UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
BRASS SHEET AND STRIP FROM	)	731-TA-313, 314, 317,
FRANCE, GERMANY, ITALY, AND	)	and 379 (Third Review)
JAPAN	)	

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
BRASS SHEET AND STRIP FROM FRANCE, GERMANY, ITALY, AND JAPAN) 731-TA-313, 314, 317, and 379 (Third Review)

Tuesday,
January 31, 2012

Main Hearing Room
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Deanna Tanner Okun, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

DEANNA TANNER OKUN, CHAIRMAN
IRVING A. WILLIAMSON, VICE CHAIRMAN
DANIEL R. PEARSON, COMMISSIONER
SHARA L. ARANOFF, COMMISSIONER
DEAN A. PINKERT, COMMISSIONER
DAVID S. JOHANSON, COMMISSIONER

APPEARANCES: (Cont'd.)

Staff:

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In Support of the Continuation of Antidumping Duties:

On behalf of the Domestic Industry:

DANIEL B. BECKER, President, A.J. Oster, LLC
TODD HEUSNER, Vice President, Marketing and Sales, Aurubis Buffalo, Inc.
JEFFERY BURGHARDT, Vice President, Metals and Procurement, Aurubis Buffalo, Inc.
THOMAS J. WERNER, Vice President, Marketing and Sales, Olin Brass
VINCENT M. BUSHELL, Marketing Director, Olin Brass
THOMAS BOBISH, Senior Vice President, PMX Industries, Inc.
MICHAEL S. JEMISON, President, Heyco Metals, Inc.
LINDA ANDROS, Legislative Counsel, United Steelworkers of America
MICHAEL T. KERWIN, Economist, Georgetown Economic Services

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APPEARANCES: (Cont'd.)

In Opposition to the Continuation of Antidumping Duties:

On behalf of Wieland-Werke AG, Messingwerk Plettenberg Herfeld & Co. KG and Schwermetall Halbzeugwerk GmbH & Co. KG:

MARKUS SCHULER, Executive Vice President, Wieland Metals, Inc.
WERNER TRAA, Member, Executive Board, Wieland-Werke AG
OLAF GOERTGES, Vice President, Rolled Products Division, Wieland-Werke, AG
KLAUS GUTTENBERG, Counsel, Wieland-Werke AG

MICHAEL T. SHOR, Esquire
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On behalf of Tyco Electronics Corporation:

MICHAEL K. STOCKTON, Global Commodity Director-Metals, Tyco Electronics Corporation

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Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Nos. 731-TA-313, 314, 317 and 379 (Third Review) involving Brass Sheet and Strip From France, Germany, Italy, and Japan.

The purpose of these five-year review investigations is to determine whether revocation of the antidumping duty orders covering brass sheet and strip from France, Germany, Italy, and Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Schedules setting forth the presentation of this hearing, notices of investigation and transcript order 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 time allocations should be directed to the Secretary.

Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into the microphone and state your name for the record for the benefit of the court reporter. If you'll be submitting documents that contain information you wish classified as business confidential, your requests should comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Yes, Madam Chairman. With your permission we will add to the witness list today Matthew S. Roessing of Arnold & Porter and Klaus Guttenberg of Wieland-Werke AG to page 3 of the witness list. Also, all witnesses have been sworn.

(Witnesses sworn.)

CHAIRMAN OKUN: Thank you. Without objection, these witnesses will be added.

Before we commence with opening remarks, I want to take a moment to welcome a group of visitors from a Korean law school who are here today visiting the Commission and will be sitting in on the hearing, so we welcome you to the Commission. We hope it will be an interesting experience for you and that you will enjoy the rest of your time in Washington.

And with that, Mr. Secretary, let us begin with our opening remarks.

MR. BISHOP: Opening remarks on behalf of those in support of continuation will be by David A. Hartquist, Kelley Drye & Warren.

CHAIRMAN OKUN: Good morning, Mr. Hartquist.

MR. HARTQUIST: Good morning, Madam Chairman. Good morning, members of the Commission and members of the staff. For the record, I am David A. Hartquist of Kelley Drye & Warren, and I am here today on behalf of the domestic companies and workers who produce brass sheet and strip to support continuation of the four antidumping orders on France, Germany, Italy, and Japan.

The German Respondents have argued that U.S. demand for brass is "robust" and that the domestic industry is in "the healthiest condition in decades" with "robust sales and profits". Respondents' arguments are, we believe, filled with discrepancies and inconsistencies, including with respect to information on their own websites.

The Commission's prehearing staff report and other record information paints a very different picture from that presented by the German Respondents. U.S. consumption of brass has fallen by 6 percent during the review period and by 30 percent since the orders were approved, reflecting not only the recent economic downturn, but also U.S. brass customers' increased offshoring and use of substitute materials instead of brass.

At the same time, copper costs, the main raw material for brass production, reached the highest level on record in terms of price, tripling between 2005 and 2011. Domestic producers, however, have not been able to increase sales prices sufficiently to offset these and other increased costs, such as financing costs, leading to weak and declining profits.

During this review, the domestic industry has suffered over six years of depressed financial returns ranging from a 3.5 percent operating profit margin, operating income margin, to a 2.3 percent operating loss, only the second net operating loss on record. In interim 2001 (sic), the domestic industry reported a mere 1.4 percent operating margin.

The U.S. industry is not in the healthiest condition in decades, as Respondents assert. Instead, the domestic industry is in a worse condition today than it was during the original investigation. Industry contraction, shutdowns and a bankruptcy have reduced domestic production and employment to the worst levels on record. The industry remains at least as vulnerable to subject imports as the Commission found in the second sunset review five years ago.

Thus, even with the discipline of the orders, the U.S. industry is in a difficult position. Without the orders the situation would grow far worse. Subject foreign production of brass remains extremely large and has increased from preorder levels. Subject producers have significant unused capacity, and German producers are currently adding even more. Each of the subject countries is both export oriented and able to shift exports between markets.

Prices in the U.S. market are attractive and higher than prices, for example, in China, which has been an export target for many of the subject countries. Despite claims that they're not interested in the U.S. market, German producers have long shown a strong interest in re-entering this market. Without the orders, imports of German brass sheet and strip would surge, just as imports of copper-based flat-rolled products that are nonsubject products from Germany have surged in recent years.

Production in the other subject countries, most of which have refused to participate at all in this review, are also likely to significantly increase brass exports to the U.S. upon revocation. Without the discipline of the orders, aggressively priced subject imports would quickly re-enter the U.S. market in large volumes, particularly due to three factors: 1) The highly substitutable commodity nature of CDA 200 series brass; 2) Producers' affiliated sales offices and reroll networks already in the U.S.; and 3) The absence of long-term contracts in the U.S. market.

Increased volumes would quickly cause the already fragile domestic industry to suffer further declines in the form of lost sales, further idle capacity, more laid off workers and a return to operating losses. That is why these orders are critical to the continued viability of the domestic brass sheet and strip industry. Thank you.

CHAIRMAN OKUN: Thank you.

MR. BISHOP: Opening remarks on behalf of those in opposition to continuation will be by Michael T. Shor, Arnold & Porter.

CHAIRMAN OKUN: Good morning, Mr. Shor.

MR. SHOR: Good morning, Madam Chairman, members of the Commission. As you listen to Petitioners' testimony this morning, please consider nonsubject imports. From 2004 to 2011, nonsubject imports of BSS fell by 60 percent, from 67 to 27 million pounds. The domestic industry's market share rose from 85 percent to 92 percent.

Consider whether you can reconcile that development with Petitioners' injury theory. If the U.S. market is open and attractive with high prices relative to the rest of the world and there is excess capacity everywhere, why are those not subject to the antidumping order fleeing the market?

And on relative prices, when Mr. Kerwin compares the AUVs of German producers' sales to the United States to the AUVs of the sales in Germany and Europe, consider whether it is meaningful to compare prices of full-priced sales in the U.S. with metal with prices of mostly tolled sales without metal in Germany and Europe.

Consider too your own price comparisons and the average overselling margin of 81 percent. Consider too German producers' ownership of U.S. mills. The predominant German producers -- Wieland, Schwermetall and Aurubis Stolberg -- now are all affiliated with U.S. producers, including Aurubis Buffalo and Wieland Metals.

The German Diehl Group owns Sundwiger in

Germany, which no longer produces BSS, as well as Griset in France, which no longer produces French BSS. It also owns one of the original Petitioners in this case, the Miller Company, a primary producer in Connecticut. Consider whether these German producers have any incentive to export BSS to the United States in quantities or at prices that would undercut their substantial U.S. investment.

When Petitioners argue that Wieland Germany will ship BSS reroll material to Wieland Metals, consider whether it makes sense to spend 22 cents per pound in transport cost to ship a 28 cent product to the United States. Better yet, ask Aurubis Buffalo how much BSS reroll material it is shipping to Aurubis Stolberg, its affiliated reroll mill in Germany.

Consider too how Petitioners use the term capacity. It is clear that we and the Petitioners use the term differently, and I'm not just talking about the fact that they can't seem to use it without the adjective massive. We use it to mean BSS capacity. We do not count as BSS capacity production capacity which we are actually using to produce other more profitable alloys. Petitioners' lawyers do.

If you simply agree that capacity actually used to produce nonsubject products cannot be counted as excess BSS capacity then you must necessarily reject all of the arguments they make about German BSS capacity and all of their computations of domestic capacity.

Consider the change in economic conditions since 1984. None of the conditions that permitted large and increasing volumes of subject BSS to be shipped to the U.S. in 1984 and cause injury is present now. U.S. demand then had increased by 20 percent in one year.

The market accessible to imports now is declining. U.S. capacity was insufficient to meet demand in 1984. It is not now. The dollar had rapidly increased to record high levels then. It is low now. German BSS capacity was double then what it is now. The German industry had excess capacity then. It does not now.

Finally, consider the current condition of the domestic industry. Consider whether an industry with mostly captive markets, 92 percent market share, increasing prices and profits, higher profits than you have ever seen and most sales made under contracts of a year or more is vulnerable. Consider that even as their raw material cost doubled, they were able to raise prices by even more and increase their operating income.

They argue that profit as a percentage of sales have not increased, but consider what that argument means. Since their price has doubled, they essentially are complaining that they are injured because they were not able to double their profit. Consider that most major domestic producers have restructured financially, all but eliminating their fixed costs. That means they are profitable at much lower sales volumes than at any other time.

When they complain about falling demand in the U.S., consider how many Petitioners announced fabrication price increases just last week. I count three -- Aurubis, Olin and Revere. And as they complain about the potential subject imports, please remember to consider what has happened with actual nonsubject imports. Thank you.

CHAIRMAN OKUN: Thank you.

MR. BISHOP: Will the first panel, those in support of continuation of the antidumping duties, please come forward and be seated?

CHAIRMAN OKUN: Mr. Hartquist, it looks like your panel is seated. You may proceed.

MR. HARTQUIST: Thank you, Madam Chairman. Let me first introduce our panelists to you and mention how we put this panel together.

We have a mix of folks, some of whom are CEOs of the companies and some of whom are essentially vice presidents of sales and marketing, and what we did was very consciously try to choose the people who are closest to the market who really work with the customers every day and see what's happening in this market, and I hope you'll find their testimony to be very interesting and very relevant.

Let me introduce the witnesses, and if you'd just raise your hand as I introduce you, please? Daniel Becker, President of A.J. Oster; Todd Heusner, Vice President, Marketing and Sales, of Aurubis Buffalo; Jeffrey Burghardt, Vice President, Metals and Procurement, Aurubis Buffalo; Tom Werner, Vice President, Marketing and Sales, of Olin Brass;

Vincent Bushell, Marketing Director, of Olin Brass; Tom Bobish, Senior Vice President, PMX Industries, which a number of the Commissioners, three of the Commissioners, visited along with visits by staff on two occasions; Michael Jemison, President, Heyco Metals; Linda Andros, Legislative Counsel, United Steelworkers of America; Michael Kerwin of Georgetown Economic Services; and my colleagues, Kathy Cannon, Jeff Beckington, Grace Kim and Ben Caryl.

And we will begin this morning with a statement by Tom Bobish. Tom?

MR. BOBISH: Good morning. I am Tom Bobish, Senior Vice President of Sales and Marketing for PMX Industries, a fully integrated U.S. brass mill. Thank you for allowing me to participate as a witness in this hearing. The focus of my statement today is on certain production and sales fundamentals that affect our industry, as well as likely imports.

The cost to build and maintain and operate an integrated brass mill is very substantial. Along with the metallurgical knowledge and skills entailed, considerable capital is required for the purchase and care of equipment and facilities needed to melt, cast, roll and finish a wide range of semi-fabricated copper-based products.

As a result of these demanding expenses, there is steady pressure on every integrated brass mill to realize an adequate return on its investment. In return, in order to carry its large fixed overhead cost and achieve an adequate profit, an integrated brass mill must use its capacity to as full an extent as possible. Idle machinery for any length of time is a serious problem that detracts from overall economic viability.

A great challenge confronting the management of an integrated brass mill is effective employment of the melting, casting, rolling and finishing equipment on a day-to-day basis. As a practical matter, this task involves matching customers' orders for specific volumes of particular alloys with efficient application of the mill's equipment to satisfy those orders. For a broader perspective, an integrated brass mill must accomplish this daily exercise so that its physical plant is profitable and sustainably engaged over a long period. These realities in practice mean that an integrated brass mill's product mix is central to its financial health.

More precisely, as the most versatile and widely used of the Copper Development Association's CDA 200 series brass sheet provide the most critical base load of pounds for PMX, as well as other U.S. integrated brass producers. It is the characteristic of CDA 200 series brass sheet and strip that enables integrated brass mills around the world to produce enough volume and to run at sufficient levels of capacity utilization so that the heavy capital investment and costs of running an integrated brass mill are largely covered.

Only when the integrated brass mills can sustain reduction of a base load product such as CDA 100 or 200 series are they able to produce higher value products. These higher value products include high performance alloys that are more specialized and have much smaller markets than the 200 series products.

Although these specialized products may be more profitable, absence of the sale of 200 series of product sales of specialty products would not be possible. Any claim, therefore, that a foreign integrated mill can afford to ignore to any extent 200 series brass sheet and strip in favor of other more specialized or more profitable copper products is not correct.

Without the production of 200 series brass sheet and strip, integrated brass mills cannot stay in business. This is why continuation of these dumping orders is paramount. It is the discipline of these orders and the subject foreign mills' inability to sell here in commercial quantities without dumping, not a disinterest in the U.S. market, that explain why imports of subject brass sheet and strip from France, Germany, Italy, and Japan have been so low.

Even though the U.S. market for brass sheet and strip has contracted over time, it continues to be a sizeable, attractive and accessible to foreign brass mills. Wieland and Schwermetall have extensive U.S. sales in recent years of flat-rolled products in nonsubject alloys such as copper, tinned brass, phosphor bronze, aluminum bronze and cooper nickel. These sales show an interest and/or ability of the German producers to sell copper alloy products into the United States that are not covered by antidumping orders.

As the Commission was able to observe during is recent tour at PMX's facility in Cedar Rapids, Iowa, PMX is a modern and efficient producer of brass sheet and strip. We have thousands of SKUs for CDA 200 series sheet and strip that reflect our customers' varied and specific requirements. It is important to recognize, however, that brass sheet and strip is fungible once specifications have been met.

As a commodity product, the 200 series brass sheet and strip is highly price sensitive. Given the soaring raw material costs, particularly copper costs, that our industry has experienced in recent years, it has been difficult to sell our products at prices that permit a reasonable return on our investments. Your database reflects the very low profits our industry achieved in 2011. These weak financial results will deteriorate even further if low-priced, dumped imports are permitted to return to our market unchecked.

In summary, the incentive for integrated brass mills in those countries to increase their base loads of this fungible commodity product to absorb heavy overhead cost is compelling. These imports would likely enter the U.S. market at low, dumped prices and at the direct expense of U.S. producers. In a recession period when our companies are already vulnerable, the likely consequences of additional pressure from unfairly traded, injurious imports would be severe and would jeopardize the U.S. domestic industry's further existence.

On the other hand, extension of these antidumping orders would make possible further investment and improvement of the U.S. brass mills to the benefit of the U.S. economy and national security. Thank you for listening.

MR. HARTQUIST: Thank you, Tom. Our next witness is Tom Werner of Olin Brass.

MR. WERNER: Good morning. My name is Tom Werner, and I'm the Vice President of Sales and Marketing at Olin Brass, a division of Global Brass & Copper. I've been with Olin Brass for two years. Prior to joining Olin Brass I worked in the aluminum industry for over 30 years.

Olin Brass is a leading manufacturer of a wide range of copper-based, flat-rolled products, including brass sheet and strip at issue in this review. Olin Brass has been producing brass sheet and strip since our original brass mill was built during the first world war to supply brass for military cartridges, and we continue to serve the ammunition market today. Our production facilities are located in East Alton, Illinois; Bryan, Ohio; and Waterbury, Connecticut.

I am here today because I believe the continuation of the antidumping orders on brass sheet and strip is very important to the potential success and profitability of our company, as well as our industry. The U.S. brass industry continues to face significant challenges and is in a vulnerable position. This situation would deteriorate if the large capacity that is available in the subject countries were able to target the U.S. markets for brass sheet and strip without the discipline of the orders in place.

Since the completion of the last sunset review, consumption of brass sheet and strip has contracted further and fallen to the lowest levels on record. In fact, consumption during each year of the current review period was far below the level in any year of the original investigations or in the years previous to two sunset reviews. At the same time, the industry's raw material cost has skyrocketed to the highest level on record. As a result, the financial performance of our industry in the aggregate has deteriorated significantly over the period of review.

During the Commission's current review period, the decline in demand for brass products has caused Olin Brass and other U.S. mills to have significant excess capacity, which in turn has led to poor overall financial returns for our industry. This period has been a difficult one for Olin Brass, which relies heavily upon brass sheet and strip for its base load and absorption of overhead costs.

Not too long after completion of the last sunset review, due to decreased demand for 200 series product Olin Corporation, the parent of Olin Brass at that time, was forced to consolidate production at East Alton and permanently close two production facilities. In November of 2007, Olin Corporation sold Olin Brass as a distressed asset to Global Brass & Copper.

Under new ownership, we at Olin Brass have restructured our operations in an effort to reduce cost and increase our efficiencies, focusing on every aspect of our business. As a part of this effort, we have implemented a significant layoff at our East Alton plant in 2010. The layoff occurred in large part as a result of bringing employment in line with reduced production volumes.

While our new owner is committed to making the necessary investments to succeed in this market, we remain concerned about the future of the U.S. industry producing brass sheet and strip. As I previously mentioned, demand for brass sheet and strip has declined significantly during the review period. This decline in U.S. demand is a reflection of the overall weak U.S. economy, the migration of customers to offshore locations and the substitution of other materials for brass sheet and strip due to ever increasing raw material costs.

Unfortunately, given these prevailing economic conditions, the market outlook for brass sheet and strip remains very challenging. As you also see in the industry database you have gathered, the industry overall has had disappointing financial results through the review period. Our industry's ratio of operating profit to sales hit an unacceptably low level of 1.4 percent in the most recent 2011 period. These poor results demonstrate that the industry remains highly vulnerable to unfairly traded, injurious imports.

With global capacity and an oversupply situation, excess capacity for brass sheet and strip can easily shift from country to country. Overseas supplies with excess capacity can take advantage of this flexibility to eliminate competitors through unfair pricing practices. Revocation of the antidumping orders would quickly lead to return of unfairly priced imports from the subject countries and destabilize the already weakened U.S. brass industry.

The low profit margins that presently exist overall for the domestic industry producing this commodity product would quickly erode if imported brass flooded the marketplace. Permanent closure of a number of U.S. firms or production capacity would likely follow, reducing the U.S. industry's ability to participate in this market.

The loss of U.S. manufacturing capacity would result in the loss of many U.S. manufacturing jobs to foreign competitors. The future of our industry depends on continual improvements in our manufacturing facilities. An active investment strategy supported by adequate returns is an integral part of this process.

The antidumping duty orders play a critical role in assuring fair and equitable competition in this highly competitive and price sensitive brass market, and the continuation of orders is therefore of central importance to the success and profitability of our industry. For all of these reasons, on behalf of Olin Brass I urge you to find that injury to our industry is likely to continue or reoccur if these orders are revoked and to leave these orders in place. Thank you for your time.

MR. HARTQUIST: Thank you, Tom. Our next witness will be Todd Heusner of Aurubis Buffalo.

MR. HEUSNER: Good morning. I am Todd Heusner, Vice President of Marketing and Sales, a domestic producer, Aurubis Buffalo. I have been in my current position for 10 years and with Aurubis Buffalo and its predecessor companies for 31 years. I would like to talk this morning about how brass sheet and strip is sold and priced in the U.S. market.

Aurubis Buffalo is a large, integrated producer of brass sheet and strip located in Buffalo, New York. Our mill has a long history and has undergone a number of ownership changes over the years. At the time the case was originally filed, we were known as American Brass. At the time of the second sunset review, we were known as Outokumpu American Brass, and in 2005 we were sold and became part of the Luvata Group.

In September of 2011, Luvata restructured and sold off its Global Rolled Products Division to focus on growth markets and other higher value products. While my company is now under the ownership of Aurubis AG, we continue to function as an independent entity.

Brass sheet and strip is a semi-fabricated product that is used as an input material in many different applications. Notable uses of finished brass sheet and strip include electronics, automotive, ammunition, hardware, plumbing fixtures and architectural applications. My company also sells reroll to independent rerollers.

The market and pricing for brass sheet and strip is a bit unusual compared to many other products. Brass sheet and strip is produced for both toll and nontoll sales. Under a tolling arrangement, a purchaser will provide the input metal or take responsibility for covering the cost of the metal, and my company only charges for the fabrication involved in processing the metal.

In contrast, under nontoll sales the brass mill takes all responsibility for sourcing and holding the input metal and also charges the customer for fabrication costs. In recent years, the final price to the customer has also included certain surcharges to cover increased cost for such items as fuel, energy, copper refinery premiums, as well as metal surcharges to cover higher cost of copper, nickel and tin.

For nontoll sales of brass sheet and strip, the metal value charged for a given sale is based on the Metals Exchange prices for the main input materials, copper and zinc. Prices on the Metal Exchanges, including the COMEX and the LME, fluctuate constantly, reflecting supply and demand for these metals. Most commonly, the metal price charged to the customer will be the closing price on the Metal Exchange as of the day of shipment of the finished brass sheet and strip. A metal premium above the exchange price is typically added to cover the cost of transportation from the metals warehouse to our location.

Because the metal price is out of our control, the most meaningful area of negotiation with a customer is the fabrication price. The fabrication price is based on factors such as thickness of the material and other product specifications. In the face of rising costs for supplies, maintenance, energy and health care, we recently announced an increase in our fabrication charges, but it is too soon to know if our customers will accept that announcement.

While the pricing of brass sheet and strip may sound complicated, it really is not. All sellers of brass sheet and strip, whether foreign or domestic, rerollers or integrated producers, price the product in the same way. Customers are savvy, extremely price oriented and keen to negotiate. Customers are willing to switch suppliers based on a price difference as low as a penny a pound.

While the cost of our main input materials, cooper and zinc, are beyond our control and changes are included in our selling prices, this does not mean that they have no impact on our business. Prices for copper have been incredibly volatile in recent years and reached their highest level in history at $4.49 per pound in February of 2011.

To put that in perspective, that is more than three times as high as at the beginning of the period you are examining. While current copper prices are below $4 per pound, they remain far higher than in 2005. The total price of finished brass sheet and strip considered, prices per pound for most products more than doubled between 2005 and 2011. That is an extraordinary increase.

And bear in mind these price increases reflect primarily our increase in copper cost and not fabrication charges or profit margins. That this has happened during a period of declining demand for brass sheet and strip in the U.S. market has made the situation even more difficult.

As you can imagine, big price increases and a weak market have had a further depressing effect on consumption. Our customers have reduced the volume of their purchases of brass sheet and strip as copper prices have increased. Customers have found ways to improve efficiency of materials usage and to use substitutes such as aluminum, plastic and clad steel. We have also seen demand reduced due to customers moving their production bases overseas.

Combined with a still weak housing and construction market, current demand for brass sheet and strip is significantly lower than these orders were imposed and also below that at the beginning of your review period. In the face of ongoing weak demand and high copper prices, our industry remains in a difficult position. Removing the antidumping orders would open the U.S. market to unfair price competition.

Given the price sensitivity of our market, I have no doubt that price underselling would take large sales volumes from domestic producers and destroy any hope for a turnaround in our operations. Thank you. That concludes my testimony.

MR. HARTQUIST: Thank you, Todd. Our next witness is Dan Becker of A.J. Oster, who I would note was here at the birth and is still here. Dan?

MR. BECKER: Thank you, Skip. Good morning. As Skip said, my name is Dan Becker. I am the President of A.J. Oster Company. A.J. Oster is affiliated with Olin Brass by the same parent company.

At A.J. Oster we purchase brass sheet and strip from producers in bulk quantities and wide widths. We purchase from Olin Brass, as well as the other U.S. producers. We slit the bulk quantities into narrow end-use widths and small lots for convenient distribution to our customers. As such, A.J. Oster is both a purchaser and a seller in this market. Our customers overlap with the customers for producers and for rerollers.

I appear here today to support retention of the antidumping orders against Germany, France, Italy, and Japan. My perspective on this case is based on experience from three different positions I have held in this industry: First, as a U.S. producer; second, working for a German reroller; and, third, in my current role as a U.S. customer and distributor.

In 1986, when the original petitions were filed, I was Director of Marketing for Olin Brass. I testified before the Commission as a U.S. producer in support of imposition of these orders because of the injury that the dumped imports were causing to my company and to our industry. As Marketing Director for Olin Brass, I experienced firsthand the effects that the unfairly low-priced imports had on Olin's sales and operation.

The imports used low prices to capture sales in our market, undercutting Olin's prices and costing us substantial volumes of business. We did not lose sales because of poor quality or because of the services we offered. We lost sales because of low dumped prices from foreign producers. Our alternative to losing sales was to cut prices to meet the import levels, thereby leading to widespread, depressed prices and unacceptable profits for our company.

The dumping behavior by imports from multiple countries in the mid 1980s left Olin and other members of the U.S. industry reeling. The industry was forced to idle capacity and lay off workers as imports captured an increased share of our market. If our trade cases had not been successful, I doubt that many of the companies you see before you today would still be producing brass sheet and strip.

Now, in 1990, shortly after the antidumping duties were imposed, Olin Corporation appointed me as Director of Operations for Olin Europe located in Brussels, Belgium. At that time, Olin had just entered into a 50/50 joint venture with Wieland, a German producer and a Respondent in this case. The joint venture business was named Langenberg. Langenberg had a 50 percent share in Schwermetall, a German producer of feedstock for rerollers. So Wieland owned 50 percent of Langenberg where I worked, and Langenberg owned 50 percent of Schwermetall.

By 1993, Langenberg's financial performance was poor, and as a result the Olin Brass president asked me to continue to commute on a full-time basis from Brussels to Langenberg, which is just north of Dusseldorf. My assignment was to learn and evaluate the commercial and operational activities of

Langenberg.

