I think they could pick up significant
3 business. I mean it's really a zero -- you know,
4 there are no non-subject imports to speak of.

5 They have a lot of unused capacity so
6 they're going to start fighting each other and there's
7 going to be price competition among the three of them.
8 So, you know, it's not going to be a monopoly
9 situation. But I think they'll do very well in -- if
10 the Commission should vote affirmative.

11 COMMISSIONER PINKERT: Mr. Brown, do you want
12 to add to that?

13 MR. BROWN: Well, you have to recognize that
14 our cost control measures are still in effect at
15 Hammond and while we could be the beneficiary of
16 improved profits, I want to give these guys back their
17 salaries. I want to give them back a 40-hour work
18 week. I want to give them back their retirement. I
19 want to give them enough food to put on their tables
20 on Friday night so they can feed their families.

21 So part of the increase in profitability, if
22 it's out there, will go to bringing the plant back to
23 some normal, whatever normal is in these times, or
24 typical compensation, similar to what they've had in
25 the past.

1 So while I think there may be a basis to
2 suggest that we will perform better, I think that
3 would be offset by bringing back benefits and
4 compensation to levels that were in place before we
5 had the impact of imports on us in 2007 and 2008.

6 COMMISSIONER PINKERT: Mr. Richter, do you
7 have anything to add?

8 MR. RICHTER: Certainly. I think that the
9 impact certainly will be very positive. We will keep
10 the employment at White Cloud. I think that the steel
11 business unit would then likely be able to hire more
12 supporting personnel to support the business. So I
13 think that definitely the impact is good from the
14 financial perspective as well from the employment
15 perspective.

16 COMMISSIONER PINKERT: Thank you. Dr.
17 Magrath, for the post hearing, could you comment on
18 RHI's income statement model and give us your view of
19 the assumptions behind that model?

20 MR. MAGRATH: Yes, sir.

21 COMMISSIONER PINKERT: Thank you. And also
22 for the post hearing, for purposes of threat, RHI
23 claims that it can't abandon its home market customers
24 to serve U.S. customers. If there's anything that you
25 can do to help us to understand that claim and what to

1 make of it, that would be helpful, too. Thank you
2 very much.

3 CHAIRMAN OKUN: Let's see, from the
4 producers, and Dr. Magrath also could comment as well,
5 in terms of demand in the imminent future, what you
6 see now and what you see in the imminent future demand
7 for your product, what are your projections and what
8 would you look at most closely when you're making that
9 projection?

10 MR. BROWN: Well, the single greatest impact
11 is what happens with steel production. And steel
12 production has certain drivers, as I know you've heard
13 from our friends in the steel industry. Automobile
14 production, consumer durables, commercial
15 construction, home -- new home construction, steel
16 service centers. As you know, they take a lot of the
17 steel production. I really rely on what our steel
18 customers are telling us. One of my good friends Tom
19 Donjczek recently spoke at a TRI function and said the
20 steel manufacturers association was looking for
21 recovery. Recovery meaning typical steel production
22 which is -- might be 100 million tons in 2013. I've
23 heard U.S. Steel make predictions that their full
24 recovery won't come until the end of '12 or '13. I
25 think they've made those statements to investors.

1 At this moment, this guy would be very, very
2 happy if steel production in the second half of '10
3 equaled steel production in the first half.

4 I don't think we're going to have a double-
5 dip recession but I think they kind of giddiness that
6 the steel industry went through the first quarter by
7 bringing on the additional plants was a little too
8 early.

9 We've seen some declines already, Sparrow's
10 Point's shut down a blast furnace lining, they're
11 transferring some production to Warren. So for '10,
12 my prediction is we'll be at this same level or lower
13 for the rest of the year. And quite frankly until we
14 start generating jobs in this economy, I don't see a
15 lot of recovery in '11. I think we're in for a pretty
16 tough road the next 15 months. But what do I know,
17 I'm just a brick salesman, you know.

18 CHAIRMAN OKUN: You haven't actually shown us
19 your brick. Is it too heavy to bring up here? We
20 could have someone bring your product up. I'll ask
21 the secretary to do that when we're done.

22 Before I turn to Mr. Richter on that, have
23 you had any impact on your order books in terms of
24 contracts, any customers pulling back on contracts or
25 other orders?

1 MR. BROWN: You'll see a slight decrease in
2 the last four weeks. We're -- and it's affected our
3 order book for all products related to use in the
4 steel industry. So we're seeing, you know, I'm
5 predicting a tough second half.

6 CHAIRMAN OKUN: Okay, so for posthearing if
7 there's any additional information with respect
8 specifically to order books for this product that you
9 could provide I'd appreciate seeing that as well.

10 MR. BROWN: Sure.

11 CHAIRMAN OKUN: Mr. Richter? If you can
12 turn your mic on.

13 MR. RICHTER: Okay. You were asking about
14 the trends?

15 CHAIRMAN OKUN: Yes, demand trends.

16 MR. RICHTER: Okay. Refractory industry is
17 extremely closely linked with the U.S. steel industry.
18 So that means that whatever trends the steel industry
19 is predicting, they will go, we will follow. Now they
20 were many times wrong about their trends, and right
21 now what Mr. Brown also testified that they see,
22 according to the SMI, the recovery of 2012, 2013.
23 However, I remember some analysis on the individual
24 sectors of the steel, automotive industry and housing
25 which are two relatively large segments of the steel

1 market, but they predict that some of these markets
2 will never recover to the level which was in 2008.

3 So I don't know exactly how everything will
4 work out. I think that there will be also a big
5 influence on the steel and health of the U.S. steel
6 industry on the shoulders of this committee, because
7 there were cases in the past for limiting imports of
8 steel into United States and I think there may be some
9 open cases, okay. And if the steel industry will be
10 allowed to let less imports go into the United States,
11 then of course the production of the United States
12 will increase.

13 I mean if you look at the statistics,
14 historically there is about 30 million tons of steel
15 imported into United States. We do export but we do
16 import. For the import portion, there are reason for
17 it. I mean it's a free market, okay, and the other
18 thing is that there is, there's always, you know, a
19 portion of the market historically which was for
20 imports. If those imports for good reasons will be
21 limited then I think domestic production can increase.

22 CHAIRMAN OKUN: What about more, just
23 looking more at your, you're talking about the '12,
24 the '13, the long term forecast. What about your
25 order books for the rest of '10 going into '11, do you

1 see any changes from, coming from customers?

2 MR. RICHTER: Actually July slowed down. I
3 think the books in July slowed down. I cannot call, I
4 don't seen the numbers that closely, you know, what
5 are the backlogs, but I would say -- we can probably
6 supply the data, I don't know.

7 CHAIRMAN OKUN: Okay. If you could do that
8 posthearing that would be great. Dr. Magrath?

9 MR. MAGRATH: Thank you. I think what
10 everybody is sort of may forgetting in this situation
11 is that if this Commission agrees, much of the volume
12 or some significant part of the volume I would assume
13 from China and Mexico will be cut back because of
14 these draconian duties. They will pick up a lot of
15 business when, with the imports leaving the market.
16 As we've said in our brief and in testimonies --

17 CHAIRMAN OKUN: Right, but, Dr. Magrath,
18 again my question was much more specific to, you know,
19 the steel drivers of which these respond, I mean
20 again, whether the order is in place or not was I
21 think Commissioner Pinkert's question, so it's
22 slightly different. Ms. Mazard, and you can do this,
23 expand on this posthearing, but I wanted to make sure
24 I understood your legal argument with regard to post-
25 petition. Are you making the argument that the

1 Commission should discount post-petition data as the
2 statute allows us to do in improvements in the
3 industry's condition?

4 MS. MAZARD: No I'm not.

5 CHAIRMAN OKUN: Okay.

6 MS. MAZARD: And I'll expand on that
7 posthearing.

8 CHAIRMAN OKUN: Okay, if you can expand on
9 that, that would be great. And then let's see, I had
10 one follow up on a legal issue but I can't remember it
11 right this second so I'll look back through my notes
12 and in the mean time I'll turn to Commissioner Lane.

13 COMMISSIONER LANE: I have no further
14 questions, and I would like to thank this panel for
15 their answers. Thank you.

16 CHAIRMAN OKUN: Commissioner Pearson.

17 COMMISSIONER PEARSON: Well I have questions
18 but I'm not sure that I'm organized right now. It was
19 mentioned some time ago that MCB at times is used as a
20 loss leader in a package of refractories. If so, how
21 should we interpret our pricing data? I mean this is
22 a different situation, this may be for Dr. Magrath,
23 but this is a different situation than we see in some
24 other cases. Should we have doubts about the accuracy
25 of our price comparisons in the pricing products?

1 MR. MAGRATH: Well no, I don't think you
2 should. What we're simply saying by that is that in
3 these package deals, and as Mr. Richter testified
4 there is also the pressure of these low import prices,
5 and whether it's a, you know, make it and ship it
6 product or it's part of these projects, there's going
7 to be that pressure that you've got to go down in
8 price or that you've got to give up the sale. So I
9 think the pricing comparisons are accurate.

10 COMMISSIONER PEARSON: Do only importers use
11 the practice of putting together a package and then
12 offering a loss leader price on MCBs or is that
13 something that the domestic industry also does?

14 MR. BROWN: Resco has participated in these
15 programs and as an active participant now of a steel
16 plant that we have a cost per ton program on was
17 actually shut down for all of 2009 so there's no data
18 on it. It started back in March of '10. You know,
19 our experience has been that margins on these kinds of
20 programs are lower not higher than direct sales of
21 individual products, and that's one of the reasons
22 Resco is not involved in them. I'd let Tom comment on
23 ANH.

24 MR. RICHTER: Well, I'm struggling with the
25 terminology of loss leaders because we don't use that

1 type of terminology in our organization. So I'm just
2 trying to guess what you mean by "loss leader".

3 COMMISSIONER PEARSON: Well it was a term
4 that was used earlier in the hearing, so it wasn't my
5 term either. I wrote it down and --

6 MR. RICHTER: Well it wasn't my term either,
7 but what I think I can suspect what Resco means is
8 that if you go in to the package deals then you use
9 the MCB as a part of the package and you may lose in
10 that package, am I interpreting that correctly?

11 MR. MAGRATH: Commissioner Pearson, if
12 you'll excuse me, it's my term. And I used to
13 describe after conversations with Resco and the U.S.
14 industry that in these package deals typically the MCB
15 element is 30 to 40 percent, it's the most important
16 single element. That is the area in which the Chinese
17 are importing all this product and have these low
18 prices. So when RHI goes in they are, and when the
19 domestic producers go in, if they are going to cut
20 their prices to get the sale or they're going to take
21 a low profit on something, it's going to be that MCB
22 component.

23 MR. RICHTER: Well, okay, well --

24 COMMISSIONER PEARSON: Mr. Richter, yes.

25 MR. RICHTER: Let me clarify our situation

1 on, this is related to the project sales, okay? We
2 don't sell MCBs in project sales, we don't sell MCBs
3 in project sales. We ship MCBs and we manufacture
4 MCBs which go into the project sales. That means that
5 they are part of our cost component when we are
6 putting together our product. The final product which
7 we sell is not MCB.

8 What we do sell is either refractory service
9 management or we sell full line supply, which has all
10 of these components that I think I've mentioned
11 several times in this hearing. So that's why we
12 cannot identify if they're loss leader or whatever
13 profitability they have because we don't sell them.
14 The product which we sell is a different product.

15 COMMISSIONER PEARSON: Interestingly that
16 gets back to my original question about what does it
17 mean for our pricing product data when we have things
18 sold as a package and not as individual items. We did
19 not put out a request for, you know, we didn't define
20 a pricing product as a complete set of brick and
21 installation to rely on a ladle. Perhaps we should
22 have, but, Dr. Magrath, you might have to address this
23 in the posthearing, people might have more to say now,
24 but I'm not familiar with this specific situation in
25 previous Commission work and so I'm a little bit

1 uncertain where we should go.

2 MR. MAGRATH: ANH's prices, project prices,
3 are not in the pricing data to our understanding.

4 COMMISSIONER PEARSON: Oh, well then that's
5 a way to deal with it, isn't it? I don't know whether
6 this is something you would say in public or else for
7 the posthearing, but can you give me some sense of the
8 percentage of your refractory sales or MCB sales in
9 particular that might be handled as part of packages
10 rather than as an individual sales item?

11 MS. MAZARD: We'll handle all of that in the
12 posthearing brief.

13 MR. RICHTER: Was this question to me?

14 COMMISSIONER PEARSON: Yes, the question's
15 to you.

16 MR. RICHTER: Okay.

17 MR. MAGRATH: And just to say that I didn't
18 make up this term, I mean it's Resco's position they
19 have participated in these kinds of things for years
20 and that that is, you know, typically the way it works
21 and that these projects typically have a lower return
22 than just the, you know, make it and sell it MCB
23 products.

24 COMMISSIONER PEARSON: Okay, well this is
25 something that I think we can talk about now because I

1 don't think it would be terribly sensitive. What
2 motivates a steel mill either to contract out the
3 installation of the refractory or have it done by
4 their own employees? Because I assume that's a choice
5 that a mill would make. Mr. Richter?

6 MR. RICHTER: I can comment because we do
7 have several contracts where we do have labor as a
8 part of the contract. There are two reasons, okay?
9 One reason is that they try to cut certain portion of
10 their costs, and as a part of the cost they see their
11 labor internal as not efficient to do the required
12 installations which they want to do. So in that case
13 they ask the supplier to bid on labor, and then the
14 customer makes their own judgment if that is
15 profitable or if it makes sense for them. Sometimes
16 the union, I would say, restrictions would not allow
17 you to do that, but sometimes it does. So that's the
18 main reason.

19 The second reason is that they want a
20 complete, they are giving the complete control of the
21 fleet to the supplier and then they want all of the
22 responsibilities also to go with the supplier because
23 the industry, steel industry's changing from the
24 perspective that there's a lot of exodus of the
25 experience, many times, experience which is associated

1 with the installation of refractories and management
2 of refractories. So they are giving it more of a
3 subcontracting, that type of expertise to us.

4 COMMISSIONER PEARSON: Okay. And would it
5 be reasonable to assume that it takes some time to
6 develop the skills required to install a refractory in
7 a competent way? It's not something I could go out
8 and do next week, for instance?

9 MR. RICHTER: It requires commitment and
10 understanding what are the components of the entire
11 package, yes.

12 COMMISSIONER PEARSON: And is it fair to
13 assume that importers as well as domestic producers
14 will provide installation services?

15 MR. RICHTER: They could. They could.
16 There are instances where the customers are bidding
17 the entire package out, and then whoever feels
18 comfortable that they can bid on an entire package
19 then they will put together a proposal. If the
20 importer would feel qualified to do and bid on a
21 package they can do that.

22 COMMISSIONER PEARSON: But --

23 MS. MAZARD: Commissioner Pearson, can I
24 refer you to these two charts up here? You'll see
25 that an importer like RHI, they want to gain market

1 share in this FLS business, they do FLS work also in
2 their steel division, they want to shift from products
3 to solutions. So importers as well as the domestic
4 industry do offer these full line services.

5 COMMISSIONER PEARSON: Okay, well thank you.
6 Madam Chairman, my time's expiring.

7 CHAIRMAN OKUN: Commissioner Aranoff.

8 COMMISSIONER ARANOFF: I do have a bunch of
9 questions which hopefully are short for posthearing,
10 but maybe not. Mr. Brown testified at length about
11 all the cost cutting measures that Resco has taken,
12 particularly starting in 2008, and that these are what
13 may have kept the company profitable at a time when it
14 otherwise would not have been. Now in general the
15 Commission looks on cost cutting as a sign of, you
16 know, strength and competitiveness of an industry.
17 You want, most American manufacturers want to be
18 constantly cutting their costs as a way of improving.
19 Can you distinguish for us in terms of the cost
20 cutting measures that you've taken which might fall
21 into that category of improving productivity in a
22 positive way versus ones that, you know, and I assume
23 you would put cutting employee salaries and benefits
24 in this category, that don't necessarily fall in that
25 category?

1 MR. BROWN: Yeah, that's a good distinction
2 by the way. We're always looking at ways to cut our
3 costs by becoming more efficient, installing
4 equipment, spending CapEx and so forth. At the
5 Hammond plant, the cost cutting was, had no relation
6 to production efficiencies that might be achieved. We
7 had to find a way to reduce our costs to try to
8 compete against these low priced imports from RHI and
9 Mexico and the Chinese.

10 So as I talk about those costs, I don't
11 think you would ever cut salaries 20 percent, or
12 actually 27 and a half percent at the plant, and
13 assume that that's an efficiency gain. You reduce the
14 number of hours worked, you work a four-day work week.
15 But over the long run we're not going to be able to
16 retain employees if the outlook is those measures
17 don't go away. We'll lose them to other industries.

18 COMMISSIONER ARANOFF: Okay, thank you for
19 that clarification. Mr. Richter, and you may want to
20 answer this posthearing, to what extent is the fact
21 that your company is in bankruptcy proceedings, could
22 that be shielding the company from costs that it would
23 otherwise bear or having an effect on its
24 profitability and ability to maintain profitability?

25 MR. RICHTER: I'm not the lawyer, I really

1 don't know if there are any implications of any
2 advantage being in a bankruptcy. I think usually
3 there's a lot of disadvantages being in a bankruptcy
4 from the market perspective and the customer base
5 perspective. So that is probably the negative portion
6 to being in bankruptcy. But if there are associated
7 benefits, I mean we have to consult with the, I don't
8 have that knowledge.

9 COMMISSIONER ARANOFF: Okay. If you could
10 answer that posthearing that would be helpful.
11 Another question for posthearing, and I'll just throw
12 this out there generally, it would take too much time
13 to discuss it now but I would like both sides to
14 respond to it. I made a negative preliminary
15 determination in this case with respect to Mexico as
16 did two of my colleagues, and we relied on a few, a
17 list of not too many specific facts in reaching that
18 determination. If you could go back and look at those
19 and tell us whether any of the things that we
20 specifically relied on in reaching that negative
21 determination have now changed based on the record
22 that we have in the final phase, that would be very
23 helpful.

24 Okay, next question. I'm looking at the
25 issue of the lag times for deliveries from Mexico or

1 China relative to from domestic production, and one of
2 the questions that I have is, and you may need to
3 answer this for different kinds of projects, how much
4 advanced notice do purchasers usually give when
5 they're putting something out to bid for a reline
6 project? Is this, you know, deliver next week,
7 deliver in three months, deliver in six months? Is
8 there a typical time period or is it all over the
9 place? Mr. Copp?

10 MR. COPP: There really is no typical time
11 frame, it's all over the place. In ladles a lot of
12 times you're doing trials, you're bringing material
13 in, deliveries can range from as Bill said 10 to 12
14 weeks from China. Domestically they can be produced
15 fairly quickly and responded to. But there is really
16 it's kind of all over the map.

17 COMMISSIONER ARANOFF: Does the amount of
18 notice affect the ability of subject producers to
19 compete for sales or are they competing always out of
20 U.S. inventories?

21 MR. COPP: Are they competing excuse me?

22 COMMISSIONER ARANOFF: If a job is put up
23 for bid for a reline and there might be a short time
24 or a long time, can Chinese or Mexican producers
25 compete by shipping a product from the factory or do

1 they have to have inventories on the ground in the
2 U.S. to be competitive because of the lag time?

3 MR. COPP: Typically for furnish relines
4 they're doing it in a schedule period of time so they
5 can react, you know, for two months out or three
6 months out. There are a lot of inventories on the
7 ground where they can, as Bill kind of said earlier,
8 they could probably sell a higher end product that's
9 needed in a short period of time for the installation
10 until they get the chain working as far as, you know,
11 the line of brick coming in from Mexico or China.

12 COMMISSIONER ARANOFF: I wonder because
13 people have testified today that there's a fair range
14 of chemistries that you can put into brick depending
15 on what will work best for a particular customer and
16 their application. When importers hold inventories,
17 and I hope Respondents will answer this question too,
18 are they holding inventories of the most common types
19 that their existing customers would order and how does
20 that affect their ability to compete for new business
21 on a quick turnaround basis? Anyone on this panel
22 have experience with that? Mr. Richter?

23 MR. RICHTER: This goes back to your
24 original question with the bidding process and how
25 much time suppliers have. The installation is not the

1 project by itself, okay, that means that you don't
2 manufacture and ship particular projects. When you
3 get a business in a steel mill you will get the
4 business to supply on a continuous basis either the
5 ladles or the electric furnace. So that means that
6 then you can manage your supply requirements and then
7 you are building your inventory appropriately to the
8 demand from the steel, from the steel customer.

9 COMMISSIONER ARANOFF: Okay, thank you. Two
10 more quick questions. The issue came up of
11 commingling bricks from different sources and when
12 that might or might not happen. I believe that the
13 evidence in the staff report suggests that while this
14 happens maybe when someone is switching suppliers or
15 when they're, well I'm not sure when else, that it
16 tends to be rare. Would you agree that that's the
17 case, that it tends to be rare to mix bricks from two
18 different suppliers in the same application at more or
19 less the same time or in the way that they're stored
20 or used? And if so, why?