For about six months, four days a week, I worked closely with Langenberg management, who were linked closely to Wieland management. I also had business interaction with the Wieland and Schwermetall management. I had particularly close working relationships and open communications with the Langenberg Commercial General Manager and the Langenberg Sales Manager. My work and discussions provided me with an insight into the workings of the German and the European brass sheet and strip industry, including their use of dumping practices to penetrate foreign markets.

Wieland markets its brass sheet and strip globally. In 1993, Wieland was unable to sell commercial quantities of brass sheet and strip into the U.S. market without dumping. As a result, Wieland planned to divert its output to China. Wieland's objective was to gain market share, build their excess capacity and maintain employment despite having to sell at dumped prices. Wieland's strong market position in China today indicates that they certainly achieved this objective.

There is absolutely no question in my mind that the German producers are focused today on eliminating this U.S. dumping order in whatever way they can so they can once again sell large volumes of brass sheet and strip into the U.S. market. They have unused capacity for brass sheet and strip. They have a U.S. infrastructure and a market position through their affiliated reroller, Wieland Metals. And, most importantly, U.S. market prices are more attractive than the prices in China.

My current position as a purchaser and seller of brass sheet and strip and other copper alloy products gives me yet another perspective on the U.S. market. During the past year, Wieland has been selling extremely low-priced phosphor bronze products into the United States and gaining market share based on those low prices.

Phosphor bronze sheet and strip are copper alloys processed on largely the same equipment as 200 series sheet and strip in Wieland's German production facility in Alton. They use their U.S. subsidiary located in Wheeling, Illinois, to break down and distribute the imported phosphor bronze sheet and strip.

Wieland USA is selling phosphor bronze in the United States at prices well below A.J. Oster's prices. Their low prices and sales appear to be targeted at particular U.S. customers in an effort to gain entry into those accounts in order to establish a foothold from which to expand sales in the U.S. market.

This marketing behavior by Wieland on a copper alloy product not subject to an antidumping order is a likely indication of Wieland's pricing behavior in sales of brass sheet and strip if the order is removed. Other information in evidence also convinced me that German brass sheet and strip imports will increase significantly if the orders are lifted.

My understanding is that there is excess capacity to produce brass sheet and strip in Germany today. We have documentation showing that prices of brass sheet and strip in China are well below prices in the United States. The specific comparative price information has been included confidentially in the domestic industry's prehearing brief. The higher U.S. prices relative to China prices provide an incentive and an opportunity for the German producers to at least shift back to selling into our market. They certainly have the capability and the incentive to do so.

The German producers, and Wieland in particular, have a well developed U.S. infrastructure and market position. It is my belief that if the antidumping order is lifted they will attack the U.S. market by leveraging the three factors of: 1) Open capacity in Germany; 2) A well developed infrastructure in the United States; and 3) Attractive U.S. prices relative to prices in China.

My prediction is that the first action by Wieland or Schwermetall will be to displace the U.S. producers' supply position for feedstock that is used for rerolling at Wieland's facility in Wheeling, Illinois. Wieland's U.S. reroll facility currently is being supplied with brass sheet and strip and feedstock from U.S. producers.

If the order against Germany is revoked, Wieland USA will immediately stop purchasing from U.S. producers and instead buy feedstocks for its reroll operations from its German affiliate. I should emphasize that this feedstock that would be supplied from Germany is brass sheet and strip subject to the order.

From that Stage 1 strategy, what will quickly follow will be a deterioration of U.S. producers' prices, a loss of sales volume by U.S. producers and eventually facility closures and worker layoffs. To prevent the demise of the U.S. industry and producers that supply my company with a quality product, I believe you must leave the duties in place. Thank you.

MR. HARTQUIST: Thanks, Dan. We're pleased to have with us Linda Andros of the United Steelworkers.

MS. ANDROS: Good morning, Madam Chair, members of the Commission. My name is Linda Andros, and I am the legislative counsel for the United Steelworkers Union.

Our union is the largest industrial union in North America with more than 850,000 active members manufacturing a wide array of products, including brass sheet and strip at issue here today. The Steelworkers Union was a co-petitioner in the original investigations and currently represents workers at Aurubis Buffalo in New York and Olin Brass in Ohio.

I appreciate the opportunity to testify before you this morning and express the United Steelworkers' concerns regarding the effect that revocation of these orders would have on our members, their communities and their families.

For decades, the United Steelworkers has been fighting on the front lines against foreign governments and companies seeking to gain an unfair competitive advantage in the U.S. market by violating the rules of trade. Such anti-competitive actions have had an enormously corrosive effect on our manufacturers and our workers.

Before the orders were imposed in these cases the surge in unfairly traded imports from the subject countries was devastating to the U.S. brass sheet and strip industry here, and destroyed the economic livelihood of hundreds of our members. Overall, 300 highly skilled, hardworking employees in this industry lost their jobs at that time. Others saw their work hours and their paychecks cut as employers were forced to cut back production in the face of continued lost sales and revenue, all due to unfairly traded imports.

The information the Commission has gathered in this review demonstrates that employment in this industry has continued to decline since the last sunset review. From the level of 1,200 workers in 2004, the average number of workers employed fell to just 907 workers during the first nine months of 2011. That translates to a loss of nearly 300 jobs or one-fourth of the workforce since the last sunset review, and when you compare the current employment in this industry with employment levels before the orders were imposed over 800 jobs have been lost.

While it's often easy to just gloss over numbers I want to tell you that each of these jobs as a deeply negative effect on families and workers and obviously their communities.

With the current economy still struggling to recover it's hard to see how most of the workers who have lost their jobs in this industry will be able to find alternative employment. In these cases the USW and its members have fought tirelessly to save U.S. jobs and to give our remaining workers a chance of a livelihood and to secure some benefits for our many retirees who have lost benefits they had earned over a lifetime of hard work.

The USW worked closely with Aurubis Buffalo and its predecessor company, Outokumpu American Brass, as well as Olin Brass over the years to ensure that the industry can remain competitive in the U.S. and globally. But there is really not much we can do by ourselves if unfairly traded imports are permitted to return to this market without the discipline of trade remedies. That's where the Commission comes in.

While vigorous enforcement of our trade laws is always needed, we believe it is even more critical in this case given the decline in demand for brass sheet and strip and the overall weakened economy that the industry and workers are confronted with today. In order for this industry to survive these economic conditions U.S. producers need to be able to increase production and sales so they can continue to put workers back to work.

So, on behalf of United Steelworkers and our members in this industry who make brass sheet and strip and their families and communities, I urge you to maintain the antidumping duties. Thank you.

MR. HARTQUIST: Thank you very much, Linda. Our next witness is Mike Kerwin of Georgetown Economic Services.

MR. KERWIN: Good morning. I am Michael Kerwin of Georgetown Economic Services. This morning I'd like to address the conditions of competition, the likely volume and price effects of the subject imports and the vulnerability of the domestic industry.

In making your assessment of the likely impact of the subject imports it is important to bear in mind the key conditions of competition in the U.S. market. First, consumption of brass sheet and strip declined significantly during the period of review. While the Respondents have pointed to the upturn in 2010 as an indication of improved market conditions, in truth it was only an improvement in relation to the trough years of the recession. U.S. apparent consumption in 2010 was actually lower than in every year of the original investigations, both previous sunset reviews, and in the initial years of the current review. The market for brass sheet and strip is mature, and as you have heard from our industry witnesses, producers are struggling to adapt to this long-term contraction as indicated by the closure of several mills during the current period of review.

In addition, the data for interim 2011, which are largely overlooked by the Respondents in their arguments, show that market conditions have deteriorated since 2010 with consumption of brass sheet and strip contracting by 7 percent.

The second significant condition of competition in the U.S. market is the skyrocketing costs of raw materials. In 2011, the price of copper, the most significant cost element in producing brass sheet and strip, reached an all-time high at a level more than three times as high as the beginning of the period of review.

While copper prices have fallen a bit from their peak, it appears that they will remain high given China's appetite for the metal and ongoing global supply tensions. Even though metal costs themselves are largely passed through to purchasers, high raw material costs have significantly increased the domestic industry's working capital and inventory carrying costs, and reduced the cost advantages of employing brass scrap in the production process.

Further, dramatically higher prices for finished brass sheet and strip have encouraged purchasers to reduce consumption and substitute other input materials.

While the German Respondents have cited increased metal costs as a reason they would not export to the U.S. market in the event of revocation, this claim does not hold up to scrutiny.

First, Germany exports more flat-rolled brass than any other country in the world and has continued to do so despite increases in metal costs.

Second, the German industry, including Wieland and Schwermetall, continues to export substantial and growing volumes of copper and copper alloy flat-rolled product to the U.S. market notwithstanding increased raw material costs.

Third, while the German Respondents have cited to U.S. ad valorem tariffs on the rising metal element of brass sheet and strip as a disincentive, the U.S. general tariff of 1.9 percent is actually lower than that in many countries, including China, and far lower than the value added taxes of 15 to 25 percent that are assessed in all countries of the European Union.

The third condition of competition I would like to discuss is the role of China in the global market for brass sheet and strip. China's flat-rolled copper and brass industry is enormous and growing, a major factor in the run-up in global raw materials prices. China's production capacity continues to expand making the global oversupply of brass sheet and strip increasingly dire. China's industry has become essentially self-sufficient and export opportunities to China have shrunk.

German Respondents' assertions that opportunities in China have reduced their interest in the U.S. market are belied by recent trade statistics. As shown in this chart and the handout that you have available, U.S. imports from Germany of all types of brass sheet and strip have grown dramatically since 2007 and now dwarf German exports to China. Given Mr. Becker's testimony that U.S. prices for brass sheet and strip currently exceed those in China, there is every reason to believe that this trend will continue.

In light of these conditions of competition the domestic industry is extremely vulnerable to the likely affects of the subject imports. Despite the minimal responses from the French, Italian and Japanese industries, there is ample evidence that they continue to have the ability and desire to ship brass sheet and strip to the U.S. market. While the German industry has provided a somewhat better response that, too, is incomplete.

The participants today speak on behalf of three German producers, but do not speak for the other German produces, including KME, MKM, Aurubis, Carl Schreiber, and Dale Sunveger. Without responses from these companies on the record, the self-serving characterizations made by the German Respondents as to the nature of the industry overall should not be taken at face value. The fact of the matter is that KME and MKM are large producers of copper and copper alloy flat-rolled products. They have established sales offices in the U.S. market and are already shipping non-]subject materials to the United States. Further, nearly all of the websites of the non-responding German producers show that they are currently producing 200 series brass sheet and strip.

To the knowledge of the domestic industry, not a single flat-rolled brass mill in Germany has closed since the time of the original investigation in contrast to the U.S. industry which has seen a number of such closures, including during the period of review. In fact, the German industry at the time of the original investigation did not even include producers in former East Germany, such as MKM. Further, the German industry continues to make substantial capital investments.

The website of Schwermetall, for example, states that since the time just before the original investigation its production output has increased ten-fold, and that its overall flat-roll capacity is greater than that of the entire U.S. industry to produce brass sheet and strip.

Given these changes we believe that if the Commission had a full and accurate response from the German industry it would show a larger capacity than in the original investigation. The public data we have placed on the record indicate producers in the subject countries, and particularly in Germany, are extremely export oriented, able to shift their production from non-subject products, and have an incentive to redirect to the United States those volumes that have been pushed out of the Chinese market.

Further, in light of the ongoing financial debacle in the European Union, there will be an increased incentive to shift exports from Europe to the United States, particularly given that the rate of U.S. economic growth, while less then stellar, has exceeded that in Europe in recent quarters.

In short, there is substantial evidence to support the conclusion that imports of brass sheet and strip from the subject countries can and will enter the U.S. market in significant quantities in the event of revocation. The pricing evidence from the original investigation taken in conjunction with the testimony you have heard from our industry witnesses as to the continued price aggression in the U.S. market on non-subject copper and copper alloy imports indicates that subject imports would enter at low prices and undersell domestic producers. Evidence of record shows that the domestic industry is vulnerable to renewed material injury in the face of this onslaught.

In interim 2011, the domestic industry saw a decline in its capacity utilization to just 58 percent, a 9 percent reduction in production and domestic shipments, a 26 percent increase in unit cost of goods sold, a 25 percent decline in unit operating income, and an operating return of just 1.4 percent, lower than in any year of the period of review other than 2008. This is an industry that is barely keeping its head above water and extremely vulnerable to the renewed injurious impact of the subject imports.

Thank you. That concludes my testimony.

MR. HARTQUIST: Thanks, Mike. Our last witness this morning is Kathy Cannon.

MS. CANNON: Good morning. I am Kathleen Cannon of Kelly Drye. I would like to wrap up our panel's testimony this morning by addressing the issue of cumulation.

The factors that the Commission traditionally considers in exercising its discretion to cumulate imports in a sunset review support cumulation here.

First, a reasonable overlapping competition among the subject imports and between subject imports of the domestic product is likely. The Commission has consistently recognized the fungible nature of brass sheet and strip in prior segments of this proceeding. The prehearing report in this review concluded that there is a "high degree of substitution between domestic brass sheet and strip" based on the questionnaire responses received.

Arguments by the German producers that their imports during the review period were of higher value products sold at premium prices are the same arguments that were raised and rejected during the last review. As the Commission recognized then and as remains true today, the German producers make the full range of subject merchandise. The specialized products are a small share of their total production. The German product is thus interchangeable with other subject imports and with the domestic product.

The German producers have not challenged other factors indicating a likely reasonable overlap of competition such as channels of distribution, geographic sales, and simultaneous market presence. As indicated in our brief, each of these factors also supports a finding of competitive overlap to warrant cumulation. Nothing has changed since the last review when the Commission cumulated all four of the countries to alter that result.

The German producers contend that imports from Germany would have no discernable adverse impact and should not be cumulated for that reason. The evidence on which this request is based is unlike any case I have seen in which a no discernable adverse impact finding has been made. Commission findings of no discernable adverse impact generally occur in situations where companies submit documentation showing that they have limited capacity, have closed facilities, have very significant volumes of exports, or not been exporting subject product to the United States during the review period. None of those actors applies here.

As Mr. Kerwin discussed, German producers have substantial capacity to produce brass sheet and strip. They are extremely export oriented and have continued to export to the U.S. market throughout this review period and they are likely to increase export volumes significantly if revocation occurs. These record facts are not even close to demonstrating a likelihood of no discernable adverse impact nor is the discernable adverse impact exception applicable to any of the other subject countries.

Although the German producers have asserted that there is no French production of brass sheet and strip, that is not true. French producer Grusae's website identifies it as a producer of subject brass sheet and strip in France. Respondents state that Grusae is only a re-roller of brass sheet and strip, but as the Commission has recognized and as Respondents concede in describing German re-roller metals, re-rollers are producers of brass sheet and strip.

Respondents also assert that to their knowledge no other producers in France are manufacturing brass sheet and strip. Available information indicates however that other French producers make copper alloy products. This production may well include subject brass sheet and strip, yet none of these producers responded to Commission questionnaires. Given no production of subject produce at Grusae and the absence of responses from any French copper alloy producers that may well also produce subject product, the record does not support a finding of no discernable adverse impact from France.

For Italy, out of 10 manufacturers identified by Petitioners and the Commission staff, the Commission received only one usable response. For Japan, out of 22 producers identified the Commission received one usable response. The information provided by the two responding companies provides an indication of production of subject product in each country and likely increased volumes of imports in the event of revocation. The failure of so many other companies to respond, coupled with information that Petitioners have identified on production and exportation of brass rolled products by Italy and Japan, provides an indication of a likely discernable adverse impact by imports from each country in the event of revocation.

Failing to establish the absence of a discernable adverse impact the German producers alternatively assert that imports from Germany should not be cumulated on the basis of different conditions of competition faced by Germany as compared to other subject countries. Specifically, Respondents point to the affiliations between certain German producers and U.S. producers or re-rollers as providing no incentive to export subject product to the United States. They rely on the recent Commission determination in the stainless steel sheet and strip case in which different competitive conditions were found for Tiss and Krup and also point to the affiliation between Korean producer Prung Son and its U.S. affiliate PMX. Those circumstances bear no relation to the facts presented on Germany here.

Initially it should be emphasized that the Commission has not found that foreign ownership per se of a U.S. mill means that there will be no likely imports from the foreign country or the foreign mill. Instead, the Commission, at the direction of the

Court, has undertaken a factually intensive analysis of the policies and practices of the foreign and U.S. mills at issue in each case. The analysis examines, for example, whether the U.S. mill has veto power over imports from the foreign mill such that the imports would not increase if the order were removed.

In the other cases the Respondents cite, the U.S. affiliate was a fully integrated producer that reported to the Commission that it would be supplanting imports of the subject product from the foreign country with U.S. production of that product. In the stainless sheet case, Tiss and Krup identified a local supply strategy and the veto power held by the U.S. now that led to the Commission's conclusion. That is not true of the German affiliations Respondents identify.

Aurubis Buffalo was recently acquired by Aurubis AG, a company that also owns a German re-roller, Aurubis Stolberg. As Mr. Heusner testified, however, his company is an independent entity and has no control over the affiliated German re-roller. There is no evidence of a local supply strategy or that imports from Aurubis Stolberg would be limited by this affiliation. Further, this affiliation has no effect on the other German producers.

The only other U.S. company affiliated with a German brass sheet and strip is Wieland Metals. Wieland is a U.S. re-roller, not an integrated brass sheet and strip producer. That difference is important. As a re-roller Wieland must buy brass sheet and strip as feedstock for its mill. As Mr. Becker testified, that feedstock is currently being sourced from domestic mills but if the order is removed Wieland Metals would quickly switch to import the subject product from Germany.

In fact, the Commerce Department made this very finding in refusing Wieland's request that revoke the order in the mid-1990s. Commerce stated, "Wieland has built a plant in the United States that uses strip as feed product. We expect if there were no order in place Wieland would naturally prefer to use its own strip from Germany to supply its U.S. plant rather than buy from a competitor."

In fact, Wieland Metals is already importing non-subject products from Germany as Mr. Kerwin described. This Commerce finding remains true today and reflects a very different factual scenario from the other cases on which Respondents rely.

Simply put, there is no evidence based on the facts presented here that the affiliations between

German and U.S. producers would lead to reduced exports from Germany to the United States. To the contrary, the affiliation between re-roller Wieland and it's Germany parent supplying subject product as feedstock for its operations would lead to increased imports from Germany. Accordingly, these affiliations do not provide a basis for finding different competitive conditions for German imports or for de-cumulating imports from Germany when the other factors supporting cumulation are met.

Thank you for your attention.

MR. HARTQUIST: Thank you, Kathy.

Madam Chairman, that concludes our direct testimony and we will be pleased to respond to questions.

CHAIRMAN OKUN: Well, thank you. Before we turn to questions let me take this opportunity to welcome all of you to the Commission and to express our appreciation, particularly to the many members of industry who are here today to answer questions and help us better to understand conditions in the industry.

We will begin our questions this morning with Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Madam

Chairman, and I join the Chairman in thanking all of you for being here today to help us understand conditions in this industry.

I want to begin a question for Mr. Becker. I noted in your testimony that you referred to excess capacity in Germany, or at least your understanding that there was excess capacity. Is it your understand that there is substantial excess capacity for this product in Germany?

MR. BECKER: Yes. Yes, I believe there is, Commissioner. The capacity to manufacture the non-subject alloys that Mr. Kerwin showed on his chart is transferrable to the subject brass sheet and strip that we have, and I believe that taken in total there is excess capacity in Germany.

COMMISSIONER PINKERT: Thank you. Does anybody else on the panel have a comment on that issue?

MR. KERWIN: I would add a point. I think currently we have really an incomplete picture of what the German industry looks like given that we only have questionnaire responses from three of the producers, and I won't go into any detail in relation to the questionnaire responses we do have on the record, but we have raised some concerns in our prehearing brief and in discussions with Commission staff as to some inconsistencies in those data.

MR. BOBISH: Also, what I'd like to share is when the Commission toured PMX Industries in Cedar Rapids, Iowa, we clearly pointed out that far and away the majority of the equipment is transferrable from subject items to non-subject items, and only just one specific item in our entire mill is predicated to 200 series, so it's relatively easy to move from one to another to increase their capacity for 200 series.

COMMISSIONER PINKERT: Thank you.

MS. CANNON: Commissioner Pinkert, if I could also add. When Mr. Shor was providing his opening remarks he criticized our analysis of capacity, suggesting that we were really relying on capacity that was in fact being used for other products, not subject brass sheet and strip. And while in fact that capacity could be diverted, that's the product shifting portion of the statutory analysis, our main emphasis here is when you have idle capacity that's been allocated to other products that idle capacity can be used for anything, and so we are also very much trying to encourage the Commission, as Mr. Becker described, to look at the total all capacity existing in these mills that could be used for anything regardless of how its actually been allocated.

COMMISSIONER PINKERT: Thank you. Now, Mr. Heusner, you testified that your company is operating independently of the German parent, and I just want to kind of flush that out.

Are you saying that Aurubis AG does not control any of the corporate decisions of the U.S. affiliate?

MR. HEUSNER: No, I am not. Of course, the corporation controls five flat-roll product plants around the world, one of them in the U.S.

COMMISSIONER PINKERT: Okay, so what did you mean by saying that its independent?

MR. HEUSNER: Well, we develop our business plans and our strategy locally to fit the U.S. market. The plant is here to serve the U.S. and the local market.

COMMISSIONER PINKERT: Okay. Now I think that, Ms. Cannon, you referenced Mr. Heusner's testimony in arguing that the independence of the U.S. affiliate makes this different from some of the other cases that were relied on by the Respondents. I'm just trying to understand. In what respect is the independence important for your argument?

MS. CANNON: I think, Commissioner Pinkert, based on some of the discussions we have had that some of this would be better address in post-hearing as to exactly how the policies and practices of the company work, but I believe we can explain in post-hearing that the difference in the policies and the way this company operates is not what you have seen in the other cases in terms of the local supply strategies and veto powers and the other factors that you have taken into account in reaching the conclusions you have, but I think that all of us would prefer to address that confidentially.

COMMISSIONER PINKERT: Thank you. Now, one of the issues that featured very prominently in the opening argument by Respondents has to do with the non-subject imports, and there seems to be a difference of opinion about whether non-subject imports have gone down during the period because of anemic demand or because of the alleged strength of the U.S. industry. Perhaps this is a question for Mr. Kerwin although anybody in the panel could take a shot at it.

How would we know whether it was one or the other or both of those factors driving the non-subject imports during the period?

MR. KERWIN: Well, I think as an initial matter obviously the U.S. economy underwent a recession in this period, so it's not particularly surprising that import volume went down in that period. If you look at the import statistics nearly every import classification in the HTS went down in 2009, so that's not particularly compelling.

Another important factor if you look at the specifics of the individual countries in which the data are -- the volumes of brass sheet and strip are entering the United States one of the significant non-subject sources was Poland, and the producer of brass sheet and strip in Poland is understood to have gone out of business in the period, I believe in 2008. So, one of the significant declines accounting for the overall decline in non-subject imports is the decline in imports from Poland, so that is certainly an element of the answer as well.

I don't think you can point to a decline in non-subject imports as an indication of the strength of the domestic industry. This is, as I've mentioned in my testimony, even in 2010, which was an improvement in relation to the trough years of the recession, it's still by historical standards consumption in the United States was very low in 2010.

It was low in comparison to 2005 and 2006 at the beginning of the period of review. It's low in comparison to the previous sunset reviews, and also in relation to the original period of investigation.

So, again, I don't think that given that kind of contraction that we're just starting to come out of a recession, I don't think it's unusual to observe this kind of a decline in non-subject imports over this period, particularly when one of the major sources went out of business.

COMMISSIONER PINKERT: Thank you. Now, I don't want to characterize any of the arguments that we've seen in the briefs, but I'll just ask this in the form of a question.

Does having scrap as an input have an impact on the overall margin that the producer can receive from the product? And if so, does it tend to keep the margins down? Does it tend to keep the margins up? What is the impact of having scrap as an input?

MR. BOBISH: Commissioner, quite simply, producers attempt to buy the right grade of scrap to meet the customer's very, very strict requirements. In comparison to buying pure copper cathode which has generally a surcharge on top of the price that we pay through Comex, scrap is purchased at a discount below

Comex.

So, the idea that, yes, that assists us in our margins assuming you can buy the right grade to meet the customer's requirements. That isn't always the case and often, as an example over the last four years customers' requirements are getting tighter than they ever have been to improve the quality of their product and have no recalls. So, many of us are forced to add copper cathode even into 200 series to make a premium product to meet our customers' requirements where before you may have been able to use 100 percent scrap. I hope I answered your question.

COMMISSIONER PINKERT: Thank you. Any other quick comments on that, the panel?

MR. HARTQUIST: Just one brief on, Commissioner Pinkert. I know we're going to talk a lot about the pricing structure in this industry today because it's somewhat different from what you see in other industry. You're familiar with the steel industry, for example.

The bottom line we're going to argue is the final price no matter what the mix is. The fabrication cost, the cost of raw materials add up to a final price, and that's where the competition is.

But I think in further questioning we can talk more and elaborate about how this pricing structure works and essentially whether the producers have a free ride as the Respondents would indicate because of the attempts to pass through the cost of raw materials. What happens after that is the key.

COMMISSIONER PINKERT: Thank you. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Johanson.

COMMISSIONER JOHANSON: Yes. Thank you all for appearing here today.

The Respondents argued that in the foreseeable future imports from Germany are likely to consist of small volumes, especially products with characteristics that U.S. purchasers cannot obtain from U.S. producers or from other subject imports. Are there any products that subject producers can supply that the domestic industry cannot manufacture?

MR. BOBISH: None.

MR. WERNER: I would concur. In my period in this business there are none that I know of brass sheet and strip.

COMMISSIONER JOHANSON: That's very conclusive. Anybody else? Okay, thank you.

Respondents in their prehearing briefs that only small share of the domestic industry's U.S. shipments remain subject to import competition. Is there any portion of U.S. shipments that you would identify is shielded from import competition or any portion that you would identify as particularly vulnerable to import competition?

MR. WERNER: Well, I would make a comment that a significant portion of our sales particular to brass go through the supply chain, whether it be downstream operations like A.J. Oster, or the re-rollers involved or open distribution, and that is a particularly vulnerable market.

You know, the way we are set up, our companies are set up to run as their own profit center, their own companies, so they are free to buy from anyone and not integrate it into the Olin Brass system. So, I think those are particularly vulnerable areas where Olin Brass would be in that situation.

MS. CANNON: Commissioner Johanson, if I could add. The Respondents' argument as I recall were twofold. One, that there were internal consumption going on, which I think has disappeared a lot with the ownership changes; and number two, that they considered or characterized toll sales as somehow just something that if a U.S. producer was selling to a toll customer that was shielded from competition.

And in discussions of this issue yesterday, several of the producers made quite clear that just because you are selling to a toll customer at this point doesn't mean that that customer is a toll customer for all time. It could readily become a non-toll customer and purchase on a non-toll basis simply based on the economics, and I would invite maybe Mr. Bobish to elaborate on how that works.

MR. BOBISH: Well, first of all, far and away the majority -- toll is a very, very small percentage of the total sales in the United States, and keep in mind if you were a customer and you wanted to buy finished 200 series brass from any of us you may decide to go on the open market and believe that you can buy scrap at a better price for a period of time then or equal to us. But as the economy changes and if China comes into the market and scrap prices rise, and you believe you have no longer an advantage to handle the working capital investment and financing costs, that there is nothing in writing that holds them to not go from January to be on toll to February to be off toll and buy material from us where we have to support the working capital and financial costs of the higher copper products. I hope I answered your question.

MR. HARTQUIST: Commissioner Johanson, if I can add, I would just like to add one note maybe of amusement. From the Respondents' prehearing brief, the German's prehearing brief about the characterization of the portion of the market which they allege is sort of a captive market not subject to import competition, on page 5 of their brief, and I won't use the numbers because they are APO, they refer to a small share of the market. On page 21 of their brief talking about basically the same situation they refer to a huge share of the market. The interesting thing is that when you look at the numbers the small number is twice as big as the huge number. Just kind of an interesting contrast on how their arguments are structured.

COMMISSIONER JOHANSON: Thank you. And going back to Mr. Bobish, how common is it actually to go back and forth between tolled and non-tolled?

MR. BOBISH: In the current market over the last review period the majority of the customers that -- whether it be a small number of them -- have stayed on toll. They have occasionally, and I'll be very fair in saying occasionally bounce to a non-toll basis because of a shortage of cathode deliveries into the market, and they had to meet requirements of metal into our plant. But relatively I believe in the industry people try to stay within one basis or another.

MR. WERNER: If I can comment, maybe elaborate a little bit on that. You know, one first point is we have limited tolling agreements. Two, if I can explain maybe just the parameters of how they typically work.

You have a toll bank and they have to bring the scrap portion in a certain period before the production portion runs, say 60 days prior to the production period. So, they can fluctuate heavily and the agreement is to backup what they don't have in the scrap to backup with cathode, and there is an agreement on that, and we would typically by the cathode.

So, there can be quite a bit of fluctuation at times as to how much they're filling into their bank, depending on whether they feel the toll portion with us as a producer would be advantageous or the outright sale of that scrap may be more advantage placed somewhere else. So I hope that helps clarify that they move within the bank and we backfill with cathode when we're not using that scrap.

COMMISSIONER JOHANSON: Are there contractual problems with going back and forth between tolled and non-tolled?

MR. WERNER: No, not for us because they're required to bring it in before that point of production which ties into our agreement to provide the cathode which we can go out and get, so that as we begin production we know how much cathode versus scrap could be in a tolling arrangement. Does that make sense about the bank?

COMMISSIONER JOHANSON: Yes, it does. Yes.

Okay, I just asked you all about the difficulty of going back between tolled and non-tolled. I was wondering how difficult it is for purchasers to move between products from different producers, and what would make it difficult to switch from producers, from one producer to another.

MR. WERNER: Well, in 200 series brass it is certainly -- again in my company it's very easy to switch most products over typically. The majority of those products are very fungible. They are commodity type of products. Obviously different customers do have different specifications, so there can be a short qualification process in this, nothing compared to the other type of alloys that we sell, but it's relatively fluid. Most can do it with a stroke of a pen I would describe it in the U.S. market.

MR. BECKER: Mr. Johanson, if I could answer as a customer rather than a producer. We are a large user of 200 series material. We purchase 200 series material from three of the producers here. In the last year we have switched multiple products in large volumes back and forth between the three suppliers.

The other thing that I would like to address if I could is go back to the tolling question because I am toll. I am a customer that tolls, and we toll through our primary supplier, but we buy price date of shipment with the supplier supporting the metal from our other suppliers. Contractually we have no restriction of going back and forth on toll versus non-toll. It is simply an economic evaluation. It's a trade. It's a swap. It's very easy.

If you are tolling material, you compare a formula of a selling price plus the financing cost of the working capital plus your cost of metal versus the selling price on a non-toll sale, and you make that evaluation, and then you negotiate one or the other. I think for the Respondents to say that toll customers are blocked from their participation is simply not correct. The customers, like I am a customer, I just simply make that evaluation and I buy the metal content from the supplier as opposed to buying cathode and scrap on the outside market and giving it to my supplier to toll or fabricate for me.

COMMISSIONER JOHANSON: Okay. Well, thank you. My time is up.

CHAIRMAN OKUN: Thank you. Mr. Hartquist, I will take you up on learning more about the pricing in this market, and ask the producers to talk about that, and perhaps if you could begin by responding to Respondents' argument that a better measure in this industry is the fabrication charges relative to operating income.

MR. HARTQUIST: Well, let me turn to my clients very quickly here, but I think the reason they argue that is essentially the pricing is keyed off the fabrication cost. That's where there is discretion in setting the price. Since the commodities are typically priced globally, for example, for scrap or for cathode the input materials are pretty well set and with some modifications the companies are basically paying the same price for those materials that all their competitors are.

So, then you move on. How much does it cost to convert those raw materials into the finished product, and that's where the battle essentially takes place, but with that let me turn to my clients to elaborate or correct me if I'm wrong.

MR. BOBISH: Commissioners, basically what we look at is an entire I'll call it fabrication cost albeit there may be fab., there may be a copper surcharge in there, there may be scrap loss, melt loss charge, we look at what is the entire fee aside from metal that we're charging a customer that gives us a fair return on our investment, and that each customer negotiates that separately.

Certain customers due to internal politics I'll describe it are very sensitive to a fabrication change. I cannot go to sell my boss that the fabrication price is going up. So, I may have to make an adjustment with that particular customer on a copper surcharge from a percentage to a percentage to cover additional costs at our plant. But overall what I look at is an -- what we all look at is what the entire charges for converting this metal from raw copper and zinc into 200 series material.

MS. CANNON: Commissioner Okun, let me add and then the producers can elaborate, but my first point is we do not agree with Respondents' contention that you should be looking at the fabrication charges relative, and limit your analysis to that. And as we discussed this more yesterday, my understanding is that when you have copper costs in particular that have gone through the roof as they have here, those total costs are part of the equation that these producers must look at and they affect many other variables of their cost analysis as well. They affect their working capital. They affect their financing. They affect all kinds of their other costs. And so to try to isolate fabrication cost that is just a small component disregards the total costs and then therefore the total operating revenue and income that's generated, and maybe Mr. Werner might be able to address that in more detail as we discussed yesterday, but that was our conclusion that we would definitely disagree with that position, and it's because of the net effect of some of the -- the total raw material costs have on other costs of the producers.

MR. WERNER: Yes. To elaborate, I think that there is not a good built in mechanism within this industry. Either of the parties can help to price the copper and what's traded on the open exchange. However, you know, when you move from $1.50 or $2.00 to the peaks that we have seen at 4.50 and today slightly under $4.00, the investment that you have employed in the working capital and the cash employed obviously through the cycle, as you have to buy the raw materials and bring through the cycle, you know, can be significant to the business, and you know, that is really where the cost, you know, has escalated dramatically over the past few years.

So, historically I believe this industry has worked at -- I don't know the exact price at the point of the last sunset review, but I think that stability near $1.50 or $2.00 was pretty normal, and obviously since that review we have seen copper, you know, bounce very high as we talked about, well above $4.00 and now back to the $4.00 level. So, you can imagine the amount of capital that needs to be employed to manage that through the process until the final payment from the customer, and we put that money out in particular.

MR. BOBISH: I know we switched from pricing to costs, and I just wanted to point something out. Respondents' point is that the effect of the price of copper is just a pass-through. Well, that's not correct. For those of you, again, that toured PMX, when you cast material from raw copper and you alloy it with zinc to do 200 series you have a melt loss that literally goes up the stack that you cannot recover.

Well, that has a dramatic effect on our business when copper is $1.50 and you lose a certain percentage up the stack to when copper is $4.50, and you lose it up the stack. So, when we evaluate our costs and then try to recover that in some sort of pricing, as I stated earlier, and a customer, again internally politically can't pass on a fabrication price, we find a way within the whole number, whether it be a copper surcharge or a melt loss to charge that customer to try to recover some of that. And it's clear, based on our documents, that it's not that any of our -- anyone in our industry has gotten rich in the last five years due to the pressures of smaller volumes.

CHAIRMAN OKUN: I appreciate all those responses. When you're looking for demands in this industry and the challenges you face and how that relates to pricing of the product, I'm curious what your perception is looking forward, I mean, both in terms of the raw material costs and what prices will be because I think I've heard you say with respect to demand and declining demand in a mature industry is, in essence there is, I think, substitution to other products and substitution overseas, primarily in China, is there anything likely to change to increase demand in the United States or elsewhere? Do you see any changes in China or other countries that would help us understand what's going to happen with demand in the United States in the reasonable foreseeable future? Any changes? Are you contemplating other strategies?

MR. WERNER: Well, two things and to help understand the question is, you know, we do not speculate on the price of copper because it is so volatile within itself, and you know, I mean, it would be our belief that, you know, with the building of infrastructure in China, and some rebuilding that may be going on here that the price of copper itself is probably -- we don't believe it's going to sink back to those levels that we talked about if ever again for quite some time, and believe that it's probably pretty robust, it may even go higher as China moves, I think, on that front.

When we look at things on the flat-rolled 200 series part of it, and demand situation, you know, without sharing too much about our particular segments, you know, I will comment that we are heavily oriented in brass to the ordnance part of the business, and the military portion of that obviously with some of the happenings in removal from Iraq and maybe further removal from Afghanistan, that portion, at least for the next foreseeable future, is actually a bit of a declining market for us. On the commercial side, commercial ammunition, we consider that to be reasonably flat I guess would be the best way to describe it.

So, our actual predictions are a downward trend which that's a major consumer of brass product for us, and then when we look at the automotive part of the market obviously we agree that we've seen an improvement year over year, particularly to 2010 and '11, and we look for a bit of an improvement going into 2012, but we all know the nature of the automotive market is very cyclical and, you know, it's very hard to predict long term what we're going to see there based on sales.

And then building and construction being the very low level that it hit we expect a very modest increase. We're not a major player in that ourselves but we do anticipate a modest increase in the very bottom that we've hit, but for the long term foreseeable future we don't see a returning robust building and construction market for another three to five years.

CHAIRMAN OKUN: Okay. My red light has come on, Mr. Heusner. I'm going to come back to this anyway just to talk about demand overseas as well, so I'll come back and get you on the next round. Thank you very much.

Commissioner Williamson.

VICE CHAIRMAN WILLIAMSON: Thank you, Madam Chairman. I too want to express my appreciation to the witnesses for coming today and presenting their testimony. Ms. Andros, you talked about the efforts of the steel workers to help the industry become more competitive, and could I ask, maybe if you can mention some of the specific ways in which you have been doing this, which the steel workers have been doing this.

MS. ANDROS: Thank you for the question. I would not be able to at this time give any specifics. We can provide that in a posthearing brief. I would just say generally in all our industries, and you've, excuse me, heard us testify at many hearings, we certainly make the utmost efforts to cooperate with our companies so that, and give whatever concessions are necessary that we can keep the company competitive and keep our members working, but for specifics of this industry, I'd just have to defer to a posthearing brief.

VICE CHAIRMAN WILLIAMSON: Okay. Yes. I appreciate it. Anything that sort of gives us an indication of how that's going to help the industry compete in the future.

MS. ANDROS: Thank you.

MR. HEUSNER: Commissioner Williamson?

VICE CHAIRMAN WILLIAMSON: Yes?

MR. HEUSNER: I can --

VICE CHAIRMAN WILLIAMSON: Sure.

MR. HEUSNER: -- take a shot at that. I work, I represent Aurubis Buffalo. We have almost 500 steel workers and I can specifically, you know, the cooperation with the steel workers union and management is very strong. We just negotiated a three year contract that had new work rule flexibility that allows the company to become more efficient, we have very good cooperation on work groups that work together to help with the profitability of the plant, so I think there's many instances I can cite in our facility where we've had great cooperation with the steel workers.

VICE CHAIRMAN WILLIAMSON: Okay. You were talking, maybe you could, I don't know to what extent either you or Mr. Becker might know, because I think

Mr. Becker made the point that I guess we haven't seen any Germany factories close, and I don't know whether employment in the industry has gone down there or not and so I'm just wondering, what does that say about sort of their competitiveness versus competitiveness of U.S. producers?

MR. BECKER: I think they have a better home market in terms of prices, and I think they have taken the opportunity to shift production and products directed at China. That's my opinion. In our market in the United States, substitution and offshoring have been very detrimental to the volumes in the market. So, Mr. Commissioner, that would be my speculation.

MR. WERNER: May I say something --

VICE CHAIRMAN WILLIAMSON: Okay. Sure, Mr. Werner. Yes.

MR. WERNER: I'm just going to go back here to my aluminum experience and the aluminum companies I worked with. We had two plants, one in Koblenz, Germany, and one in Belgium. I can tell you that when we were hitting some of the difficult economic times, you know, the labor relations and the laws involved with layoffs and/or closures were extremely difficult in comparison to anything in the U.S. So I believe that that may very well be part of, you know, the difficulty for them to close the plant or to lay people off is certainly a whole different structure than we have in the United States.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. KERWIN: Commissioner Williamson, if I could add one point?

VICE CHAIRMAN WILLIAMSON: Sure.

MR. KERWIN: I think we've seen this in many industries, that the European Union economies in general and the Japanese economy in general go to extreme efforts to make sure that plants do not close. They do not close manufacturing facilities. They keep them open even when it doesn't necessarily even make economic sense to do so. We've seen some very extreme examples of that over the years.

Their economy is not as flexible, they don't have the same attitude of sink or swim that this country has and leaving things to market forces, that if you have overcapacity, and you have increasing imports and that results in overcapacity in the U.S. domestic industry, well, then go ahead and close down a facility. When that happens in other countries, that closure does not occur. In fact, they find ways to keep imports out of their economies so that they can keep their production up and then export their excess production that cannot be consumed domestically. But we've seen that in many, many --

VICE CHAIRMAN WILLIAMSON: Okay. Yes. I guess the question that I have is looking at the foreseeable future, given what's going on in Europe right now, the debt crisis and all of that, any conclusions you might say for what's going to happen say if the orders were lifted here? So anything now or posthearing. I know it's very hard for anybody to predict what's going to happen in Europe, but to the extent that it's relevant to the questions we have to answer here, I would be interested in those comments.

MR. KERWIN: My personal opinion, to the extent it means anything, and everybody has an opinion, but it seems to me that the evidence from the last couple of quarters indicates that the U.S. economy is starting to improve slowly, but certainly is showing some signs of life, whereas the EU is, I think, kind of where we were a couple of years ago. They are showing more declines and more in output and increasing unemployment levels. I don't think it's a stretch -- I didn't have a chance this morning to read the full article, but I understand that the EU countries have come to some kind of an agreement as of yesterday in terms of how to handle their financial crisis.

VICE CHAIRMAN WILLIAMSON: Another agreement. Yes.

MR. KERWIN: Yes. From my understanding of the terms not of that particular agreement, but the effects of the crisis in general and the steps that have been taken up to this point is that it has significantly reduced output and economic levels in those countries that have taken those steps. For example, in Greece it's been a very significant --

VICE CHAIRMAN WILLIAMSON: Okay. Good.

MR. KERWIN: My point is long-term, in the longer term, if the EU economies in general are going to be slowing down while the U.S. economy is slowing improving, the brass sheet and strip volumes that are not going to be consumed in Europe will be headed to the United States.

VICE CHAIRMAN WILLIAMSON: Okay. Fine. Thank you. Let me just say, posthearing, if there's anything specific on this, that would be helpful. In general terms, how do the profit margins on sales of rerolled material compare to profit margins for nontotal sales of finished brass sheet and strip? Anything you can say now or posthearing.

MR. BOBISH: The profit margins on rerolled material are less because there's less work involved. The higher profit items are that you have more work in kind.

VICE CHAIRMAN WILLIAMSON: Okay. Okay. Thank you. Anybody else have anything to add?

MR. HEUSNER: Yes.

VICE CHAIRMAN WILLIAMSON: Yes?

MR. HEUSNER: I concur with that. The profit margins are less, and also, in other segments of the business, electronics, ammunition, the margins are better.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. Table II-1 shows the share of domestic shipments of subject imports and nonsubject imports that were sold to distributors and end users. For both subject and nonsubject imports the table shows a larger increase in the percentage sold to distributors between 2007 and 2008. Does anyone know why this shift is occurring?

MR. BOBISH: May I ask which specific years you're referring to, please?

VICE CHAIRMAN WILLIAMSON: It's 2007 to 2008. You can sort of see there's a big shift in the amount that distributors are selling or that are going to the distributors. If you don't have an answer now, the posthearing will be fine.

MR. WERNER: Commissioner Williamson, if I'm reading this correctly, the big change that I see is in U.S. importers' U.S. shipments of product from Germany, is that correct?

VICE CHAIRMAN WILLIAMSON: Yes.

MR. WERNER: So not the domestic producers, which those numbers don't show a dramatic shift.

VICE CHAIRMAN WILLIAMSON: Yes. You also see something with the nonsubjects, too. Okay. Well, for posthearing, if there's any explanation, that would be helpful. My time is just about to expire, so thank you for those answers.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madam Chairman. Permit me to express my appreciation for the tour of PMX that some of us had a few weeks ago on a balmy January day in Cedar Rapids. It was a great day for a trip. Most interesting. It's clear from this record that apparent consumption of brass in the United States has declined over the period of review. Is the same true globally? What I mean, I mean is the global market for brass shrinking and we're just part of that or is the global market for brass growing and we are just on the shrinking end of it?

MR. HEUSNER: No. Globally, the demand for copper products is expanding, but it's almost all in Asia. In the developed markets and Europe and North America there's a decline, but it's overshadowed by growth in Asia.

COMMISSIONER PEARSON: And is that true for the subject brass products that we're looking at in this investigation?

MR. HEUSNER: I can't speak to that level of detail, but overall flat products, it's true.

MR. BOBISH: I'd like to share a specific that certainly that shines on what's happening in Asia. A few years ago, and 200 series brass goes, is quite heavily used in the automotive industry. Wasn't that long ago that China averaged eight cars per 1,000 people while the United States averaged roughly 970 cars per 1,000 people. You can just imagine the amount of brass that needs to go in as they increase from eight cars per 1,000 people to 16 cars per 1,000 people, just 32 cars per 1,000 people. So the growth is in Asia and in India. Yes, worldwide, 200 series is growing heavily, but shrinking here, in the United States.

MR. WERNER: I would just include Brazil in that as well, in particular, is growing.

COMMISSIONER PEARSON: Okay. So I would be correct to understand that globally the 200 series brass product is doing okay, there's demand for it. Here, in the United States, we see a somewhat different picture. And I would be correct to understand that that's largely due to the movement to other countries of some manufacturing that had been here and using brass as an input?

MR. HEUSNER: Well, that would be part of the reason. The other part is just the explosive growth in Asia for infrastructure and products that are needed.

COMMISSIONER PEARSON: But that wouldn't necessarily decrease the size of the brass industry in the United States, I mean because there's always the possibility that we would be a competitive exporter and that we might benefit from that growth, right?

MR. HEUSNER: That could be true, but there's an enormous amount of infrastructure being built in Asia right now to supply that local market.

COMMISSIONER PEARSON: Right, but why that would decrease production of brass in the United States is not clear to me. The fact that somebody is growing strongly, you know, it's not a shrinking pie that we have to produce less because they're using more, you know?

MR. HEUSNER: No. We'd revert to the previous explanation on high copper level, you know, substitution of products, and there is offshoring of some of our domestic industry that we had mentioned.

COMMISSIONER PEARSON: Okay.

MR. BOBISH: If you just look at the loss of manufacturing jobs in the United States over the last five years, a number of those have just been moved to other countries where they can, they have lower cost labor, and those parts are just simply shipped back to the United States as semi-finished parts or completely finished parts.

COMMISSIONER PEARSON: And, Mr. Becker?

MR. BECKER: Mr. Pearson, I think I understand your question. The reason that U.S. producers do not shift their capacity to China from the shrinking U.S. market is that the prices in China are too low and they are unattractive, which ties in with our belief that not only are the prices low, there is an increasing production infrastructure in China, and the Europeans, or the Germans, who have been heavily shipping to China, have the opportunity to now divert to our market.

COMMISSIONER PEARSON: Okay. Have some of you had customers move plants out of the United States? Have you had that direct experience? I don't need to know all the details. I'm just wondering if you've seen that in your own businesses.

MR. BECKER: We've had a number of plants that have been our customers move to China and other places and we have supplied that information in the prehearing conference. Yeah.

COMMISSIONER PEARSON: Okay. Thank you. Okay. So I know earlier the question was asked about what led to the decline in imports of nonsubject brass sheet and strip over the period of review, and, Mr. Kerwin, I think you commented that it's at least due in part to the recession, but looking at the numbers, the decline started right at the beginning of the period of review and, yes, there was a decline in 2009 which very likely was related to the recession, but, you know, the pattern of decline seems relatively steady throughout the POR which makes me wonder if there isn't something going on in terms of the changing relative competitiveness of brass production that is leading to less fairly traded brass being imported into the United States. I mean something other than the recession, it seems to me, to be going on here. What's leading to the decline in fairly traded brass coming into the United States?

MR. KERWIN: Well, as I mentioned before, one of the significant factors is that decline in imports from Poland which accounted for almost half of the decline from 2005 to 2010, a producer that had been a significant exporter to the United States and closed up shop as of 2008. I think about half that decline is accounted for in relation to Poland alone, if I'm not mistaken. I'm not looking at the numbers currently, but from memory, I think it's a substantial percentage of that decline.

COMMISSIONER PEARSON: Okay, but that firm was producing until 2008?

MR. KERWIN: That's my recollection.

COMMISSIONER PEARSON: Yes. So we still --

MR. KERWIN: We can follow-up in the posthearing brief with the specifics of that, but we discussed that yesterday and my recollection was 2008 was when that mill was closed. Maybe it was 2009. You see that the levels of imports from Poland fall to zero from fairly substantial levels at the beginning of the period.

MR. BECKER: Mr. Pearson?

COMMISSIONER PEARSON: Yes.

MR. BECKER: I think what has happened here is that we, as a customer, were importing product from Poland at a rate of 10 to 12 million pounds per year. That was in the year 2000 through 2007, I believe. We shifted that purchasing from Poland to a domestic supplier. That was our decision to do that. Shortly thereafter, that Polish mill, Skopaneze, closed and moved their equipment elsewhere. I believe that that is a big reason why the imports from nonsubject countries were reduced, because of the Polish reduction.

COMMISSIONER PEARSON: Okay. Well, thank you for that explanation, but now, anticipating a line of discussion that we may hear from the Respondents' panel, are we sure that what we're not seeing here, in the data, is a reflection of changing terms of trade such that it's less profitable for people to produce brass in other countries and send it here fairly traded than it has been in the past?

MR. KERWIN: I'll take an initial crack at that. I think that the numbers that I displayed in my testimony are a major indication that that argument is misplaced. The fact of the matter is the German industry has shipped, and continues to ship, very substantial volumes of not subject brass sheet and strip to this country, but all the other flat-rolled copper and copper alloy products that are made on this same equipment that just don't happen to be under a dumping order.

So the figures that I show indicated that the volumes under the general tariff classifications in which actually brass sheet and strip falls, those imports into the United States from Germany increased dramatically over this period. They increased regardless of what went on with the price of metal, they came in regardless of the 1.9 percent tariff in the United States, they came in regardless of the fact that we have tolling here.

I mean all the arguments that they've thrown out as to why it would not make sense to reenter the United States for brass sheet and strip have no application to what they're doing with other related products. They're selling substantial volumes of these products to the United States, and they've done so despite transportation costs or any other factors that they've thrown out as to why they would not reenter the United States for brass sheet and strip.

COMMISSIONER PEARSON: Yes. Okay. My time has expired, but for the posthearing could you please elaborate not just on imports of those nonsubject products from Germany, but worldwide? I mean has the

United States imported more of that stuff in total is what I'm interested in knowing. Thank you, Madam Chairman.

MR. KERWIN: We'd be happy to address that.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madam Chairman. Join my colleagues in welcoming this morning's panel and also in thanking Mr. Bobish and everyone at PMX for the tour of the plant. I think we walked about six miles that day. Following up on the question that Commissioner Pearson was asking, at least I think it's a little related to his question, there's a lot of discussion in the briefs and there's been a lot of discussion this morning about nonsubject imports from Germany, but not nonsubject imports from the other three subject countries. Is the U.S. importing nonsubject copper and brass products from the other three countries, and, if not, why do you think that is?

MR. BOBISH: Each of the countries are shipping some small amounts of nonsubject items into the United States. Quite honestly, I believe that, in my opinion, those countries realize that pricing in the United States, as competitive as it is, there's just no, they cannot make a fair business return on their investment, while Germany looks at it differently, as we've demonstrated in how they sell into China and how we believe that they continue to sell into the United States, even for nonsubject items, that they, rather than have employees laid off, that it is better to keep them employed and sell products at questionable pricing.

COMMISSIONER ARANOFF: Mr. Kerwin, did you want to add something?

MR. KERWIN: Yeah. I'd just have to say we don't have that full information currently at our fingertips, but we would be happy to address that in the posthearing brief more fully.

COMMISSIONER ARANOFF: I'm interested in it because we're discussing that kind of information about the German industry as an indicator of what might happen if the order is revoked, and so I'd like to look at it for the other three countries in that same way, but also because I think it may shed some light on the dispute about who's actually still producing these products in some of the other countries.

MR. KERWIN: Sure.

COMMISSIONER ARANOFF: Okay. So anything that you can add. Thank you.

MR. KERWIN: Uh-huh.

COMMISSIONER ARANOFF: I want to return also to a line of questioning that Commissioner Pinkert started in on with respect to the relationship between Aurubis Buffalo and its new owner in Germany. You may need to do this posthearing if the information is confidential. You've indicated that the U.S. plant continues to function as an independent entity with respect to making its own business plans and assessing and serving the U.S. market, and I understand that. To what extent is the current relationship between the U.S. plant and the new owner a work in progress that's still evolving versus something that there's a definitive plan for already?

MR. HEUSNER: It's clearly a work in progress. Business plans throughout our plants around the world are being configured right now. We have five plants, one in Germany and then one in the U.S. So that's part of the business plan being developed right now.

COMMISSIONER ARANOFF: Okay. Well, we have had prior cases in other industries involving those kinds of acquisitions where parties have come before us and said we're all related companies globally, but we're all independent operators, you know, it's every plant for themselves, and then they come back to us a few years later and go, well, that wasn't really a very smart way to run a business and so it didn't really last and now we have a greater plan in place.

So if there's anything that you can put in the record for us that indicates, you know, what the analysis was at the time of the acquisition about how these plants globally would ultimately relate to each other, I think that would be very helpful.