21 MR. COPP: No it's not rare to have two
22 different suppliers. What we find is no one will
23 really want to go with one supplier in case something
24 happens to one supplier. They typically, steel mills
25 will typically try to differentiate two suppliers so

1 that you have all your product in one ladle and they
2 have all theirs in another ladle, so if something does
3 happen, if there is performance issues, or if there's
4 performance increases, it's to that one product, then
5 there's no argument to --

6 COMMISSIONER ARANOFF: Okay, so it's a
7 traceability issue. And just so I'm sure what you're
8 saying, you're saying you would typically have two
9 suppliers for ladle applications but you wouldn't put
10 their brick all in one pile and then indiscriminately
11 put it in different, you know exactly whose brick is
12 in which ladle?

13 MR. COPP: Yeah, you would put all your
14 brick into one ladle.

15 COMMISSIONER ARANOFF: Okay. Okay, thanks.
16 And I think I have one final question, and this would
17 be for posthearing for Resco. In your response to the
18 Commission's request to describe anticipated negative
19 effects in the future from subject imports you discuss
20 certain amended contractual agreement and reference
21 generally the reason for its amendment. To the extent
22 that you can, can you provide us with a more detailed
23 discussion of this situation posthearing?

24 MS. MAZARD: We will do so.

25 COMMISSIONER ARANOFF: Okay, thank you very

1 much. With that I don't have any further questions
2 and I do want to thank all the witnesses very much for
3 your answers.

4 CHAIRMAN OKUN: Commissioner Williamson.

5 COMMISSIONER WILLIAMSON: Thank you. I just
6 had one question. In the earlier discussion about the
7 fact that demand for steel drives the demand for the
8 MCBs, I was just wondering is there a lag? So if
9 steel demand goes up do you immediately get an
10 increase in MCB demand or is it, you know, a month
11 lag?

12 MR. BROWN: It's almost immediate. If steel
13 production at the shop's making 200 heats a week and
14 they make 250 and you've got 40 heats per ladle that
15 means you're going to have an immediate increase in
16 MCB requirements. It's almost a straight line
17 reaction, although I'm referring mainly to ladle brick
18 when I say that. BOFs are a little different, there's
19 a lag there simply because they get so many more heats
20 on BOF linings. And electric furnaces fall somewhere
21 in between. But we're truly consumable, if steel
22 production picks up there should be an increase in
23 consumption of MCBs.

24 COMMISSIONER WILLIAMSON: Good, thank you.
25 And with that I have no further questions and I want

1 to thank the witnesses for testimony.

2 CHAIRMAN OKUN: Commissioner Pinkert.

3 COMMISSIONER PINKERT: I just have one or
4 two additional questions. One of the allegations made
5 in the Respondent's brief is that competition with
6 Mexican imports is attenuated because of the region
7 that those Mexican imports are specific to. Can you
8 comment on that argument? Does it make sense in terms
9 of your understanding of the marketplace?

10 MR. MAGRATH: Did you address that to
11 anybody?

12 COMMISSIONER PINKERT: Well, Dr. Magrath,
13 you can take a shot at it and then anybody else on the
14 panel.

15 MR. MAGRATH: Okay, they made that
16 allegation, the purchasers were asked about that, and
17 I think the purchasers gave a pretty clear answer.
18 Mr. Richter has told me that RefMex brick is in
19 Illinois. So that's the heart of the steel belt. He
20 can perhaps or Mr. Brown can provide details. But the
21 purchasers are very clear on this.

22 COMMISSIONER PINKERT: Thank you.

23 MR. BROWN: Yeah, I'd like to just provide a
24 comment. In regards to the pipeline, we talked about
25 a very long pipeline from China. The pipeline from

1 Mexico is a matter of days, not weeks, because of the
2 location of the plant at Monterey which is very close
3 to the U.S. border. You can get truckloads of mag
4 carbon brick to Hammond in a six, seven-day period.
5 We've seen RefMex brick, unlike what was reported in
6 the prehearing brief, we've seen them in the Midwest
7 and into the heart of the steel making country as was
8 just described.

9 COMMISSIONER PINKERT: Mr. Richter?

10 MR. RICHTER: We see Mexican brought in at
11 Illinois. That's the south which was reported as a
12 limited market.

13 COMMISSIONER PINKERT: Perhaps for the
14 posthearing if you could supply any additional
15 information that would help to verify that, that would
16 be very helpful. And with that I have no further
17 questions. Thank you to the panel, and I look forward
18 to the posthearing submissions.

19 CHAIRMAN OKUN: Commissioner Lane?
20 Commissioner Pearson.

21 COMMISSIONER PEARSON: Thank you, Madam
22 Chairman. I had three issues to touch on lightly.
23 First, in a typical ladle when it's relined, how many
24 tons of total refractory go into that, and then how
25 much is MCB and how much is something else?

1 MR. COPP: Well ladles vary by size so it
2 depends on the shop that you're doing, but on average
3 probably the total refractories could be anywhere from
4 30 tons to 40 tons of refractories in a ladle.

5 COMMISSIONER PEARSON: And the percentage
6 that would be MCB is what, a third?

7 MR. COPP: Probably about, could average
8 between 25 and 30 percent.

9 COMMISSIONER PEARSON: Okay.

10 MR. COPP: And then what you have to
11 realize, a lot of times as the ladle lining wears the
12 other products below the slag line do not wear as
13 fast, as Tom said earlier, because they're not
14 attacked as much. So typically what you see is to get
15 more life with the ladle they'll go in and replace the
16 slag line section with MCBs and leave the remaining
17 lining intact. So although it may be a small portion
18 in the beginning of the initial reline, there are some
19 shops that put as many as three slag lines in a ladle.

20 COMMISSIONER PEARSON: Okay, so a partial
21 relining, just to get the high wear points replaced?

22 MR. COPP: Yeah.

23 COMMISSIONER PEARSON: Okay. And in an
24 electric arc furnace, most of those would have lots
25 more tons of refractory I'm sure. How much of that

1 refractory is MCB?

2 MR. COPP: Typically the sidewalls and in
3 contact with the steel and the slag areas are all MCB.
4 The bottoms are typically a dry fettling material or a
5 material that's what they call a dry vibratable, it's
6 not a mag carbon consistency, it's a different
7 chemistry. So probably, but when you reline a furnace
8 the areas you're relining typically are the mag carbon
9 sidewalls that are eroded and you're just patching the
10 bottoms throughout the furnace reline.

11 COMMISSIONER PEARSON: Okay, so how many
12 tons of MCB might you put into a furnace that you're
13 relining?

14 MR. COPP: A typical furnace that may be 13
15 and a half foot diameter you could put a truckload, a
16 truckload and a half of material in, depending on how
17 much they reline at the time. So it could be 20 tons
18 to 30 tons.

19 COMMISSIONER PEARSON: Okay. Okay, well
20 thank you for that, for putting it into perspective.
21 In the posthearing please, maybe this is for you, Mr.
22 Magrath, if you could give a little bit of attention
23 to table 7-1 on page 7-4, and it's in the public
24 version so we can talk about it. The issue here, this
25 is China, well the information we have from the six

1 Chinese firms that responded, and out of the 35 to
2 whom we sent questionnaires, they indicate a level of
3 home market sales that's really quite modest.

4 And I look at that and I think, well China's
5 the largest steel producer in the world and unless
6 they use some type of technology that we don't they've
7 got to have a fairly big demand for MCBs. And so my
8 interpretation of this table is that we got responses
9 from a subset of producers that also are exporters and
10 there must be this whole other group of Chinese
11 producers that export little or nothing and are just
12 serving the domestic market. If there is some other
13 interpretation that I should be aware of, let me know.
14 Otherwise if that makes sense, if you agree with it
15 right now just, you could comment on it, otherwise for
16 the posthearing any elaboration will be helpful.

17 MR. MAGRATH: Well very quickly, I mean
18 obviously we don't, you know, first we'd make the
19 comment that 6 out of 35 is pathetic, and I hope you
20 don't base your decision on this. But the comment I
21 want to make is that also typical in the Chinese
22 industry there is a lot of unused capacity. So even
23 if there are refractories that basically serve the
24 domestic industry now that they probably I mean have
25 excess capacity to export to the United States.

1 COMMISSIONER PEARSON: Yes, I'm not
2 disputing that point. I would just, I would take
3 issue with 6 out of 35 as being an unreasonable
4 response, I think you see it somewhat differently.

5 MR. MAGRATH: Yes, obviously my opinion.

6 COMMISSIONER PEARSON: Relative to some
7 cases that we deal with this is not a bad response.
8 But it seemed to me that the sample was skewed in a
9 way that might color our interpretation of what's
10 going on, so that's why anything more we should know
11 about it for purposes of posthearing would be great.
12 And my last question also for you, earlier Mr. Brown
13 made a statement to the regard that the filing of the
14 petition had an immediate effect in the marketplace
15 with regard to price among other things, I think he
16 referred to a huge wave and I don't have the
17 transcript so I don't have the exact statement.

18 My question is, can you find evidence on
19 this record that kind of shows us that wave? It may
20 well be there, but you've spent a whole lot more time
21 with the investigation than I have, and so if you can
22 point it out to us. Because, you know, I heard what
23 he said and I thought, well I didn't have a big wave
24 roll over me when I was going through the staff
25 report. So if it's there, point it out.

1 MR. MAGRATH: Yes, sir.

2 COMMISSIONER PEARSON: Okay, and with that I
3 think I have no further questions. So permit me to
4 thank all panelists, it's been a very educational
5 morning and slightly into the afternoon, and I
6 appreciate your being here.

7 CHAIRMAN OKUN: If there are no further
8 questions from my colleagues I'll turn to staff to see
9 if staff have questions for this panel?

10 MR. MCCLURE: Thank you, Madam Chairman.
11 Jim McClure, Office of Investigations. Staff has no
12 questions.

13 CHAIRMAN OKUN: Let me turn to Respondent's
14 counsel. Do you have questions for this panel, Mr.
15 Thomas?

16 MR. THOMAS: We have no questions.

17 CHAIRMAN OKUN: Okay. Well then this looks
18 like a good time to break for lunch before we come to
19 our next panel. Before recessing let me take this
20 opportunity again to thank all the witnesses for this
21 morning and this afternoon's panel and for all your
22 responses, look forward to your posthearing briefs as
23 well. I would also like to remind all parties that
24 this room is not secure so please don't leave any
25 unprotected information here. And we will take an

1 hour break for lunch, so this hearing is in recess
2 until 2:10.

3 (Whereupon, at 1:11 p.m., the hearing in the
4 above-entitled matter was recessed, to reconvene at
5 2:10 p.m. this same day, Tuesday, July 27, 2010.)

6 //
7 //
8 //
9 //
10 //
11 //
12 //
13 //
14 //
15 //
16 //
17 //
18 //
19 //
20 //
21 //
22 //
23 //
24 //
25 //

1 economist with ECS. I'm not going to have anything to
2 say in terms of an opening statement here except to
3 say that I'm sure the Commissioners observed as did I
4 that several of the points that I made in my opening
5 statement were verified or confirmed in the
6 Petitioner's testimony this morning and that I hope
7 that was noticed. I am now going to turn it over to
8 my colleague Mr. McPhie.

9 MR. MCPHIE: Thank you. Good afternoon.
10 Again my name is Iain McPhie, I am counsel for the RHI
11 group of companies. Before moving on to our panel of
12 industry experts we'd like to first draw your
13 attention to some important new evidence that very
14 recently has come to light. Resco has been telling a
15 story in this case about the U.S. MCB market that in
16 many ways just does not comport with reality, so we
17 thought we would try to compare its story with
18 information that's on its company website.

19 Curiously we noticed that while some
20 sections of the website contained information going
21 back eight or nine years its company news archive
22 contains only a handful of press releases going back
23 just to 2008. It appears that Resco may have, let's
24 say sanitized it's website prior to filing its
25 petition to remove relevant information that would

1 contradict the story behind its case. This led us to
2 check an Internet archive site which preserves past
3 versions of public websites going back in time, and
4 our suspicions proved correct.

5 In the public exhibit that's before you now,
6 with a cover page that looks like our brief, on page 1
7 we have a table showing on the left the long list of
8 press releases that were on the Resco website before
9 Resco filed its petition. On the right is the short
10 handful of press releases that are on the Resco
11 website today. Included in the list on the left
12 column are several releases that announce price
13 increases, surcharges, or other new pricing for MCBs
14 since 2005, none of which appear on the Resco website
15 today.

16 The following pages in our exhibit are
17 copies of these Resco price increase announcements,
18 which again have not surfaced on this record until
19 just now. These announcements make for very
20 interesting reading in light of Resco's claims that
21 imports have suppressed prices over the POI and have
22 prevented it and other producers from increasing their
23 prices to cover their rising costs. These
24 announcements also shed light on Resco's other claims,
25 such as for example that the U.S. industry experienced

1 healthy margins prior to 2005 when imports, according
2 to Resco, began causing injury. That's on page 3 of
3 its prehearing brief.

4 As we see in the first price increase
5 announcement, which announced a 5 to 12 percent price
6 increase to begin in 2005, Resco explained it had
7 experienced "very lean years because of high costs
8 prior to 2005" and was "hopeful to return to levels of
9 modest profitability in 2005". Now in addition to
10 directly contradicting Resco's statement to this
11 Commission, Resco's own words at that time make clear
12 that it struggled to cover its increasing costs before
13 the time it now claims that subject imports became a
14 problem.

15 Now no doubt Resco will think up some
16 seemingly innocent explanation as to why it deleted
17 only the information that undermines its petition
18 while leaving all other parts of its website intact,
19 but we submit that this Commission should be mindful
20 of this tactic when it considers Resco's frankly
21 outrageous charges that other parties have been less
22 than forthcoming in this investigation. With that I'd
23 like to now turn the panel over to our industry
24 experts beginning with Martin Beschel. Thank you.

25 MR. BESCHEL: Good afternoon. I appreciate

1 the opportunity to testify here in front of the
2 Commission. My name is Martin Beschel, I'm the
3 Commercial Director of RHI's steel business unit in
4 North American markets including United States,
5 Mexico, and Canada. Veitsch-Radex America is RHI's
6 sales unit or sales entity responsible for all steel
7 sales in the United States, including magnesia carbon
8 bricks. I have worked for RHI since 1995 and have
9 been involved in refractory sales in the U.S. steel
10 market since 2000.

11 My educational background includes a degree
12 in business administration and finance from the
13 University of Economics in Vienna, Austria, and early
14 in my career I worked several years for Bear Stearns,
15 God bless them, in London and New York. RHI is the
16 leading global manufacturer and distributor of
17 refractory materials to the steel, cement, nonferrous
18 metals, glass, and EEC industries. RHI is
19 headquartered in Vienna, Austria, and has over 30
20 manufacturing facilities worldwide. RHI and its
21 affiliates manufacture MCBS in Austria, Germany,
22 China, and Mexico, and VRA sells MCBS from all these
23 locations to the United States.

24 RHI formally produced MCBS also in the
25 United States, but had to give up that facility in

1 2002 as a result of asbestos related litigation
2 against its then subsidiary ANH. My testimony today
3 will focus on how MCB suppliers compete for and
4 service steel industry customers in the United States.
5 My testimony also will focus on how demand for MCB is
6 directly connected to the performance of the U.S.
7 steel industry.

8 As we all know the steel industry reached
9 record highs in 2007 and early 2008 before the
10 economic recession caused a sudden and extreme
11 downturn in late 2008, which continued into the first
12 half of 2009. It's also a known fact that the steel
13 industry is on a recovery path since mid late 2009,
14 and this continues to be the case into 2010. RHI's
15 MCB and other refractory business has followed the
16 same pattern, and if the domestic MCB producers have
17 suffered injury over this period it is for the same
18 reason that foreign producers and the steel industry
19 also have suffered a downturn, the recession.

20 You have heard from Resco's statement this
21 morning that MCBs are a commodity product and that
22 price alone is the deciding factor in the steel
23 customer's purchasing decision. I tend to disagree
24 with that statement. Of course any customer of any
25 product will tell you that price is important and all

1 other things being totally equal they will always
2 choose the lowest priced product to keep costs down.
3 But MCBs are not commodities, and I am going to
4 explain why.

5 It is critical to understand that steel
6 producers focus above all on the cost per ton of steel
7 produced, not just on the price of any particular
8 input item. This is true for MCBs as well as for any
9 other refractory products used in furnace and ladle
10 linings that are designed to be replaced after they
11 wear from use over time. This relining process
12 requires substantial labor cost, and in the case of
13 furnaces also requires the furnace to be closed down
14 and taken off line, which results in additional
15 substantial costs from lost production.

16 Higher quality MCBs may have higher prices,
17 but they also last longer and they allow the customer
18 to use the furnace or the ladle lining longer before
19 they have to do a costly reline. So more expensive
20 MCBs may be and often are more efficient overall than
21 lower quality and cheaper MCBs. Steel producers are
22 experimenting and adjusting the use of MCB brands and
23 shapes to find the best price performance ratio that
24 achieves the lowest overall cost per ton of steel
25 produced.

1 There is really no easy way to compare one
2 supplier's product with another based upon their
3 product specifications or the data sheets alone. Each
4 product must be used in an actual test lining to
5 measure how long it can last and whether it actually
6 will increase or reduce costs overall. It is also
7 important to understand that MCBs make up only a very
8 small percentage of the total cost of steel
9 production, and while total refractories in steel
10 production cost are anywhere between 3 to 4 percent of
11 the steel manufacturing costs, less than a half
12 percent is attributed to MCBs.

13 At the same time MCB are used in a very
14 critical area, and as stated by Resco is also like
15 ladle slag lining and EAF sidewall, and they are very
16 critical areas in the steel manufacturing, and
17 problems with MCB can be very costly for steel
18 producers. Inconsistent quality in MCBs can lead to a
19 lining being replaced early before all the other
20 refractory bricks in the lining have worn and means
21 higher costs overall.

22 It is imperative to try to reach what we
23 call a balanced lining, with a uniform wear pattern.
24 An unbalanced lining, or a low cost lining, in extreme
25 cases can lead to damaged equipment, lost liquid

1 steel, and severe safety hazards, and loss of life is
2 not uncommon once molten steel breaches a vessel.
3 Reliable quality supply is critical because disruption
4 can force steel producers to take furnaces or ladles
5 off line, leading to cost and lost production.

6 For these reasons, steel producers generally
7 will not use MCBs that have not been certified in
8 their plants, and they always insist on quality
9 materials, consistency of quality, and reliability of
10 supply. Large steel companies with multiple
11 facilities have some degree of coordination of price
12 negotiations with refractory suppliers through
13 corporate purchasing departments, but the actual MCB
14 procurement decision are generally made by the local
15 refractory manager at each plant based upon their
16 expertise, which suppliers, and which products best
17 fit their individual plant's needs. They do not
18 simply purchase the cheapest MCBs available.

19 Steel producers' concerns with consistent
20 quality and reliable supply are especially important
21 in MCBs and other refractories used in the BOF
22 linings. While steel producers use multiple different
23 ladles in the production lining and can take any given
24 ladle down for maintenance or reline without stopping
25 production, in integrated steel mills entire

1 production line is centered around one or two BOF
2 linings. When a BOF is down the entire production
3 line stops, so relining a BOF is very expensive for a
4 steel mill.

5 As we heard before, heat life for different
6 vessels, ladle EAF, and BOF are very different. BOFs
7 last approximately 20,000 heats which is often longer
8 than a year, as opposed to typically fewer than 1,000
9 heats for an EAF lining which is a few months, and
10 roughly 100 heats for ladles which is typically about
11 a month. BOF linings are much more expensive than EAF
12 and ladle linings because they require substantially
13 more engineering, design, and technical support, and
14 they are much more profitable for refractory producers
15 for these reasons.

16 Steel producers consider BOF linings to be
17 an investment rather than an expenditure, particularly
18 when you think about a BOF lining costing \$1 million,
19 that's not just an expenditure, that's an investment.
20 Because BOFs are critical to an integrated mill's
21 operation and because of the extensive logistic and
22 support work required to deliver and install a BOF
23 lining, the domestic refractory producers dominate the
24 U.S. market for BOF linings. Imports from China and
25 Mexico are not a factor at all here.

1 Another trend it is important to account for
2 in considering price comparison for individual MCBs is
3 that customers for the most part purchase entire
4 linings at once from a single supplier. These linings
5 include MCB as well as other refractory products,
6 along with varying degrees of technical support and
7 other services. In purchasing an entire lining, the
8 customer is not focused so much on the price of each
9 individual brick or refractory material as a bottom
10 line price for the entire lining. And even then they
11 focus on the entire lining's impact on the customer's
12 cost per ton of steel produced.

13 A further extension to this trend is the
14 increasing use of cost per ton of steel produced
15 pricing of MCBs and other refractory materials. Here
16 the customer pays not based on the number or volume of
17 refractories consumed but rather based on the volume
18 of steel produced. We have encountered that also the
19 domestic MCB producers using this arrangement with
20 customers in the United States. This arrangement
21 shifts the risk of the refractory performance from the
22 customer to the supplier and allows the customer to
23 achieve certainty in its costs while also providing
24 incentive to the refractory supplier to improve
25 quality and to use its expertise to achieve the best

1 price performance ratio.

2 A step even further is that the refractory
3 supplier essentially adopts a customer's entire
4 refractory lining operation and provides the linings
5 as well as the technical services including lining
6 optimization, installation service, logistics, as well
7 as machinery and trained experts located at the
8 customer's site. We know that both domestic producers
9 ANH and Magnasita or LWB have dedicated sales forces
10 focusing on service in this kind of a business model.

11 What all of this means is that comparing a
12 brick A from one supplier with the price of a brick B
13 from another supplier provides a very incomplete
14 picture of how a steel producer decides what mix of
15 products to use in a given lining. The decision is
16 instead based on a whole host of factors all relating
17 at the very end towards the steel producer's overall
18 cost per ton of steel produced. Now turning to the
19 effects of the recession. I'm sure nobody in this
20 room would dispute that there is a direct connection
21 between steel production and demand for refractories
22 including MCBs.

23 The economic recession in late 2008 and the
24 first half 2009 caused a sudden and extreme downturn
25 in steel production, which in turn severely reduced

1 demand for MCBs during this period with one additional
2 major reason being that the MCB demand for investment
3 type BOF relines nearly disappeared during that time.
4 The United States steel industry was among the hardest
5 hit by this recession with steel production that was
6 dropping more than 50 percent.

7 RHI's refractory sales were down sharply
8 during this period, both in the United States and in
9 all other markets. I'm sure sales were also down for
10 the domestic producers and for other suppliers of
11 imported MCBs. The impact of the recession was even
12 more dramatic because it was preceded by a real boom
13 time in the U.S. steel industry in 2007 and early
14 2008. Steel production both in the U.S. and other
15 markets reached record levels during this period, with
16 the Chinese steel industry in particular driving very
17 strong global production levels.

18 This very much led to fears of shortages in
19 raw materials during this time, including magnesia
20 used in making MCBs, and accordingly resulted in price
21 increases in MCBs and other refractories for customers
22 in the United States. I know from personal experience
23 that both RHI and ANH achieved multiple price
24 increases during this time, some of them double digit
25 percentage. It is safe to assume that every MCB

1 supplier domestic or importer was getting price
2 increases during this time.

3 As we have seen from Resco's website
4 releases, Resco also implemented similar price
5 increases during this time. In fact, it was concerns
6 about material shortages during this period that led
7 to ANH's early termination of a joint supply agreement
8 between VRA and ANH under which VRA supplied a major
9 steel customers in the United States with large
10 volumes of MCB produced domestically by ANH.

11 During the price increase negotiation for
12 the second half 2008, the customer expressed great
13 concern about raw material shortages and continued
14 supply security for his plants in the United States
15 and asked ANH whether it could guarantee continued
16 supply. ANH responded that while it was able to
17 continue supply through the third quarter 2008 it was
18 unable to issue a guarantee to continue supply after
19 that. The customer then asked RHI whether it was able
20 to guarantee the supply, and RHI responded that it
21 could do so but would need to use refractories
22 imported from China and other markets.

23 Contractually the ANH VRA supply agreement
24 required written consent from both parties for any
25 production substitutions. When the customer requested

1 to allow introduction of RHI manufactured materials,
2 ANH decided that rather than granting their consent it
3 was in their best interests to terminate this
4 agreement prematurely. After U.S. steel production
5 levels dropped off in late 2008 and into the first
6 half of 2009 demand for MCBs followed suit. Resco
7 filed its petition at the absolute bottom of this
8 downturn for both the steel and refractory industries
9 in the United States.

10 During the Commission's preliminary phase
11 investigation it was not clear, and it was pretty much
12 very unclear, whether government stimulus programs or
13 other factors would generate a lift for the steel
14 industry. During the summer 2009, however, it started
15 to become apparent that the steel industry recovery
16 was underway. As integrated steel mills started the
17 process of coming back on line and other steel
18 producers ramped up production, MCB demand also grew.

19 This somewhat sudden recovery and
20 improvement for the U.S. industry continued through
21 the first quarter 2010 and still continues today
22 despite the usual expected seasonal drop which we are
23 all going to expect for the summer. Meanwhile, steel
24 production levels in other markets have also continued
25 to increase, particularly in China and elsewhere in

1 Asia as well as in Mexico, Europe, and South America.

2 As a result of strong steel industry demand
3 in those other markets, our MCB production plant in
4 China is operating at full capacity to supply MCB and
5 other products to customers in China and other export
6 markets. Manufacturing lead times for refractories
7 from our plants in China currently range anywhere
8 between 18 to 24 weeks, significantly longer than in
9 early 2009. RHI's affiliate in Mexico also is
10 operating near full capacity with their lead times
11 also increasing as Victor Garcia is going to explain
12 further later.

13 Based on public record in this
14 investigation, I am inclined to say that all of the
15 domestic industry's adverse indicators have now
16 reversed and that in the first quarter 2010 the
17 domestic industry posted the strongest performance
18 over the entire period of investigation. The domestic
19 producers have recovered along with the steel industry
20 and have attained or even improved upon their pre-
21 recession performance.

22 This absolutely confirms to me that any
23 injury they experienced during 2008 and 2009 was
24 caused only by the economic recession and the downturn
25 in the steel industry. With continued improvement

1 forecasts for the steel industry it is difficult to
2 see how any threat of injury could be possible either.
3 As I mentioned before, our MCB production facilities
4 both in China and Mexico are operating at capacity
5 levels to meet strong demand in other markets and we
6 have no significant capacity to supply U.S. customers.

7 In fact we are now supplying our U.S.
8 customers with MCBs imported from Europe, and other
9 sources are also available, including Brazil where the
10 domestic producer Magnasita has its headquarters and
11 also owns a large magnesite mine. I see that Resco
12 has attempted to show injury to its MCB operations by
13 comparing MCB results to those of other steel
14 refractory products, which shows entirely different
15 and presumably much better operating profit to sales
16 ratios.

17 In my mind this is misleading because many
18 refractory products have different profit to sales
19 ratios, some higher and some lower. It is completely
20 normal for RHI for example to experience different
21 results for MCBs than other steel refractories for
22 many reasons, both in the United States as well as in
23 the other markets in which unlawful dumping has not
24 even been alleged. Some of our steel refractories
25 simply are more and some are less profitable, and I

1 guess this is also true for Resco.

2 I also note that Resco was the only domestic
3 producer to have signed the petition initiating this
4 investigation, was the only domestic producer active
5 in the preliminary phase investigation and at the
6 Commerce Department, and was the only domestic
7 producer to have filed a case brief of any substance
8 in this phase. It is clear this is a Resco case, and
9 this is not surprising given Resco's reputation for
10 being highly litigious as well as for being the
11 weakest of the three major domestic MCB producers.

12 Our case brief describes in detail all the
13 problems Resco is experiencing that are unique to
14 Resco and have nothing to do with the MCB imports from
15 China or Mexico. I urge this Commission not to let
16 consequences of those shortcomings or for that matter
17 consequences of the recession to lead to findings of
18 import caused injury or threat to the domestic
19 industry in these proceedings. I appreciate it and
20 thank you for the opportunity to testify today, and
21 I'm happy to answer any questions you may have at the
22 end of our presentation. With this I would like to
23 pass over to Victor Garcia, my colleague from Mexico.

24 MR. GARCIA: Good afternoon. Thank you for
25 the opportunity to be here today. My name is Victor

1 Garcia, and I am General Director of RHI-RefMex S.A.
2 de C.V. RefMex is the indirect subsidiary of RHI
3 headquartered in Vienna, Austria, the parent company
4 of RHI Group. RefMex production arm, Produccion RHI
5 Mexico, S.A. de C.V. Promex is the only manufacturer
6 of MCBs in Mexico, and we believe for all intents and
7 purposes we are the only exporter of MCBs produced in
8 Mexico to the U.S.

9 I will limit my prepared testimony this
10 afternoon to respond to three completely erroneous
11 claims made by Petitioner Resco in the prehearing
12 brief. The first is Resco claim that Mexico like
13 China is a "large producer of MCBs". The second is
14 Resco's claim that reported Mexican MCB production
15 capacity is "deliberately understated". The third
16 Resco claim that "if there is an order against China
17 and not Mexico all the RHI volume will enter from the
18 country not under the order and capacity will be
19 really shifted to the country not under the order".

20 I will start with some brief background.
21 RefMex has two production plant in Mexico, one in
22 Ramos Arizpe, Coahuila, and the other in Tlalnepantla
23 de Baz in the Mexico City metropolitan area. The
24 Tlalnepantla plant does not produce MCBs, it produces
25 unshaped refractory products, that is mixes such as

1 tundish mixes and gunning mixes, mortars, concretes,
2 et cetera, fire clay bricks, bauxite bricks, high-
3 alumina bricks, and insulation fire bricks. Its
4 operation are based on silica products. That plant's
5 customers are the EEC, that is Environmental Energy
6 and Chemistry, steel, cement, nonferrous, and glass
7 industries.

8 Our second plant, the Ramos plant, produces
9 unfired magnesia bricks including MCBs and alumina
10 magnesia carbon AMC bricks, unshaped magnesia
11 products, again mixes, mortars, concrete, et cetera,
12 fired magnesia bricks, and a very small amount of what
13 we call functional products, such as tapholes. Thus,
14 in contrast with the Tlalnepantla plant the Ramos
15 production operation focuses on magnesia products.
16 Unfired magnesia bricks constitute well under 15
17 percent of the typical production of this plant, and
18 MCBs represent only part of that product group.

19 The Ramos plant's customers for the MCBs and
20 other refractory products it produce are the cement,
21 the steel, nonferrous, EEC, and glass industries. The
22 Ramos plant was acquired by RHI in the 1990s, it was
23 refurbished and modernized in 2003, and although
24 various items or production equipment has been
25 repaired and overhauled from time to time no

1 substantial production equipment or facilities have
2 been added since then. There are no present plans for
3 any such additions.

4 RefMex was established to specifically serve
5 the Mexican refractory market, and its sales are
6 preponderantly to end users in that market. Export
7 sales of MCBs in particular were to the U.S. have
8 consistently been a small part of our sales. Our MCB
9 sales to the U.S. made to a related company Veitsch-
10 Radex America, Inc., headquartered in Burlington,
11 Ontario, Canada, have never been large and have been
12 limited for the most part to the southeastern and
13 southwestern United States due to the transportation
14 cost that our product faces when sold further north in
15 the United States.

16 Our prehearing brief documents the
17 concentration of sales of our products to customers in
18 those regions, using data produced from the Department
19 of Commerce investigation which was verified by the
20 Department's investigators. In the period covered by
21 this investigation, like U.S. industries the Mexican
22 steel, cement, lime, glass, and other industries we
23 serve experienced the recession. However the
24 recession in Mexico was not as deep as in the U.S.,
25 and several of our industries we serve, notably the

1 cement industry, continued to do reasonably well in
2 that period.

3 Our home market customers, including the
4 Mexican steel industry, now have come out of the
5 recession strongly. At this time they are doing very
6 well and we currently are hard pressed to supply them
7 the refractories they need on time. One consequence
8 is that capacity we formerly had available for the
9 manufacture of MCBs is currently in 2010 being used to
10 manufacture other refractories, in particular burned
11 bricks for the cement industry. We have a strategic
12 alliance with the major Mexican and international
13 cement producer Cemex, and we supply cement kilns
14 refractories to cement production plants not only in
15 Mexico but also in the Caribbean, Central America, and
16 South America.

17 An important part because of demand from the
18 cement industry since earlier this year the plant at
19 Ramos has been operating at capacity and our delivery
20 times have stretched out from a normal eight weeks to
21 sixteen weeks. In 2011 our cement business should
22 continue to be strong. In addition the Mexican steel
23 industry is predicted to continue operating at
24 reasonably high production levels, and in the future
25 new steel plants projects currently underway will add

1 to its capacity, and consequently its use of
2 refractories including MCBs.

3 Therefore we are projecting that the Ramos
4 plant will continue to be at full capacity in 2011.
5 The use of our facilities to manufacture other
6 products such as burned bricks for the cement industry
7 affects our capacity to manufacture MCBs that are made
8 using much of the same equipment. In this instance
9 the demand for the other products made at Ramos has
10 limited our capacity to manufacture MCBs, and our MCB
11 production capacity therefore has fallen.

12 This is a very practical capacity
13 measurement and a very real reduction. I have been
14 assured by our economic consulting firm that our
15 measurement of capacity is consistent with
16 longstanding Commission practice. There is no
17 understatement deliberate or otherwise of our MCB
18 production capacity. Our capacity to produce MCBs was
19 never great, and it is completely inaccurate to
20 describe us as a large producer as the Petitioner
21 does.

22 Finally, we do not have either the capacity
23 or the flexibility to replace Chinese MCBs in the U.S.
24 market as Petitioner Resco claims. Even if we were
25 not laboring under our current capacity restraints we

1 would not have the production capacity to do so.
2 Whether or not there is an antidumping duty against
3 MCBs from China, due to the truck and rail costs
4 incurred in moving MCBs from Mexico to areas distant
5 from the U.S.-Mexico border our product can profitably
6 serve only a limited geographic area in the U.S.
7 market. Our domestic MCB sales are more profitable
8 than our export sales to the U.S.

9 Most importantly, we are committed to
10 serving our domestic customers in Mexico. We could
11 not simply abandon them in order to supply MCBs to the
12 United States. Typically our MCB customer in Mexico
13 purchase other refractories bricks and other materials
14 from us as well. If they could not purchase MCBs from
15 us they would purchase all their refractory
16 requirements from our competitors currently in the
17 market, such as Refractech, Vesuvius, Mayerton,
18 Puyan, LWB, Magna, ANH, et cetera, and we would lose
19 both MCB sales and sales of other steel industry
20 refractories.

21 Finally, it is needless to say that we are
22 not going to jeopardize our cement industry customers
23 in order to make more MCBs for the U.S. market.
24 Therefore, the strategy Resco suggests would be simply
25 impractical. That concludes my testimony. I will be

1 very happy to answer questions when the time for them
2 comes. Thank you.

3 CHAIRMAN OKUN: If you could use your
4 microphone please, Mr. Thomas?

5 MR. THOMAS: Sorry. Now we'll hear from
6 Bruce Malashevich, President of ECS.

7 MR. MALASHEVICH: Good afternoon, Madam
8 Chairman and members of the Commission. I'm obviously
9 Bruce Malashevich and I serve as President of Economic
10 Consulting Services, LLC. I have more than 30 years
11 of experience as a testifying expert before this
12 Commission and have been asked by counsel to RHI to
13 render certain opinions. To that end I'm hoping you
14 have before you two white page public exhibits that I
15 will refer to in the course of testimony, and certain
16 pink paper excerpts from RHI's prehearing brief that I
17 also will be referring to. Thank you.

18 All my comments are in the way of rebuttal
19 points. Resco's brief attempts to show that MCBs are
20 commodity products. But these attempts do not bridge
21 the yawning gap between the facts of this case and the
22 standard definition of a true commodity product. Mr.
23 Beschel addressed the facts in his testimony. In my
24 professional experience, and I believe in the
25 experience of the Commission and its staff, a true

1 commodity product is one that is differentiated from
2 the competition solely by relative price.

3 Resco relies on comments concerning
4 "interchangeability". But that term encompasses
5 comparisons such as one of a Jaguar to a Chevy. Goods
6 might be functionally interchangeable but do not have
7 the same performance or share other characteristics.
8 That is the case with MCBs, which are not sold to a
9 published standard or specification and in fact are
10 differentiated as to chemistry, size, and performance
11 among other factors.

12 As Mr. Richter from ANH testified this
13 morning, "there are no standards". RHI's prehearing
14 brief goes into great detail on this regard at pages
15 17 through 21 for future reference. In contrast, the
16 Resco brief points to a single exhibit containing a
17 single request for proposal by a single purchaser.
18 While that request asks for a price quote, there is
19 nothing in that document indicating how actual
20 performance varies among the bidding suppliers of
21 MCBs.

22 MCBs simply do not meet the definition of a
23 genuine commodity product, and the economic data
24 gathered in this case should not be evaluated in that
25 context. I was confused by Resco's discussion of its

1 and the total domestic industry's profitability over
2 the POI in this case. Notwithstanding the
3 Commission's unanimous preliminary determination that
4 price depression is not in evidence and the
5 Commission's clear request to examine the issue of
6 price suppression in this final phase, the Resco brief
7 devotes only two paragraphs of superficial discussion
8 on page 32.

9 The RHI brief, on the other hand, shows at
10 pages 35 through 39 and exhibits 15 and 17 that there
11 simply was no price suppression during the POI. In
12 particular, the domestic industry at large
13 demonstrated a clear capability for reflecting changes
14 in raw materials costs with matching price changes,
15 trending generally in an upward direction for the
16 period as a whole. And I refer you to one of the pink
17 paper exhibits, exhibit 19 from the RHI brief.

18 And there's a further note I'd like to make
19 and we heard discussions earlier about percentages of
20 raw materials or COGs in relation to sales, and
21 certainly there are cases in which such percentages
22 make sense to examine, but that's really not the case
23 in a materials intensive business like this is. When
24 there are spikes in raw material costs that are
25 reflected in net sales values, that simply inflates

1 the sales figure without adding any value to the
2 merchandise, it's a straight passthrough.

3 It makes a lot more sense to look at the
4 cents per pound change in costs versus the cents per
5 pound change in price as a true measure of whether or
6 not prices are being suppressed in relation to raw
7 materials costs. So looking again at exhibit 19, ask
8 yourself if this exhibit contains any evidence
9 whatsoever of a cost price squeeze based entirely on
10 data in the prehearing report. In absolute terms
11 profitability moved just as expected in response to a
12 dramatic change in steel production, a change on the
13 downside that was entirely unexpected in its severity
14 if not also its timing.

15 I might add parenthetically that the so
16 called refractory study excerpted in Resco's exhibit
17 20 in their brief is dated February 2008, at the very
18 peak of U.S. steel production capacity utilization.
19 With all due respect to its authors, and I really mean
20 that, subsequent developments in the U.S. market made
21 that study outdated not long after the ink was dry.
22 In Resco's attempt to show financial harm it points to
23 comparisons of its own MCB operations to its other
24 operations producing non-like products.

25 For decades the Commission has refused to

1 consider such comparisons as relevant in these types
2 of cases. I strongly recommend that the Commission
3 turn instead to comparisons of financial performance
4 among domestic producers of the same like product. If
5 you peruse pages 47 through 49 of RHI's prehearing
6 brief, a conclusion very different from that suggested
7 in Resco's brief will be obvious to you.

8 The fact of the matter is that the spike in
9 the price of MCB's principal raw materials, that is
10 magnesia and graphite, was fleeting and reflected a
11 worldwide confluence of forces that caused rapid
12 inflation in the cost of many industrial raw materials
13 including ferrous scrap. Please see the discussion at
14 pages 37 and 38 and exhibits 16 and 17 of RHI's
15 prehearing brief for details. Sorry about the page
16 references, but much of the data is APO.

17 The bottom line here is that the spike in
18 raw materials costs was short lived and quickly
19 corrected. It is also the fact that the domestic MCB
20 industry, dependent as it is on purchases from roughly
21 two dozen generally much larger steel companies, the
22 MCB industry nonetheless had the market power to push
23 through extraordinary price increases in the depths of
24 an extremely severe recession in steel production,
25 price increases sufficient to fully cover increases in

1 raw materials costs during the POI.

2 This occurred notwithstanding the continued
3 presence of subject imports. If MCBs were truly
4 commodity products and there truly was significant
5 price suppression on account of subject imports, then
6 the continued underselling by China in particular
7 would have gathered for China a lot more market share
8 over the POI than in fact it gathered. But it did
9 not, and Mexico remained insignificant throughout the
10 period.

11 I would add that Resco's discussion of
12 underselling, particularly in footnote 125 on page 28,
13 included reference to alleged missing data for one
14 significant Chinese importer which purportedly was
15 particularly aggressive in its pricing. I reviewed
16 this importer's questionnaire response both from the
17 preliminary and the final phases and could find no
18 pricing data at all. So I'm unclear as to the basis
19 for this rather strident claim.

20 I also was confused by Resco's rather fuzzy
21 discussions of alleged volume effects. I'd urge you
22 to go back and look at these pages at a later time.
23 On page 3 of the Resco's brief they argue that the
24 filing of this case discouraged imports. Just a few
25 pages later at page 26 it argues that it did not. It

1 then reverts to its original position, arguing on page
2 33 that the industry's strong recovery in the latter
3 part of the POI was attributable to the impact of the
4 filing.

5 Then on the bottom of page 41 it argues
6 again that the filing led several importers to either
7 cease imports or go out of business altogether. The
8 fact is that Resco's discussion of this topic at best
9 is convoluted, and it remained so during the entire
10 morning session today. At worst, from Resco's
11 perspective the discussion proved RHI's case for an
12 absence of material volume effects attributable to
13 subject imports.