MR. HEUSNER: I'd be glad to do that. I'd like to make one point, though, about the situation with the Aurubis plants between the U.S. and Germany. You know, it's quite a bit distinct from the Wieland case. Here, you have a large integrated manufacturer that casts product, and in Germany our facility is essentially a re-roll facility and it's supplied almost all of its product from Schwermetall, so it's considerably different than having an integrated mill in Germany and a re-roll facility in the U.S.

COMMISSIONER ARANOFF: Okay. There's been some disagreement among the parties in this case about the importance of contracts, and, in particular, longer-term contracts in sales relationships with your customers. I don't know the extent to which it's definitional or the extent to which it's real as the

Commission's questionnaires define long-term contracts in a fairly specific way, but I just want to ask the producers here, do you see a trend towards contracting with customers for longer periods of time than previously, or no change, or shorter periods of time? What's your observation?

MR. WERNER: I will comment that if there's any trend, it's probably toward shorter periods of time. There are obviously unique businesses that, you know, such as automotive, where they drive that, and even some in ordnance that we participate in, but as robust as things have been, the contracts, our objective would be to make them as firm as possible for committed volumes or things such as that and the customer obviously has no visibility, so I think that the nature of those contracts are becoming much more fluent than they have been.

MR. BOBISH: Quite honestly, the majority of what you hear contract is really a pricing agreement, an agreement for a year and here is your price, but on the customer's side, as Tom Werner just pointed out, no guarantee of volume. So is that really a contract? So far and away the majority of the business that our industry does is not a true contract for any real statement. Even those have escape clauses where due to quality, or service, or even no fault, no foul, within 90 days, they can switch to any supplier they want.

COMMISSIONER ARANOFF: Okay. Sometimes one finds in industry with volatile costs that, you know, purchasers want firm pricing for a longer period of time because they are having trouble dealing with the relativity to, or, have you determined if that has really been a factor in your industry?

MR. BOBISH: I would again I think repeat that when they drive back, we try to drive firm volume commitments and that's where we have had the issues that, you know, customers have been unable to do that, and in return, to give firm pricing for really no commitment, you know, to the volumes, you know, we've taken a change in philosophy towards that approach, and I think they have, too.

COMMISSIONER ARANOFF: Okay. All right. Thank you. I would like to go back to some of the discussion beginning with Chairman Okun regarding the different surcharges and the way that the total price is put together. I have a short time left so I'm only going to get one of my list of questions in on this and I'll have to come back to the rest. Was there a time in the past where there were basically two pieces of the price, the metal cost and a single fabrication number?

Now, I mean my impression is it must have started that way and now it seems to have splintered where what used to go into the fabrication cost is now being kind of divided up into constituent pieces which can be manipulated separately. Is that a fair general assessment of what's been going on recently?

MR. BOBISH: No. Every customer is different, every customer wants it to their own liking, but no, there have always been multiple factors involved in the pricing. Again, that's all negotiated and agreed upon to what the customer can live with with their management.

COMMISSIONER ARANOFF: Okay. Clearly, I started in on this too late in my time so I'm going to come back in the next round rather than pursue it now. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Madam Chairman. As you know, the Respondents argue that the domestic industry is moving from lower margin products toward higher margin products. You've argued on this panel that you need the sales of the lower margin products in order to make the other sales possible, you need a healthy base. My question is is it possible that both sides are right about this, that there is a movement from the lower to the higher, but that also you need the base with the lower margin products?

MR. WERNER: I want to make sure I understand the question properly. The answer is yes, that we need the base of products, obviously. In our case we have seen, you know, ever-increasing competition, particularly from Germany, as well as domestically. Olin certainly had a lot of alloys that have been developed and the licensing agreements had expired and that is a lot more competitive market also than, you know, what we had faced probably as a company four or five years ago. Dan, maybe you can help me, you know, you have a history a bit more on that, but I sense that that's a much more competitive market today as well.

MR. BECKER: I agree.

MR. KERWIN: I would add one observation which is, from having seen PMX's facility, one of the things that struck me is just how many different stock keeping units, SKUs, that Tom mentioned that number in the thousands, and I think one of the things that the domestic industry has tried to do is to be more responsive to customer needs and to offer further distinctions of the given products. So, in other words, instead of offering an entire roll of a product, offering a small piece, a smaller roll, of strip and meeting certain rigid specifications that are set by the customer, so, but that can still be done within the brass sheet and strip category.

So, in other words, you are adding value, additional value, to that product so you could say that's a higher unit value product because it's more tailored to the individual customer's needs, and therefore, that customer, because he's going to get better output out of that product when he uses it in his manufacturing process, might be willing to pay a little bit more for that. So that's an indication of a means of improving the value-added on the product, but it would still remain a brass sheet and strip product.

MR. BOBISH: Commissioner, if I could add just so you see the whole picture. Roughly eight years ago, PMX Industry was a very vanilla copper and brass mill. To our Respondents, yes, to be a better vendor to our customers and to be a better competitor we've invested millions of dollars in equipment to produce some of these higher valued items. The problem is that now that we're there, those are shrinking, as is the subject material. As we pointed out, you need -- the most viable to produce in the mill is the 200 series.

By far anything else in the United States, we all need that first. Everything else is of lesser degree. While the 200 series has been eroding, so has the high-performance alloys. To the chagrin of many of my competitors, we've taken market share in those products, but overall in the United States, those high-performance alloys are not growing either.

COMMISSIONER PINKERT: Now, Respondents also argue that underselling by imports from Germany in the original investigation resulted from a very high U.S. dollar exchange rate which doesn't apply to the same degree now. How do you respond to that?

MR. KERWIN: I'll take a first crack at that. My response to that again would be to point to the chart that I displayed in my testimony. Whatever is going on with the Euro to dollar exchange rate has not deterred the Germans from shipping to the United States in other alloys. So I mean obviously exchange rates fluctuate, they go up, they go down.

Currently, and recently, the dollar has been strengthening in relation to the Euro and it may continue to do so, but I'm not going to hazard a guess as to whether that will, that's likely or not, but the point is that they have in recent history shipped to the United States in these other nonsubject alloys in very substantial quantities regardless of what was happening with the Euro to dollar exchange rate.

MR. BECKER: Mr. Pinkert, my experience has been in Germany that their motivation is to capture market share, increase volume and fill capacity irrespective of the exchange rates or the freight rate.

MR. BOBISH: It's my understanding that Germany, it's commonplace to run a two year currency hedge, so as where they lock it in, they are pretty well-covered that the fluctuations in currency won't affect those, their overall profitability.

COMMISSIONER PINKERT: Thank you. Now, as you know, there was a lot of talk about internal consumption. You've talked a bit about tolling but I want to focus for the moment on the question of how internal consumption can be affected by undersold imports in the event of revocation.

MR. HARTQUIST: I think we're not exactly clear on what you're asking, Commissioner Pinkert. How internal consumption could be affected by imports of the subject material?

COMMISSIONER PINKERT: Well, if, in fact, in a particular case we find that there's a substantial amount of internal consumption, does that insulate the domestic industry from the impact of undersold subject imports?

MR. HARTQUIST: Okay. I understand, and I think part of the answer on that relates to the structural changes that have occurred in companies like Olin and the Buffalo operation, but, Tom, maybe you want to comment on that in terms of sales to downstream affiliates of Olin.

MR. WERNER: Yeah. Well, you know, I guess the comment would be that as we looked at the business under global brass and copper and the new ownership and new management team came forward, it was a fairly integrated business and probably could have been described as, you know, a bit more captive at that time, but we have completely broken those businesses down into separate B&Ls looking at, you know, the value that is added, the return associated with each of the business, and all of our businesses are free to purchase materials from any source that they find is the most competitive, and that's globally, as well as domestically, and they do, such as comments that Dan made, sometimes to our chagrin, but that does happen.

So they have to do what's best for their business, and that's really been, you know, I think a pretty major change in, you know, the way those businesses are run and their purchasing patterns have changed recently dramatically over the last couple of years. Does that help?

COMMISSIONER PINKERT: Mr. Heusner?

MR. HEUSNER: Yes. I can speak. You know, under the Luvata ownership, the Buffalo plant had a fairly large captive customer, a tube making facility in Franklin, Kentucky, that consumes a significant amount of copper strip. Since the sale of the business, that tube plant has remained in the Luvata group, so that is no longer a captive customer, so that's added, you know, a significant amount of volume that's in the market that's up to any competitor to supply.

MR. BECKER: I'd just like to add to Mr. Heusner and Mr. Werner's comments. I have been in charge of these internal customers in my career, fabricated components, tube, other re-rolling facilities, and I can tell you that what happens is if the parent company, or the brass mill, charges prices that are not competitive with other sources, then we become noncompetitive as an internal customer and we lose our market share. It's linked together. Economically and through market forces, it just can't get out of sync.

MR. BOBISH: I just want to add PMX has no captive audience for us to sell to.

COMMISSIONER PINKERT: Thank you. For the posthearing, if you could focus specifically on this issue that Mr. Becker just raised and how the sale of the downstream product can, when it occurs in the context of underselling and so forth, can then affect the competitiveness of the upstream activity, I'd appreciate it. Thank you very much.

CHAIRMAN OKUN: Commissioner Johanson?

COMMISSIONER JOHANSON: Yes. I thank you, Madam Chairman. I'd like to return to something on which I posed a question earlier, and that is the issue or the contention of Respondents that they're shipping highly customized products to the United States. I'm returning to this because it's a major part of their argument and I'd like to try to just, to figure this out for myself. Along those lines, how much of the U.S. market would you regard as customized as opposed to just plain old commodity product?

MR. BOBISH: Every customer has their own unique specification, but when you say that it's so unique that none of the integrated mills in the United States can make it, the answer is none. There's zero of that business.

COMMISSIONER JOHANSON: Mr. Werner?

MR. WERNER: I would have to concur. In 200 series of brass, none that I can think of.

COMMISSIONER JOHANSON: Mr. Becker, do you have anything to add to that since you've been a purchaser?

MR. BECKER: I agree, and I would say that I've read the Respondents' brief and what they do is they say that there are many different variations of 200 series brass. There are many tempers, broken down by many widths and other specifications. That's true, but once you meet that specification, it becomes a commodity. So the high number of specifications or combinations has nothing to do with whether it's a commodity product or not, it's whether it's manufacturable by a wide number of suppliers.

I would just repeat what the producers have said is that there's no alloy, there's no temper, there's no width, there's no package that I cannot buy domestically, otherwise I would go overseas because I distribute to the full market. So the contention that there is a portion of the 200 series brass product offering that is not available in the United States is just wrong because I supply all segments and we are the largest distributor by far of copper and copper alloys.

MR. BOBISH: I'd like to just share one thing. Please don't confuse a negotiation with capability. A customer may come to us asking us to produce something unique, but based on the quantity or price they're willing to pay, we may decide or not decide to manufacturing it at that point. That does not mean that there is a price. There is always a price we would be willing to make it, and part of that negotiation is whether we can come to that agreement or not.

COMMISSIONER JOHANSON: Can you think of any purchasers who would want a customized product out of the basic brass sheet and strip? I know I'm digging even deeper into this but I'm just trying to figure this out.

MR. BOBISH: To clarify, outside of -- are you talking about alloys outside of 200 series?

COMMISSIONER JOHANSON: No. Within the 200 series.

MR. BUSHELL: Tom?

MR. BOBISH: Again, the only thing I would add is the packaging that is right along your lines of the continuous coil. That is more of a negotiation than a capability.

COMMISSIONER JOHANSON: Okay. Thanks. I appreciate it. I understand that a number of purchasers have moved offshore in the past several years, I think largely to China. You read the newspapers about how some industries are moving from China back to the United States. Do you see any of that happening with regard to purchasers of brass sheet and strip?

MR. BOBISH: I'm still waiting. I haven't seen any.

COMMISSIONER JOHANSON: Okay.

MR. HEUSNER: I know of one in the last two years.

COMMISSIONER JOHANSON: That's moved back to the United States?

MR. HEUSNER: Yes.

COMMISSIONER JOHANSON: Thank you. Could we get more information on that in --

MR. HEUSNER: Sure.

COMMISSIONER JOHANSON: Okay. Thank you. I appreciate it. Also with regard to China, I know

China is now largely self-sufficient in this product. Do you see the potential for imports from China into the United States?

MR. BOBISH: I think it's a little premature to say they're self-sufficient.

COMMISSIONER JOHANSON: Or they're close to self-sufficient. They're getting there. Yeah.

MR. BOBISH: They're getting closer. They're getting much closer, but I don't see in the next 10 years, as I alluded to earlier about just the increase in cars, I don't see that they'll have the excess capacity in five to 10 years. Certainly, China has been very willing to export everything else to the United States so there will be a point where that will be an issue, but just not in the near future.

COMMISSIONER JOHANSON: Okay. Thank you. Also, you all have argued that Germany cannot ship to the United States market without dumping. However, in the staff report, the staff report indicates there's been significant overselling in the U.S. market. I was wondering if you could maybe speak on that for a moment.

MR. KERWIN: I would comment on it. I'm weary of getting into too much detail. That might be proprietary. But, you know, as an initial matter, obviously the volumes that were reported for the pricing products by the domestic industry were significant volumes, very large quantities reported in most quarters of the period, and these were obviously, you know, broadly distributed and widely-used products. I'm guessing, given the level of disparity between the German prices and the U.S. prices, that we're talking about something very, very different. Very minimal quantities being reported and likely not really directly comparable merchandise.

MS. CANNON: Commissioner Johanson, if I could just add, I was in a steel case recently where we saw similar huge disparities between the prices, and in probing further, what we found was that while the product reported on the import side was technically within the parameters of the price descriptor, it had some other bells and whistles beyond what was in the price descriptors that explained the huge disparity. I don't know whether we're seeing that here.

I'm not speaking to proprietary information because I have no idea, but my guess is because the disparity is that large that there must be something like that that explains it. You don't see that type of disparity in this product for the exact same product because, as Mr. Becker said, once you produce the same product, the same spec, it's fungible and quality or something like that isn't going to allow that type of price differentiation.

COMMISSIONER JOHANSON: Okay. Thank you. Moving on to another question, the Respondents contend that the official N-4 statistics are overstated for Germany. Do you all have a comment on that?

MR. KERWIN: Well, I think there's no question that the HTS numbers under which brass sheet and strip the subject material falls include also products that are nonsubject, so there's, I mean I think that's true enough that reliance on the official import statistics is going to include some nonsubject project. So I mean in this instance what would make more sense is relying on the questionnaire responses.

I think without full information from the questionnaire responses, however, the official import statistics can be examined for the broader trends as an indication of what the German industry is doing in relation to other related products and what they're shipping to the United States, so I think there is certainly significance in those terms, if not that the product is, generally speaking, subject material within the HTS classifications.

COMMISSIONER JOHANSON: Okay. Thank you. That helps. I have one final question, and that is if there has been an increase in purchasers' desire for just in time deliveries during the period of review, and, if so, if that has benefitted the domestic industry.

MR. BOBISH: We've seen that increase quite a bit, and to be the best vendor you possibly can be, you design a program that meets the customer's requirements. We've been, entire industry's been very willing to do that.

MR. BECKER: We're a purchaser and a distributor so our niche in the market is quick deliveries in small quantities. There has been an increase in demand for that. That helps the Respondents because they are, just by definition, it is economical for them to ship full container loads in large quantities, so they can ship to distributors in those large quantities and get to the market.

The other way that it helps them is through their affiliate of Wieland Metals in the United States because they perform the same function, yet they have more extensive ability to break down the product. They can change the thickness, not only the width, so they can do either. They can bring in wide width coils in large quantities and container loads and simply slit them and distribute to the market, or they can bring in a pool of material at a single gauge and change the thickness and then send it to the market.

COMMISSIONER JOHANSON: Mr. Becker, wouldn't the longer shipping time put them at a disadvantage?

MR. BECKER: Not if they're shipping through distributors or re-rollers because once a customer specification is set, then it's known and it's understood so there will be demand for that product. So they set their casting and production schedules to ship to the United States, warehouse, like we do, in the United States and then ship to the downstream customers of the known specifications. The specs are not unknown so there's no guesswork with it.

COMMISSIONER JOHANSON: Okay. Thank you. That is all of my questions.

CHAIRMAN OKUN: Let me first just, Ms. Cannon, I know that in response to other questions you'll be addressing the issue of corporate affiliation for Aurubis Buffalo, and the number of specific points that were raised. I just wanted to add in that, Mr. Heusner, you had referenced the flux in business plans, and to the extent it's available, if there is a business plan under which you're operating under and that it has a timeframe associated with it, if that could be provided, obviously confidentially, and, Ms. Cannon, if you can take that into account in your analysis.

MS. CANNON: We'll do that. Thank you.

CHAIRMAN OKUN: Okay. Thank you. Then, Mr. Kerwin, maybe a question best for you. We had a discussion about China and I appreciate the responses we've had on that with respect to both what's going on in that market and what it means as export market. I wonder if you could address Respondent's argument with respect to Germany's home market and what information that you might have been able to obtain to understand what's going on with respect to Germany in what has been a good market for them in their home market.

Is that likely to change? Also, if you can talk to the argument about what prices are in Europe and why they don't see an incentive, that that doesn't show an incentive to come back to the U.S. in large quantities.

MR. KERWIN: Well, first of all, as Mr. Becker said, there's always an incentive to ship -- whatever your prices are in your home market, you can only sell so much in the home market, so to the extent you have excess capacity, in the view of the Germans, there's always an incentive to ship oversees, almost to the point of regardless of the price. That's why dumping occurs. I think there are indications that the European economy is slowing down.

I think, as a general proposition, the German economy, no question, has performed better than many of the other economies of Europe, but I think that the indications of the last couple of quarters are that their rate of growth is slowing down and that the rest of Europe will be a drag on the German economy as well. I won't go into the specifics, but I think it's significant to look at to compare the questionnaire data of the German Respondents in 2011 compared to that in 2010.

Otherwise, public accounts of what's going on economically in Europe as compared to what's starting to happen in the United States I think is an indication that there will be an incentive to redirect product that is being sold in Germany and elsewhere in Europe to the United States.

CHAIRMAN OKUN: Obviously, I'll be asking the Respondents for additional information on the record to support their contention of that as well, but if there's anything else that you can provide for completeness of our record in helping us understand, specifically with respect to, you know, as you know, I mean we could talk about general economic conditions, but to the extent that we can talk about conditions affecting this particular market for the subject product, that's more helpful to our analysis.

MR. KERWIN: Well, I'd just add one fact, which is that Germany is the world's largest exporter of this product, so whatever is going on in Germany itself is significant, but obviously this product is a tremendous, there's a tremendous export market for this product for the German manufacturers. They are literally the largest exporters in the world, so I think that's highly significant in this regard.

CHAIRMAN OKUN: Okay. Thank you for that. Then, you know, again, to the extent not only of my questions not only in Germany's home market, which has been, and continues to be, imported to them, but also if there are any changes going on with respect to the other producers in the EU or their other markets, and I think that relates to a question that Commissioner Aranoff had about where these producers are and we lack information.

Then, just to tie that back to a question I was asking earlier and I think has been followed-up on already, but just what to make of the fall in the nonsubject and the increase in the U.S. market share. I know that one of the responses was when Poland left the market, Mr. Becker, you went to a domestic source. Maybe I can ask you, and you might have to provide this confidentially, was price a reason? What was the reason for that? Is that something you could provide posthearing, why you shifted from Poland to a domestic producer?

MR. BECKER: I would prefer to do that posthearing.

CHAIRMAN OKUN: Okay. I welcome looking at that. Then, just more broadly, does it tell us anything? So this is an order, as you know, been in effect for the sort of second, or no, third review. We've had countries come out from under the order and this is not a case where we have seen a surge from those countries coming back in when they were taken out from the order. How did the subject countries here differ from those that have come out from the order? What would I look at to say this is different, this is not a case where I should take a country out of the order even though the other countries that I've taken out of the order have not come back into the market?

MR. HARTQUIST: May we respond to that in the brief?

CHAIRMAN OKUN: Sure, absolutely.

MS. CANNON: I could probably just add --

CHAIRMAN OKUN: Yes.

MS. CANNON: -- a couple of things, and I think we can supplement it in the brief. But, you know, when you looked at each of the countries that you took out from the order, there were very specific facts that you looked at, you know. There was a shutdown of operations in Canada. There was a shutdown of operations in Sweden. There were very specific facts as to Korea with the affiliation of an integrated producer, and only, you know, the main producer in Korea being affiliated.

So there were very discrete facts that applied to each of those that we're not seeing here. Part of the reason we're not seeing a lot of that here is because of the lack of cooperation of these companies, whereas in the other cases, you were generally getting cooperation and information from the companies that allowed you to reach conclusions as to revocation.

I think that's quite a significant difference. And if you would permit me, Chairman Okun, I would like to go back to your initial question and that of Commissioner Pinkert and others on the Aurubis situation.

CHAIRMAN OKUN: Please.

MS. CANNON: Just to back up on that for a moment, I think that the focus on that particular affiliation is getting a little overblown, given the relative size of that company. As Mr. Heusner testified, you're talking about a reroller in Germany, you know, and whether one reroller would sell or not sell here based on this new affiliation. And we'll explore the specifics of that, as you've requested, in our brief.

But what I don't want to have overlooked is that there are massive other producers in Germany, and those have been the focus of our discussion here today, the Wieland situation, Schwermetall, the other non-responding producers that Mr. Kerwin discussed. And so -- and frankly, whether or not the Aurubis Stolberg reroll mill sent a pound into the United States shouldn't affect your conclusions here as to affiliation because there are so many other companies that are likely to do so, including Wieland, because of the affiliation.

So I know in other cases you've recognized that, that when you have affiliation, it's just one company, and you have so many other producers. That isn't something that should really influence your overall analysis as to likely exports. So I just wanted to make that clarification.

CHAIRMAN OKUN: I appreciate that comment. I think the request that we made is just that we need a complete record on it to understand that because that wasn't addressed for purposes of the prehearing. So that would be very helpful. And then just again -- and I know you've responded in some ways. But I guess what I think is interesting about there not being an increase in nonsubject -- and again, it might be because the producers that are left under order are the only ones that could feel this. But I think when you hear this is a highly fungible product, that the prices were rising, even though again it was a recessionary period in the U.S., and that the incentive of any producer is to fill their mill, and therefore they're going to ship whatever excess capacity, I guess it does -- I guess I am still curious about what was going on during the period of review here and what it tells us about what is likely to happen if an order were lifted.

I mean, is this market an attractive market, where those same incentives were in place other than demand was declining? But again, with other cases, demand has been declining in the U.S., and the U.S. producers have not been able to hold onto market share. They've been unable to do that. So I'm just trying to understand that, how -- you know, what explains that and how that informs my analysis looking forward. Do you want to take a crack at that?

MR. HARTQUIST: We'll certainly comment further on that in the brief, Madame Chairman. But I would just say the last few years, the U.S. market has been depressed for everyone. And we have seen here, as we have seen in other products, a lack of interest of foreign producers in the market because it was tough to make money in this market, and the profitability of the domestic producers is evidence of that.

As to what happens in the future, though, you see producers, including the Germans, who are very anxious to get rid of this order, who have litigated throughout the lifetime of this order to try to get their margins down, get rid of the order, unsuccessfully thus far. And these companies have an intense interest in the termination of this order because I think they expect that this market is going to improve in the future, and they want to be positioned to participate in it. And we believe that's probably the motivation of other companies from the subject countries, most of whom you haven't heard of, you haven't heard from.

CHAIRMAN OKUN: Okay. I appreciate all of those comments. Vice Chairman Williamson.

VICE CHAIRMAN WILLIAMSON: Thank you, Madame Chairman. Just a couple of questions. Mr. Shor's opening statement raised the question, why was someone paid 22 cents to ship a product to the U.S. that was worth only 28 cents. And I was wondering, do you have an answer to that, or do you want to address that question? I don't think I've heard anybody comment on that. And if you want to do it post-hearing, that's okay.

MR. KERWIN: My first observation would be the product is not worth 28 cents. That's obviously a ludicrous thought there. The average unit values of the product greatly exceed that.

The second observation I would have is that actually the cost of ocean freight is reasonably -- it's not that significant. When you look at typically inland freight within the United States and compare it to ocean freight rates on a per pound basis, it is oftentimes cheaper to literally ship something form

Europe to the United States than it is to ship it from one state in the United States to another state.

It depends where the customer is located, and it depends where the production facility is located. But the idea that ocean freight rates are somehow going to preclude you from shipping product to the United States is ridiculous. Again, I hate to keep harping on this, but the graph that I showed indicates that they have increased their shipments of flat-rolled brass to the United States very, very substantially in this period, regardless of what has gone on with ocean freight rates.

And, you know, depending on where a U.S. facility is located, transportation is always an issue, of course. But shipping from Buffalo to California is not exactly a cheap proposition either. And I would assume that in many instances, shipping from overseas to a California customer, the freight would actually be lower for the ocean freight than for the inland freight.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you. As someone who used to work for a port authority, this question intrigues me, so if there is anything further specific, I'm sure the Respondents are probably going to have more details on it. So if you do think of anything else on that, I would be interested in it.

MR. WERNER: I have an additional comment on that.

VICE CHAIRMAN WILLIAMSON: Sure.

MR. WERNER: I believe the reference -- and I want to make sure that I have it right -- was in reference to the current supply of the Wieland reroll facility, of which domestic suppliers, you know, supply that current material. And the only point that I would make there is I don't know the numbers. I can test those numbers. But even if they were bringing that product in the reroll form at break-even, the value added at the reroll facility then would be increasing their position in segments and market shares, you know, down through the value-added of the reroll and slitting and plating and all the other things they do at that facility.

VICE CHAIRMAN WILLIAMSON: You mean the facility in the U.S.

MR. WERNER: Yes, the reroll facility.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. WERNER: So if I got the reference right, I mean, that was a little bit of contesting would we immediately lose that business, you know, to their own internal supply. And at break-even, we probably would.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. WERNER: Okay?

VICE CHAIRMAN WILLIAMSON: I think I understand what you're saying. Okay.

MR. WERNER: Okay.

VICE CHAIRMAN WILLIAMSON: I thank you for those answers. Just one last question. On table 3-5, it talks about production capacity utilization for alternative products. And there we talk about -- the table talks about nonsubject and subject. I assume what we really mean is out-of-scope products since we're talking about something that is different from really the subject product.

But in any case, the point is made that from 2005 to 2010, the hot rolling, cold rolling, and annealing of the out-of-scope copper products declined much more than the subject and sheet stripped products did, in general. And I was just wondering if anybody had an explanation for that, and if you don't have it now, if you have it post-hearing, that would be fine.

MR. BUSHELL: Could you ask the question again? I just want to make sure I heard you right.

VICE CHAIRMAN WILLIAMSON: I guess the question is why did the out-of-scope products seem to decline more between 2005 and 2010 than the subject products for those different --

MR. BUSHELL: And that's what we would have prepped as well, if I'm hearing you right. So the 200 series actually was buoyed higher than the others, right? And we would agree with that, the higher end of -- okay.

VICE CHAIRMAN WILLIAMSON: Go ahead. I'm sorry.

MR. BUSHELL: Oh, I'm sorry. I thought you were saying to stop.