14 The convolution arises from the behavior of
15 imports before and after the filing of this case in
16 July 2009. From the point of view of impact on the
17 marketplace the filing was a nonevent. The prehearing
18 report at tables 4-2 and 4-3 shows that imports
19 continued at recent historical levels and increased in
20 the most recent period to serve the rapid recovery in
21 U.S. steel production. The prehearing report at
22 figures 5-1 through 5-5 shows that the calculated
23 margin of underselling changed little, so where is the
24 impact of the filing?

25 The convolution arises also from the fact

1 that DOC's preliminary determination was not published
2 in the Federal Register until March 12th, making
3 Resco's attempt to link that event to the domestic
4 industry's condition in interim 2010 essentially moot.
5 And by the way the change, the postponement of the
6 Commerce Department's preliminary determination from
7 December to March in fact was requested by Resco, and
8 I don't think the snow lasted for four months of that
9 intervening period so I wanted to correct that point.

10 Resco's brief also helps to reinforce RHI's
11 argument that there were no significant adverse
12 effects of the subject imports on the domestic
13 industry's overall condition. In that regard I refer
14 you to exhibits 10 and 11 from the RHI brief that's in
15 your APO package before you. The only difference
16 between the two is one looks at imports on the basis
17 of entries, the other looks at imports on the basis of
18 shipments, so we did it both ways.

19 Resco correctly points out that the domestic
20 industry as a whole enjoyed dramatic gains in
21 shipments, capacity utilization, and profitability,
22 among other indicators, roughly in the nine months
23 from July 2009 to March 2010. But during that same
24 period subject imports resumed their increase, and
25 margins of underselling remained about constant or

1 even increased modestly, notwithstanding the filing of
2 this case.

3 In the Commission's parlance, there is no
4 correlation between the most recent increase in
5 subject imports and adverse changes in the domestic
6 industry's condition. In fact it is a reverse
7 correlation. The filing and progress of this case had
8 no meaningful impact in import behavior. To the
9 domestic industry's detriment it was the recovery of
10 U.S. steel production which made the difference.

11 I now would like to address certain claims
12 in Resco's brief concerning the practical likelihood
13 that the sole Mexican producer has very elastic
14 capability to expand exports to the United States,
15 with Resco offering the comment that there is no new
16 evidence available concerning that likelihood. Apart
17 from the testimony you just heard of Mr. Garcia, there
18 is an abundance of new evidence now in the record
19 pointing to the physical and commercial realities
20 limiting likely Mexican supplies to the U.S. market in
21 the future. The evidence is discussed in considerable
22 detail at pages 58 through 62 of RHI's prehearing
23 brief, and in that brief exhibits 22 through 26.
24 Other evidence was submitted with the Mexican
25 producers' foreign producers' questionnaire.

1 In sum, as the sole Mexican producer, Refmex
2 naturally directs its capacity to the home market for
3 MCBs with residual amounts going to U.S. and even
4 smaller amounts to third countries. Demand in Mexico
5 has lately recovered strongly. This has caused
6 capacity at Refmex available for production of MCBs to
7 be very much constrained. Further evidence of strong
8 commercial disincentives of a type I think the
9 Commission rarely sees in its consideration of threat,
10 among other things, is discussed in RHI's pre-hearing
11 brief at pages 58, 59, and 62. In the end, if the
12 Mexican producer had designs on the rapid increase of
13 sales to the U.S. market, it would have done so years
14 ago.

15 As for Resco's rather caustic claims to the
16 effect that Refmex improperly altered its
17 questionnaire response in the final phase of this
18 case, to be polite, the claims are without merit. Mr.
19 Garcia addressed them. Essentially being unfamiliar
20 with the Commission's proceedings in the preliminary
21 phase, the questionnaire was submitted without review
22 and they followed their best understanding of what the
23 instructions were. That understanding did not include
24 adjustment for typical product mix. The entire
25 difference in the capacity number between the

1 preliminary and the final is taking product mix into
2 account according to this plain language of the
3 Commission's questionnaire instructions.

4 China's situation is different. It is the
5 world's largest producer of MCBs, but it's also the
6 largest producer of steel. Downward forecast of its
7 greater growth should not be confused with negative
8 growth, which is not at all in evidence. Furthermore,
9 China sends a very modest share of its total shipments
10 to the United States according to the pre-hearing
11 report, preferring to expand sales instead to the home
12 and much more vibrant export markets in third
13 countries.

14 In this connection, the Resco brief at pages
15 57 and 58 attempts to project doom and gloom amidst
16 continuing recession worldwide without any support for
17 that view. It also cites selected articles from the
18 public press projecting a degree of concern among
19 steel producers looking forward. The Resco's claims
20 in this regard are refuted by the evidence in part
21 from the testimony of Mr. Brown this morning regarding
22 what he is hearing from steel producers about a very
23 positive outlook. I'm not in the macroeconomic
24 forecasting business, but I prefer to rely on those
25 who are, including the International Monetary Fund,

1 the U.S. Federal Reserve, the Wall Street Journal, the
2 Economist magazine, the National Association of
3 Business Economists, the OECD, Eurostat, the United
4 Nations, and the very latest of what they are
5 forecasting is in my public exhibit number one. The
6 numbers speak for themselves and indicate positive
7 growth worldwide.

8 The same is true for steel production in the
9 United States and in the rest of the world. Please
10 turn to my public exhibit number two. This was
11 created using the very latest data released just days
12 ago by the World Steel Association. These data show
13 robust growth in production of crude steel, in both
14 the first half and second quarter of 2010, in relation
15 to their corresponding levels in 2009. Substantial
16 growth was reported even in the latest month included
17 in the data, the month of June, relative to June of
18 last year. So there is clearly sustained momentum
19 going on here. While the U.S. market might slow down
20 as it normally does in the summer months, gloom and
21 doom certainly are not warranted.

22 That concludes my testimony. I will be
23 happy to answer any questions. Thank you.

24 MR. THOMAS: Madam Chairman, that concludes
25 our prepared testimony. We will be happy to answer

1 questions at this time.

2 CHAIRMAN OKUN: Thank you. Before we begin
3 our questions, let me just check with Mr. Secretary to
4 ensure that all witnesses were sworn before they -

5 MR. BISHOP: Madam Chairman, all witnesses
6 on this panel have been sworn.

7 CHAIRMAN OKUN: Thank you, very much. And
8 before beginning our questions, I also just want to
9 take the time to thank each of the witnesses for being
10 here. I very much appreciate your participation and
11 the information you have provided and for those who
12 have traveled, in particular, I very much appreciate
13 the time and effort to be with us today. Commissioner
14 Williamson will begin the questioning this afternoon.

15 COMMISSIONER WILLIAMSON: Thank you, Madam
16 Chairman. I do want to express my appreciation to the
17 witnesses for coming and presenting their testimony
18 today.

19 You've already in your testimony addressed
20 the argument that - Petitioner's argument that Mexico
21 is not out of this case, that their increase import -
22 RHI will increase imports from Mexico and replace
23 China's imports. But I was just wondering, and this
24 will have to be done post-hearing, is looking at Table
25 7-2 of the staff report, in the post-hearing you can

1 address the question of capacity in Mexico and changes
2 there. I know you did talk about something earlier,
3 but I'm not sure that deals with this; so post-
4 hearing, an explanation there.

5 MR. THOMAS: We will do so.

6 COMMISSIONER WILLIAMSON: Okay, thank you.
7 And so for purpose of price comparisons, how should
8 the Commission treat the sale of MCBs in product
9 packages or in the price done here on a cost basis?
10 This is a question posed this morning to Petitioners.
11 How would you propose that we deal with that?

12 MR. THOMAS: It's Ritchie Thomas.
13 Commissioner Williamson, I believe I'm correct in
14 saying that as regards to domestic sales, there is no
15 price information with respect to those sales and,
16 indeed, there would be none with respect to RHI
17 because there are no sales of that product as such.
18 Their purchaser pays essentially per ton price for all
19 of the services and all of the materials supplied. If
20 the question is how do you do a price comparison in
21 those circumstances, I think the answer is you can't.
22 I think you could compare, I suppose, full-line
23 service contracts, one with another, if you had two
24 that had all of the same elements. Even that, I
25 think, would be very difficult. I don't think there's

1 an answer to your question, sir.

2 COMMISSIONER WILLIAMSON: I guess - okay.
3 The first question maybe I should have asked was how
4 extensive do you think these types of sales, of the
5 non-MCBs that are a concern in the U.S., how extensive
6 would be those that are sold under this basis?

7 MR. THOMAS: Sir, it's APO information.

8 COMMISSIONER WILLIAMSON: Okay.

9 MR. THOMAS: There is information on that
10 point in the staff report. We will supplement it with
11 information with respect to RHI sales of that kind.

12 COMMISSIONER WILLIAMSON: Okay. And then
13 maybe you can address whether or not we should even be
14 worried about this at all. As I say, post-hearing,
15 you can address it.

16 MR. THOMAS: Sir, yes. I would say - well,
17 in two respects. The first of them is that to the
18 extent that those sales do not appear in, for example,
19 the Commission's consumption data, domestic
20 consumption and shares of consumption data, it seems
21 to me, they certainly belong there because that's
22 necessary to show the complete picture. Other than
23 that, I think the Commission needs to take account of
24 it to the extent that it considers how it is that
25 products and various suppliers compete in the U.S.

1 market. And, certainly, as regards to those sales,
2 that competition is not on a straightforward MCB to
3 MCB price basis at all, but it's on a basis of a
4 package of goods and services. And so I think the
5 conclusions that the Commission could draw then from
6 its underselling data, for example, have to be
7 considerably moderated.

8 COMMISSIONER WILLIAMSON: Okay. And just
9 also in addressing this, whether or not -- are imports
10 more likely to be parts of these packages or less
11 likely than domestic sales? I would be happy to add
12 it - again, this might have to be post-hearing, I
13 understand.

14 MR. THOMAS: We will. I suspect the answer
15 to that question is we don't have a full set of data
16 on it.

17 COMMISSIONER WILLIAMSON: Okay, thank you.
18 Are most refractory bricks used by the steel industry
19 reproduced by the same equipment or - the range of
20 bricks that we have, is most of it produced on the
21 same equipment?

22 MR. BESCHEL: Absolutely.

23 COMMISSIONER WILLIAMSON: And how is the
24 switch from one product to -- other products to MCBs
25 and vice versa?

1 MR. BESCHEL: The real issue is the
2 equipment that you have. It might be the presses or
3 the kilns or the pelicans that we would use. And,
4 there, it is -- it may be possible to switch from one
5 product to the other, but you can't do that overnight
6 because the product - the equipment needs to be
7 cleaned and they would be doing the switching back and
8 forth very erroneously. It would be very
9 unproductive. So, what we do is generally in our
10 production lines is when orders are entered,
11 particularly long lead times, our logistics department
12 schedules those and tries to make the most productive
13 runs in the plant for the different production
14 products that we would put on those equipment.

15 MR. THOMAS: Commissioner?

16 COMMISSIONER WILLIAMSON: Mr. Thomas?

17 MR. THOMAS: Let me just add a little
18 supplement to that because I think your question was
19 cast in terms of the refractories for the steel
20 industry and, if so, it was answered in that context.
21 Certainly, there are some refractories, which because
22 of concerns about contamination, and I'm thinking in
23 particular refractories for the glass industry would
24 typically not be made at the same place as
25 refractories for the steel industry because ferrous

1 content is a very worrisome concern for glass industry
2 refractories, but obviously not for the steel
3 industry.

4 COMMISSIONER WILLIAMSON: Okay, good. Thank
5 you for that clarification. Do you believe there is
6 any difference in the life expectancy of MCBs made in
7 the U.S. versus ones made in China or Mexico?

8 MR. BESCHEL: Generally, I could just speak
9 for myself and I'm speaking for RHI, we pride
10 ourselves in making long-lasting, high-quality MCB
11 products, that in some cases we always, like everybody
12 else says, you know, are outperforming the
13 competition, which when we do the installations,
14 sometimes they don't, okay. And then we don't --
15 often we don't know why when we fail from the recipe
16 standpoint, they should have been outperforming and
17 they don't. Generally, from a life expectancy, it's
18 more of a quality issue, whether you take the high
19 quality MCB or low quality MCB, how long the life
20 expectancy is, rather than actually where it comes
21 from.

22 COMMISSIONER WILLIAMSON: Okay. What about
23 in terms of production techniques, are they similar in
24 all three countries?

25 MR. BESCHEL: I can only speak for RHI.

1 RHI's plants are all up to the European standards.
2 Our plants are very modern plants. And as Mr. Garcia
3 pointed out, the plant in Mexico has been updated in
4 the last 10 years. Our plants in China have been
5 built only in the last 15 years. And any plant that
6 RHI builds worldwide would always meet European specs.

7 COMMISSIONER WILLIAMSON: Okay. Does most
8 of the equipment come from Europe, too?

9 MR. BESCHEL: Most of the equipment comes
10 from Europe, yes.

11 COMMISSIONER WILLIAMSON: Okay.

12 MR. BESCHEL: And it's always our team from
13 Austria or Germany that goes in and sets that up.

14 COMMISSIONER WILLIAMSON: Okay. So I take
15 it, also, equipment could be moved from one country to
16 another -

17 MR. BESCHEL: It can be moved. It's just
18 not cheap to move a press. It's not like - not like
19 diamonds, okay. It's unfortunate.

20 COMMISSIONER WILLIAMSON: Yes. Okay, thank
21 you. I raised this question this morning about this
22 price performance ratio and would you agree with the
23 statement this morning, there really is no accepted
24 standard in talking about price performance?

25 MR. BESCHEL: I would agree with that

1 statement. The only way that steel mills compare
2 different suppliers that supply to one steel under the
3 same production conditions would be to them the cost
4 of the refractories per ton of steel produced. So if
5 they have a benchmark of, let's say, \$10 of refractory
6 cost per ton of steel and one supplier offers it at
7 980 and the other one at 950, that would be sort of
8 the only benchmark that they would go by. You're
9 right, there's no unified standard for the industry
10 because there are plants out there that have costs of
11 \$18 per metric ton of steel and there's plants out
12 there that have costs of seven dollars of refractories
13 per metric ton of steel produced.

14 COMMISSIONER WILLIAMSON: Okay. Thank you
15 for those answers. My time has expired.

16 CHAIRMAN OKUN: Commissioner Pinkert?

17 COMMISSIONER PINKERT: Thank you, Madam
18 Chairman, and I thank all of you for being here today
19 to testify about the issues in this case. Just as a
20 factual matter, does anybody on the panel know whether
21 Mexico maintains a special duty against imports of the
22 merchandise from China?

23 MR. BESCHEL: As far as we know, they don't.

24 COMMISSIONER PINKERT: Thank you. Now
25 turning to Mr. Malashevich, let's look at the first

1 and second half of 2009 and I want to ask you a
2 question that pertains to the arguments you made on
3 causation in this case and it's similar to the
4 question I asked the earlier panel. Looking at the
5 first and second half of that year, you've got subject
6 import market share trending down from the first to
7 the second half and you have the overall demand
8 conditions of the recession moderating from the first
9 to the second half of 2009. Would it be fair to say
10 that both of those circumstances would be having a
11 positive impact on the financial performance of the
12 domestic industry?

13 MR. MALASHEVICH: Commissioner, I'll move
14 over so that I can see you. There are a couple of
15 things going on in terms of the market share that's
16 calculated in the pre-hearing report based on
17 shipments. Looking at them in terms of a six-month to
18 six-month period, standing alone from the overall
19 cycle, if you will, there are a couple of things going
20 on. One is treatment of consignment sales. Certainly
21 this is true in RHI's case because I confirmed it.
22 But, I think it would also be true on other sellers,
23 that you can physically ship MCBs to a designated
24 warehouse as consignment. And while it is on
25 consignment, it's carried on the books of the

1 supplier, let's say RHI, for example. But in
2 reporting shipments as per the questionnaire, it's
3 regarded as a shipment when it's drawn down by the
4 customer. So you could have an overall transaction -
5 this is hypothetical - you can have an overall
6 transaction completed in, let's say, November of 2008,
7 but the goods were not shipped from an accounting
8 point of view until various periods moving forward in
9 time.

10 Then, of course, there's also the issue, if
11 you look at imports in terms of the entry is the issue
12 of the pipeline and period of time in the water, which
13 is why it was so important for me to emphasize the
14 unexpected nature of the really catastrophe for the
15 steel industry that occurred essentially in the course
16 of 30 days, from roughly mid-September to October. It
17 takes time to adjust the pipeline for events that were
18 unanticipated, both as to timing and its severity.

19 So the bottom line is, what I suggest you do
20 is look at the nine months or so from the bottom of
21 the cycle to the latest data point for which we have
22 information, the first calendar quarter of 2010, and
23 compare those to 12 months or 15, 18 months preceding
24 when you had the peak. That way you have the peak
25 leading up, you have the fall, and then you have the

1 recovery, which extends - with exception of - I don't
2 think any of that neatly fits into a six-month period.
3 My recommendation, if you look at trend at either side
4 of the cycle and stream together the various calendar
5 months, which is what we tried to do in the pre-
6 hearing brief and in the exhibit we copied from that
7 brief and passed out today.

8 COMMISSIONER PINKERT: Just as a
9 clarification of your testimony there, the market
10 share data that I'm referring to would be based on
11 shipments.

12 MR. MALASHEVICH: That's how the pre-hearing
13 report calculated it, yes.

14 COMMISSIONER PINKERT: Okay. Now turning to
15 the public hearing exhibit that was submitted
16 concerning the website and some of the things that may
17 have been taken off of the website, I'd like to refer
18 you to the press release dated February 29, 2008. And
19 perhaps, Mr. McPhie, you would be the right person to
20 ask this question. Is there something in this press
21 release that is inconsistent with the case that's
22 being presented by the Petitioners, February 29, 2008,
23 Resco announces new prices due to raw material cost
24 increases?

25 MR. MCPHIE: Well, not being totally

1 familiar with all the text in this particular one, I
2 would say just a general inconsistency with their
3 story that there has been price suppression and they
4 have not been able to implement price increases, in
5 order to account for their increase in cost, including
6 primarily raw materials costs with magnesia being the
7 most prominent among those. The series of prices
8 increases, including this one in particular, are
9 simply not the types of announcements that a company
10 issues publicly when it's facing price suppression for
11 the imports or either downward effects on their
12 pricing.

13 COMMISSIONER PINKERT: Well, maybe this next
14 question would be a better one for Mr. Malashevich.
15 But I thought that what I heard this morning was a
16 focus on the overall cost to sales ratio in terms of
17 the price suppression argument that the Petitioners
18 are making and not specifically that they weren't able
19 to cover the raw material cost increases. Did I hear
20 that wrong or is it just kind of definitions passing
21 in the night here?

22 MR. MALASHEVICH: This is Bruce Malashevich.
23 I'm not sure you heard it wrong because in the
24 petition and the transcript from the preliminary phase
25 of this case, in which I did not participate at the

1 conference, but I did read the transcript, the whole
2 context was increases in raw materials cost. And if
3 you look at the pre-hearing report where it subdivides
4 the individual components of costs, raw materials,
5 labor, factory overhead, et cetera, really all the
6 action occurred with respect to raw materials on a
7 dollars per ton basis. So I think frankly, there's no
8 difference whether you look at it in terms of total
9 cost of raw materials, but the purpose of the exhibit
10 in the RHI brief, which I passed out today, was to
11 test Petitioner's theory that they had to deal with
12 all these raw material costs that they couldn't pass
13 through. The emphasis has changed in their argument
14 between the preliminary phase and the final. Now,
15 their raw materials costs have gone down.

16 COMMISSIONER PINKERT: Speaking more
17 generally, not just in reference to this particular
18 document or in reference to the testimony that we
19 heard this morning, but is there some reason to doubt
20 the argument that price suppression is indicated by
21 the increase in the cost-to-sales ratio?

22 MR. MALASHEVICH: Yes. I think there is
23 very good reason to doubt it because of - I mentioned
24 in my testimony, the way the Commission, not
25 invariably, but more often than not does it, is you

1 take a ratio of gross profit or cost in relation to
2 net sales, which is fine in many context. But when
3 you have a situation like this one, where the cost of
4 raw materials is something in excess of the total cost
5 of production, then when you look at the percentage of
6 ratio -- when you look at percentage ratio and the
7 costs are simply being passed through in the case for
8 higher prices, you're increasing the denominator when
9 you calculate the percentage and so giving the
10 illusion that profitability is suppressed, when really
11 all that's happening is the additional cost of the raw
12 materials are inflating net sales without adding any
13 value to the product. As I mentioned in my direct
14 testimony, it's just a pass through.

15 So I think in a materials intensive case
16 like this one is just not - doesn't lend itself to
17 analyzing price suppression in accordance with the
18 percentage ratios in relation to sales. It's for that
19 reason we did the calculations on an absolute dollars
20 per ton basis, which came right out of the staff
21 report.