VICE CHAIRMAN WILLIAMSON: No. I was -- could you identify yourself for the --

MR. BUSHELL: Yeah, Vince Bushell.

VICE CHAIRMAN WILLIAMSON: Thank you.

MR. BUSHELL: Marketing Director, Olin Brass.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. BUSHELL: And in fact, that's what we would have said prior as well, is yes. As everything contracted on total U.S. demand, the subject material becomes even more important because it becomes more of the pie, it becomes more of the U.S. demand as far as a percentage. So my answer, it's not the total answer for the industry, but what I see of the industry is that is your ammunition, and keeping the higher percentage compared to the rest of the market contracting more.

VICE CHAIRMAN WILLIAMSON: Okay. So you say these things out-of-scope would be contracting more than the CD-200?

MR. BUSHELL: The 200 series have contracted less.

VICE CHAIRMAN WILLIAMSON: Okay.

MR. BOBISH: You know, Commissioner --

VICE CHAIRMAN WILLIAMSON: Yes.

MR. BOBISH: I pointed out earlier the fact that the Respondents believe that we're spending all our time working on high-performance alloys. And again, as much as we would love the market to be growing, this data clearly shows that all of those items are shrinking away as well.

VICE CHAIRMAN WILLIAMSON: Okay, good. Okay. Thank you for that clarification. And with that, I have no further questions. I want to thank the witnesses for their testimony.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madame Chairman. The junior Respondents have claimed that the French producer Griset, its operations are limited to rerolling material that's sourced from Germany. And, Ms. Cannon, you had touched on this. If that's true, could that change and no discernible adverse impact analysis with respect to France?

MS. CANNON: No. The production by reroller is production. The Commission has found that rerollers are producers of the product in the United States when looking at this issue. Respondents agree with that. So I'm not really sure how they get from that analysis to a conclusion that the French producer Griset somehow is not producing subject product. It's producing just as Wieland Metals and other rerollers are in the United States. And there is -- I don't know how far you want to go into some of the other points they made on substantial transformation and issues of that type.

COMMISSIONER PEARSON: Actually, I am curious. Would this be considered production of Germany or production of France? How would the Customs and Border Protection treat it?

MS. CANNON: The analysis that they present I think is misplaced because they focused on a finding by Customs that is not applicable in this case. The Commerce Department, when it looks at what a product -- whether a product is subject to an antidumping duty or not conducts its own analysis. It doesn't rely on a Customs finding. And if you look at the specific finding, there were very discrete facts that were presented in this finding, without going into details, as to exactly what was undertaken for Customs to find it to be substantial transformation.

But if you read the Customs ruling, Customs was quite clear that its finding was made only for purposes of country of origin and not for any other purposes beyond that. So in the context of what the finding was, it doesn't translate into a conclusion that for the dumping law Griset is not producing product that would be subject to the dumping order if exported to the United States.

COMMISSIONER PEARSON: Right. But I'm still trying to sort out, would that be product of Germany that's rerolled in France and enters the United States as a German product? Or would it be a French product once it has been rerolled? Because I don't know what it takes for substantial transformation. You know, they've got to shift out of one four-digit category to another?

MS. CANNON: Right. And in order -- I mean, they've looked at this for Customs purposes, to determine for country-of-origin marking what they're going to classify it to be. But what they've not done is go to the Commerce Department and say this product that is being made by Griset, I want you to look at this, Commerce, and tell us for purposes of the antidumping order and the scope of this case whether this product should be subject to the French dumping duties or should not be subject to the French dumping duties.

There is no finding on those lines. And absent that finding, you don't take a Customs ruling on country of origin and somehow try to put it into this case and divine that all of this product is not product of France. It is product of France. It is being produced by a reroller in France, and there hasn't been any finding to the contrary. It's being reported as product of France coming into this country.

COMMISSIONER PEARSON: So are you saying that if we revoked the order with respect to France, that you believe that Griset could continue to bring material from Germany, reroll it in France, and export it to the United States without being subject to the antidumping duty order --

MS. CANNON: Absent some --

COMMISSIONER PEARSON: -- that would in this hypothetical remain in effect on Germany?

MS. CANNON: Absent some finding by Commerce to the contrary, yes.

COMMISSIONER PEARSON: You've made arguments like this before. How do you weigh them now? Because we are going to get too far down in the weeds for me. I mean, I can understand some of the technicalities, but I don't know how it all comes together.

MS. CANNON: Well, I think it all depends on the facts of each case. And what I'm saying here is that what was found in the substantial transformation finding that they cite had very discrete facts. They presented it on that basis of what if this specific situation occurs and Customs issued a ruling, and Customs said this ruling is for country-of-origin purposes, for, you know, not -- it didn't say this is for determining if it's a subject product of France or Germany or wherever for a dumping order. There is no finding to that effect. And if you don't have that finding, then you don't all of a sudden assume that every product that is subject product -- nobody is challenging that, that what Griset is rerolling in France and exporting to the United States isn't subject product, has somehow been transformed into the product of a different country for purposes of the dumping law.

MR. HARTQUIST: Commissioner Pearson, this is not an unusual situation that we see in these types of international trade regulatory policies. And we deal with this all the time. There are different agencies that have different rules on what is an American product, how much must be produced here for Buy America purposes.

The agencies differ from agency to agency. And similarly, the findings of one agency, as Kathy has indicated, are not controlling of another agency. And so I'm not saying this is a good situation, but it is the state of the law today. And I think Kathy has adequately described the situation in response to your question.

COMMISSIONER PEARSON: Do you have information regarding whether Griset is doing any hot-end work on the production of brass? I mean, are they just rerolling, or do they have hot-end production or the capability for the melt production?

MS. CANNON: We looked at their website, and we've put on the record information on their website which suggested they do have hot-end production, too. So it's unclear exactly what they're doing. We know what is out there publicly available, and we know what the German producers have stated. They understand it's going on. We don't necessarily know exactly what is going on with respect to this product at Griset, but we do know what they're holding themselves out to be, which seems to be able to do the hot-end as well as the rerolling, according to their website, and they haven't responded to any of your questionnaires to provide the Commission with further details as to their actual production capabilities.

COMMISSIONER PEARSON: Okay. But if we would find that they no longer had hot-end production, that would put them more in the category of companies that we have found no longer were producers in some other cases, right? So isn't there half an argument here for revoking the order on France? And, of course, we have no French attorneys here representing them.

But I'm just trying to understand this in the context of some other things we have done. And I probably --

MR. HARTQUIST: I don't think so, Commissioner Pearson. As Kathy has testified earlier, it's very clear that rerollers -- the product of rerollers is part of this case. It is subject merchandise. And so if you find there is no hot-end at Griset, there is a still a foreign reroller sending subject material or capable of sending subject material into the U.S.

COMMISSIONER PEARSON: Right. But if we revoke the order with respect to France, I'm just not sure that that material still would not be subject to the order on Germany, given what we understand of the relationship of the original material for rerolling coming from Germany to France. So I'm just fuzzy on this.

It seems to me that perhaps we could revoke the order on France and have no effect at all on your industry because it would have no effect at all on the ability of product from Germany to enter the United States.

MS. CANNON: But absent a finding -- I mean, I think this is in the parameters of the Commerce Department and what falls within the scope of the case. If they were to revoke an order, it would be up to Commerce's directions to Customs as to what they were going to impose duties on. And if Commerce was to tell Customs, you have to impose duties against Germany on products exported by France, that's quite different, right, than saying --

COMMISSIONER PEARSON: Well, but we have

transhipment limits on lots of stuff. So --

MS. CANNON: If it's found to be transhipment. And that goes exactly to my point, Commissioner Pearson. We haven't found -- we don't have any findings by Commerce here on scope or on any of those factors. They're pointing to a Customs finding in a very discrete context on substantial transformation that says specifically it's only for country-of-origin purposes.

So I'm not sure how that translates into a broader finding that somehow if you revoke the order, it wouldn't be subject product coming in, or that there isn't currently subject product coming in that right now would be subject to the duty. I believe it is subject to the duty. If Griset exports product here, it should be subject to the duties as a French product, not as a German product.

There is nothing out there from Commerce saying otherwise in terms of the dumping law.

MR. BECKINGTON: Commissioner Pearson, if I may just quickly say, what I think my colleagues are saying is that it has been perfectly within the realm of possibility for the French to go to the Commerce Department for the past 25 years and ask for a scope ruling of whether Griset is selling French-origin brass or German-origin brass. And the details, as Ms. Cannon has said, are very precise here. Other respondents, during the course of the history of these cases, have gone to Commerce and asked for scope rulings. Not exactly along the lines that we're discussing here with respect to dimensions and tolerances and so on, but if you'll go back, you'll see there was an attempt by the Germans, which was successful, actually, to have manganese brass, which is a CDA-688 alloy, removed from coverage of the order, and have it very precise, very specific, and coming straight from Commerce with respect to the dumping law, not with respect to Customs and Customs law.

So they could have gone here. And the facts substantially -- the evidence is that Griset is a reroller. It is a producer of brass. It is located in France. It has not availed itself of the opportunity to go to the Commerce Department for a scope ruling. So there is, it seems to me, no substantial evidence to indicate that it's German origin, and that if the French order were revoked, that would be neither here nor there.

COMMISSIONER PEARSON: Okay. Well, thank you for that. And for the benefit of the court reporter, that was Mr. Beckington. I took a whole round for that issue. And I thank you for your responses. I feel actually better now about having done that because I was a little confused to start, and I'm still at least somewhat confused, but it was an issue that I'm glad we could explore. Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Madame Chairman. I'm going to follow up on an issue that Commissioner Johanson raised regarding the import data in these reviews. As you know, the Respondents are contending that the Commissioner should not use official import statistics because they claim that most of what is in there is nonsubject merchandise.

Mr. Kerwin said yes he agrees that there are some nonsubject merchandise in there. The best that we can say, I guess, given that -- is we don't know how much. Respondents then suggest that there is an alternate data set that would be more accurate that the Commission should look at, and that's the data maintained on volumes that are paying dumping duties that CDP maintains.

Can you comment on whether the Commission should seek to use this kind of data? Or are there any other ways of adjusting official statistics to remove nonsubject merchandise?

MR. KERWIN: I think I would say as an initial matter that the focus on what the proper database of what the actual subject imports are that are coming in from Germany is a little -- I don't want to say it's misplaced. I understand your concern. But ultimately, Wieland and the German producers have shown that they really can't ship to the United States without dumping into this market.

So there is no great surprise that what is being shipped here is minimal volumes of subject imports. So while I understand the desire to have a database that is as accurate as possible, I don't think it's that surprising that we're talking about minimal volumes of subject imports entering under -- in the context of a sunset review, when these orders have been effective.

So, I mean, we cite to the broader category of flat rolled brass, which includes some subject and some nonsubject, as the best information that we have, and also to look at that category and some of the other flat rolled copper and copper alloy categories that are not subject as an indication of the intentions and the current actions of the Germans in relation to the U.S. market.

They currently are shipping to this market. They are increasing their volumes. They are doing so despite all of these purported impediments to the shipments. I think that their actions in relation to the products that are being produced on the exact same production equipment by the same producers, and that those imports are increasing over the period that we are looking at, is an indication of their likely behavior in the event of revocation because that's the change that we're talking about, not what they've done under the existing dumping order because those volumes are in a sense, to my mind, almost irrelevant because they have not been able to ship this market at prices that are not --

COMMISSIONER ARANOFF: Okay. I understand the point that you're making. Thanks. One of the arguments that the Respondents made that I don't think you've been able specifically to respond to today is this idea that the domestic industry is immune from a cost-price squeeze because of the way that variable costs are passed on to customers through the pricing formula.

So I guess I would ask whether you agree with that assessment that the domestic industry is immune from a cost-price squeeze. And if you don't, if you could explain the mechanism by which a cost-price squeeze is possible, given the way that variable costs fit into the price formula.

MR. BOBISH: Commissioner, I guess what I would like to address is -- say is that none of us are cost-plus sellers. We sell into a market as the market dictates, so that there are oftentimes where costs go up that we can't pass on to our customers due to competition. So I don't know if that answers your question, but we're not immune to cost changes, and it's not an automatic pass-through, as these things happen, that we can add to our selling price, our fabrication price, to our customers.

MR. WERNER: I would go back to what we talked about in terms of, you know, the employment of working capital involved with the price, the shrinkage rates that we have. There is no mechanism built into the fabrication price increase, or even the surcharges are more energy-related than they are to those kind of factors. So those cost controls that, you know, we've been experiencing the rise in costs through the production method, we have not had a way to pass those on through to customers.

COMMISSIONER ARANOFF: We do have reported to us in various of the questionnaires things like capital surcharges and rule loss surcharges, in addition to transportation, energy, and obviously the metals themselves that come off the index. Plus I think some people were mentioning the uptick off of that that can be charged for transportation of the metals or maybe for other reasons.

So it seems as though each time there is a piece that's moving, there is a way that's found to capture it in the pricing formula. And while I understand that you aren't going to be spot-on 100 percent of the time, it does look like you've taken significant steps to reduce your exposure to variations in a lot of your costs. And that does seem to speak to this issue of how then does one get in a cost-price squeeze.

MR. HEUSNER: Yes, Commissioner Aranoff. I think if we had perfect elasticity of pricing, and we could cover all our costs, I think you wouldn't be looking at operating profit information that's in front of you now over the last five years, and as poor as it is. I think Mr. Hartquist testified on how poor it is in the industry.

If we had the ability to cover these costs and improve our profit margins with prices in any form, whether they're surcharges or fabrication or metal ladders, you know, we would try to do that. The fact of the matter is it's not possible, and it's reflected in those numbers.

MR. HARTQUIST: Yeah. I think what is going on here, Commissioner Aranoff, is really a description of the complexity of the pricing mechanism in this industry. You have so many variable factors and so many highly volatile factors, and you have customers that may be more willing to accept an argument that, yeah, the copper price has gone up, and therefore our price has to go up, and others who will say, I don't care if the copper price went up. I'm not going to pay more than X dollars a pound for the product.

So in the end, when you go through all of these explanations as to the component parts of a price negotiation, it gets down to what the final price is. And if your price, the domestic price, is a dollar, and the import price is 98 cents, you lose. It's just that simple.

COMMISSIONER ARANOFF: Okay.

MR. BOBISH: I'd like to add that as the key component as our base of 200 series brass has shrunk away, our costs have gone up because we don't have that to absorb the overhead. And as that happens, as we have all alluded to, those can't just arbitrarily be added to a customer at a price per pound. The situation is that the U.S. industry is all competing for a smaller piece of the pie. And we all need as much volume to absorb this fixed overhead.

Our plants all over the country are billions of dollars in investment, billions. And that overhead absorption is enormous, so that we're all fighting to fill our mills as completely as possible. And because we can't, those increase our costs that can't necessarily be passed on because our competitor is trying to fill his mill, and he'll take it at a price because he can't just let his competitor take -- you know, they can't allow PMX Industry to be full, and them to be half full.

MR. KERWIN: Commissioner Aranoff, if I could just add, in the aggregate that the domestic industry -- the unit cost of goods sold from 2005 to 2010 increased at a faster rate than the net sales, the unit value of net sales. That is an indication of a cost-price squeeze.

COMMISSIONER ARANOFF: Okay. I appreciate all of those answers. Thank you, Madame Chairman.

CHAIRMAN OKUN: All right. Do you have further questions? Go ahead.

COMMISSIONER ARANOFF: Nobody else has further questions? All right. Then I'll just keep going. One of the arguments that the Respondents also made was that given the way that ownership has changed for several of the larger producers in the industry during this period of review, that this is now an industry with very low fixed costs. And I wanted to give you an opportunity to respond to that because in the Respondent's view, that significantly reduces the vulnerability of the domestic industry.

MR. HARTQUIST: We'll be delighted to respond to that, but I think to do that adequately, we're going to have to deal with some confidential information. And so I would prefer to put that in the brief, where I think we can give you a better explanation.

COMMISSIONER ARANOFF: Okay. I appreciate that. One more question that I wanted to ask you, another argument by Respondents that I wanted to ask you to respond to. In the original investigations, the Commission found underselling by subject imports to be significant. German producers argue that -- of course, that was on a cumulated basis. German producers argue that at the same time that German imports were underselling during the original period of investigation, German producers looked at alone were losing U.S. market share. And they reasoned that if underselling in the original period did not result in increased market share for the German industry in the U.S., then that would not be a successful strategy for the German industry to pursue in the event that the order on Germany were revoked. Do you agree with that logic?

MR. BECKER: Mrs. Aranoff, if in fact the imports were going down at the time of the original investigation, I wasn't aware of that. But I would repeat that the German industry is focused on capturing market share and gaining volume. And now they have zero position or next to zero position in the 200 series alloys. So my belief would be that if the duties are lifted, then they would do what is necessary to fill that capacity.

COMMISSIONER ARANOFF: Okay. Mr. Kerwin, did you want to add something?

MR. KERWIN: I would just add that the market share held by the German imports in the original investigation was highly substantial throughout. They were easily the biggest source of the product at that time. And you also have to look at the trends, I think, of that period in the context of, well, we've had some major changes in average unit values and prices during the current period, but much of that has been driven by raw materials cost. So without knowing the precise details of what the price of copper was in any one of those years, I don't think you can draw the conclusion that that was -- in the first place, that the pricing actually declined. And then you also have the factor of what was going on with market demand.

I think 1984 was a high point of U.S. consumption for that period. So there are other factors that are going to come into play to change the price. But no question throughout that entire original period of investigation the German's market share was highly significant. It was highly significant a the beginning of the period. So I don't know that I would say there should be some obvious correlation between what went -- you know, minor modifications in price and changes in market share.

COMMISSIONER ARANOFF: Okay. I appreciate all of those answers, and I thank everyone on the panel. And with that, Madame Chairman, I have no further questions.

CHAIRMAN OKUN: Let me turn to Commission staff to see if they have questions of this panel.

MR. McCLURE: Jim McClure, Office of Investigations. Madame Chairman, Commission staff has no questions.

CHAIRMAN OKUN: Thank you. Let me turn to those in opposition to continuation of the order to see if they have questions for this panel.

MR. SHOR: Yes, I do have several questions, Madame Chairman.

CHAIRMAN OKUN: Okay.

MR. SHOR: For Mr. Becker, is Aurubis Buffalo shipping any BSS reroll material from its integrated plant here to its reroll facility in Germany? Mr. Heusner, I'm sorry.

MR. HEUSNER: No.

MR. SHOR: I have a question for Mr. Becker. You talked much about how Germany wants to dump and gain market share, and they've been very successful in China. What is Germany's market share for BSS in China?

MR. BECKER: I do not know the answer to that question.

MR. SHOR: What is the quantity Germany is shipping to China?

MR. BECKER: I do not know the exact quantity.

MR. SHOR: Then upon what facts do you base your testimony?

MR. BECKER: My testimony is based on the fact that Olin Corporation has a joint venture company in Guangzhou, China. They have tried to compete with 200 series material throughout China. And so they are aware, very aware, of the strong market penetration and strong actions that Wieland has had and success in selling 200 series alloys, and have had difficulty competing with them.

It's my understanding that to support the consumption in China and the shipments in China, that Wieland has significant warehousing, significant stocks of material in the mainland China, and they have reroll facilities, I believe, in Singapore. And so my information comes from our employees that are doing business in China.

Our current general manager who works directly for me is in Yorba Linda, California, and he started our facility in Guangzhou, China nine years ago, and he stayed there for seven years competing in the market in 200 series alloys. We tried many things to try to penetrate the market there, but we had a great deal of difficulty, and a primary competitor was Wieland. So that's what I base my statements on.

MR. SHOR: And these significant quantities of material that Wieland has there of which you speak, can you put a number on what you consider to be significant?

MR. BECKER: We would like to give information about that post-hearing.

MR. SHOR: Thank you. I have a question for Ms. Cannon. If Wieland were to ship BSS reroll material to its affiliate in the U.K., reroll it, and then ship it to the United States, is it Petitioner's position -- forget what Commerce might do. Is it your position as counsel to Petitioners that that material is not subject to the order?

MS. CANNON: At this point, without a finding, that is my position. There would have to be an analysis by Commerce, and if that happened, we could look at it. We could raise an inquiry or Respondents could certainly raise an inquiry, and it would be up to Commerce to examine. But absent a finding by Commerce, if that is happening right now, then that's being considered the product of the U.K., as I understand it.

MR. SHOR: I have no further questions.

CHAIRMAN OKUN: Thank you. This would be a good time to take a lunch break. Before doing so, let me take this opportunity once again thank all of this panel's witnesses for being here and responding to our many questions. We look forward to your post-hearing submissions. And to remind everyone here that the room is not secure, so please take any confidential business information with you when we break for lunch. And we'll take an hour break, so we'll come back at five to 2:00.

(Whereupon, at 12:55 p.m., a luncheon recess was taken.)

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

(1:56 p.m.)

CHAIRMAN OKUN: Good afternoon. This hearing of the U.S. International Trade Commission will now resume. Mr. Secretary, I see that the second panel has been seated. Have all of the witnesses been sworn?

MR. BISHOP: Yes, Madame Chairman. Those in opposition to continuation of the antidumping duty orders have been seated. All witnesses have been sworn.

CHAIRMAN OKUN: Thank you. You may proceed.

MR. CONNELLY: Madame Chairman, I'm Warren Connelly with the law firm of Akin Gump Strauss Hauer and Feld, here on behalf of T.E. Connectivity and Tyco Electronics. Tyco's testimony will be presented this afternoon by Mike Stockton. So without further ado, we'll turn it over to Mike.

MR. STOCKTON: Good afternoon. My name is Michael Stockton, and I am the global commodity director for metals at Tyco Electronics Corporation, a U.S. member of the T.E. Connectivity family of companies.

My job is to manage T.E.'s global purchases of metals, including brass sheet and strip. Our team purchases over $1 billion of metals annually, and we are responsible for ensuring that our factories in the U.S. and abroad receive the highest levels of quality, delivery, and service for everything that we buy.

T.E. Connectivity is a $14 billion company that designs and manufactures over a half million distinct components. We have customers in virtually every industry, including consumer electronics, energy, medical devices, automotive, aerospace, and communication networks. T.E. is the largest connector company in the U.S. and the world, and therefore one of the largest users of brass sheet and strip for connector applications.

T.E. produces connectors in 10 factories located in Pennsylvania, North and South Carolina, Ohio, and Minnesota. We employ over 20,000 people in the United States, and we use over 14 million pounds of 200 series brass each year. The majority of this material is C260 cartridge brass, which we use in our stamping processes. Our primary suppliers are Aurubis, PMX, and Wieland North America.

T.E. has over 25 additional facilities in Europe, India, Australia, Brazil, China, Japan, and Korea that engage in connector manufacturing. These plants use over 14,000 metric tons of brass sheet and strip each year, and 260, 230, and C268 are the typical grades. Our primary suppliers in these regions are Wieland, KME, Aurubis, Poongsan, the parent company of PMX, Doha and Kobe.

Our overseas manufacturing operations also serve the U.S. markets. When choosing suppliers, our greatest needs are for quality, on-time delivery, service, and price, in that order. Quality is extremely significant, as many of our products end up in safety-related or military applications, where a failure could be disastrous. T.E. has a reputation for producing high quality products, and our supply base is key in upholding and improving our reputation.

On-time delivery by our suppliers is also important, as this has a major impact on whether T.E. will be able to meet the needs of our many customers. Unfortunately, we experienced a much lower on-time delivery rate from U.S. producers in 2009 and 2010 than from our suppliers elsewhere. In the connector business, missing shipments to customers by even one day can mean the loss of large orders and can damage our brand permanently. Our contracts with U.S. customers often require us to pay a penalty if we miss a scheduled delivery date.

Service is also a key requirement when doing business with T.E. We are a large company with diverse sites and businesses that have different needs. Therefore, strong customer service by our supply base is crucial. We require partners who invest in R&D, continuously improve their materials, and maintain internal technical resources. T.E. provides growth opportunities for suppliers who consistently suggest new ideas that aid T.E. in winning business through innovation.

Pricing is also an important factor that allows T.E. to remain competitive in the marketplace. However, we simply will not sacrifice quality or delivery in order to gain a pricing advantage. In fact, T.E. has moved away from suppliers in the past that offered pricing advantages, but failed to meet our criteria on quality and delivery.

I want to now turn to a description of our domestic suppliers. First, we are not here today to criticize U.S. suppliers. In fact, we are usually very satisfied with their performance. That's not always the case. T.E. prefers to source its large annual quantities of brass sheet and strip from mills rather than rerollers. This is because materials received directly from the original melting source, that is, from an integrated mill, typically have higher quality, and direct sourcing reduces the number of parties involved if a quality concern arises.

In terms of delivery, T.E. finds that rerollers are advantageous for small quantities, but can be constrained in their delivery of any quantity if the market is tight. In a tight market, rerollers often receive their input material from integrated mills only after the integrated mills' needs have been satisfied.

Right now, we purchase from four domestic companies. First, PMX is a high-quality supplier to T.E. for brass sheet and strip. T.E. has a good working relationship with PMX. However, when a constrained U.S. supply of brass forced PMX into longer lead times, T.E. had to purchase quantities from other mills. Eventually, we had to permanently move some brass business away from PMX because they could not tell us when they would be able to resume shipping on time at a greater than 90 percent rate. Another area of concern regarding PMX is the need to provide greater technical support.

Our second supplier is Aurubis Buffalo. Aurubis is a high-quality and our largest U.S. supplier. Aurubis is a full-service supplier to T.E. and maintains an active technical service representative as well as a number of customer service personnel. Aurubis now ships at a greater than 90 percent on-time rate to our U.S. plants, and we are very appreciative of this level of service. Also, when the U.S. emerged from its last economic downturn, Aurubis struggled to supply us.

Our third U.S. supplier is Wieland North America. Wieland is a high-quality reroller and is one of T.E.'s largest brass suppliers in the U.S. Using a reroller is a departure from our normal sourcing strategy, as we typically favor sourcing from integrated mills. However, strong customer and technical service, as well as a large global relationship, have made Wieland an attractive partner.

T.E. views Wieland globally as a leader in R&D, and this translates into excellent technical service. In the past, T.E. also had quality issues with Wieland, and much of this problem stemmed from the receipt of lower quality input materials from their domestic sources. When T.E. analyzed the situation, we found that the material sent to Wieland was sometimes not of the same quality as the mills themselves would use for their own products. This created a major concern on our part because quality issues with Wieland often led to a long, drawn-out argument over whether it or its input supplier is at fault.

Finally, T.E. has a very small relationship with Olin and its subsidiary companies. Prior to 2009, T.E. was a large customer of Olin through one of Olin's Oster distribution facilities. At that time, Oster acted as the service arm for the Olin integrated mill and provided T.E. with small just-in-time quantities from its Allentown, Pennsylvania facility.

After a private equity firm bought Olin, Olin announced unsatisfactory commercial demands, which T.E. declined. Olin then announced the closure of its Allentown facility, and T.E. moved its business to other domestic sources. Since this time, T.E. has kept in contact with Olin, but no new business has developed. T.E. finds the Olin business strategy confusing at best, and with a multitude of personnel changes and dismissals, the customer technical service position that Olin once led now appears to have greatly diminished.

As a result, we are not at all confident that Olin can become a reliable supplier in the future. In fact, their on-time delivery rate has declined significantly in the recent past.

Now I would like to explain why we favor revocation. First, we don't intend to greatly expand our imports if the order is revoked. We have no interest in lengthening our supply chain back to Europe or Asia.

Second, T.E. has an interest in expanding its usage of a certain lower copper brass alloy. Today, this alloy is not commercially available in the United States. It is, however, widely produced and used in the subject countries other than Japan. T.E. strongly prefers to use material from a proven source. Olin is producing this alloy in a very limited quantity for one customer. PMX has stated that making this alloy will be challenging due to the type of internal process that they employ.

T.E. makes global products. As an example, we often make the same product in multiple regions, and therefore we wish to use similar raw materials in all regions. Due to the limited availability of this alloy in the U.S., T.E. does not view the U.S. market as competitive with the rest of the world.

Third, there are only three integrated brass mills in the United States. The limited domestic supply base constantly reminds T.E. that brass is not a desirable product for them to produce because of its low fabrication value. Brass is the low-cost copper alloy, and globally is viewed as a basic commodity with low profit margins. In fact, one domestic producer told us that they had no desire to continue to produce brass and were interested mainly in higher performance alloys.

In addition, the possibility, if not the likelihood, of supply interruptions due to natural disaster or man-made problems means that our supply flexibility is extremely limited. Therefore, additional sources are needed to ensure adequate supply for our ten U.S. factories.

Fourth, we feel that the impact of revocation on the U.S. industry would be minimal from both a volume and price standpoint. Japan has little interest in supplying to the U.S. due to the long transit time and the extremely high value of the yen. The subject European countries also face a disadvantageous currency scenario. Moreover, foreign producers are unlikely to ship in small quantities given the need to satisfy just-in-time inventory requirements. Importantly, U.S. producers currently earn lower fabrication pricing on brass versus other countries. So this would also discourage imports.

Finally, the high cost of materials such as copper would likely cause limited imports from subject countries. Holding brass during transit and then in storage once in the U.S. is expensive. T.E. orders minimum quantities for each delivery, and therefore asks its supply base to hold inventory. Due to the longer supply chain of subject country mills, it is unlikely that these mills would agree to such high inventory holding costs.

In T.E.'s case, our global relationships with suppliers from subject countries generally lie in Germany. Therefore, Germany is the only country that could receive orders from T.E. sites in the U.S.

In conclusion, I want to thank the Commission for the opportunity to appear today and express T.E.'s concerns with continuing the restriction on subject imports. We need more sources of supply, and the most likely source is in Germany, not the United States. Thank you.

MR. SHOR: Madame Chairman, I'd now like to introduce Markus Schuler from Wieland Metals in Illinois.

MR. SCHULER: Good afternoon, members of the Commission. My name is Markus Schuler. I'm the executive vice president of Wieland Metals, Inc., the United States subsidiary of Wieland-Werke. Wieland Metals owns and operates a copper and copper alloy reroll mill outside of Chicago. We produce subject brass strip and other alloys right here in the United States. Since 2004, I have been responsible for all of the day-to-day operations of Wieland Metals.

The U.S. market today for BSS does not resemble the market that existed five years ago, much less the market that existed when I arrived in the late nineties, or prior to the 1987 antidumping order. The first thing that has changed are the customers. Let's go back in time to the early 1980s. Wieland had no manufacturing presence in the U.S. market. Our principal U.S. customers for subject brass from Germany were end users who bought large volumes of standardized products at low prices. Our biggest customers included lock manufacturers, companies like Schlage and Weiser, and razor manufacturer Gillette.

These customers could forecast their needs months in advance. We could ship them product by the container load, and they could accommodate the three to four months lead times that were required to order, produce, and deliver brass from Germany by maintaining large inventories. But these customers all produced low-end products, which are no longer manufactured here. Gillette razors no longer use brass, and our former lock customers all moved their production operations to China.

The market for high-volume products with predictable quantities ordered by end users months in advance from foreign brass producers evaporated in the 1990s. Most purchasers in the U.S. today demand much shorter lead times and smaller quantities of a greater number of products. And the few remaining high-volume users like the munitions industry now all rely upon scrap tolling arrangements, which overseas suppliers cannot accommodate.

Wieland saw this trend and changed its business model. We initially invested $30 million to construct a reroll plant in the U.S. that began operations in 1987. It enabled us to supply end users smaller quantities on short notice. Primary mills cast, hot-roll and cold-roll copper, brass, and other alloys. The slabs they cast weigh over 15,000 pounds, and the typical minimum order is one to three slabs or 15- to 50,000 pounds.

Because we do not need to produce slabs, our minimum order is 1,000 to 3,000 pounds. Because we do not have to cast and hot roll metal, our lead time ranges from one to three weeks. This compares to six weeks or more for primary mills, and three to four months for BSS producers in Germany and the other subject countries.

A second condition that had changed are copper and zinc prices. Copper used to be under a dollar a pound. In our current period, it rose to historic levels, over four U.S. dollars a pound. U.S. BSS prices have risen by more than the metal costs. Customers have coped by slashing inventories and requiring lower volume just-in-time deliveries. That is our sweet spot.

When I began in the business, our order confirmations used to specify delivery by the month. We would say, for example, delivery by the end of March. Now we have to specify the date, and the customer sometimes will phone us to schedule the hour. No subject producer in Germany, France, Italy, or Japan can meet these U.S. purchasers' current needs without stocking substantial inventory here, and that is a prohibitively expensive and risky proposition in an era of record high metal prices, product customization and multiplication, and demand uncertainty.

Today, the Wieland Group profitably serves the U.S. market by rerolling at Wieland Metals, BSS reroll material purchased from U.S. primary producers, including Olin and Aurubis Buffalo. You have our data that prove this fact. Imports from Germany are negligible and consist primarily of specialty products and alloys that are not available domestically. Subject imports are likely to remain insignificant because foreign producers simply cannot meet the changed market requirements. For confirmation, you need look no further than nonsubject imports, which have declined by over 50 percent since 2004.

This takes me to the second issue I want to discuss today, the domestic industry's contention that Wieland Germany would reenter the U.S. BSS market by shipping BSS reroll material to Wieland Metals. This is nonsense, and they know better. BSS reroll material is the lowest margin product of the lowest margin copper alloy. It is a thick-gauge with no finishing requirements. It is product two in your pricing comparisons.

You have data showing the U.S. producer fabrication price over the POR to be a consistent 25 to 28 cents per pound, with the total price including metal now in the range of $3.50 to $4 a pound. To import that material from Germany, we would have to pay freight of 12 cents per pound. The ordinary 1.9 percent duty would add 7 cents. It would cost an additional 2 to 3 cents to finance the metal until it arrived here. The total cost just to get it here would be 21 or 22 cents per pound, more than eliminating any margin on the product.

We used to be able to get some of this material from low-cost countries like Bulgaria, but not anymore, given those movement costs. Wieland Germany could not recover even its variable production costs to ship a product that we can and do buy much more cheaply here. Wieland Germany does not ship BSS reroll material to the U.S., and it never has. It simply is uneconomical for Wieland or any other subject producer to sell us BSS reroll material at past, current, and foreseeable domestic supplier price levels, much less at prices that would undersell domestic producers.

Rather than deal with the numbers, domestic producers provide you in their brief page after page of Piers data showing that Wieland Germany ships lots of other copper and alloy products to Wieland Metals. This is unsurprising and not particularly relevant. All of these other products have higher margins capable of bearing the freight, duty and the financing costs.

For example, we bring in phosphor bronze and high-performance alloys from Germany, all of which have fabrication charges of between one and two dollars per pound. We also bring in some pure copper alloys, but the duty rate on pure copper is only 1 percent, and we bring in mostly high value added, tin-plated C110 copper and high-value added C102 copper coils.

We also buy standard copper reroll material domestically. But perhaps most importantly, the Commission needs to understand that the markets for brass and copper here are different. Wieland Metals, on its sales of downstream brass and copper coils, earns margins over metal index prices on even standard copper products that are roughly double those we see on our BSS products.

These market conditions allow us to absorb higher import costs in copper than we could for brass. Certain domestic producers know we have no intention of importing BSS reroll material if the orders are revoked. They know this because I have approached them about entering into long-term contracts to continue purchasing our current volumes.

I would next like to address the argument by domestic primary producers that toll processing is not a captive market segment for them. They contend that U.S. purchasers could arrange to buy brass scrap or virgin metal from dealers in Germany or other subject countries and have it delivered to subject producers for toll processing. This cannot be a serious contention.

First, most toll processors are seeking to reuse their own production scrap, and buying metal in Germany hardly meets that need. Second, if a scrap dealer could be found, I presume he would want to earn a profit on the transaction. The addition of such a middle man would render the whole arrangement pointless for the customer because there is not a significant enough discount between scrap brass values and virgin metal prices.

Finally, buying virgin metal is hardly a solution. Brass is relatively cheap because it is made mostly from scrap. Buying virgin metal for toll processing makes little sense because they would be paying a premium for their metal and have to finance it for months longer. It would raise the customer's total cost, not lower it.

I did some checking, and we could find no record of any U.S. customer of Wieland ever purchasing either virgin metal or scrap in Europe for toll processing by Wieland into BSS.

Finally, I wish to conclude my remarks by briefly discussing current trends in the domestic BSS industry. First, prices have been increasing, increasing rapidly, and faster than raw material costs. This trend continues as I speak. I look back at the prices we pay for BSS reroll material to Olin and Aurubis. From 2006 through 2011, the price we paid over the metal index increased by over 50 percent, and prices continue to rise.

On January 20, Aurubis Buffalo announced a 10 percent price increase on rolled products fabrication charges. That includes BSS. On January 25, Revere Copper announced a similar price increase. Olin's announcement of a five cent increase per pound came on Friday.

Second, demand conditions are improving, driven by increasing demand in the automotive sector. Our expectation is that 2012 will be better than 2011, and will approach and perhaps exceed 2010. Based on shipments and orders received, January 2012 appears set to exceed both January 2011 and January 2010 in both volumes and profits.

The trends are all headed in the right direction. For now and for the foreseeable future, we see BSS demand and prices improving, not just for us, but for the industry as a whole. The antidumping orders before the Commission have outlived their usefulness, and after over 24 years should be terminated.

That concludes my remarks. I would like to introduce Werner Traa from Wieland Germany. Thank you very much.

MR. TRAA: Thank you. Good afternoon, members of the Commission. My name is Werner Traa. I am one of four members of the executive board of Wieland. I'm responsible for worldwide marketing and strategy for all product lines. I've been at Wieland for 33 years, including 10 years in my current position.

First, I would like to look back at 1984. That was the last year in which German imports of BSS were large and increasing. There were very special economic conditions: surging demand following a recession and an extraordinarily high U.S. dollar. And one remark, this was even before PMX opened in 1992.

U.S. production capacity was insufficient to meet the demand. Buyers scrambled. U.S. companies we had no prior dealings with were calling Germany asking for brass. I was a young salesman back then. I never forget receiving a call from a company in the U.S. I had never heard of asking for three container loads of brass, around 120,000 pounds, as a trial shipment. That was a pretty large trial, and they called me.

But once U.S. demand stabilized and the dollar softened, imports of BSS from Germany dropped by 30 percent in 1985, a year before the antidumping petition was even filed, and by almost 60 percent by 1987, when the order was entered. The import volumes you found to be cause of injury over 25 years ago resulted from unusual economic conditions that no longer exist.

The second point I would like to make -- and that may sound funny, but today is 2012. This is an obvious point, but much of what I heard this morning was relevant to 1984 and not to 2012. BSS imports from Germany have continued the downward trend that began in '85, unrelated to the order, and now are tiny. Many changes have occurred since 1984, and even since 2005, to make it impossible to contemplate significantly increased imports of BSS from Germany.

First, the predominant German BSS producers all now own production plants in the U.S. -- Wieland, Aurubis, and our joint venture, Schwermetall, are not going to undercut those investments. Just who is it that the Petitioners think are going to flood the U.S.

market?

Second, as Mr. Schuler explained, the BSS market has changed. The types of U.S. customers we previously served from Germany no longer exist. And the market has changed and no longer allows a producer an ocean away to ship large volumes of single product with lead times of three months or more to a customer who would store it in inventory.

Third, the German industry also has changed. We have worked over the past 25 years to improve our productivity. That has meant increasing our -- profitability, sorry, improved our profitability. That has meant increasing our production and sales of other alloys and reducing our production and sales of BSS. We are producing much less BSS today than we were in the 1980s.

Let me explain why. No rolling mill in Germany or the United States is dedicated exclusively to BSS. Instead, we cover the entire spectrum of copper alloys. We currently produce 62 alloys, only 8 of which are BSS. Of all the alloys we or Olin or Aurubis produce, subject brass is the easiest to produce. It can be produced on the least sophisticated equipment with the lowest investment in technology. It can be products mostly with scrap metal. It is the entry level product.

It is thus widely produced and available, making the market for BSS highly competitive. But for all of these same reasons, it stands lowest in the value chain. It is absolutely critical that you understand that BSS has the lowest profit margin of any of the alloys we produce.

The key to improving profitability in a high-wage country like Germany or Japan, France, or Italy is to move up the value chain. And that is exactly what happened over the last 25 years. The German industry invested hundreds of millions of dollars in better technology and more sophisticated equipment. We have invested not to produce more quantity, but to produce more difficult products.

We have reduced our production of low margin subject brass and increased our production, for example, of phosphor bronzes and high-performance alloys. These alloys are more difficult to produce and require more advanced equipment. The margins on these products are two to ten times higher than for BSS. We have successfully shifted production from low margin BSS to higher-margin alloys, and there is no incentive to make -- to shift back to the low-margin BSS alloys.

Product shifting makes no sense, nor does market shifting. As Mr. Goertges will explain, we get higher prices in our front yard and in our back yard, in Germany and the rest of Europe. There we have low freight costs, no duty costs, no currency risk. We control distribution through a network of 15 slitting centers in Europe. But most important, we can provide what our customers now demand: just-in-time deliveries, customized products, and reasonable lead times.

We have long-term relationships and contracts with our customers. Would somebody please explain to me why we should stop supplying these existing customers and incur higher transport costs to sell at lower prices in the United States?

I have read Petitioner's arguments about changes in trade flow between European countries. Quite frankly, I don't understand how that shows that we have any incentive to divert sales from our main markets to the U.S. The changes in brass shipments among European countries are all about inter-company production strategies, and have nothing to do with changes in end customers due to changes in price.

For example, Italian exports increased over the POR because KME centralized its brass production in Italy and began supplying its French and German subsidiaries from Italy.

Let me spend a minute to describe the German industry's BSS capacity and production. The massive excess capacity I read about in Petitioner's brief exists only in a lawyer's imagination. They appear to wildly overstate BSS capacity by including capacity we use to produce more profitable, nonsubject alloys.

They also fail to consider that capacity that actually exists is really being fully utilized. Petitioners also wildly overstate the number of German producers. I can tell you categorically that there are only three basic BSS producers in Germany today, and you have questionnaire responses from all of them. There are Wieland, Schwermetall, and Messingwerk Plettenberg.

Moreover, outside of Petitioner's affiliate, Aurubis Stolberg, there are no longer any significant rerollers of BSS in Germany. Carl Schreiber, as your staff report indicates, does not produce BSS. It produces products over 5 millimeters in thickness, mostly plate. Petitioners photocopy page after page from their website, but no one, really no one of them, has the word strip on it. Carl Schreiber is only producing plates.

Diehl Sundwiger does not cast BSS. It used to reroll BSS, but no more. It now specializes in phosphor bronze, nickel, and high-performance alloys. That is true for all Diehl Group companies, including Griset in France and, by the way, the Miller Company in Connecticut, which Diehl acquired in 2000.

KME stopped casting and hot rolling brass in Germany in 2001. It now only rerolls small quantities that it gets from Schwermetall, and therefore those volumes have been reported. It may also get small quantities from Italy, but even so that would be Italian brass and not German.

MKM mainly produces pure copper. It does not cast or hot roll brass and is technically incapable of doing so. It may have rerolled small volumes of BSS in the past, but my understanding is that they stopped a couple of years ago. Again, I ask you, who is it that Petitioners think is going to flood the U.S. market with cheap BSS?

The low-cost producers in the world today are located in China, Poland, Turkey, Bulgaria. None of them is exporting to the United States. I was in Bulgaria, in Sofia, in March 2007, and know for a fact that they have a huge plant with low labor costs and very low energy costs, and 120 million pounds of excess capacity, massive excess capacity, to use the favorite word of the other side.

Poland we heard today, they used to have two plants. One of them closed. This is a fact. The equipment is shipped, or was shipped, to Brazil, to my knowledge. The other plant, of Hutmen is still operating. So Poland is still operating, but zero imports to the U.S.

If these countries and others not subject to the order are not interested in the U.S. market, where is the incentive for a high-cost German producer or a Japanese producer with the yen at 77? Japanese producers sell whatever BSS they still produce in their closed home market. And then they produce nonsubject high-performance alloys for the automotive and electronics industry in Asia. They cannot sell BSS to the U.S. under current or foreseeable conditions, and probably not in my lifetime.

In Italy, the only significant producer is KME. KME, to my knowledge, is focused on Italy and Europe exclusively, and it intends to remain so. They just built a brand new slitting center in Italy. Lower cost, nonsubject producers are retreating from the U.S. market. There is no reason to believe that under current and foreseeable conditions subject producers would follow an opposite trend.

Now, I would like to conclude by addressing Asia. Asia proves for my feeling our case. Asia is a more attractive market than the U.S., yet German exports to Asia are low and have been declining. If Petitioner's theory of massive excess capacity in Germany, the need to spread fixed costs, and the incentive for market shifting were true, why were German exports to a growing market with insufficient production not increasing?

Asia is the world's largest market for BSS by far, with annual consumption of over 2 billion pounds. Consumption has been growing at 5 to 10 percent annually for years. There are no antidumping orders. Freight from Germany is two-thirds lower to Asia than to the U.S. We have a cold rolling mill in Singapore, just as in the U.S. Unlike in the U.S., unlike in the United States, BSS demand in Asia has exceeded production capacity throughout the POR. We do not sell significant quantities to Asia for the same reason we would not sell significant quantities in the U.S. if the order is terminated.

After listening to Mr. Baker -- Becker, sorry -- this morning, I was surprised. It may surprise you that our market share in China in BSS is

0.12 percent. We cannot compete in the mass market selling large quantities of BSS at low prices, and do not try to.

Thank you very much for your attention, and I would like to introduce my colleague, Olaf Goertges.

MR. GOERTGES: Yeah. Thank you very much. Good afternoon, Madame Chairman, members of the Commission. My name is Olaf Goertges. Since 2002, I have been vice president of the rolled products business group for Wieland. I'm responsible for the Wieland Group's rolled products strategy worldwide.

There are several developments in the BSS market that are important in analyzing the issues you face. First, BSS is a customized product that is manufactured to order. We do not produce anything until we have a confirmed order specifying a form, alloy, temper, thickness, width, coating, and any special finish. We have no inventory to ship to the U.S.

Second, BSS is a semifinished product. The end users are mostly intermediate manufacturers who use our strip to produce electrical connectors, shell casings, and the like, that then are sold to manufacturers of finished products like automobiles, electronics, and munitions.

Third, the industry is characterized by long-term customer-supplier relationships. Contrary to what Petitioners suggest, BSS is not a fungible commodity product for which purchasers switch suppliers whenever someone offers a better price. BSS is not sold by auction or over the internet because brass from different mills produced to the same specification will behave differently depending upon how it's cast, rolled, and annealed. Users optimize their equipment based on the characteristics of their supplier's brass, and they do not easily switch.

Another factor supporting long-term supplier relations are modern quality assurance systems and certification requirements. These have names like QS-9000 and TS-16949. Our customers utilize rigorous supply chain qualification and validation. None of this existed at the time of your original investigation. Now more than 80 percent of our business requires it.

Before Wieland can sell BSS strip to any supplier in the automotive sector, for example, we have to undergo a lengthy qualification process. The customers of our customers also have to approve Wieland as a supplier. Purchasers cannot switch BSS suppliers without first qualifying the supplier itself, and then also convincing its own customers.

This is time-consuming, expensive, and infrequent. For this and other reasons, 80 percent of the Wieland Group's BSS sales worldwide are made under long-term contracts of a year or more, and the same has to be true, in my opinion, for the U.S. domestic industry.

Fourth, the record prices for copper and zinc we saw over the review period only accelerated the trend of customers worldwide to demanding just-in-time delivery. No customer wants to hold tons of BSS in inventory at over four dollars per pound. Producers can cope only by being local. One cannot compete under today's conditions by being located on a different continent.

This is why Wieland serves Europe from its base in Germany and from slitting centers in France, Great Britain, and Spain, and why it opened reroll mills in the United States and in Singapore.

Let me turn now to current trends. 2010 was a great year overall for our rolled products. Demand picked up worldwide following the recession. We ran our mills in Germany at full capacity, increased our value added, and raised prices. I was very happy. And by full capacity, I mean full capacity. In some months, we resorted to overtime and double overtime shifts.

Due to strong demand, lead times became longer, up to three months and more. We focused on our most important customers and transitioned existing customers with low potential to alternative sources of supply. We certainly had no ability to expand into new markets.

In 2011, we saw a bit of a slowdown, stemming from the uncertainty surrounding the European debt situation. But it was not a significant slowdown. Our overall production and utilization levels for all alloys over the year dropped by about 2 percent. The drop was concentrated in a short period of time, from around summer to November. Demand for BSS dropped by a bit more, but we were able to offset that with increases in higher margin alloys. I was nervous, but still very happy.

The slowdown we saw in 2011 bottomed out in November, and then we saw demand pick up. The change was significant enough that we took the opportunity to raise prices, as did others. In November 2011, Wieland raised its fabrication prices across the board by 5 to 7 percent, including for BSS. That increase has stuck.

KME also announced a 7 percent increase, and we just saw that Aurubis, Olin, and Revere all announced price increases in the United States in January 2012. Plainly, the industry around the world is perking up. Orders for BSS and other rolled products picked up further in January. Today and going forward, we see a 2012 that will probably fall in between our 2010 and 2011 experiences.

Our key drivers are demand from the auto and the electronics industry, and both are experiencing improving demand. We are operating again at full capacity, and we see no signs of that easing. We are not experiencing resistance to our price increase. I should also add that we have no increase -- not increased our rolled products capacity in Germany in recent years, and we have no plans to do so.

I was really amused to read in the Petitioner's brief, on page 19, about our investment in a new billet-casting facility. Billet is circular and used to produce rod and wire. It is not used to produce flat products like BSS.

On prices, we provided with information on relative prices in our different markets. We gave you the data we had, and that from our perspective are most relevant to us, actual weighted average fabrication prices in our different markets. Metal prices are volatile and affected by timing differences. But fabrication prices show where we make our money. And our prices reflect our product mix and customers and show the incentives we face.

We controlled for distribution channel. We looked at Wieland Metals BSS sales in the United States, Wieland Singapore sales in Asia, and Wieland Germany sales in both Germany and the rest of Europe over our last fiscal year. The data are in our prehearing brief. BSS prices for us were lowest in the U.S. They were higher in Germany, higher in Europe, and higher for us in Asia.

Petitioners have affiliated companies around the globe, but they have not come forward with their data. Instead, they use the average unit value data from the Commission's questionnaires. For example, they compare the AUV of German exports to the U.S. to the AUV of German sales to their home market, and conclude that prices in the U.S. are higher.

But this is an apples to oranges comparison. All subject producers' exports to the U.S. are full-priced sales. The AUV includes both fabrication and metal. On the other hand, our sales in Germany and Europe are a mix of tolled and full-priced sales. For

Wieland, for example, tolling sales comprise around 64 percent of our home market sales volumes, and around 45 percent of our sales in the rest of Europe.

Tolled sales do not include metal, which accounts for 75 to 95 percent of the total price for full-priced sales. So Petitioners are comparing the price of a three-course meal in the U.S. with the price of the appetizer in Germany. Too, the prices of German BSS sold in the U.S. are higher than domestic producer prices.

I would now like to attempt to tie all of our comments together to explain why Wieland and other German producers have no incentive to increase BSS exports to the U.S., or to price undersell U.S. producer prices if the order is terminated.

First, we have invested in production plants in the U.S. and would have no incentive to undercut our own investments. We can serve the just-in-time delivery needs of U.S. customers from Wieland Metals in Wheeling and cannot meet those needs from Germany.

Second, we have no existing inventory to ship to the U.S.

Third, we cannot use excess capacity to produce more BSS because we have no excess capacity.

Fourth, we will not shift other products to

BSS because BSS is our lowest margin alloy. And, as Mr. Schuler highlighted, we certainly have no incentive to shift to producing the lowest margin product in the lowest margin alloy, BSS reroll material, and incur transport costs of 21 to 22 cents per pound to ship a 28-cent product.

Fifth, we will not shift BSS other markets to the U.S. because the prices we obtain are higher in our existing markets, and it would also cost more to ship BSS to the U.S. than to any of these markets. We also cannot shift products or markets because we are locked into long-term contracts or otherwise committed to maintaining long-term relationships.

So if we would not ship more BSS to the U.S., why are we here? Why do we care if the order is revoked? There are two main reasons. First, one never knows what the future will bring. Wieland Metals in Wheeling, its principal BSS supplier is Olin. Olin's current owner is a private equity fund looking for an exit. They filed for a public offering, but that has not occurred.

Just last week, we received a proposal from an investment bank indicating that the company is for sale. We are concerned about Olin's future.

The second reason is past experience. We remember the Melt shop fire Olin experienced during the last review period and the disruptions it caused us. We also remember when Luvata broke our contract in 2000 and refused to supply us. We remember Olin and Luvata putting Wieland Metals on allocation in 2010. We need to preserve supply security for Wieland Metals in Wheeling, where we employ 100 people.

Thank you very much for your consideration.

MR. SHOR: Madame Chairman, that concludes our presentation, and we'd like to reserve the remainder of our time.

CHAIRMAN OKUN: Thank you very much. And before we turn to questions, let me take this opportunity to thank this panel for appearing, and in particular for the industry witnesses who have traveled to be with us and answer our questions. We very much appreciate your participation. Just a reminder to repeat your name for the benefit of the court reporter, and we'll start our questions this afternoon with Commissioner Johanson.

COMMISSIONER JOHANSON: Yes. Thank you, Madame Chairman. And also, I would like to thank the panel for being here today. I realize that some of you traveled a very long way. So thank you for appearing before us.

I'd like to begin by where I finished off with the domestic panel earlier today, and that is the issue of customized product being sent from Germany, you all allege as being sent from Germany to the United States and not pure commodity BSS. I was wondering if you could give some examples of what type of product is manufactured and shipped to the United States from Germany which cannot be manufactured here in the United States.

MR. SHOR: This is Mike Shor for the Respondents. I think you have some of that information in your staff report. There was one of the five products selected for product comparisons, was a particular alloy that was 37 percent zinc and the remainder copper. And if you look at the comparisons, you'll see prices for the German product, but you won't see any prices for the domestic product. That's because no domestic producer currently supplies it.