22 COMMISSIONER PINKERT: Just a quick follow-
23 up on that. In your experience, is it unusual to have
24 such a tight relationship between the raw material
25 cost increases and the prices, as shown in your

1 exhibit?

2 MR. MALASHEVICH: Well, it's unusual in the
3 following sense. I think it's fair to say in the
4 majority of the cases that come before the Commission,
5 at least the ones that I've been involved in, there
6 tends to be a lot more volatility, if you will, both
7 up and down in what I suggest as the measure of price
8 suppression, absolute dollars versus absolute dollars
9 - absolute dollars of cost versus absolute dollars of
10 price. What's remarkable in this case is how almost
11 perfect the relationship is and static. In fact, it
12 increases a little bit and the margins improve a
13 little bit toward the end of the POI. So it's unusual
14 for its - I hesitate to use the word "perfection," but
15 let's just say it's among the few cases that I'm
16 familiar with where there has been such a lock step
17 movement of realized prices against realized cost of
18 raw materials. I guess that's the best way of putting
19 it.

20 COMMISSIONER PINKERT: Thank you. I've
21 exceeded my time, but I appreciate the forbearance of
22 my colleagues.

23 CHAIRMAN OKUN: Dr. Malashevich, just a
24 follow-up for post-hearing on that, which is - and
25 recognizing that not everyone on the current

1 Commission looks at price suppression exactly the
2 same, but if there is any other cases that have
3 materials intensive products that come before us, if
4 there are any other cases where you think the
5 Commission correctly looked at something different
6 than the traditional ratio in order to evaluate
7 suppression, I would appreciate looking at that or
8 something else out there.

9 MR. MALASHEVICH: I'll do my best.

10 CHAIRMAN OKUN: Okay. I appreciate that.
11 Then let me come up to Mr. Beschel and I don't know if
12 Mr. Garcia would want to respond, but the Petitioners
13 this morning had the charts that were sitting up here
14 on RHI's - I don't know if you had a chance - did you
15 all get a copy of those?

16 MR. BESCHEL: I have a copy of that, yes.

17 CHAIRMAN OKUN: Okay. Please use your
18 microphone.

19 MR. BESCHEL: Sorry. Yes, I have a copy.
20 Sorry about that.

21 CHAIRMAN OKUN: Okay. And I wondered if you
22 wanted to respond to that argument with respect to the
23 global companies incentive or - I don't want to put
24 words in their mouths - what it means for the global
25 companies in terms of trying to increase market share

1 in the United States with respect to this particular
2 product and how they go about doing that?

3 MR. BESCHEL: You are referring to strategic
4 approaches on page 10, is that correct?

5 CHAIRMAN OKUN: Right - well, I think it was
6 - I see it as page four and 17 of -

7 MR. BESCHEL: Yes, four and 17.

8 CHAIRMAN OKUN: Yeah, okay.

9 MR. BESCHEL: Sorry about that.

10 CHAIRMAN OKUN: Yes.

11 MR. BESCHEL: Generally, RHI is a global -
12 we pride ourselves as being a global leader of
13 refractory sales in the world. And while RHI has
14 decent market shares in Europe, Asia, Mexico, the
15 market share in the United States obviously for RHI is
16 some kind of small, I want to say that, okay; same
17 thing for South America. So the strategic approach
18 that we have at the moment as a company is, you know,
19 like we want to globally grow and growth areas for us
20 is obviously not in markets where we have saturated
21 market shares, but in markets where we have below
22 average market shares. And that is some of the
23 strategic approaches RHI has is we want to grow in
24 markets (a) where there is a natural growth in the
25 steel industry or the cement industry or the glass

1 industry; or we want to grow in the market where you
2 have a below average market share, even if it is a
3 market that is not growing anymore. Like Europe is a
4 market that's not growing anymore. The U.S. is
5 probably a market that's not growing anymore,
6 particularly in the steel industry. And that is sort
7 of the strategic approaches RHI is taking at the
8 moment.

9 CHAIRMAN OKUN: Okay. So does that approach
10 include shifting around your production as markets
11 open up or to take advantage of regional
12 opportunities?

13 MR. BESCHEL: We generally don't shift
14 production around. We try to always utilize the most
15 cost efficient of our facility to service end market
16 and we do that globally.

17 CHAIRMAN OKUN: Okay. And then with respect
18 to the Petitioner's specific argument that if an order
19 was placed on China, but not Mexico or - an order in
20 one country and not the other, what would that mean
21 for RHI in terms of its approaches?

22 MR. BESCHEL: RHI currently, as we have
23 stated and have stated in my statement, RHI currently
24 has all of its facilities utilized to capacity. We've
25 made some capacity in Europe available to service the

1 U.S. market at the moment, particularly with respect
2 to the subject merchandise. I don't see any
3 opportunity for us to, at this time, utilize any of
4 our Chinese or Mexican capacity to flood, as they say,
5 the U.S. market.

6 CHAIRMAN OKUN: Okay. If there's any
7 additional information, business documents prepared
8 not for purposes of this particular proceeding, that
9 would shed light on that strategy as it would be
10 relevant to this particular product in the U.S.
11 market, I would appreciate seeing that post-hearing.

12 MR. BESCHEL: We will do that.

13 CHAIRMAN OKUN: Okay. Did you want to add
14 something, Mr. Thomas? You were just going to say
15 that you would do that? Okay.

16 Now let me shift to whether there is
17 anything else -- Mr. Beschel, particularly if you
18 could tell us about the Chinese market. I think one
19 of my colleagues, maybe Commissioner Pearson, had - we
20 don't have full coverage of producers obviously. We
21 know it's a big steel producing market and how much of
22 this particular product goes to the home market, we
23 don't really even have that percentage. I don't know
24 if you have anything or do you know of any other
25 sources that could be provided to help us understand

1 the Chinese market?

2 MR. BESCHEL: It's very difficult to
3 understand the Chinese market. And as you've heard
4 and has been brought up by the Petitioners, you've
5 sent out a request of 35 known producers. To tell you
6 the truth, there's probably a multiple of that out
7 there in China truly making MCBs, okay. We just have
8 a good idea and we can put that in a post-hearing
9 brief as to what our assumptions of the market is. We
10 know that China approximately is on the runway to make
11 600 million tons of steel, okay. That's half of the
12 total global steel production. If you take a certain
13 ratio, and we have interim information about what is
14 the approximate quantity of MCB in kgs or in pounds
15 that we need on average to make one ton of steel,
16 okay, you can basically calculate what the demand in
17 China will be for MCBs, okay. And it is multiples of
18 what the U.S. demand is, to tell you the truth, okay.
19 But if you want some information to that, that we can
20 have as, you know, internal information, we will be
21 able to provide that in the post-hearing brief.

22 CHAIRMAN OKUN: Okay. I very much
23 appreciate that. And to the extent that you can break
24 that into time periods or how those protections are
25 done, that would be helpful. I think that Mr. Garcia

1 or Mr. Malashevich have already talked - covered in
2 your testimony some about demand in the future in this
3 market, in Mexico, Mr. Garcia, but if you could just
4 make sure that I understood that in terms of any
5 impact on your order books either for 2010 or 2011,
6 because you've heard Petitioners having some
7 indication that their testimony this morning, there
8 had been a leveling off or perhaps a softening in the
9 market, that there have been an over abundant optimism
10 from the steel producers. If you could comment on
11 that, whether you sense the same thing from your
12 purchasers, your customers.

13 MR. THOMAS: Madam Chairman, it's Ritchie
14 Thomas. Just a question, I'm not clear about whether
15 the question is relating to demand in the United
16 States or demand in Mexico and other places.

17 CHAIRMAN OKUN: For Mr. Garcia, demand in
18 Mexico, in particular. And then to the extent that
19 any of your witnesses have information about demand in
20 other regions, China, and what they've - the United
21 States demand and just whether it's consistent with
22 what Petitioners said. If they have anything
23 different, I would appreciate hearing that, as well.

24 MR. THOMAS: We will be happy to do that.

25 CHAIRMAN OKUN: Okay. I appreciate that. I

1 believe that I am now understanding the issue with
2 respect to the capacity reporting. Mr. Garcia, I
3 appreciate you giving us information on that in your
4 testimony. Mr. Malashevich, that was helpful, as
5 well.

6 I guess I'm still a little puzzled on the
7 pricing argument that you made. The Commission often
8 faces - you know, pricing data is difficult to gather
9 in any case. We've found the best way to get it is to
10 go to both sides and say you tell us what product it
11 is and how we should look at it. And so I'm always
12 troubled when we get to this stage and we still have
13 arguments of we don't really have the right products,
14 you don't really have the right pricing information,
15 don't look at it. I think that's a difficult place to
16 be in as a Commissioner when you're looking at statute
17 that tells you to look at underselling, look at these
18 things. So go through for me again your best analysis
19 of how we evaluate pricing, both on the record for
20 purposes of present injury, not so for threat of
21 injury.

22 MR. THOMAS: Madam Chairman, I'll do my
23 best. I'll see if I can begin with one point. I
24 think that both Petitioner and certainly we made a
25 serious effort to try to work out with the staff

1 pricing products that were comparable. As the staff
2 certainly found out and we did, being new to this
3 particular business, that turned out to be very nearly
4 impossible, in terms of defining the product, in terms
5 of composition, whatever, which was consistent among
6 various producers; so that to begin with, the pricing
7 questions were answered in terms not of identical
8 products, but in comparable products. And I think
9 everybody made an effort, I would assume, to, in fact,
10 supply answers that related to comparable products.
11 But as we've heard, there are various formulas and the
12 way in which the purchasers view those formulas and
13 how effective they are in their equipment can vary
14 tremendously.

15 So the first point we're making is the price
16 comparison, on its face, is somewhat inexact. It
17 doesn't mean that you don't pay attention to inexact
18 numbers. You see a lot of inexact numbers. But you
19 have to, I suggest, take that into consideration.

20 Secondly, we have - there's been a lot of
21 testimony today about factors that the purchasers, the
22 steel company purchasers, the refractories manager at
23 Nucor's plant in xyz, Arkansas or whatever, what they
24 considered when they're buying refractories. And as
25 Martin has testified, yes, price is a consideration,

1 but there are other considerations which are also
2 extremely important, so that the decision seldom comes
3 down to a price-to-price comparison simply as such.
4 What they're really concerned about is their cost per
5 ton of steel produced, which is not simply something
6 that the MCB prices drive wholly diamond sales.

7 CHAIRMAN OKUN: Mr. Thomas, I apologize, I
8 should not have pushed forward with my pricing
9 question. I was not looking at my light. That light
10 has come on and have been on for a couple of minutes.
11 So I will come back with some follow-ups and I
12 apologize to you for getting you started on that one.

13 MR. THOMAS: And we can expand on this in
14 the post-hearing brief.

15 CHAIRMAN OKUN: Thank you. Commissioner
16 Lane?

17 COMMISSIONER LANE: Thank you and thank you
18 for being here this afternoon. I want to start with
19 the Mexican capacity and that would take talking about
20 it. But as I understand it, there's one Mexican
21 facility that makes MCB and some of that comes into
22 the United States. And I am looking at a chart that
23 gives its capacity, and I'm not going to talk about
24 the specific members, but it shows the capacity, shows
25 the production, shows its shipments. And I'm assuming

1 that the decline in the steel industry in the United
2 States has also affected the use of this product from
3 Mexico. And so if Dr. Malashevich is correct and the
4 economy is going to continue getting better, then we
5 would expect to see more of a demand for the product
6 from the Mexican facility and for the product in the
7 United States. Is that correct, Mr. Thomas?

8 MR. THOMAS: At least if I understand the
9 question correctly -

10 COMMISSIONER LANE: You mean my rambling
11 question?

12 MR. THOMAS: I'm sorry, I would understand
13 it, yes, as well. As demand for MCBs is increasing in
14 the U.S., yes, you would have a demand - increased
15 demand from any source of MCBs that might be available
16 at the time. Our point, that in the case of the
17 Mexican production operations, and this is
18 specifically the plant Ramos, it is currently
19 operating at capacity and largely, largely because of
20 demand for cement products.

21 COMMISSIONER LANE: Okay. That's where I
22 was going to go next. So the facility in Mexico, when
23 it reports its capacity, its capacity is only for the
24 MCB, but it does have the capacity and it does make
25 other products?

1 MR. THOMAS: Yes, ma'am. It is a plant --
2 and I'm sorry, I'm not an expert in this particular
3 production methodology -- but essentially it's a plant
4 that has a certain number of presses for making
5 refractory bricks and other heat-treating facilities,
6 et cetera, of the kind that are used to make MCBS, but
7 also used to make other refractories. And so they can
8 allocate a part, a particular part of that plant as
9 demand would require. Twenty percent of that capacity
10 is going to be used for MCBS; 80 percent is going to
11 be used for something else. Now -

12 COMMISSIONER LANE: Okay, now -

13 MR. THOMAS: - as demand for the other thing
14 increases substantially, you may then produce 15
15 percent of that -

16 COMMISSIONER LANE: Okay. That's where I'm
17 going with this. So if the order went on China and
18 didn't go on Mexico, this facility in Mexico could
19 convert its whole facility to making MCBS?

20 MR. THOMAS: Only if it chose to abandon all
21 of its customers for the other products that it makes
22 at that plant.

23 COMMISSIONER LANE: Well, are there other
24 facilities in Mexico that make those other products?

25 MR. THOMAS: No.

1 COMMISSIONER LANE: So there's only one
2 cement plant in Mexico?

3 MR. THOMAS: No, no, no, there's more than
4 one cement plant in Mexico. As Mr. Garcia explained,
5 they have a plant in the Mexico City area that make
6 refractories, which are based on silica. The plant at
7 Ramos makes refractories that are based on magnesium.
8 And I'm going to let Victor expand on that because
9 he's the expert.

10 MR. GARCIA: I will do so. I heard this
11 morning by the Petitioner representative that he know
12 the plants in so many, many years. That's correct.
13 He visited one once in 1990, something like that. At
14 that time, we had nine presses. That's maybe the
15 picture he has now or he had. Five hydraulic presses
16 and four mechanical presses. In the present time, we
17 keep only the five hydraulic presses. So that means
18 that we let's say in that way, we lose four presses,
19 the mechanical machines are no longer in operation.
20 So if we add this production, it's easy to understand
21 that the nine presses produce more bricks than nine.
22 I mean nine more than five. But now we have less
23 presses than before.

24 Regarding the issue about the capacity to
25 produce magnesia bricks, the only magnesia plant in

1 Mexico is the Ramos plant. The Tlalnepantla in the
2 Mexico metropolitan area is focused on silica, silica
3 production, and due to the risk of contamination we
4 cannot mix the production in both plants.

5 COMMISSIONER LANE: Okay, thank you. Mr.
6 Beschel, you import MCBs from both Mexico and China.

7 MR. BESCHEL: That is correct.

8 COMMISSIONER LANE: And do you import from
9 companies in China other than RHI?

10 MR. BESCHEL: No.

11 COMMISSIONER LANE: So you do all of your
12 importing from RHI China and RHI Mexico?

13 MR. BESCHEL: That is correct, plus RHI
14 Europe.

15 COMMISSIONER LANE: Okay. Now explain to me
16 why it's okay and cost effective to import the product
17 from Europe, but some of you are making the argument
18 that it's not cost effective to import from Mexico
19 into the United States?

20 MR. BESCHEL: That's a very good question.
21 Certain areas in the north - in reality, Mexico and
22 European production going to the northeast of the
23 United States are probably cost comparable, just to
24 say that. It is just that it is more economical for
25 RHI to service the southern area of the United States

1 with Mexican bricks than it is to service the northern
2 area of the United States with Mexican bricks, just
3 simply by the fact that the freight is doubled going
4 up.

5 MR. THOMAS: Madam Commissioner, if we may,
6 I think we would like to expand on this answer with
7 the post-hearing brief. I'm afraid we're getting into
8 RHI's costs in a way that makes me uncomfortable.

9 COMMISSIONER LANE: Okay, that's fine. I
10 was just trying - I was mentally trying to figure out
11 how I can get a product from Europe so easily, but I
12 couldn't get a product from Mexico very easily. But,
13 you can answer it in a post-hearing brief and that
14 will be fine. Thank you.

15 So is the demand for MCB concurrent with the
16 demand for steel or is there a lag time?

17 MR. BESCHEL: I will have to agree with
18 Resco's statement, the demand is imminent with steel
19 production going up and they're lining up seven
20 labels, but 14 meters, for example, there is the
21 imminent need for all the refractory products, not of
22 just MCB, to line that label, right there and then
23 when the steel is being produced. And the same is
24 vice versa. When they stop producing MCB, it
25 imminently affects your demand for steel. Suddenly,

1 you're sitting on way more inventory than you want to.

2 COMMISSIONER LANE: Now have you ever bought
3 your product from any of the U.S. producers?

4 MR. BESCHEL: Yes, we have.

5 COMMISSIONER LANE: And would you like to
6 elaborate on that experience?

7 MR. BESCHEL: In what respect? Elaborate
8 like on the quality or on price?

9 COMMISSIONER LANE: Well, you sounded
10 somewhat disgusted when I asked you that question, so
11 I thought maybe -

12 MR. BESCHEL: No, no, no. I'm going to be
13 very, very honest, okay. We've had, to be perfectly
14 honest, a very good working relationship with ANH for
15 the longest time, okay. Between 2005 and 2008, we
16 sourced substantial quantities of refractories from
17 ANH for certain customers in the United States that we
18 serviced together. And to be perfectly honest, there
19 is nothing I can say about them providing bad service
20 or bad quantity, okay, in all honesty, okay. The
21 other thing that has to be said is I owned ANH for a
22 certain period of time, too, particularly the Narco
23 plants, which is the MCB plants, were owned by RHI
24 from 1995 until 2002. So, you know, we're also
25 familiar with those facilities and we're familiar with

1 the quality that those facilities can produce.

2 It is also the case that for some of these
3 FLS products that were discussed or cost per ton
4 products, that we have been buying both from Resco and
5 LWB, multiple refractory products that were needed in
6 servicing those customers because they had - their
7 products were approved for those customers, while our
8 products hadn't been approved yet.

9 COMMISSIONER LANE: Okay, thank you.

10 MR. BESCHEL: You're welcome.

11 COMMISSIONER LANE: Thank you, Madam Chair.

12 CHAIRMAN OKUN: Commissioner Pearson?

13 COMMISSIONER PEARSON: Thank you, Madam
14 Chairman. Welcome to all of you. It's good to have
15 you here this afternoon. We will try not to keep you
16 here way into the evening.

17 Going back for a moment to the handouts from
18 Petitioners dealing with RHI, the page that is headed
19 "strategic approaches," in the bullet points there for
20 the steel division, the second line says, "transfer
21 commodity production to China and re-import USA and
22 Europe." I had a discussion this morning with Mr.
23 Brown about commodity. How should we understand the
24 term "commodity," as it appears on this page, because
25 it's not clear to me that the magnesia carbon bricks,

1 that we ought to think of them as a commodity or
2 whether we should think of them as highly
3 individualized products? Mr. Beschel or Mr. Garcia,
4 please?

5 MR. BESCHEL: I'll take the answer.
6 Particularly this transcript is taken from one of our
7 - obviously from one of our presentations. It doesn't
8 specifically say anything about MCBs or whether MCBs
9 are the commodities and I wouldn't know what the
10 people that put this together actually meant by saying
11 commodity-type products. We would be glad to
12 elaborate that in the post brief, if that's possible,
13 because then you'll have the time period and where
14 this comes from.

15 COMMISSIONER PEARSON: That would be fine.

16 MR. BESCHEL: Is that okay?

17 COMMISSIONER PEARSON: Given the gravity of
18 the wording here, it's entirely possible that the term
19 was not used with the type of precision that we tend
20 to use here. So just tell us what you can about that.

21 MR. BESCHEL: Probably, that's probably the
22 case.

23 COMMISSIONER PEARSON: Okay. Mr. Beschel, I
24 think to you again, if an order would go into effect
25 on China, but not on Mexico, could you envision a set

1 of circumstances that might make it profitable for RHI
2 to ship larger quantities of MCBs from Mexico to the
3 United States and then turn around and ship larger
4 quantities from China to Mexico to fill that gap?

5 MR. BESCHEL: We've had that discussion. To
6 be perfectly honest, the one thing that - first of
7 all, I would like to probably elaborate more on it in
8 the post-hearing brief. But, one thing that is going
9 to be prohibitive to do that is you incur twice the
10 freight costs, okay. I mean, honestly, I'm
11 transporting from China, to Mexico, okay. It being
12 said that the Pacific coast is probably slightly
13 cheaper, but not all of my customers are on the
14 Pacific coast line in Mexico, okay. So, I have inland
15 transportation. Inland transportation in Mexico is
16 not easy, okay. It's not such a great road network as
17 we have in the United States, for example. And then I
18 would produce in Mexico and again incur freight costs,
19 which doesn't make any sense.

20 If I would sort of look at that, I am
21 definitely better off shipping from Europe - one
22 freight cost, that's it and keep the Mexican customers
23 serviced with the Mexican products because a lot of it
24 also relies on the Mexican customers in areas that
25 rely on availability from the Mexican plant and not

1 everybody is easily convinced to take Chinese
2 material, to be perfectly honest.