I want to point out one thing. When you asked the domestic -- you asked the domestic industry the wrong question. You asked them, could you supply everything that is supplied from Germany. You didn't ask them do you currently supply everything from Germany. That is a product that they all will say, sure, we could supply it. But none of them do commercially, and that's what Tyco Electronics verified in their testimony.

I think also, if you look at some of the purchaser responses, they talk about ordering small quantities of products with particular finish characteristics that they didn't think they could obtain in the United States. So we're not talking about products with particular temper or size characteristics. That they correctly say everyone could produce. It's just -- and I don't know how to explain it other than to have Olaf explain.

Every brass mill has its own unique characteristics. It has to do with the weight, with the temperature at which the metal is cast, the temperature at which it's rolled, how it is annealed. And the performance characteristics, the finish, the shine, whether it draws a certain way vary from mill to mill.

It's not to say one is a better quality than another. But each has unique characteristics, and certain customers prefer certain characteristics. So to sum, in answer to your question, the zinc 37 is a product that is not commercially available in the U.S. that is produced in Germany. It was the largest product, largest volume product, shipped here during the POR. It is not available commercially in the United States. And the remaining products are products with particular characteristics that customers prefer a German product to an American product.

COMMISSIONER JOHANSON: What total share of -- let's say percentage-wise of these customized specialized products are entering the United States from Germany as opposed to regular commodity BSS? Do you have an idea on that, by chance?

MR. SHOR: Well, let me respond this way. We think the total volume -- we know the total volume of subject imports from Germany is what I would term negligible because we got the data from Customs for the Commerce proceeding. It's under APO, so I can't release that. So it's a very small volume, and we think everything that comes in from Germany falls into that category. Otherwise, there is no explanation for 81 percent overselling margins.

If it's a commodity product, and everything is the same, you can never have overselling margins of that magnitude.

COMMISSIONER JOHANSON: Okay. Thank you. Moving on to something else, the Petitioners cite to -

- state that the German industry is expanding into new capital investments, which I assume is new capacity. I know, Mr. Goertges, you touched upon that briefly, upon possible new capacity, what the Petitioners allege was new capacity of BSS. I was wondering if you all could explain any other new capacity that might be coming online in Germany and when that might happen.

COMMISSIONER JOHANSON: Or for that matter, not just in Germany but any other of the subject countries.

MR. Goertges: As far as we know from our experience, there's no significant investment in Germany or in the other subject countries to increase the capacity for BSS production.

MR. SHOR: I can address every example that the Petitioners gave, and they're all bogus. They talked about the increase in billet capacity at Wieland. Why they're talking about billet God only knows because billet has nothing to do with BSS. They also talked about an improvement in the rolling mill at Messingwerk Plettenberg. If you read Messingwerk Plettenberg's response, its capacity constraint is at its melting furnace and the casting capability, so increasing rolling mill production equipment doesn't at all affect its capacity, so they point to nothing.

COMMISSIONER JOHANSON: Even though German capacity is very high right now, is the industry contemplating adding new capacity?

MR. TRAA: This is Werner Traa. Not to my knowledge, but please keep in mind that every company constantly renews their equipment. For example, we commissioned one year ago a new rolling mill in one of our plants in the Black Forest, in Metalwerke Schwarzwald as former known, but this is a replacement for existing rolling mills, so we basically put a new rolling mill in place and then decommission one or two older ones which are more than 40 or 50 years old.

So this is a constant thing that we invest in new equipment, but I'm sure the Petitioners do the same in their plants in the United States, but there is no additional capacity to my knowledge in the countries we talk about.

COMMISSIONER JOHANSON: Okay. Thank you. You all describe the U.S. industry as being in a fairly healthy state at this point, and apparently China is as well if China is close to self-sufficiency. I was wondering what is the state of the German industry at this point? The question is what's the profitability of the German industry? Do you want to comment, or do you want to address that post --

MR. SHOR: We'll provide data in a our post-hearing brief.

COMMISSIONER JOHANSON: Okay. I understand. Certainly, and also I'd like to address another issue which came up this morning, and that is the issue of production in France. Are you aware of any mills operating in France?

MR. SHOR: Yes. Mr. Traa can answer that. Just so everyone understands, because of the relationship between Wieland and Schwermetall, Mr. Traa is on the board of directors of Schwermetall, so he can talk about Schwermetall as well as Wieland.

COMMISSIONER JOHANSON: Okay. Thank you.

MR. SHOR: We can provide data in our post-hearing brief of Schwermetall's sales to Griset, but we know that Griset is the only company in France that currently re-rolls brass sheet and strip. There is no other producer in France.

COMMISSIONER JOHANSON: Okay. Thank you. I have no further questions at this time. Thank you.

CHAIRMAN OKUN: Thank you, and again, thank you for all your responses. Let's see. Mr. Stockton, I think I'll start with you, and you give a good perspective of a global purchaser and what you're looking for and the reasons and some of the issues you've had with the domestic industry. I wanted to make sure I understood. When you were describing where you can get supply, you mentioned German suppliers, not any of the other subject countries, France, Italy. Can you give more details on that on why they would not be someone you'd be looking to?

MR. STOCKTON: Yes, and we'll elaborate more in the post-hearing response, but at this time, German suppliers are the only supplier who would, in my mind, potentially respond to any quotations, so Japan, Italy, France wouldn't respond even for other copper products that we buy.

CHAIRMAN OKUN: And is that because of the type or the quantity? I wasn't sure I understood why they wouldn't respond.

MR. STOCKTON: They would not be able to meet any of our supply chain needs. I would say the small quantities, et cetera. Japan hasn't quoted for years into the U.S., and France the same, and I can't think of Italy, maybe some non-brass products, but by and large, not a huge participant here for us at least.

CHAIRMAN OKUN: Okay. And then would you be able to give from your company's perspective where you see demand in the different markets? I mean, we heard testimony this morning about demand conditions in Asia versus the United States. Did you have any different perspective or could you ID a perspective?

MR. STOCKTON: I think once again we'll share that information confidentially.

CHAIRMAN OKUN: Okay. That's fine. Thank you very much. I appreciate those answers. Mr. Schuler, let me ask you to respond to one of the issues that came up this morning, and the other representatives might have some perspective as well, and that was that if we looked at other non-subject imports from Germany, that's an indication of Germany's desire to send product, including subject product, into the United States and shows that they're, I guess, according to Petitioners' arguments, both an incentive and an ability to quickly penetrate the market.

Can you comment on that and what it means for our analysis?

MR. SCHULER: Yes, Madam Chairman, thank you. Yes, I surely can. I think again just as a question that has sort of two aspects to it, one I think we alluded and pretty much everybody else alluded to it, too, supply requirements today do not allow overseas suppliers to really be a sizable contributor to any customer's needs here on a direct shipment basis because stocking material at those prohibitively high material costs is just unaffordable for everybody. The premiums that this would require are just not being paid.

Demand changes, fluctuations in demand are constant, and having a supplier pipeline that's three or four months long just really doesn't accommodate that any more at this date, so that's just, I think, something we will certainly all agree on. The other issue is that the new can, and this is some of the contentions that we're talking about now, you can sort of go backwards in the value-add chain and say we will supply product that can be still distributed to different customers because it's not maybe produced to the final finish stages, the typical role then as a re-roller, the role that we currently have in the U.S. market, and here, it's simply the price question.

I know for a fact that the freight cost from Germany here are 12 cents a pound because it is based on the invoices we get from our freight forwarders. The duty rates are six to seven or eight cents per pound on the subject material, and the financing does need to be considered at the copper cost that we're facing today, so we do look at substantiated 21, 22 or so cents depending on the metal value and what it will cost the foreign producer to bring the material only here, and the product does sell, and your data shows that, at 25 to 28 cents.

Yes, there are also other add-ons in terms of financing charges, transportation charges, energy adders, but those are costs that foreign producers and that some in the subject countries also include and also charge, so it is a very fair basis to compare the 28-cent fabrication to the 22 cents it already costs to bring it here. I think the whole industry would be very happy if those margins would allow you to still make money on such a product. It is simply totally out of the question.

MR. SHOR: Commissioner Okun, if I could take a crack at that question because I think it gets at the heart of the Petitioners' argument? I'd answer it this way: Germany can ship BMW automobiles and Mercedes automobiles here and make a profit, so the question is why doesn't that prove that brass can be shipped here from Germany? Well, the answer is that the markets are completely different. The prices are completely different, and the markup is completely different.

So then the question for you is all of these other alloys they mentioned, the pure coppers, the phosphor bronze and the high-performance alloys, are those more like the BMWs, or are they more like brass? They don't do that comparison. They just assert that well, you can ship other products here, so you must be able to ship brass, but the answer is that the economics of the industries are different. That was the focus of Mr. Schuler's testimony, and I think it's point of agreement with the Petitioners.

If I recall the testimony this morning, there was no dispute in this proceeding that of all the copper alloys, brass, Series 200 has the lowest margins of any product. What that means is it is more difficult to ship that long distances than other products because there's not enough of a margin to bear the freight cost, and that's why the question isn't really can you ship copper here?

Mr. Schuler will tell you that the margins on copper are double that on brass, but the question is he can buy BSS re-roll material here from Olin for 28 cents a pound delivered. It will cost him 24 cents a pound just to get the material here from Germany. There's no incentive at all for him to switch from buying from Olin to Germany. It just doesn't make any sense.

CHAIRMAN OKUN: Then, let me followup with a question somewhat related, although, I guess, kind of in a different way which is one of the arguments that we raised with the Petitioners this morning, one of your arguments was if you look at what happened during the period of review in a domestic industry that controls 92 percent of the market and non-subjects going out of the market, a couple of the responses this morning, one was Germany is unlike the other non-subject producers who've been in the market because of just the size in its export orientation, so maybe address that.

Then second, along with that the argument that yes, this is a low-value product, but the mills to run efficiently need to ship the low value and the high value, and that's your incentive to be in this market as well at different levels so companies don't just have an incentive to do the higher value. If you could address those two?

MR. SHOR: Well, there were a lot of responses that I heard to the question of can you explain to us why non-subject imports are declining if everything you say is true? I don't think any of them were terribly coherent or responsive. The Polish issue, it's not true that Poland ceased production, and they also failed to explain why imports slowed before they stopped. The fact is that the U.S. market is the low-priced market in the world today other than China. We agree with them that China is lower-priced than the U.S. We do agree with that, but they won't say anything about Europe or Germany.

In response to the issue of export orientation of Germany, Germany exports very little outside of the EU. Germany is twice as big today as it was in 1984. The EU went from 10 members to 23 members. When you talk about export orientation, I think there's a difference between exporting close in where you can ship everything by truck, and there's a common currency, to shipping to Asia or to the United States. Very little brass from Germany is shipped to Asia, and very little is shipped to the United States.

In terms of the argument about needing to run your base load capacity, again the reason I asked Mr. Becker the questions I did this morning is we think Asia proves our case, not their case. If everything they say is true, that we have excess capacity, that we need to maximize our base load and run at capacity by exporting at whatever price to whatever market -- how can you explain that our exports to Asia decreased over the POR? They didn't increase. They decreased, and they're insignificant.

The interesting thing about Mr. Kerwin's chart with the red and the white bars about other products to the United States and brass to Asia, I wish I had that chart up there because you should look at the units. The total volume imported into China from Germany was 2 million pounds. That's nothing. As Mr. Traa said, Wieland's market share in the China market was around 0.12 percent, 2 billion pounds is what they consumed, and Germany is selling 2 million pounds? How does that prove their case?

CHAIRMAN OKUN: Okay. I asked a question, and I want to have the producers answer as well, but I'm out of time, so I'll come back to it. I appreciate those responses, and I'll turn to Vice Chairman Williamson.

VICE CHAIRMAN WILLIAMSON: Thank you, Madam Chairman. I do want to express our appreciation to the witnesses for coming today, especially those of you who had to travel a distance. Mr. Goertges, you explained the only reasons why you don't expect to see any shipments from Germany to the U.S. market, and then in response to the question why do you want the orders removed, it just sounded like it was all dependent on you want to be able to have the ability to do that.

So if it doesn't make any sense to do it, I still don't understand why do you want to have the orders removed? I realize that the uncertainty is anything can happen. You talked about Olin, but I was wondering if you could elaborate on that because I didn't quite fully understand the --

MR. GOERTGES: Olaf Goertges. It is true that we want to have the security of supply for our worldwide operating customers, so when we discuss with customers who are operating like TE Connectivity as Mr. Stockman explained before, we have global contracts to those customers, and then when we step into those customers, it's our engagement to supply those customers, wherever they are operating.

So we have to have the security when we go into such kind of contracts that we now have to make sure that we can deliver them also in the United States, so Mr. Schuler has a contract with TE Connectivity also for brass as we heard before, so we need to have the security to deliver and to engage our contracts with those customers.

MR. SHOR: Commissioner Williams, if I could respond also? Respondents in these proceedings are always in a bit of a Catch-22. If they show up, the domestic industry says well, you're here. Of course, you want to ship, but if you don't show up, they don't say well, Wieland's the only one here, so you can terminate the order as to everybody else because they obviously don't care.

The fact is under the statute you've got to evaluate the facts before you. You can't really understand the motivations of companies, but Wieland is very concerned to protect its investment in Wieland Metals, and they gave you concrete examples of situations where their supply arrangements with U.S. suppliers didn't work out. Tyco expressed concern about the reliability of U.S. suppliers.

You have the largest U.S. producer in the country of this material, and its current owner can't get rid of it. They tried a public offering. They now have private offerings. They're sending out circulars, and Wieland is concerned, and it's perfectly appropriate for them to come in this proceeding and say the order is inappropriate even if we have no intention of shipping in the United States in the foreseeable future. That's their right under the statute, and it doesn't mean that they're going to intend to ship large quantities of products that they can't make any money on tomorrow.

VICE CHAIRMAN WILLIAMSON: Okay. I understand the security argument. Okay.

MR. SHOR: Werner, do you want to answer?

MR. TRAA: Yes. Werner Traa. When I listened this morning to the Petitioners, I somehow got the impression that most of this argument was against Wieland and against Wieland Metals in Illinois, so the fear of the Petitioners that if the order if revoked, then Wieland will certainly ship to Wieland Metals. I'm sure you have in your file the quantities of Wieland Metals, and I feel though the small company with 100 employees running at their top capacity that can't be it, that finally the whole industry is depending on this relatively small unit.

I would like to stress once again the other thing I was 10 years ago responsible for this U.S. operations. I was responsible for the whole U.S. operations from '95 to 2000, and it happened actually to me. I had contracts, annual contracts with Olin and with today's Aurubis Buffalo, it was at that time Outokumpu Buffalo, and it happened to me that I signed the contract in January 2000 with Outokumpu, and exactly one month later, he called me and said Werner, that's it. Sorry. We have changed our structure, our strategy. Business is booming.

Remember, 2000 was the overheated situation again, and he basically told me you get all what you have ordered for the next two weeks, not what's in the books for the next one month or two months, for the next two weeks, and then it's over. Then, we stop supplying you. I called at that time Mr. Warren Bartell. He used to sit here as well as one of the Petitioners. He didn't reply. The only thing at that time, the former VP of sales and marketing, Mr. Baker, he was kind enough to try to supply them --to jump in.

For me, this is something that sits in the back of my head that I'm always scared one day that Wieland Metals is suddenly put on hold, that we will not get any material, and this is important for me for our customers. We have contracts, and it is also important for me for these 100 employees that I don't have to send them home just because of politics. Thank you very much.

VICE CHAIRMAN WILLIAMSON: Okay. So are you basically saying that unless one of the U.S. producers proves unreliable, Wieland has no intention of shipping any BSS to the U.S. upon revocation?

MR. TRAA: That is absolutely correct, and as Mr. Schuler today mentioned, we are ready to sign mighty agreements, whatever, with the companies we heard this morning. Is it Aurubis? Is it Olin for supplying to us? I'm more than ready to sign this and to sign with them whatever they want. We would stick to that. I promise this 100 percent, but I still have to somehow protect our company, and as Mr. Schuler also mentioned, it is not even in today's times economically feasible to import from Bulgaria.

I mentioned that plant. It belongs to a Greek group Viohalco. It makes no sense, so I'm depending, relying on U.S. sources, and I'm somehow scared that one day one will tell us sorry. That's it.

VICE CHAIRMAN WILLIAMSON: Okay. Yes?

MR. SCHULER: Markus Schuler. Sorry. If I may add, Commissioner Williamson? To me, this is sort of like what Werner Traa and my colleagues explained -- an insurance policy that we need for our future and responsibility we have to our employees; to the success and to the responsibility to our customers. That we need to ensure that our supply chain is secure and safe. I have, I mentioned it in my testimony, approached domestic industries about long-term contracts. We have no desire to change that, but I do want the insurance policy so that in the case of necessity, I have the options.

We do, contrary to what was maybe said this morning, get our bonuses based on the profitability of our company, not based on the number of employees we have and the social deeds we do, so the overriding factor here as long as there are no supply disruptions is that and if the supply is secure here, I don't need to import, but I need to have an insurance policy in place that covers me in case things do go wrong, and as we've had to learn in the past, sometimes they do go wrong. Thank you.

VICE CHAIRMAN WILLIAMSON: Okay. Thank you for that clarification. I think Chairman Okun may have already asked this, but I don't think I really got the answer. It was a question about what I call the synergy. You've got to produce the base product as well as the more high-valued ones that are profitable to operation. I wasn't sure what the answer was to that. You talk about emphasizing only the high-value products are the things that you would likely to ship here, but are you saying that you would ship the sort of more basic product in Germany only or in Europe?

MR. SHOR: Commissioner Williamson, there's a fundamental difference between the German industry and the U.S. industry perhaps, and that is they claim that they have tremendous excess capacity. That's not true in Germany. The German industry in 2010 produced at capacity and couldn't produce more. When you're in that situation, you don't look at base load. You look at your highest value-added products. Those come first, and then you fill in with the low value-added products later, so they're in a situation in Germany where they're looking as --

VICE CHAIRMAN WILLIAMSON: I'm going to cut you off. I shouldn't have asked the question. My time was running out, but if there is more to add, you can come back, but I think I got the answer there. Thank you.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madam Chairman. I also would like to extend my welcome to this panel, and I must say it's quite a pleasure to have so much experience by a group that's so youthful, 25 years, how that came about, I don't know, but you wear it well. A question initially for Mr. Shor and Mr. Connelly, are you advocating that the order be revoked with respect to all countries or just with respect to Germany?

MR. SHOR: From my perspective, my client is the German industry. We do not care about the others, so we are advocating for the order to be revoked for Germany on a decumulated basis, and if the Commission doesn't agree that Germany should be decumulated, then we're advocating for revocation of the order as to all subject countries, but our answer is we don't care about France, Italy and Japan.

MR. CONNELLY: Let me speak briefly for TE Connectivity and Tyco. Mr. Stockton's testimony was that he sees as his most likely, if not his only, viable source of subject supply, German supply and in particular Wieland, so we haven't taken a position one way or another on the legal issue, but I think from a practical standpoint the answer is Germany.

COMMISSIONER PEARSON: Okay. Well, for purposes of the post hearing, if you could size up the arguments for decumulating Germany and going negative versus keeping everybody cumulated and going negative. I would be unrested to see that.

MR. SHOR: We'll do so.

COMMISSIONER PEARSON: Now, you just said you don't care about the French, and that's where I'm going next, and this is a question I suppose primarily for a few of them, but perhaps for Mr. Traa, do you have any insight into which French producer Griset has any casting capability, any melt shop activity?

MR. TRAA: I think we mentioned before that we would like to make this in post-hearing briefs, but I'm trying to make it as public as possible what I'm saying. They are casting, but not BSS. They are casting an alloy. I don't have the UNS or the CDA number, but it's a copper alloy with some impurity. Mr. Goertges can give you the exact. He's our engineer. He can give you the exact alloy number. This is mainly used in the electronics industry in what we would call power applications, applications like LED lighting, dual-gauge applications, mainly in Asia, and there are in the moment some talks between Griset and Schwermetall where I would like to comment in a confidential way.

COMMISSIONER PEARSON: Okay. Now, that would be fine, but perhaps are you able to comment here in public just a clarification? The fact that they are casting a different product, is there something about the operation of the furnace, is there contamination of the furnace such that they could not then easily revert to casting BSS, and if that also should be addressed in the post hearing, that's fine, but that's a question that occurs to me.

MR. TRAA: Sorry. Translation. Okay. I

understand now the question. To my knowledge, for them it wouldn't make any sense to switch back and forth. Once again, they are in this market. Dual-gauge high-performance alloy that's used in Asia, the Griset group or Diehl has made quite a couple of investments in the next step, so in further producing this material, they do have a plant in Malaysia right next to one of the large, lead frame semi-conductor manufacturers, but I don't see a reason for them. They have a market there. All their production goes in that direction. Why should they go to a low-value product? Even if it's technically possible, for my feeling it wouldn't be, but if it's possible, can somebody explain to me if I produce champagne, why should I do then tap water? Sorry.

MR. SHOR: There's probably more money in tap water.

COMMISSIONER PEARSON: I understand your point about the economics. I was just wondering if there is some technical issue, for instance, if there was a contamination problem, and the entire furnace would have to be rebuilt or the factory replaced, that sort of thing.

MR. SHOR: Yes.

COMMISSIONER PEARSON: That would be

interesting to have on the record because it would make it clearer.

MR. SHOR: I can address that, and it's an important issue, and one not fully considered in prior reviews. At the casting stage, it is not easy to switch alloys. You can't do brass one day and copper the next because the casting furnace will have zinc in it, and you have to get rid of the zinc. Your choice is either to reline the furnace or to make an ingot -- 15,000 pounds -- that you then have to throw away, so it is not technically easy at the casting stage to switch among alloys. Most of the companies have told you in their responses that they either have a dedicated furnace for brass, or they have a long-term production schedule, but you do not at the casting stage switch easily between alloys. At the rolling stage, it's a different matter. You can roll any alloy on the same equipment without any problem switching back and forth.

COMMISSIONER PEARSON: Okay. Well, thank you for that clarification, and perhaps you could elaborate a little bit in the post hearing because I don't know how much it costs to re-line a furnace. We don't need to discuss that right now I don't think.

MR. SHOR: There is evidence on the record.

One of the Petitioners put their numbers on the record. It's quite high.

COMMISSIONER PEARSON: Okay. And, Mr. Traa, did you have another comment?

MR. TRAA: Sorry. Werner Traa. Sorry. I didn't catch the whole question in the beginning, and it's a matter of fact that in the casting shop, you cannot switch around. It's too expensive. Rolling is possible, and I have to add in the annealing, which comes between rolling and rolling further down, there it's also not possible to switch the annealing furnaces also because of the dezincification or something like that, zinc contamination.

COMMISSIONER PEARSON: Okay. So we would understand that the French producer Griset would have some considerable costs in repositioning its plant to produce brass sheet and strip because of decisions it's already made to produce other products which would amount to providing contamination for brass sheet and strips? Okay. I think I understand that better now. Thank you. In the staff report, we notice a distinct increase in subject imports from Germany in interim 2011. Can you comment? What led to that bump, and I understand in tonnage it isn't so huge, but in percentage terms, it's quite noticeable.

MR. SHOR: I know exactly what it is, but it may be APO information I got from customs, but I think I can say this. What happened, and it's not a significant quantity, what happened in 2010 was that Wieland underwent a review at the Commerce Department, and its dumping margin went from 16 percent to zero. What we think happened was that not any producers but brokers or middle men started buying some material in Germany and shipping it.

COMMISSIONER PEARSON: Okay. And in the post hearing you'll explain why we shouldn't expect to see a lot more of that if the order was revoked with respect to Germany?

MR. SHOR: Because they were told by the Commerce Department that they can't use Wieland's rate, but it's not a large volume. As you said, the total is still negligible.

COMMISSIONER PEARSON: So you're saying the Commerce Department already has pushed back against the importers that brought some of that product in?

MR. SHOR: Again, the problem is that the numbers you're looking at are not BSS. The import data mostly reflect non-subject merchandise. When I say there's a little bump up, I'm talking on the order of a few thousand pounds. I'm not talking about anything on the order on what's in the import data because what's in the import data is almost exclusively out-of-scope products.

COMMISSIONER PEARSON: Okay. Well, thank you. Once again, there may be additional clarification in the post-hearing submission. Madam Chairman, my time has expired.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madam Chairman. I join my colleagues in welcoming everyone on this afternoon's panel. Mr. Shor, you argue that German producers would compete in the U.S. market under different conditions of competition of the other subject producers, and so the Commission shouldn't cumulate, but you also claim that the remaining French re-roller has a connection to the German industry. In such a case, how could the Commission not cumulate German and French imports?

MR. SHOR: Well, you heard Ms. Cannon's position this morning. Okay. Two ways to answer that. First, it's the same issue for France. The French company is owned by the Diehl Group, which is a German company that also owns the Miller Company in the United States, so it is also the case for France that the sole French producer has an affiliate that produces we think subject merchandise in the United States, so from that score, maybe the argument is the same.

We have a different position from the Petitioners on what country of origin counts here. We think, and we're confident that if we started shipping our product to the UK and had it re-rolled there, it would be a matter of hours before the Petitioners would run to the Commerce Department and say you have to cover that as German materials.

COMMISSIONER ARANOFF: I just think in this case for purposes of cumulation that it almost doesn't matter how that issue ends up getting resolved because you're talking about basically BSS product that started out in the same place somewhere in Germany and made its way to the U.S. somehow and may or may not have gone through France getting there.

MR. SHOR: And we'll provide --

COMMISSIONER ARANOFF: So the question is, is the material coming from France somehow entering the U.S. under different conditions of competition than material that came directly from Germany?

MR. SHOR: We'll address that in our brief because we didn't focus on it. We spent a lot of time in this hearing talking about France, and Werner's worst nightmare in this case is that France gets out of this case, and Germany doesn't, but the main point about France is that the volumes are so totally insignificant that it's a speck on a flea in this case. The other side talks about hundreds of millions of pounds, and it's just nonsense. The millions of pounds could be counted on a couple of fingers that are involved in France. It's just not a significant producer, but we have the numbers because we will provide in our post-hearing brief the data on what Schwermetall shipped to Griset and that will tell you exactly the maximum Griset could have produced.

COMMISSIONER ARANOFF: Okay. Well, then going back to the issue of the import data and using official statistics, it sounds at this point is the base domestic industry, and the Respondents agree, that's mostly non-subject product. I guess if you guys are willing to agree to that, and we all agree that it's not really showing us what's coming in now, and that doesn't really matter to the outcome of this review, then we can leave it sit that way.

If you do think it matters, and you are able to document what some of those non-subject imports were so that staff could back them out, that would be helpful.

MR. SHOR: It's difficult because they're in both direct and indirect shipments. We provided in our initial brief, we told you that half the volume is accounted for by Wieland shipping leaded brass to the United States. That's not Series 200. That's Series 300 brass. That's fully half the volume, but I do agree. I think we can stipulate with the Petitioners that the precise numbers don't matter as long as we all agree that the quantities are negligible. I think that probably suffices for your purposes.