3 COMMISSIONER PEARSON: And does - Mr.
4 Malashevich?

5 MR. MALASHEVICH: Forgive me, Commissioner,
6 I just wanted to suggest that at your leisure, there's
7 a particularly poignant exhibit that relates to this
8 subject in the RHI brief, as Exhibit 26, that I think
9 is quite relevant to your question. Thank you.

10 COMMISSIONER PEARSON: Okay. It may not
11 even be necessary to elaborate in the post-hearing, if
12 you've already elaborated and it just escaped me.
13 Things sometimes do escape me.

14 So does the industry in Europe have enough
15 excess capacity so that potentially it could provide
16 product to the United States that would make up for
17 some share of the Chinese quantity that may no longer
18 be coming?

19 MR. BESCHEL: The one thing you have to see,
20 as I said in the beginning, we have 30 plus
21 facilities. The majority of our facilities is in
22 Europe and the majority of capacity that we have from
23 mag carbon is in Europe, not in China and not in
24 Mexico. So where is the easiest to make space for
25 these products is in Europe with the multiple plants

1 that we have there. And our European facilities have
2 the best efficiency ratios. There is also the most
3 potential to actually be able to squeeze the needs of
4 the United States into the European facilities.

5 COMMISSIONER PEARSON: Okay. And I don't
6 know whether you're in a position to comment more on
7 the facility that RHI has in China, but do you know,
8 is that located at a port, so that -

9 MR. BESCHEL: Yeah. It is about a 100
10 kilometers or 60 miles from the port of Dalian. It is
11 in the Dalian region.

12 COMMISSIONER PEARSON: Thank you. So is it
13 better situated to serve domestic demand or to serve
14 export demand?

15 MR. BESCHEL: It is probably situated to
16 service both in an equal manner. We're obviously
17 servicing a lot of our Asian customers from that
18 Chinese plant. We have customers in other Asian
19 countries that we service and would use - we do use
20 that facility quite substantially for that. And for
21 the Chinese customers, too. It is mainly located
22 there because the advantage to the raw material
23 supplies that we can get to the plant.

24 COMMISSIONER PEARSON: Okay. Mr. Thomas?

25 MR. THOMAS: It's an area were there is a

1 very large magnesia site deposit.

2 COMMISSIONER PEARSON: Okay. Based on RHI's
3 experience sourcing imports worldwide, can you comment
4 on whether the Chinese have access to higher-quality
5 inputs, magnesite, in particular?

6 MR. BESCHEL: They have probably access to
7 the best magnesite that's out there. The other area
8 that we encounter now, and it's public knowledge, is
9 North Korea, which is bordering China, is another
10 country that has access to substantial quantities and
11 good quality magnesite. It's not that easy to get
12 there though.

13 COMMISSIONER PEARSON: Yes. I would imagine
14 there might be some limitations on moving that product
15 into the United States. I'm not sure about other
16 countries.

17 MR. BESCHEL: I'm not even sure how to get
18 the material from them in reality. But it's just
19 known - it's a known fact that there is huge magnesite
20 raw materials available in that area.

21 COMMISSIONER PEARSON: Is the quality of the
22 magnesite in China good enough that that, in itself,
23 gives some cost advantage to Chinese producers that's
24 not - that has nothing to do with a government
25 subsidy?

1 MR. BESCHEL: The one thing that you have to
2 understand, and we've discussed it with multiple of
3 our customers when we went to visit Chinese magnesite
4 producers directly, is in probably 95 percent of the
5 cases, you're going to find that the - 95 might be
6 exaggerated, but in a high percentage of cases, you
7 will find that the production quality of Chinese MCB
8 producers is not always a level of consistency and
9 quality that is required at the very end by the
10 customers. And it's not to say that Chinese are not
11 very good in adapting and sort of slowly but surely
12 getting there as we pride ourselves as having put a
13 modern European facility there, that we have that. We
14 know that across the street from our facility is
15 Mayerton's facility, which is as new as ours. We know
16 that theirs is as modern as ours, okay. We know that
17 Orind has a horrible facility over there, okay, and
18 their quality has been going up and going down. And I
19 can go on forever with the ones that we know of and
20 there's probably hundreds others that we don't even
21 know of just are not consistent in the quality that
22 it's supplying.

23 COMMISSIONER PEARSON: Okay. So the quality
24 of input doesn't necessarily tell you what you need to
25 know about the quality of the -

1 MR. BESCHEL: -- of the outcome.

2 COMMISSIONER PEARSON: Okay, thank you. Let
3 me shift gears. For Mr. Thomas or Dr. Malashevich, in
4 the earlier phases of this investigation, the argument
5 had been presented that Mexican product really didn't
6 compete nationally in the United States, that it was
7 focused more in the southwestern area. What do you do
8 with that argument now? Are you pursuing it or should
9 we kind of forget that and focus on other things?

10 MR. THOMAS: Ritchie Thomas. We're
11 certainly pursuing it. We presented with our pre-
12 hearing brief data with respect to actual shipments to
13 the United States from Mexico - I should say a Mexican
14 product for the period of investigation and the
15 Department of Commerce investigation. We provided the
16 Commission the percentage of shipments, which were
17 made to customers in the southeastern and southwestern
18 region of the United States, as defined by the United
19 States International Trade Commission. It would be
20 seen that that is a very high percentage. Is it 100
21 percent? No, it is not 100 percent, but it is the
22 overwhelming preponderance of the sales from Mexico.
23 I can't think of any better data than those data with
24 respect to that point.

25 COMMISSIONER PEARSON: Okay. Well, thank

1 you. Madam Chairman, my time has expired.

2 CHAIRMAN OKUN: Commissioner Aranoff?

3 COMMISSIONER ARANOFF: I join my colleagues
4 in welcoming all of you here in the afternoon panel.
5 Throughout the day, we've heard this constant
6 discussion of is this a commodity product that trades
7 solely on price or is this a very high tech
8 specialized product where the quality and service and
9 other factors are the most important things. And what
10 strikes me after hearing all of the witnesses testify
11 is that it's entirely possible that both are true. I
12 understand that there's a very careful recipe that has
13 to go into making this product and that there's a wide
14 degree of variations. The Commission has found that
15 products like wire rod, which comes in hundreds of
16 different specifications, is a commodity product that
17 trades mostly on price, based on the idea that there
18 are a number of producers in the U.S. and other
19 countries, who can hit the mark almost all the time on
20 almost any specification. And from what I think -
21 what evidence of record do we have if that's not the
22 case here? You all have testified that quality and
23 service and other non-price factors are very, very
24 important. But is there any evidence that we have on
25 the record that the three U.S. producers, the large

1 Chinese exporting producers, and the Mexican producer
2 RHI can't on a regular basis meet almost every
3 specification that any U.S. purchaser might have for
4 this product?

5 MR. BESCHEL: I'm not sure that there is any
6 evidence on the record. The only thing that I would
7 like to elaborate and explain to you is the following,
8 okay, is (a) the simple fact that none of our
9 customers, none of our customers generally pile our
10 pallets of bricks next to Resco's, next to ANH's, or
11 next to Americas, and then randomly pick that same
12 size black brick that you saw today from Mr. Brown,
13 which ours probably looks pretty much the same,
14 honestly, okay, is to me a clear fact that also the
15 customers don't see that in reality, although they
16 like to try to sort of squeeze you as a supplier on
17 pricing that way as a commodity, okay. Even if I say
18 that my carbon so and so is similar to ANH's phantom
19 so and so or Resco's no line so and so, with
20 experience, ourselves, and I think all the other
21 suppliers have experience in a similar way, is if you
22 supply a product and you feel it is the same or it
23 should be the same or it should perform similar, we've
24 flat out fall on our face, even as RHI and maybe one
25 of the leading technology leaders in refractory

1 manufacturing, that our product did not perform the
2 same way, when you put it into the same application,
3 the same steel making. So to me, that tells me that
4 it's not really - in a lot of cases, probably not
5 comparable.

6 Also, if it was a true commodity, why do
7 steel makers not always buy from the cheapest
8 supplier? Honestly, there is many cases where we know
9 that we are probably lower priced than a competitor
10 and they still continue to buy from the competition.
11 And there's also cases where we know there's
12 competitors cheaper than us and they still continue to
13 buy from us. So I don't see that as being truly a
14 quality interchangeable one-to-one, so there's other
15 aspects that come into effect when you make a choice
16 on buying from RHI, Resco, ANH, or any other importer
17 or domestic supplier.

18 MR. THOMAS: Madam Commissioner, if I could
19 add something else. I would like to address the wire
20 rod similarly. I'm not aware that Beakert, for
21 example, or any other wire producer does or would
22 consider buying its wire rod on a cost per ton of wire
23 produced basis. Why would it do that? It can buy the
24 wire rod at whatever the price is and it produces the
25 wire and it knows what it's going to do with that.

1 But this is an industry where there are
2 buyers, who are buying on a cost per ton, a full line
3 service basis. Why are they doing that? It's because
4 different products and different producers perform
5 differently. And what they're really interested in is
6 the net cost per ton of refractories per ton of steel
7 produced. And so the comparison really isn't the kind
8 of comparison that you see in a case of the wire rod,
9 it seems to me.

10 COMMISSIONER ARANOFF: That may be the case
11 because there may be multiple formulations, which in
12 conjunction with a lot of other things about how you
13 run a steel mill, could get you to your ideal output.
14 But I think what I heard Mr. Beschel say was that the
15 best evidence that we have on the record for why I
16 didn't know about price in the end is that purchasers
17 don't commingle the product. And I think the
18 testimony that's from the Petitioner's panel this
19 morning was that the key issue there is traceability.
20 You know, in the very rare case where something goes
21 wrong with your refractory brick, you want to know
22 where it came from. Would you disagree with that?

23 MR. BESCHEL: No, I don't disagree. And the
24 other aspect why, and it's totally true what the
25 Petitioner said this morning, is a lot of these steel

1 mills do not want to put all their eggs in one basket.
2 So, you have two, sometimes three suppliers, they're
3 mainly two. And what they also try to see is, is they
4 don't commingle also on the basis of they like to see
5 how the comparable product or the products from the
6 two suppliers perform against each other. As I said
7 before, you know, like how much steel can I make with
8 the quantity of refractory I'm putting in here. And
9 if I commingle, I will never be able to tell whether
10 the product of Company A or the product of Company B
11 gives me the better performance to manufacture my
12 steel because that is also something that we're often,
13 not our suppliers, are often confronted with, that
14 they say, hey, I can make 75 hits with their product,
15 why do I only get 72 hits with yours and vice versa,
16 they go the other way. So that's sort of one of the
17 benchmarks.

18 COMMISSIONER ARANOFF: But if you make 75
19 hits with one and 72 hits with the other and the 72
20 hit one costs less, there's a calculus that you're
21 going to go through in the end, which is -

22 MR. BESCHEL: Absolutely. That is correct.
23 I mean, that's again down for the cost per ton of the
24 refractory produced.

25 COMMISSIONER ARANOFF: And that's why I had

1 asked the Petitioners this morning how wide that range
2 is. I was mentioning the Diamond Saw blades case
3 where we saw a large price differential between some
4 of the imported products and some of the domestic
5 products and basically the idea was people knew that
6 the cheaper imported product was really poor quality,
7 I mean notably poorer quality, that things wore out
8 quickly. But they were so inexpensive and it was so
9 easy to just keep changing them, that people said, you
10 know what, that domestic product, it's way better
11 quality and we don't care. It seems to me that the
12 range for this product has got to be a lot smaller
13 than that.

14 MR. BESCHEL: It is a lot smaller and the
15 one thing that is definitely - one thing that was
16 pointed out correctly is there is labor costs
17 involved, okay, and the labor costs - labor costs
18 generally is not cheap, okay. I think labor cost
19 accounts for more than two to three percent of the
20 steel making than refractories does. So if we, as a
21 supplier, are able to manage to get ladle life from 75
22 hits to 150 hits per ladle, which we have done at
23 certain steel mills, is definitely something which you
24 can basically have the capacity of labor that you need
25 to reline ladles. You can reduce the fleet that you

1 need. As Mr. Brown pointed out correctly, every plant
2 has a fleet of ladles, so you might be able to reduce
3 that, which is also going to sort of take down cost.
4 Marketing has to be taken into consideration, too.
5 Every ladle that goes in, for example, and that is the
6 biggest consumer of MCBs, has to be preheated, okay.
7 So it goes from the lining, to the preheat stand,
8 where they put like a lid on it where they sort of
9 like preheat it with gas that sort of is being lit.
10 And that's also cost that you save because if the
11 ladle is constantly in circulation, you don't need to
12 go to the preheat stand with the ladle twice. You go
13 once.

14 But this is savings to the steel mill that
15 we, as a refractory company, don't even see, okay.
16 This is efficiencies that the manufacturing side on
17 the steel side generate by using better utilization of
18 refractory material.

19 COMMISSIONER ARANOFF: Mr. McPhie?

20 MR. MCPHIE: Yes. Iain McPhie. If I could
21 - in terms of what other evidence is on the record, if
22 I could just point you towards the U.S. purchaser
23 questionnaire responses. There was a specific
24 question directly on the importance of the price
25 performance ratio of the products and many of the

1 responses contrast that notion to the notion of
2 purchasing on price alone.

3 COMMISSIONER ARANOFF: Okay.

4 MR. MCPHIE: And the responses -

5 COMMISSIONER ARANOFF: I guess what I'm
6 telling you, I'm not sure that I see that as an apples
7 to oranges comparison. It seems to me that the price
8 to performance ratio is about price, how much value
9 you're getting for your money. I just don't see them
10 as two individually exclusive things. Please explain
11 to me post-hearing how I'm wrong. But my time is up,
12 so I am going to wait. Thank you, Madam Chairman.

13 CHAIRMAN OKUN: Commissioner Williamson?

14 COMMISSIONER WILLIAMSON: I was coming back
15 in and happened to pick up the brick that was out
16 there and I understand how your arguments about why
17 you don't mix different companies, the labor of having
18 to install it, and all that because those things are
19 extremely heavy. I think it demonstrates the point
20 you're making there.

21 Let's see, Mr. Thomas, you indicated earlier
22 that we should not rely too heavily on price
23 comparisons and Mr. Malashevich told us that our usual
24 indicators of price suppression is unreliable. So
25 joining on what pricing you told us are unreliable,

1 look to other indicators, such as change in market
2 share, which is more of a volume question. So I would
3 like to know what indicators are you suggesting that
4 we should use in our analysis, sort of discounting the
5 price one?

6 MR. THOMAS: Commissioner, I'm not entirely
7 sure that I understand the question, but let me go
8 through it kind of step by step. With respect to the
9 question of prices, we haven't said that you should
10 not consider your price series. What we have tried to
11 say, perhaps not very well, is that the price series,
12 that it simply has to be accepted for what it is,
13 which is a somewhat imperfect comparison. I would say
14 that those price data contain several - quite a bit of
15 information that is very useful from our standpoint
16 and, in particular, shows that prices are not being
17 depressed in the period of investigation, but rather
18 have increased, and that if there has been an opening
19 of the price spread, it's been because domestic prices
20 have generally increased faster than the import
21 prices. I don't want you to ignore that by any
22 stretch of the imagination.

23 With respect to the question of when we're
24 talking about cost price, is there a cost price
25 squeeze, we have provided you the data that we think

1 is most relevant to that and have shown you - we have
2 graphed the cost, the raw material cost and price, et
3 cetera. So -

4 COMMISSIONER WILLIAMSON: Okay. Well, let's
5 put it this way, what should we make of the market
6 share data, either now or post-hearing, and the volume
7 changes?

8 MR. MALASHEVICH: I'll take a stab at that,
9 if I may.

10 COMMISSIONER WILLIAMSON: Sure.

11 MR. MALASHEVICH: First of all, on the
12 subject of - also in a way of clarification, I don't
13 think I used the word "unreliable," in terms of the
14 percentages; but I'm saying in the circumstances of
15 this industry, the absolute value per ton is more
16 appropriate to meet the conditions of competition in
17 this industry than ratios based on sales.

18 As to market share, it's always very
19 important for the Commission to look at, no question
20 about that. I do think though that in part owing to
21 the presence of these consignment sales, which I
22 discussed earlier in response to the question from
23 Commissioner Pinkert, the Commission certainly should
24 look at market share based on shipments of imports,
25 but also should look at market share based on entry,

1 because with the consignment sales, I think, really
2 reflecting previous transactions. And a transaction
3 may involve - I'm making this number up - 100 tons of
4 MCB, but they would be drawn down in increments over
5 time. So that's why the Commission - the traditional
6 market share based on shipments should be supplemented
7 by looking at it on the basis of entry, as well.

8 And shorter the time period you're
9 considering, the more statistical noise would be
10 involved and that's why I suggested to Commissioner
11 Pinkert earlier, to take a broader view of the cycle
12 without respect to strictly calendar time. You look
13 at the last nine months during the up tick, versus the
14 12 months or so for whatever you have data during the
15 earlier cycle, and look at the cycle as a whole and
16 look at the trends. And I think the most recent trend
17 is that you have - over the last nine months, you have
18 increasing - a presumption of increased imports, but
19 you also have a tremendous improvement in the
20 condition of the industry notwithstanding what the
21 pre-hearing staff report says. We've seen lower
22 average selling prices because raw materials costs
23 were lower.

24 So you don't - looking at the most recent
25 period, which the Commission typically does, you don't

1 have that correlation between increasing imports and
2 adverse changes in the domestic industry's condition.
3 So it's not -- I think the market share data can play
4 a significant role in your analysis.

5 COMMISSIONER WILLIAMSON: Because you're
6 saying that the fact that the Petitioners filed and
7 the case is ongoing -

8 MR. MALASHEVICH: Well, my own view is that
9 the case filing, notwithstanding I think the sincere
10 belief on the part of Petitioner's witnesses, that if
11 they had access to the same data that I do, they would
12 probably agree that the case filing was a non-event.

13 COMMISSIONER WILLIAMSON: Okay, thank you.
14 And what about the market share changes in the earlier
15 period, during the first couple of years of the POI?

16 MR. MALASHEVICH: I believe we addressed
17 that in our pre-hearing brief.

18 COMMISSIONER WILLIAMSON: Okay.

19 MR. MALASHEVICH: And I'm not sure if
20 they're confidential or not.

21 COMMISSIONER WILLIAMSON: Make sure in post-
22 hearing that it is -

23 MR. MALASHEVICH: I will.

24 COMMISSIONER WILLIAMSON: Okay.

25 MR. THOMAS: Commissioner Williamson?

1 COMMISSIONER WILLIAMSON: Yes.

2 MR. THOMAS: Also directing to the question
3 of data, Bruce, of course I totally agree with his
4 answer. I would just add one little footnote and that
5 is that the market share data based on quantities
6 reported in the pre-hearing report does not include
7 all the quantities that were, in fact, sold or shipped
8 by the domestic industry and so they tend to overstate
9 the import share of the market.

10 COMMISSIONER WILLIAMSON: Okay.

11 MR. THOMAS: That's in absolute terms.

12 COMMISSIONER WILLIAMSON: Okay. You have
13 that in your post-hearing - pre-hearing?

14 MR. THOMAS: It's in our pre-hearing brief
15 and we'll put it in our post-hearing brief.

16 COMMISSIONER WILLIAMSON: Okay. Thank you
17 for that. Thinking about the question of demand in
18 China, in Exhibit 30 of your pre-hearing brief, you
19 still reported that expected steel uses to increase
20 6.7 percent in 2010 in China and 3.8 in 2011. And I
21 guess in response to our question, Chinese producers
22 expect an increase of 3.4 percent in 2010 and 26.6 in
23 2011 increase. And I guess Petitioners Exhibit A-2
24 talks about increasing sales in the Chinese steel
25 market. So I was just wondering how this data, what

1 you think about the growth of demand for MCBs in the
2 Chinese home market, and what your views on that?

3 MR. BESCHEL: In reality, the MCB demand in
4 China is going to be directed, as it is in the United
5 States, as it is in Europe, as it is in Mexico, as it
6 is in South America, is doing to directly link to
7 whatever the steel production is going to be in China.
8 So if we look at the outlook for steel production in
9 China and there is numbers out there, as I mentioned
10 before, in China, on pace for over 600 million for
11 this year, that then you could basically calculate
12 from that how much demand for MCB there is going to be
13 in that market. Same as the United States, if you
14 have 100 million tons of steel, I can tell you
15 probably pretty much, plus or minus 10 percent, how
16 much MCB is going to be used in the United States.

17 COMMISSIONER WILLIAMSON: Okay.

18 MR. BESCHEL: And that's the same for China.

19 COMMISSIONER WILLIAMSON: So what --

20 MR. THOMAS: Commissioner?

21 COMMISSIONER WILLIAMSON: Yes.

22 MR. THOMAS: We wanted to provide -

23 MR. BESCHEL: We will provide that -

24 MR. THOMAS: - and some further estimates as
25 best we can on that subject and that will be with the

1 post-hearing brief.

2 MR. BESCHEL: In all honesty, there is not a
3 big secret, okay. It is about two-and-a-half pounds
4 of MCB that is needed to make one ton of steel.
5 That's a benchmark that we work with internally. We
6 obviously sort of see what capacity you need to
7 service a certain market and that's what it is. So if
8 you take 600 - I did it in kgs because I'm more
9 familiar with kgs - demand in China is at 1.25 kgs per
10 ton of metric steel - metric ton of steel produced
11 holds true. It's going to relate to 750,000 metric
12 tons of mag carbon demand internally alone.

13 COMMISSIONER WILLIAMSON: Okay. I get the
14 point, yes.

15 MR. BESCHEL: That number probably might
16 differ by market a little bit because more efficient
17 markets may be using less MCB; less efficient markets
18 use more MCB. It depends on how the steel operator in
19 that relevant market really operates.

20 COMMISSIONER WILLIAMSON: So you have more
21 confidence in the production of steel in China than
22 you have in MCB - I mean, you should have confidence
23 in the MCB numbers, which -

24 MR. BESCHEL: I have confidence in the MCB
25 numbers. The only thing I do not know is the 1.25

1 kgs, which I know is for a developed market, the right
2 number, whether that number also holds true for China.
3 And that's something that I will provide, as I had
4 discussed. That's the only thing that I don't know.

5 COMMISSIONER WILLIAMSON: Okay, thank you.
6 My time has expired, so thank you for those answers.

7 CHAIRMAN OKUN: Commissioner Pinkert?

8 COMMISSIONER PINKERT: Thank you, Madam
9 Chairman. I heard some testimony earlier challenging
10 the Petitioners attempt to show that profitability on
11 other steel refractory products exceeded the
12 profitability on the product under investigation. And
13 I understand your arguments that you made, but I'm
14 wondering is there a better way of benchmarking the
15 domestic industry performance with respect to the
16 products under investigation to understand how they
17 may have been impacted by subject imports?

18 MR. THOMAS: Certainly, Commissioner, one
19 thing you can do is compare the domestic producers
20 performance as between themselves.

21 COMMISSIONER PINKERT: Do the company
22 witnesses have any thought about that comparison; not
23 the comparison suggested by counsel, but about the
24 comparison suggested by the Petitioners?

25 MR. BESCHEL: The only thing - I can only

1 repeat my answer. My answer is that different types
2 of product have different margins and that is just
3 generally from the competitiveness of that sector, of
4 the availability of products in that sector, and also
5 is how many competitors or how many other suppliers do
6 you find in that sector that made mag chrome, that
7 made dolomite, that made pungent mixes, that made
8 fettling material, that made slide gate plates.
9 Depending on really whatever segment you're in, the
10 yield - all these segments yield very different
11 margins. So I wouldn't be able to tell you anything
12 else, how to better compare it. I don't know what
13 they use as a surrogate product; but I know that even
14 within all bricks, there's some bricks that yield
15 higher margin and other bricks that yield lower
16 margins. That's true across the board, the same.

17 COMMISSIONER PINKERT: And just sticking
18 with the bricks that we're talking about in this case,
19 is there some sort of time series comparison of
20 profitability that we should be doing to understand
21 what the impact of the subject imports might be?

22 MR. MALASHEVICH: This is Bruce Malashevich.
23 Yes. Let me just ask my colleagues.

24 (Counsel confers.)

25 MR. MALASHEVICH: There is a particular - I

1 think it's about a page-and-a-half in RHI's pre-
2 hearing brief; we're getting you the exact reference
3 momentarily - I think the best benchmark - the best
4 way of understanding the impact or lack thereof of the
5 subject imports is look at the performance of the
6 individual producers. This is done in the RHI brief.
7 And I certainly recognize that the Commission has to
8 consider the condition of the industry as a whole; at
9 the same time, you can consider any other factor that
10 considers to be relevant. And I think the analysis we
11 do, which is very, very sensitive in terms of APO
12 information, it's difficult for me to paraphrase. But
13 it's only a page-and-a-half - two-and-a-half pages.
14 It's 47 through 49 of the RHI brief. I think it
15 speaks for itself and that discretion does provide, I
16 think, considerable insight in helping you both to
17 benchmark the industry's performance against the
18 natural - I mean one of the good things about this POI
19 is you do have an entire cycle, from peak, to trough,
20 to recovery, and I think you can gauge by the analysis
21 in those pages what is a natural performance for the
22 industry versus different performance associated with
23 factors other than subject imports.

24 COMMISSIONER PINKERT: Thank you. Now there
25 is also an argument that you've made that there are

1 greater profits on sales in the Mexican market, in the
2 home market, than on sales to the United States. And
3 I don't want to get into APO information or
4 information that is submitted to another agency, but
5 I'm wondering just as a matter of theory, does that
6 analysis have - does it reflect possible dumping that
7 is found by the Commerce Department?

8 MR. THOMAS: I would have to say that the
9 Commerce Department's calculation, which found
10 "dumping," implies just exactly that, the profits are
11 higher in the Mexican market than in the U.S. for the
12 Mexican product.

13 COMMISSIONER PINKERT: But what I'm saying
14 is that should our analysis be influenced by prices
15 that are arguably dumped in the U.S. market?

16 MR. THOMAS: I think your analysis should be
17 influenced by the relevant profitability. If one is
18 speculating or postulating, that there is an incentive
19 to abandon the Mexican market and sell in the U.S.
20 market, one has to ask why would they do that. And if
21 the answer is that they would be experiencing lower
22 profits on sales to the U.S. than the Mexican market,
23 that may certainly suggest to me that there is very
24 little incentive to exchange Mexican market sales for
25 U.S. market sales. Others might conclude otherwise.

1 COMMISSIONER PINKERT: I understand. I will
2 just take one more shot at this question. My thought
3 is that in evaluating the relative attractiveness of
4 the two markets, that perhaps we should move dumped
5 sales out of the equation, so that we can determine
6 whether one market is more attractive than the other,
7 independent of dumping.

8 MR. THOMAS: Well, then the question would
9 be, using that assumption, how are we to - what do we
10 do? Do we predicate that there would be sells at
11 higher prices in the United States? We have no
12 evidential basis to suggest that. I don't know where
13 you could go with that thought, quite frankly.

14 COMMISSIONER PINKERT: Well -

15 MR. MALASHEVICH: Excuse me, Commissioner,
16 because I have another suggestion that might be
17 helpful here from where I sit. As you know, I'm not a
18 lawyer, so I'm not addressing any legal points. But
19 one possibility is to take into account the fact that
20 this was not an anticipated case, the part of RHI. It
21 happened. It hit the fan, if it will. One thing we
22 do is consider - I think we can all agree that prices
23 in the United States by U.S. producers are non-dumped
24 prices. They're U.S. domestic prices. You then look
25 at the relationship between U.S. price and Mexican

1 price from products one through five. Then you'll
2 reach the same conclusion that we do in Exhibit 26 of
3 the RHI brief.

4 COMMISSIONER PINKERT: Thank you. I'd
5 invite both Petitioners and you to comment on that
6 issue in the post hearing and put some numbers onto
7 the analysis.

8 Now just taking the issue that we're talking
9 about and looking at it sort of on its head, if Refmex
10 makes a substantially higher profit on its home market
11 sales than it does on sales to the United States, what
12 prevents U.S. MCB producers from competing in Mexico
13 for those higher profit sales? Mr. Beschel?

14 MR. BESCHEL: They are competing with us in
15 Mexico. Nothing's preventing them. They are there.

16 COMMISSIONER PINKERT: And what's happening
17 then to the profitability? Can you give me some
18 dynamic explanation?

19 MR. BESCHEL: The one dynamic that you will
20 have is that you know where the two locations of the
21 two major, or let's say the two plants are of the two
22 companies that are present here today, okay. One is
23 in Michigan and the other one is in Hammond, okay.
24 Your Mexican customers, the major, the big customers,
25 okay, the big ones are south of Mexico City, okay?

1 You know it's not around the corner to haul
2 substantial quantities of MCB bricks down there, to be
3 perfectly honest. So freight is going to be one of
4 the prohibitive factors to actually compete against
5 somebody that is locally and that has probably a
6 quarter of the distance to go with the product, okay?

7 The other thing is you need to set up a
8 Mexican-speaking, Spanish-speaking sales force, okay,
9 to actually do that, okay? Because with your English-
10 speaking sales force in Mexico you're not going to go
11 very far, to be perfectly honest. So that's another
12 factor, that you need to go in first and say am I
13 willing to do that? And that's sort of, I think, the
14 two prohibitive factors, although to be perfectly
15 honest at least ANH we've seen in the Mexican market
16 competing against our product.

17 COMMISSIONER PINKERT: Thank you. Any other
18 comments on that issue on the panel.

19 MR. GARCIA: May I?

20 COMMISSIONER PINKERT: Yes.

21 MR. GARCIA: In my direct testimony I
22 mentioned that we have currently Refratechnik,
23 Vesuvius, Mayerton, Puyang, LWB, Magna, and ANH in the
24 Mexican market.

25 COMMISSIONER PINKERT: Thank you. And thank

1 you, Madame Chairman.

2 CHAIRMAN OKUN: Okay. I just have a couple
3 of things left.

4 Mr. Garcia, I wanted to go back to you. I
5 know you talked about home market demand in your
6 testimony, and I know the pre-hearing brief contains
7 information, but I just want to make sure just
8 conceptually that I understand.

9 For 2010, do you expect that to be a better
10 year than 2008 -- and I don't know if this is
11 confidential, you can do it post-hearing, but a better
12 year than 2008, you know, 2009 was a bad year.

13 MR. GARCIA: Yes, I would say equal through
14 2008. Yes.

15 CHAIRMAN OKUN: Okay. And I think I may
16 have made this request earlier. I start repeating
17 myself this time of day. But if there's anything with
18 respect to your order books for 2010 or anything
19 indicating the 2011 order books that you can share
20 with the Commission, I'd appreciate seeing that as
21 well just to get a sense of how things are going in
22 your home market.

23 MR. GARCIA: Certainly.

24 CHAIRWOMAN OKUN: I'd appreciate that. And
25 then Mr, Thomas, I think this is just post-hearing. I

1 know in the -- I believe it was your opening remark
2 you had referenced or questioned what the Petitioners
3 were arguing with respect to whether we should give
4 reduced weight to post-petition data, or I think you
5 thought they were making contradictory arguments,
6 perhaps.

7 And if you could, based on the comments we
8 received from Petitioner's counsel that they were not
9 arguing for reduced weight on the data, I think you
10 still have an argument, but I just want to see it
11 post-hearing so that I understand your point. You can
12 add anything you'd like right now.

13 MR. THOMAS: I'd be happy to address it in
14 the post-hearing brief. Thank you.

15 CHAIRWOMAN OKUN: Okay. All right. And
16 with that I think all my questions have been covered,
17 and I will turn to Commissioner Lane.

18 COMMISSIONER LANE: I have no further
19 questions. And I would just like to thank this panel
20 for their testimony.

21 CHAIRWOMAN OKUN: Commissioner Pearson?

22 COMMISSIONER PEARSON: Thank you, Madame
23 Chairwoman. I have just a couple.

24 This morning we talked with the Domestic
25 Industry Panel regarding installation services. And

1 just to clarify, does Resco provide installation
2 services of MCB in the United States?

3 MR. BESCHEL: Yes.

4 COMMISSIONER PEARSON: Okay. And so it's a
5 fairly common business practice, business service that
6 you provide. It's not an unusual thing.

7 MR. BESCHEL: It's not an unusual thing.
8 And as Mr. Richter pointed out correctly, it is
9 something that has been around for a while. The only
10 thing that I'd like to mention that in the past nine
11 to ten months it has gotten a little bit more of a
12 focus from our customers to request that from the
13 factory suppliers to offer that kind of a service.
14 And we've been asked, together with the other
15 companies, to bid on that type of business.

16 COMMISSIONER PEARSON: Okay. So some trend
17 toward increased use of installation services by the
18 domestic steel producers. Okay. Thank you.

19 And I believe my last question is a threat
20 question. Mr. Thomas, is it correct that you are
21 arguing for a negative threat on China if, indeed, we
22 should decumulate the two countries?

23 MR. THOMAS: Yes, sir.

24 COMMISSIONER PEARSON: China, based on what
25 we believe, is now the largest producer of MCB in the

1 world. Its exports to the United States has
2 increased. In that situation, how do we get to a
3 negative threat for China?

4 MR. THOMAS: We would say that it's -- our
5 understanding is that the Chinese domestic market for
6 MCBs has followed the trend of the Chinese steel
7 industry as Mr. Beschel has testified. So that there
8 is very large demand for MCBs in the Chinese market
9 and that demand is increasing.

10 We also understand that Chinese MCB
11 producers have been selling increasing amounts to
12 steel industries and to other Asians in particular
13 markets, so those would be two points that we would
14 mention. We have discussed some others in our brief,
15 and I would love to expand on this question in the
16 post-hearing submission, sir.

17 COMMISSIONER PEARSON: I would encourage you
18 to do that.

19 MR. THOMAS: Thank you very much.

20 COMMISSIONER PEARSON: With that, Madame
21 Chairwoman, I think I have no further questions. So
22 I'd like to thank all the participants in this panel
23 very much. I've enjoyed the conversation.

24 CHAIRWOMAN OKUN: Commissioner Aranoff?

25 COMMISSIONER ARANOFF: Thank you, Madame

1 Chairwoman.

2 It seems like in every hearing there's one
3 commissioner who doesn't run out of questions when
4 everyone else does. And I have a bunch left, so
5 please bear with me.

6 This morning I asked the Petitioners' panel
7 to describe the bidding process when a steel plant is
8 seeking MCB. And they described the process where
9 there's kind of a request for bids from a bunch of
10 pre-approved suppliers and everybody puts in their
11 best offer and there's just one round. And then a
12 winner gets selected and the purchaser doesn't usually
13 come back and go, listen, would you like to try and do
14 a little better on the price or something like that.
15 Would you agree with that characterization of the
16 bidding process?

17 MR. BESCHEL: Generally, I think I probably
18 have to agree with that. There is exceptions probably
19 where some customers who are a little bit more
20 aggressive than others do try the second round
21 approach. I mean it would be negligent to say it's
22 not happening honestly.

23 And that was a good point from your side is
24 generally you know that the steel industry in the
25 United States is an industry that's been around for

1 many, many years, okay? You're going to be hard
2 pressed to find a lot of new steel mills in the United
3 States, okay? And if there is a new steel mill
4 coming, all the refractory suppliers know about it and
5 they will put out their sort of sales force people to
6 find and connect to whoever the refractory buyers are
7 going to be for that steel mill, okay?

8 So generally our sales process -- and I
9 don't think the sales process is very sort of
10 different from any of the other suppliers. Typically,
11 the ones that are domestically located or have offices
12 at least, sales offices in the United States, your
13 sales force that you have in the various regions is in
14 constant contact with all the steel mills that they
15 service in that area.

16 So our salesmen in the Indiana area, we have
17 an office in Hammond, actually it's in constant
18 contact with the steel mills in that area. The same
19 thing for all the other suppliers, to be perfectly
20 honest, and you know when they are hurting. You know
21 when they have an issue with certain other suppliers.
22 You know when they're happy with other suppliers and
23 you have little ground to gain to go in, and that's
24 the general sort of sales processes.

25 You know the people that make the decisions

1 at the steel mills and you sort of like you cultivate
2 those relationships. And that's the way we generally
3 get then invited, obviously, as an approved supplier
4 you know like when they have a new request for the new
5 year for pricing for their ladle fleet, for their
6 electric arc furnace, for the ton dish, for the slide
7 gate, for the BUS if there is one coming up. So
8 generally, all suppliers know what's going on, okay?

9 COMMISSIONER ARANOFF: Okay.

10 MR. BESCHEL: And that's the way it works.

11 COMMISSIONER ARANOFF: Okay. And let me
12 turn to another question. And this one is for
13 Mr. Garcia. The Petitioners argued this morning when
14 they were talking about threat and the issue of the
15 potential for increased imports from Mexico they
16 argued on a few levels. They talked about excess
17 capacity. They talked about shifting from production
18 of -- shifting from products that's being sold in the
19 Mexican home market to send that to the U.S.

20 We've covered those areas, but the third one
21 that they mentioned was it would be real easy in six
22 to nine months to add a lot more MCB capacity in
23 Mexico. Do you want to respond to that, please?

24 MR. GARCIA: Sure. Well, as we mentioned
25 before, there is a fact that some equipment are used

1 for both production. So in a curricular year basis,
2 we can achieve, but as was mentioned before, this is
3 not only a production issue, it's also a commercial
4 issue.

5 COMMISSIONER ARANOFF: Right, but what about
6 building new capacity? I mean just adding brand new
7 capacity?

8 MR. GARCIA: Six months for me it looks
9 unrealistic. I mean there is a raw materials issue
10 that we must get, but also to look at the restraint we
11 have in the production because regarding the press,
12 the process is equal for both main lines we have. But
13 after the presses, we have two kilns for manufacture
14 and tempering for magnesium carbon, so we must
15 consider this and maybe to bring in new equipment in
16 order to handle this capacity, which is huge for us.

17 COMMISSIONER ARANOFF: Okay. Mr. Garcia,
18 do you know is Mexico a net importer or net exporter
19 of MCBs? Do they import more than they export, or the
20 other way around?

21 MR. GARCIA: Well, now I would say it's
22 more imported because we have only a few as we've
23 mentioned to U.S. and we don't send materials to other
24 countries. So in the MCB site, I would say that it's
25 imported.

1 COMMISSIONER ARANOFF: Okay. If there's
2 anything that -- Mr. Thomas that you can submit on
3 that record on that issue because I know that the HTS
4 category is a basket category so you can't to go a
5 standard reference source to look that up.

6 MR. THOMAS: Yes, ma'am. We'll do our
7 best.

8 COMMISSIONER ARANOFF: Okay. And I
9 mentioned both in the trade between the U.S. and
10 Mexico and then also Mexico net trade balance with the
11 world in this product.

12 Mr. Garcia, in the United States MCBs from
13 both China and Mexico enter duty free; is that true in
14 Mexico? Would MCBs from the United States and China
15 enter Mexico duty free of regular customs duties or is
16 there a duty?

17 MR. GARCIA: I'm not sure about that. I
18 can address this answer in the post-hearing brief.

19 COMMISSIONER ARANOFF: Okay, appreciate
20 that.

21 There's been a lot of discussion today of
22 Exhibit 26 to RHI's pre-hearing brief as demonstrating
23 that sales to Mexican home market are more profitable
24 than sales to the U.S. market. And I've taken a look
25 at it and it's kind of bare bones. It only covers one

1 year. It's not the same -- it's not a calendar year
2 and it doesn't kind of answer the "why" question. It
3 just throws some numbers out there. So I guess I want
4 to issue an invitation if there's anything post-
5 hearing that you can add that would flesh that out,
6 either to cover a broader time period or to provide a
7 little explanation for what we're seeing there that
8 would be helpful.

9 MR. THOMAS: We'll be happy to do that.
10 What you're seeing there, though, is the data that was
11 generated in the Department of Commerce investigation.
12 So the period covered is simply is their POI, which we
13 didn't select.

14 COMMISSIONER ARANOFF: Okay. Well, as you
15 know, our POI is a much broader period.

16 MR. THOMAS: We understand that.

17 COMMISSIONER ARANOFF: Okay. And I
18 appreciate that. And anything that you could do would
19 be helpful. I just look at that and it does show
20 numbers that tend to support what you're arguing, but
21 it doesn't tell me why it's true or whether it was
22 true over a broader period of time and that's what I'm
23 really interested in. Okay.

24 In the preliminary investigation, and I
25 asked this question this morning. I was one of three

1 commissioners who made a negative determination with
2 respect to imports from Mexico. And in looking at
3 threats, we listed a number of factors that supported
4 that negative threat determination at that time. And
5 one of them at least I think has changed, looking at
6 the record now. And in particular, we had found that
7 the Mexican producer was getting less export-oriented
8 over the period that we were looking at in the
9 preliminary investigation. I'm not sure the record
10 still supports that now. I don't know if there's a
11 comment you want to make on that now, or whether you
12 just want to respond in your post-hearing when you
13 look at all those factors.

14 MR. THOMAS: We'll be happy to respond in
15 the post-hearing. What you're looking at in terms of
16 2009 imports from Mexico in the first part of 2010 are
17 a couple of transient events, which drew the Mexican
18 imports in. And I think that's confidential and we'll
19 have to explain that in our post-hearing submission.

20 COMMISSIONER ARANOFF: Okay. I appreciate
21 that. Let me see if I have any more questions.

22 One of the things that I was struck with in
23 looking at your brief is you make an argument that the
24 domestic industry's performance improved in the second
25 half of 2009 and the first three months of 2010

1 because steel demand recovered. But of course, it
2 also coincides exactly with when the petition was
3 filed in this case. As you know, the statute permits
4 us to disregard evidence of post-petition improvements
5 in the petition of the domestic industry unless we
6 find that there's evidence to rebut that presumption.

7 It's sort of six of one and half a dozen of
8 the other if both game changing events happened at the
9 same time. Is there anything on the record that you
10 can point us to that suggests that really it's the
11 demand and not the petition?

12 I should mention that the domestic industry
13 in their brief, when addressing the same question,
14 says what we would have you look at is the fact that
15 although the demand picture and the production picture
16 for steel improved during that period of time our
17 situation improved more and that shows that really it
18 was the petition. So I don't know if you want to
19 respond to that provide reasons of your own?

20 MR. THOMAS: Well, we'll be happy to cover
21 that with post-hearing submission, ma'am. But I would
22 simply point out that the change in demand that
23 occurred in the second half of 2009, continuing into
24 the first quarter of 2010 was huge in comparison with
25 any change in import penetration. And the imports at

1 that same time, in fact, went up. So it's very
2 difficult I think for somebody to persuasively argue
3 that the filing of the petition put a break on the
4 imports.

5 MR. MALASHEVICH: If I may add? Excuse me,
6 Mr. Thomas. If I may add, Commissioner, there's a
7 section of the RHI brief, unfortunately the exact
8 pages don't leap out of me, where we point out that
9 individual U.S. steel producers behaved very
10 differently during down turn of the cycle. And to the
11 extent that they were already buying all or the great
12 majority of their material from domestic producers
13 those producers would have suffered disproportionately in
14 the down turn as many of those facilities were idled
15 or production sharply curtailed.

16 So there would be benefit on the upside as
17 activity of those facilities were brought back -- came
18 on stream again during this sharp recovery beginning
19 in the second half of '09. So depending upon on whose
20 coattails you were flying, you conceivably as an MCB
21 supplier might have suffered disproportionately in a down
22 turn and then benefitted disproportionately in the up
23 turn as those facilities came on stream. The rest of
24 the details are confidential, as you can imagine, but
25 they do appear in the RHI brief.

1 COMMISSIONER ARANOFF: Okay. Well, thank
2 you very much. I appreciate all those answers, and
3 that concludes my questions. Thank you, Madame
4 Chairwoman.

5 CHAIRWOMAN OKUN: Thank you. Commissioner
6 Williamson?

7 COMMISSIONER WILLIAMSON: Just two very
8 brief questions.

9 This morning I asked Mr. Brown if he had
10 any information about importers who stopped importing
11 subject MCBs when the petition was filed, and if so,
12 why? And so I ask you the same question if you have
13 any information on that could you please provide it,
14 and post-hearing will be fine.

15 MR. THOMAS: Yes, sir.

16 COMMISSIONER WILLIAMSON: Good Thank you.

17 The other question, Commissioner Pearson had
18 raised a question in regard to a threat with China,
19 and I think, looking at the data, it looks like about
20 you know 10 percent of their '09 -- 10 percent of
21 their total shipments went to the home market, about
22 10 percent were exported to the U.S. That meant about
23 80 percent of their shipments were going to other
24 countries. And the question I have what does this say
25 about China's ability to switch from third country

1 markets to the U.S., given that 80 percent of their --
2 80 percent of production seems to be going to export
3 to third countries?

4 MR. THOMAS: Commissioner Williamson. I do
5 believe that you're looking at an unrepresentative
6 sample of the Chinese industry when you look at those
7 who responded to the Commission's questionnaire. So I
8 think you are looking at those who do or did export to
9 the United States.

10 I would say we're going to have to do some
11 research to help you with the answer to that question,
12 and I would hope we could get it done in time for a
13 post-hearing submission.

14 COMMISSIONER WILLIAMSON: Okay. Thank you.
15 I want to thank the witnesses for their testimony.

16 CHAIRWOMAN OKUN: Commissioner Pinkert?

17 COMMISSIONER PINKERT: I have no further
18 questions. But I do thank all of you for testifying,
19 and I look forward to the post-hearing submission.

20 CHAIRWOMAN OKUN: I don't see any other
21 questions from my colleagues. Let me turn to staff to
22 see if staff has questions for this panel.

23 MR. McCLURE: Thank you, Madame Chairwoman.
24 Jim McClure from the Office of Investigations. Staff
25 has no questions.

1 CHAIRWOMAN OKUN: Let me turn to counsel for
2 Petitioners. Do you have questions for this panel?

3 MS. MAZARD: We have no questions.

4 CHAIRWOMAN OKUN: Okay. Well, before I
5 dismiss this panel, I do want to take the time to
6 thank you again for all the time you've spent with us
7 this afternoon and the information you've provided and
8 will continue to provide in the post-hearing briefs.

9 Let me just go over the time remaining.
10 Petitioners have a total of 10 minutes, 5 minutes from
11 their direct and 5 minutes for closing. Respondents
12 have a total of 14, 9 from direct and 5 for closing.

13 Unless there's an objection, it's been our
14 practice that we combine those times. So Petitioners
15 come up and present their closing and whatever
16 rebuttal and then we'll turn to Respondents. So I
17 will give you a moment to trade places and bring
18 Petitioners' counsel up here for closing. Again,
19 thank you.

20 You may proceed, Ms. Mazard.

21 MS. MAZARD: Good afternoon. I want to
22 extend our thanks to the Commission and the staff for
23 their attention and interest during this hearing, and
24 also for your hard work during the investigation.

25 First, with respect to Mexico and geography,

1 let me be clear. Products from Refmex come up to the
2 Chicago area by truck all the time. It only takes
3 about six days for Mexican brick to make its way up
4 there. The reason being is that there is only one
5 active steel plant close to Refmex, which is the
6 commercial metals facility in Sequin, Texas.

7 In the Dallas area, there is the Gerdau
8 Ameristeel facility in Middleton, Texas. However, it
9 is just as easy for us to truck to Dallas from Hammond
10 as it is for them to truck to Dallas from Mexico.
11 Hence, it would not be difficult for the Mexicans to
12 compete against us. In fact, if they did not ship
13 nationwide, there would be a limited amount of
14 capacity in the United States for steel mill for them
15 that's near their facility.

16 There was a facility in Orange, Texas that
17 was operated by the old Georgetown Texas Steel, but
18 we're not sure whether or not it's still running. As
19 such, Resco and the domestic industry ends up
20 competing with Refmex in all regions, including Texas,
21 Chicago, Atlanta, and Mississippi.

22 For the record, Refmex also trucks shipments
23 of MCB in and out of the Chicago area, as does Resco.
24 I should also note that RHI needs to be clear on the
25 record about its definition of the states included in

1 the South or Southwest, given their somewhat arbitrary
2 definition of what constitutes states in that region.

3 Second, Refmex wants us to believe that
4 transportation costs of "a few cents" would be a
5 hurdle for importing in the United States. As
6 demonstrated by the margins today, this company can
7 afford to sell at 58 percent below value for Mexico.
8 They hardly care about freight costs. That being
9 said, they surely did fight tooth and nail to combat
10 these petitions, which apparently are a non-event
11 according to the Respondents.

12 RHI intentionally tried to dominate the MCB
13 market in the United States, as evidenced by the
14 documents that we filed with dumped imports. And I
15 quote, "By transferring commodity production in its
16 steel division to China than re-importing to the
17 United States."

18 RHI claims not to be able to explain their
19 own documents, so we will provide additional evidence
20 in our post-hearing brief showing that RHI steel
21 division "even in this negative environment managed to
22 gain share in the United States from the document
23 dated August 4, 2009." Well, guess what? It worked.
24 The problem is the domestic industry could not survive
25 any longer. So we pleaded with the DOC and the ITC to

1 stop them dead in their tracks. So of course, we're
2 now going to see products coming in from Brazil and
3 Europe.

4 Again, look at the magnitude of the margins
5 that Commerce announced when it initiated the case on
6 August 19th that we testified to at the conference on
7 the same day, that the press reported, and that we
8 announced on our website.

9 In our pre-hearing brief, we provided
10 evidence showing that the importers knew of these
11 margins in October or November. Even two of the BOF
12 linings brought into the United States by RHI
13 themselves were deliberately brought in from Europe in
14 December and the other in May in order to avoid
15 preliminary duties. A BOF lining, which RHI claimed
16 was not subject to imports, cost about a million
17 dollars to reline. But with duties expected in the
18 triple digits, it now costs \$2.5 million. So what did
19 they do? They shifted production quickly from China
20 and made these BOF linings in Europe to get around the
21 duties.

22 Furthermore, Refmex confirmed earlier that
23 it can use the same equipment at its facility
24 currently being used to make other products to make
25 MCB. This equipment can also be moved which was

1 firmed by REFMEEX despite their claims to the contrary
2 on the record. From their knowledge of REFMEEX, our
3 witnesses believe capacity at REFMEEX to be
4 approximately 40,000 tons. They also believe it would
5 take REFMEEX about six to nine months to install a
6 press and double that Mexican capacity further if the
7 ITC votes in the affirmative only with respect to
8 China.

9 If the ITC votes only with respect to China,
10 then guess what, U.S. prices go up, which makes the
11 U.S. market yet attractive again now to the Mexican
12 producers who claim to make more profit on Mexican
13 home sales.

14 Further, despite assertions about REFMEEX not
15 having any knowledge about the ITC process, in
16 answering honestly questions about its capacity in the
17 prelim, I doubt that not being able to annualize
18 product mixed properly accounts for Refmex's
19 mischaracterization of capacity in its final
20 questionnaire response when it now has counsel.

21 Now, let me ask Respondent whether they
22 included their FLS sales in the data they reported to
23 the ITC? Is there FLS pricing data included in the
24 tables provided to the ITC? I doubt it. According to
25 the sales verification report released by the DOC, RHI

1 claimed that they could not provide, and I quote
2 "Sales documents generated for MCB shipped pursuant to
3 FLS contracts, given that the costs of goods shipped
4 to fulfill FLS contracts were not posted directly to
5 material cost amounts."

6 How then did RHI win its dumping case in
7 Europe if they could not compare this pricing for the
8 U.S.? Did they break out pricing on cost return for
9 the EU case?

10 With respect to the VRI/ANH agreement where
11 ANH allegedly stopped supply, let's not forget that
12 that very same purchaser stated explicitly in his
13 cover letter to the ITC with his questionnaire
14 response, which we included on page 31 of our brief
15 the real reason why this agreement was severed. And
16 it came down to the commodity-type nature of this
17 product.

18 So there is no doubt that the U.S. industry
19 suffering severe injury and has been over the past
20 several years. The time period over which it suffered
21 correlates with the period over which subject imports
22 increased significantly. The operating incomes for
23 MCB became so dismal compared to other steel products
24 that the domestic industry could not reinvest in its
25 MCB facilities, but were forced to import in order to

1 compete.

2 Moreover, Respondent's claim that this
3 injury was due to the recession are just not credible.
4 The bad returns were not caused by the recession. The
5 sheer consistency of declining indicators and the
6 magnitude of the domestic industry deterioration over
7 the past few years until this investigation was
8 launched belies that assertion.

9 U.S. MCB producers suffered the double blow
10 from the economic recession and from the unfairly
11 traded imports. The domestic industry can compete
12 with these imports when the trade laws are enforced.
13 However, the situation here is an opposite. You heard
14 claims that the industry's conditions improved during
15 the POI, but the bulk of that improvement occurred in
16 the first quarter of 2010. In this time period,
17 whether RHI likes it or not, was clearly affected by
18 the preliminary duties imposed and the finding of
19 critical circumstances against China.

20 The situation is precisely the one
21 anticipated by Congress when it gave the Commission
22 discretion to disregard data from the time period
23 covered by the pendency of this investigation. We
24 continue to submit that far more illuminating are the
25 data from the three prior years, 2007 to 2009, for

1 which you have full data on the record.

2 To the extent that you consider the data
3 from the first quarter of this year, the best insight
4 to be gained is seeing what occurred only after a
5 substantial number of importers left the market.
6 Without going through it again in detail, we see here
7 for the first time when subject imports dropped
8 because of the preliminary duty and prices increased
9 for the first time to the point the U.S. industry was
10 able to earn a decent profit.

11 If there was a stable, reliable source of
12 income and adequate returns on investment in the
13 domestic industry, U.S. producers would be able to
14 survive. We do not want to stop imports because we
15 recognize that they fill in some of the market.
16 However, we do want to stop this low priced imports
17 that RHI keeps providing from China and Mexico, using
18 capacity as a hammer over the heads of the U.S.
19 industry as evidenced by the astounding margins found
20 by Commerce today.

21 Finally, as to threat, you heard quite a bit
22 of speculation today why this mammoth Chinese
23 production capacity will not come to the United
24 States. These facts include the alleged increase in
25 demand in the Chinese and Mexican steel industries.

1 Yet, for every article that they select to show an
2 increase of demand in China for steel we can produce
3 even more recent articles showing the contrary.

4 However, these same assertions and
5 predictions were made by these same producers in this
6 very same room at this very same table possibly in
7 this very same seat last August. Yet, they both chose
8 to increase exports to the United States even after
9 three members of this Commission determined there was
10 a threat of material injury. It happened. It is a
11 fact that the assertions made by RHI cannot be
12 believed, as demonstrated time and again.

13 Chinese producers only ship about 10 percent
14 of their shipments to their home market. You heard
15 speculation about possible growth in Chinese domestic
16 consumption in the coming years. But you should note
17 that the consumption in China declined over the POI.
18 This decline is not a sign that the Chinese are able
19 to absorb the massive capacity they build.

20 One key threat factor is whether the Chinese
21 capacity overhang is credible. The answer is yes, it
22 is credible. It is credible because it is huge and
23 because a large quantity of Chinese and Mexican
24 product continued to enter the United States at low
25 prices despite assertions at the conference to the

1 contrary. This capacity is not some theoretical
2 figure that is out there somewhere. In fact, we know
3 who these people are. We know the size of RHI's
4 capacity, for example, and it's extremely large
5 capacity.

6 In conclusion, I would just note that fact,
7 not supposition make it very clear that if you do not
8 find current material injury, which we do submit you
9 should, the threat of such injury is imminent and the
10 statutory prerequisites are satisfied. Thank you.

11 CHAIRWOMAN OKUN: Thank you. You may
12 proceed.

13 MR. MCPHIE: Thank you. Good afternoon
14 again Madame Chairwoman, members of the Commission and
15 Commission staff. On behalf of RHI and our entire
16 panel, we thank you again for this opportunity to
17 present our testimony at this hearing.

18 Ritchie Thomas's opening remarks this
19 morning included a long list of examples of the many
20 factual errors and mischaracterizations made in
21 Petitioner Resco's pre-hearing brief and predicted
22 that they might be repeated in Resco's testimony
23 today. In fact, many of them were repeated and
24 Resco's testimony today added still further errors,
25 including the following.

1 Mr. Brown, Resco's CEO said RHI claimed the
2 present of subject imports had "no effect on any price
3 negotiations in the United States." RHI, of course,
4 has made no such claim. Mr. Brown also said Refmex
5 is essentially "export oriented." This simply is not
6 true as borne out in the data and testimony from
7 today.

8 Resco's counsel said Refmex has expanded
9 production capacity and now has more production
10 capacity than it can possibly use in serving its non-
11 U.S. customers. Neither of those claims are true.
12 Ms. Mazard also claimed Resco has sold BOF linings
13 from China and Mexico in the U.S. in the past. Again,
14 simply not true. RHI has never sold a single BOF
15 lining from either country in the United States.

16 Mr. Brown claims that RHI's production in
17 China is targeted mainly at U.S. customers. This, of
18 course, is far from true. Dr. Magrath claimed that
19 RHI's Chinese production capacity is underused and can
20 be used in the future to supply Mexico, which in turn
21 could supply the United States. Again, not true.

22 Dr. Magrath also suggested that RHI has MCB
23 production capacity in Canada. Not only is this not
24 true, but Canada, of course, is not a part of this
25 case. The same types of factual misstatements and

1 mischaracterizations continued throughout Ms. Mazard's
2 closing statement, which you just heard. And in fact,
3 there were far too many of them for me to continue to
4 address here. Rest assured, we will do so in our
5 post-hearing brief.

6 As to the facts, you've heard today about a
7 domestic MCB industry whose fortunes are tied directly
8 to those of the steel industry in the United States,
9 which during the POI fell into and then recovered from
10 the once-in-a-generation recession. To the extent the
11 performance of domestic MCB producers has diverged
12 from those of the steel producers, it is that the
13 recent down turn was less severe for the MCB
14 producers, which unlike the steel producers remained
15 profitable throughout.

16 All of this points to a domestic MCB
17 industry that has not been materially injured and is
18 not threatened with such injury. To the extent there
19 is any indication of any injury at all, there's simply
20 no correlation with the subject imports. Resco filed
21 its petition near the low point of the MCB and steel
22 industry down turns in the summer of 2009.

23 As a result, during the preliminary phase
24 investigation, this Commission observed the domestic
25 industry that at the time had experienced declining

1 performance and loss volumes following the steel
2 industry's decline, but also coincident with some
3 gains in market share for subject imports. The
4 Commission acknowledged the likelihood that the severe
5 recession is what adversely impacted the industry and
6 stated its intention to explore further the role that
7 changes in demand had played in the domestic
8 industry's performance.

9 Well, the results are now in on that
10 question and the record conclusively shows that in
11 spite of the continued presence of subject imports as
12 the steel industry recovered so too did the MCB
13 industry as a whole, which enjoyed the dramatic gains
14 in shipments, capacity utilization, and profitability,
15 among other indicators roughly in the nine months from
16 July 2009 through March 2010. Increasing market
17 shares of subject imports meanwhile proved to be only
18 temporary.

19 A strong recovery by the domestic industry
20 is readily apparent in the second half 2009 data as
21 well as in the interim data from January to March
22 2010. Both periods again in which subject imports
23 increased. This very clear pattern directly refutes
24 the notion that there is any correlation between
25 subject imports and the domestic industry's condition.

1 We urge the Commission to consider the
2 interim 2010 data as a legitimate basis for assessing
3 correlation in this case because provide the most
4 recent information available for comparison of the
5 domestic industry's performance with the ongoing
6 recovery of the steel industry. This period
7 furthermore almost entirely pre-dated and therefore
8 was unaffected by the preliminary measures imposed by
9 the Commerce Department, which did not occur until
10 March 12, 2010, notwithstanding Petitioners' totally
11 self-contradictory statements on this point.

12 And the trends shown in the data are
13 consistent with and therefore corroborated by the
14 trends apparent in the second half 2009 data. The
15 record furthermore confirms there has been no price
16 depression by subject imports as domestic producers
17 prices increased throughout the POI and no price
18 suppression as their price increases successfully
19 covered their rising costs.

20 The lost sales and lost revenues allegations
21 are largely unconfirmed by customers and is discussed
22 in detail in our pre-hearing brief. The customers
23 responses to those allegations seriously undermine
24 Resco's case, showing (1) the allegations in almost
25 all cases are either flatly denied or shown to be

1 greatly exaggerated; (2) cases where domestic
2 producers lost volumes generally involved reasons
3 unrelated to subject imports, and (3) the customers
4 purchasing decisions were based on a host of factors
5 other than just price. All contrary to Resco's
6 claims.

7 The record meanwhile indicates absolutely
8 nothing to connect the domestic industry's adverse
9 performance indica during 2008/09 steel industry down
10 turn to the effects of subject imports.

11 As for threat, the significant differences
12 between Mexican and Chinese imports in terms of
13 volume, pricing, market share, volume trends, and
14 geographical presence and other indica all support a
15 finding that the import should not be cumulated for
16 the threat analysis.

17 In any event, whether considered separately
18 or in aggregate, all industry trends to parents in the
19 second half 2009 and interim 2010 data reflect that
20 the domestic MCB industry has recovered and continues
21 to recover, along with the similarly recovering steel
22 industry. All despite the consistent presence of
23 subject imports.

24 The relevant statutory factors on threats
25 all indicate no imminent threat. Each of these

1 factors were addressed directly in our pre-hearing
2 brief separately for each country, and we will expand
3 upon each in our post-hearing submission as well.

4 In view of the overwhelming evidence now
5 available that the domestic industry has experienced
6 nothing more than the effects of a severe economic
7 recession and that its strong recovery as that
8 recession has lifted refutes any notion of threat of
9 material injury or of material injury itself. We ask
10 the Commission therefore to make a negative
11 determination in this investigation. Thank you again.

12 CHAIRWOMAN OKUN: Thank you. Post-hearing
13 briefs, statements responsive to questions, requests
14 to the Commission and correction to the transcript
15 must be filed by August 3, 2010. Closing of the
16 record and final release of data to parties is August
17 19, 2010 and final comments are due August 23, 2010.

18 With no other business to come before the
19 Commission, this hearing is adjourned.

20 (Whereupon, at 5:12 p.m., the hearing in the
21 above-entitled matter was adjourned.)

22 //

23 //

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Magnesia Carbon Bricks from China and Mexico

INVESTIGATION NO.: 701-TA-468 and 731-TA-1166-1167

HEARING DATE: July 27, 2010

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: July 27, 2010

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Tammy Brodsky/Rebecca McCrary
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Micah Gillett
Signature of Court Reporter