COMMISSIONER ARANOFF: Okay. I appreciate that. Mr. Traa, you testified that you're ready and able to sign long-term contracts with your domestic suppliers. When I was asking the domestic industry this morning about long-term contracts, their answer was well, these are not really contracts. They had a price formula but no volume guarantee, and really they don't provide much in the way of benefit to the domestic industry. Is that what you're talking about when you talk about long-term contracts, or have you expressed a willingness to commit yourself to certain volumes?

MR. TRAA: Werner Traa. I have a different understanding of a long-term contract than what I've heard this morning. For me, it's a contract, so if I sign something saying I going to order for the next three years all our 200 Series from the local sources, then I mean this. Of course, there might be a variation in the quantities due to the consumption, to the market conditions, and that's probably what the colleagues from the U.S. plants meant. If our customers don't order, if there is a downturn by let's say five, 10, 15 percent, then of course the purchases will also go down by that percentage. And if you ask the gentleman behind me that's the idea of this, I'm sure also our customer is under the same impression that if there is a contract, we stick to these contracts. Once again, if the demand is fluctuating, then of course this has to be adjusted, but this is a normal procedure in our industry. Otherwise, I have never had the situation that we would not stick to our contracts. This is --

COMMISSIONER ARANOFF: Okay. Are there requirements contracts? You have several domestic suppliers. Do you say I'm going to buy 20 percent of whatever amount it is you end up needing from one supplier and 40 percent from another? Is that how it works?

MR. SCHULER: Can I maybe jump in from the U.S. side?

COMMISSIONER ARANOFF: Yes.

MR. SCHULER: If I look at our 10 largest customers, I would say six and a half are fixed on long-term contracts, and long-term I mean one-year plus. We do have contracts extending between one and three years, three usually being the maximum. I was very surprised to hear the responses this morning. They do absolutely not fall in line with what Wieland Metals knows. I'm leaving this afternoon for Harrisburg to negotiate over a one- to three-year contract with Tyco Electronics tomorrow. I think that already makes the point that to us, contracts are contracts. They do sometimes not contain legal signatures and are not brought somewhere to be officially documented, but those are contracts that both sides, if you would inquire about, would consider as firm commitments to a relationship.

COMMISSIONER ARANOFF: Let me turn just a minute to Mr. Stockton, and I think you just testified you buy from three different domestic suppliers in the U.S., so how do you decide how much of your requirements you're going to buy from each U.S. supplier or in some industries, as I said, people do requirements contracts where they say okay, this year, I'm going to award 20 percent of my requirements to

Supplier 1, and 40 percent to Supplier 2, and 40 percent to Supplier 3. Is that how you do it, or are you free under your long-term arrangements with these suppliers to assign any volume you want to them?

MR. STOCKTON: Well, we award by part number or part number family, and those part numbers have some assumption on volume looking at the past, but we don't award contracts on volume per se. We award them on requirements, and we make a decision during the multiple rounds of negotiations on who to award what, but we're not changing within the contract typically.

COMMISSIONER ARANOFF: So you're saying that for each particular part you have one supplier?

MR. STOCKTON: Generally speaking.

COMMISSIONER ARANOFF: Okay. Okay. That's very helpful. Thank you. I'm going to stop there because I'm almost out of time. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Madam Chairman, and I thank this panel for being here and willing to answer our questions this afternoon. I want to begin with Mr. Traa and talk a little bit about this argument that we heard this morning about capacity and about how the Petitioners allege that the capacity is understated because you can switch from other alloys to BSS, and your testimony, and I don't want to mischaracterize it, but I heard you say that wouldn't really make any sense because you'd be switching from a more profitable product to a less profitable product.

What I'm wondering is whether you can tell us how much more profitable is the next most profitable product if you go up from BSS, the next one up, how much more profitable is that, and if you can't say that in a public hearing, then we can get it in the post hearing.

MR. TRAA: Werner Traa. Definitely, we will provide you with this information in the post hearing.

MR. SCHULER: Markus Schuler. I have one quick remark in this regard. Generally, yes, you do have categories of different alloy types, C100 Series, C200 Series, but obviously you have to see that there's no exact linear curve from one to the next. You have within each category comp products that are again more complicated than others that have tight tolerances to a certain degree, so there is no straightforward answer.

They are sort of main assumptions where you can make statements that phosphor bronzes are higher value-added products, high-performance alloys for high applications are more expensive in general, but you do have in other segments also products that what alloy group is presumably from small or negligible where they come in at higher prices, so it's not a very straightforward easy linear curve that can be played out here, but the reality is that the basic segments really do move up in groups.

COMMISSIONER PINKERT: So let me understand this. Are you saying that when we talk about a more profitable alloy, you're just talking about averages rather than across the board more profitable?

MR. SCHULER: No. In general, it is obviously true that high-performance alloys have higher fabrication charges than, for example, BSS product.

MR. SHOR: I think the point is it's a range within an alloy, that BSS is the lowest profit-margin alloy group, but we can't say that the next highest alloy group is two times as high because there will be products within that alloy group that sell for 50 cents fabrication charge. There will be products that sell for $2 fabrication charge, so within each alloy group, there's a range, but the alloy groups themselves, BSS is the lowest.

COMMISSIONER PINKERT: So if you're comparing BSS to the next most profitable alloy group, then you would be comparing a range with a range, is that correct? A range of profitability?

MR. SHOR: Sure. Yes.

COMMISSIONER PINKERT: Okay. Then, for the post hearing, if we could get some sense of what those ranges look like, that would be very helpful. Now turning to Mr. Stockton, I of course listened carefully to your testimony about Wieland earlier today, and based on that testimony that one might infer, although it might not be accurate, but one might infer that Wieland would have an incentive in the event of revocation to feed its U.S. re-rolling facility with German product from an affiliated company.

In other words, the problems that you talked about where Wieland possibly was not getting the highest quality from the U.S. producers to feed its re-rolling facility perhaps could be resolved by getting the imports from the German affiliate, and I was wondering is that a sound inference, or do you have reason to think that they wouldn't have an incentive to get the feed from the German affiliate in the event of revocation?

MR. STOCKTON: My opinion is that they would not have much incentive due to the cost to get the material here, and from our side, what we demand in terms of short lead time and an ability to respond to our customers, I think that would be difficult, but what I think it would provide is an incentive for their current sources of supply to ensure that they're receiving materials that do the job. That's what I think it will bring.

COMMISSIONER PINKERT: Well, that gives me a nice lead to my next question, and I don't know if this is for you, Mr. Stockton, or for the rest of the panel, but I'll put it out there and see who wants to respond, but why would there have been such a problem of getting the top quality feed for the re-rolling facility in the United States?

MR. SHOR: Because the domestic producers keep the best stuff for themselves.

COMMISSIONER PINKERT: Anybody else on the panel like to comment on that? It's a simple straightforward answer, but --

MR. SHOR: Wouldn't you? I mean, it seems obvious.

COMMISSIONER PINKERT: Okay. It's fair enough, but presumably they're not just internally consuming it.

MR. SHOR: No, they are selling to their customers, and they would rather sell to their customers than have us sell to our customers.

COMMISSIONER PINKERT: Okay. Fair enough. I'm sorry?

MR. STOCKTON: If I could just make a comment? The case that we're speaking about, when we looked into it further, in order to make materials for electrical connectors, it's a rigorous application, and we know that when we're buying directly from mill suppliers, that material goes through a lot of quality checks, et cetera. When you're selling re-roll, it's possible that material doesn't go through as many checks because the company down the line that's re-rolling it is going to be responsible for doing some checks on that material.

In casting, at least in my history, what you start with very much determines what you get in the end no matter what you do to it, so if you deliver a re-roll that is not of the highest quality or has some issues, there's a limit on what you can do to it in the re-rolling stage and the aneeling stage to make it perform well, so what I would say is the material going to re-roll accounts sometimes goes through less scrutiny.

COMMISSIONER PINKERT: Thank you. Now turning to another question that may be a very basic one, but if you bear with me, I don't quite get it, so I want to ask you the question. How does a rock-bottom purchase price for a producer translate into lowering the costs of the producer? In other words, you've got an owner who purchases a company, pays a low price for that company, how does the payment of that low price for the company translate into lower costs for the company?

MR. SHOR: I'm probably the best person to answer that, and it's an accounting question. Lawyers should usually stay away from accounting questions, but I'll give it my best shot. As I understand it, and this is from reading GBC's registration statement to the SEC, when that company was purchased, for accounting purposes it was recorded as what they call a bargain purchase event.

That means that the price paid was lower than the book value of the assets. When that happens, you write down the value of the assets to what you paid for it, so essentially, I'm just picking numbers out of the air, but let's say they had $20 million in fixed assets and a $2 million a year depreciation expense resulting from that asset, for accounting purposes, that $20 million goes to zero.

The depreciation expense goes from $2 million to zero, so the company no longer has any depreciation expense, and that lowers their fixed costs because that depreciation expense then each year feeds into the cost of production, so when you buy a company for less than the assets are worth, it lowers its cost of production.

COMMISSIONER PINKERT: Thank you. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Johanson?

COMMISSIONER JOHANSON: Yes. Thank you, Madam Chairman. Mr. Stockton, I have a question for you. You explained that in a tight market re-rollers essentially receive what is left over from basic producers' mills. Has there been a tight market in the United States since 2005?

MR. STOCKTON: Yes, 2009, 2010 when the U.S. emerged from the recession. It was extremely tight.

COMMISSIONER JOHANSON: How did that impact your business?

MR. STOCKTON: We went from receiving material on time at above 80 percent to in some cases to 45 to 50 percent, and we missed orders with customers.

COMMISSIONER JOHANSON: How long did that last?

MR. STOCKTON: I'd say roughly six to seven months.

COMMISSIONER JOHANSON: Okay. Thank you. You also testified that during the period of review your company encountered long lead times, and in looking at the staff report, it appears that there was ample available capacity, so I'm wondering why there were lead times, why the lead times were so long?

MR. SHOR: We were wondering that, too.

COMMISSIONER JOHANSON: Would you like to elaborate on that?

MR. SHOR: I don't believe their capacity numbers. I mean, I think, and you heard it this morning, they do it for us, and they do it for them. They're counting as capacity the BSS that they could produce, and they include in that, if they are using their existing capacity to produce Series 100 alloys or Series 300 alloys, even though they are using that capacity to produce another product, they still count it as BSS capacity, so when measured against what they're actually producing, there's a lot of excess capacity.

I don't think you can reconcile the longer lead times, the problems customers had in getting deliveries with the fantastic excess capacity numbers they claim. It just doesn't make any sense.

COMMISSIONER JOHANSON: Thank you. Anybody else? Okay. Mr. Shor, if I understand you correctly, you stated that Wieland supports revocation to protect its investment in the United States and that Wieland USA has concerns about obtaining BSS for re-rolling in the United States. Do you think that domestic producers are in danger of closing? Is that a concern as far as supplies go?

MR. SHOR: There are certainly some domestic producers that are in danger of closing, not the primary producers, but some of the re-rollers are in a rather tenuous situation. It's not so much a danger of closing. We do worry about the long-term health of these companies when you have the biggest producer owned by a company that's looking for a quick profit. They tend not to invest and maintain the equipment as much as they otherwise would, so you can get a supply disruption.

They had a fire in their melt shop back in the 2000s. That threw the whole industry off by one company, so yes, there are reasons to be concerned, not so much about whether they'll go out of business but whether they will maintain the investments that are needed to keep operating reliably.

COMMISSIONER JOHANSON: Do you see any examples at this time of them not putting sufficient resources into reinvesting in the companies?

MR. SHOR: We'll address that in our post hearing.

COMMISSIONER JOHANSON: Okay. That's fine. I understand. The domestic interested parties cite the Department of Commerce's 1996 determination that Wieland Metals would source subject product in the form of feed stock from its German parent for its U.S. re-rolling facility in order to maximize capacity utilization in Germany. Should the Commission place any weight on that decision, and why or why not?

MR. SHOR: It was 15 years ago. Again, at some point, you've got to deal with the current facts and not historical events. The Commerce Department, we would say that finding was based upon their own particular sets of statutory circumstances. We would contend that was pure speculation on their part, but again, we are in a capacity-constrained environment today. Wieland, as you heard, is operating at full capacity now, so the question is not is there excess capacity by which you could use to produce more re-roll material. We can't.

We don't have the excess capacity, and we tried to provide, as clearly as we could, an explanation of why in today's environment with copper prices five times what they were then with today's transportation costs, today's duty costs and today's financing costs why that statement simply is untrue today.

COMMISSIONER JOHANSON: Thank you. Anybody else? No? Okay.

MR. TRAA: Werner Traa.

COMMISSIONER JOHANSON: Yes, go ahead, Mr. Traa.

MR. TRAA: I would like to point out again the situation with China. If really the situation would be the was that -- Wieland says: "let's just produce BSS. We like to produce this kind of product. It's a low-margin product. Let's dump it on markets, and we would not care about profits." Why don't we supply then or dump it into the Chinese market or into the Asian market? What is for us a reason to not look at profits, at costs and all that in regards to the U.S. when the order is revoked, but we could do this now in China?

The numbers show you that we don't do that, so I still feel this proves our case. There is really no intention of us to sell at low cost into these markets. Our capacity is fully used, so I don't have any other things to add.

COMMISSIONER JOHANSON: Okay. Thank you for your response, and this is perhaps a good question for you, Mr. Traa. I believe you mentioned that you had visited the facility in Bulgaria with large excess capacity. You're also aware of a producer in Poland. I was wondering where are they shipping? Where are they exporting in the world, and in addition, if when you spoke with them you had asked about their interest in possibly exporting to the United States considering the United States is such a large market?

MR. TRAA: To my knowledge, Bulgaria, this was a former Eastern European company and the Greek producer called Halco, Viohalco, they have purchased that company. They renewed quite some investments into that company. And, to my understanding, the excess capacity there, and we have always to be careful with excess capacity, but that must be in the area of 120 million pounds for sure. They are producing right now mainly for the Southern European market like Italy, like, of course, Greek -- Greece, and Croatia, Serbia, that area. They are concentrating on roofing copper instead of going to the United States.

We have approached them to supply to us and, as Mr. Schuler indicated, they are not interested at these conditions to supply to the United States. I'm not aware about other approaches from them but, if I look at the figures, at the export figures, I don't see any exports from Bulgaria to the United States. Quite frankly, I don't know why they are not interested but, I guess it's the same reason we wouldn't be interested and that's, as we mentioned here, the price level. If you consider the cost that it takes to bring this low-margin product to the U.S., it's the freight. It's the Customs duty. I'm not talking about the dumping duty; I'm talking about regular Customs duty. That's just too much for that product. Sorry, it doesn't work, even for a country like Bulgaria.

COMMISSIONER JOHANSON: How competitive are they in the European market?

MR. TRAA: They are competitive.

COMMISSIONER JOHANSON: They compete against you, I assume.

MR. TRAA: Yeah.

COMMISSIONER JOHANSON: Yeah.

MR. TRAA: They supply fin stock, two slitting centers in Europe, but not to the U.S. and they could do so. There is no dumping.

COMMISSIONER JOHANSON: Do you see them potentially ramping up production in order to ship more to the EU, if conceivably the EU becomes a healthier market? Or is their quality just not there?

MR. TRAA: The quality and the basic product is there. That's not the problem I see. My understanding, Viohalco is more and more concentrating on the roofing companies right now, more markets for them. And then, quite frankly, they go, also, into aluminum. I don't know how they do this with the equipment but, my -- what I hear from the market, that Viohalco is going more into these metals, aluminum.

COMMISSIONER JOHANSON: And that is the Bulgaria producer?

MR. TRAA: That belongs to Viohalco.

COMMISSIONER JOHANSON: Okay. And the Polish producer, how competitive are they in the EU market? How much do they compete against your company?

MR. TRAA: It's a very, very small producer. I might ask my colleague, Mr. Goertges, who is really more into those details, to help me here.

COMMISSIONER JOHANSON: Thank you.

MR. GOERTGES: Let me explain a little bit our business model, in order to reply to your valid question. We are more or less in those applications active where copper is still needed because of their properties and the characteristics. Copper has a certain electrical and thermal conductivity. So, we place our products where all applications have something to do with the transmission of electricity, of signals, or waves. We stepped out a long time ago of low-end margin applications. So, our main focus is the automotive industry, the electronics, the electrical engineering, and machining.

The Polish company is active in markets where we are not in because these are low-end markets, where a different quality is required. And with our high-end lines, with our machines, we are more or less content to deliver to those high-end applications with better margins. So, we don't feel the Polish competitor, not in our markets, because of the fact they're active in different markets than we are.

COMMISSIONER JOHANSON: Okay, thank you for your response and my time is up. Thanks.

CHAIRMAN OKUN: I have a couple of questions just with respect to the characterization of the domestic industry and how we evaluate it, and I'm not sure, Mr. Shor, if this is just a question for you. But one of the responses from -- I don't remember -- responses from the panel this morning when asked about whether there was, in fact, a cost-price squeeze, was Mr. Heusner's response that if we could cover the cost, you would see different operating margins. And I wanted to get the response, your response to that, that, you know, you're characterizing a very healthy industry and they're looking at those numbers and saying --

MR. SHOR: Yeah, two responses. First, I assume we're looking at the same numbers; they just see them differently. If I look at page C-4 of the public version of the staff report, I see unit operating income of the domestic industry going from five cents a pound in 2005, five cents a pound in 2006, to six cents a pound in 2009 and six cents a pound in 2010. To me, that shows that their operating income per pound increased, so they were able to raise their prices more than their costs. There's no evidence of any cost-price squeeze here. Operating income per unit went up, it didn't go down.

The other point I wanted to make, which I think goes back to a related question you asked the domestic industry representatives this morning, or it might have been Commissioner Aranoff, the question about, well, is it appropriate to look at this industry as operating income divided by sales or should we look at fabrication margins divided by sales. I will put it in my post-hearing brief but, I urge you to look at, this is Global Brass and Copper's business overview, financial advice. Morgan Stanley is shopping around the company and they put out a little brochure, highlighting Global Brass. They do not at all mention operating income divided by sales. They do it exactly the way we suggest you do it.

Global Brass, itself, breaks down what they call net sales and then they have adjusted sales. Adjusted sales is what we've been terming the fabrication charge, that is everything except the metal. And then, they show EBITA divided by sales and adjusted sales per pound. That's exactly how they show their own profitability to investors. And, again, to get back to the point, it's a straight line up. Their adjusted sales per pound went from 88 cents in 2008, to $1.04 in 2011, earnings per pound from 10 cents in 2008, to 23 cents in 2011. Everything is turning upward.

CHAIRMAN OKUN: Okay. Put that in your post-hearing. And then, you know, obviously, this is not the first time we have looked at this industry or the first time for us that we've looked at an industry where there's a metal margin and, you know, it's helpful for counsel to put arguments in terms of why we would look at something differently than we have for purposes of --

MR. SHOR: I think what's different now is the copper price. You've gone through a situation where copper price has tripled over the period. And what they're claiming is, well, since their profits didn't triple, when you divide by net sales, it looks like they're doing worse. They're not doing worse. They're making more money per pound. They're making more money in absolute terms. They're making more money on the measures they use for their own investors. The only thing it looks bad on is if you divide by net sales, but that's because they were able to raise their prices by more than double over the period. That's not a sign of an industry in decline. That's a sign of health.

CHAIRMAN OKUN: Okay. Then another question best directed to you, and obviously we'd like to see more post-hearing, which is on the cumulation arguments, particularly with respect to the argument on corporate affiliation. And I don't know if you had any responses today to Ms. Cannon's discussion of why this is not similar to other cases, where the Commission has used corporate affiliation as a reason to not cumulate.

MR. SHOR: I'd like to respond. I wish I understood the argument better. The first argument I heard was, well, it doesn't really apply to Aurubis's situation because Aurubis is independent. That quickly fell apart under some questioning. Just so you understand the Aurubis situation, at Aurubis AG, there is a global VP for sales and management and he controls both Aurubis Stolberg and Aurubis Buffalo, the same individual. It's not independent companies. There's one individual in charge of sales and marketing for both companies.

He, then, reports to Mr. Traa's equivalent, member of the board of directors of Aurubis, who also sits on the board of directors of Schwermetall, along with Mr. Traa. So, the notion that Aurubis Buffalo somehow isn't controlled by its parent company, AG, it's just ridiculous. I mean, that's the most ridiculous thing I heard all morning.

And then as to the other companies, we have

Wieland that controls Wieland Metals. The only argument the Petitioners made in their brief was to focus on this re-roll material. They basically understand that Wieland in Germany has no incentive at all to ship finished product to the United States, to compete with the finished product that Wieland Metals sells in the United States. That would be undercutting its own investment.

So, they realized the only argument they can make is to ship the re-roll material to Wieland Metals, but that argument collapses once you look at the cost and the price of that particular product. The only other company left in Germany is Schwermetall. Schwermetall doesn't even produce finished BSS and is incapable of doing so, and it's controlled by Wieland and Aurubis.

So, it's not going to do anything to undercut investment. There is no distinction other than -- I mean, I remember what Ms. Cannon said. She said, well, you don't have an affidavit from a single individual saying that they're not going to undercut prices in the U.S. because it's all controlled by the same individual. Well, that's a difference without a distinction. We're talking about, is there an economic incentive for a company in Germany that owns a producing company in the United States, to ship at prices that will undercut its own investment. It's the same exact factual situation, as it was in the case of the Korean company, Poongsan, that owns PMX, that you examined in the first review. It's the same as you examined in the Sorbitol from France case. And it's the same situation, albeit with maybe more detail, but not materially different facts in the Steel case.

CHAIRMAN OKUN: Well, for purposes of post-hearing, I think the point I would make is it has -- any other cases where the Commission or Commissioners have relied on that, it has been a factual inquiry to establish those facts which you allege, because I think that we have seen over time different arrangements. I mean, you know, there are global suppliers and there are global suppliers and so I think whatever factual information can be provided helps supplement that argument.

MR. SHOR: We will submit it like that.

CHAIRMAN OKUN: Okay. And then, I think this would be a post-hearing request, as well, which is maybe you'll be able to provide, both the German Respondents and Mr. Stockton, information about pricing in the markets. And I just think to the extent there's anything else that you could provide on the record that helps demonstrate that and, in particular, for Germany with respect to the argument on it being a regional market, which is something the Commission has looked at, I think that would be helpful, as well.

And with that, I don't think I have any other questions and I will turn to Vice Chairman Williamson.

VICE CHAIRMAN WILLIAMSON: Thank you, Madam Chairman, just a couple of questions. Mr. Stockton, you indicated that late deliveries of BSS from domestic suppliers cause you to lose orders. Now or in post-hearing, can you provide us examples of the business you lost as a result of this?

MR. STOCKTON: Yes, in the post-hearing, yes.

VICE CHAIRMAN WILLIAMSON: Good. Okay, thank you. I asked this question this morning. I don't know whether Respondents have anything to say about it. On Table 2-1, which shows the domestic shipments of -- shows the share of domestic shipments of subject imports and non-subject imports that were sold to distributors and end users. For both subject and non-subject imports, the table shows a large increase in percentage sold to distributors between 2007 and 2008. I don't know whether you have anything now or can you explain this shift in post-hearing. This is Table 2-1.

MR. SHOR: 2-1, which page is it on? There it is.

VICE CHAIRMAN WILLIAMSON: Page 2-2. Why don't you do it post-hearing, that would be fine, if you have any information on that?

MR. SHOR: Yeah, we will address it in more detail -- we'll address it in our post-hearing brief. We haven't looked at it.

VICE CHAIRMAN WILLIAMSON: Okay, thank you. In their briefing page 61, the domestic producers cite statements of several U.S. purchasers, they would intend to purchase subject imports if the orders were revoked, and I was wondering if you have any comments on that?

MR. SHOR: That's always an interesting question because the question is always asked, would you buy from Germany. It's never, would you buy from Germany at a price that they've quoted you on. If you look at who those purchasers are, first, I don't think many of them have ever bought from Germany before. But, our point is, it's not just whether a purchaser would be willing to buy. It's whether the German producer would be willing to sell. And at current U.S. price levels, Wieland has told you over and over again that they are not willing to ship material from Germany at current U.S. producer price levels.

VICE CHAIRMAN WILLIAMSON: Okay. Okay, thank you. And actually with that, I have no further questions and I want to thank the witnesses for their testimony.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madam Chairman. Mr. Schuler, is there any circumstance under which Wieland Metals, Inc. might consider either building or buying a melt shop? I mean, I ask because you've expressed concern about availability of supply and so that's -- you may not want to say much about this in public, but I -- you know, whatever you're able to say, I'd be curious to hear.

MR. SCHULER: I think we will address the point in the post-hearing brief. But, I mean, let me say, maybe one or two sentences to it. Obviously, it would be my dream, no question about it but, I do have to stay realistic. In order to operate a hot-rolling mill and a foundry, you need to spend a lot of money. You need admittedly relatively high volumes to make it work. At this junction, where we stand with our share in the market here, this is not an easy avenue out.

MR. TRAA: Werner Traa. I would like to add, it's not my intention to add more capacity to this market. It would also make no, really no sense to add to a market, which is stagnant, where there is enough capacity, especially in this product. Why should we spend any money in adding additional capacity to this market? So that's at least the view of the Board and, of course, he -- as he mentioned, it's his dream, on the other side, I think we should stay realistic. Why should we spend any money in this market right now to add additional capacity? It makes no sense, no economic sense.

COMMISSIONER PEARSON: Now that point is well taken. I hear what you're saying. There was a discussion earlier about long-term contracts and I just want to -- I think Commissioner Aranoff addressed this, I just wanted to go back and clarify. In essence, were you saying that if you signed a long-term contract, that it might have some minimum quantity that you would be wanting to buy and perhaps some maximum quantity, so that there would be potential variability of quantity within some range?

MR. TRAA: Yes, I would be ready to sign

contracts saying -- or fixing quantities, minimum quantities. That's what I said, yes.

COMMISSIONER PEARSON: Okay. And how would the pricing be handled in such a contract, because, with the variability and copper pricing, it probably isn't feasible to just say so much per pound for three years? Would the pricing be set relative to the current futures price at the time of production or shipment? Or would it be based on fabrication charges, rather than copper price? How would that be handled?

MR. SHOR: I can address that, Mr. Pearson, because I've looked a lot at these contracts. The standard format for the contract is to specify a fabrication charge that's fixed for the period of the contract and then metal pricing is based on a formula. It's going to be LME pricing for copper and zinc, plus a set premium that is usually -- the premium is usually set for the duration of the contract, and then the customer has the option of fixing the metal on a date of its choosing. So, if you think metal prices are going up, you do it at one time or you do it at another time. But, it's basically fabrication prices and the premium, metal premium are fixed in the contract, but the actual metal price fluctuates with the LME price.

COMMISSIONER PEARSON: Okay. Do we already have on the record one or more of these contracts?

MR. SHOR: I don't believe so.

COMMISSIONER PEARSON: Would it be possible to put that on the record, perhaps even in English?

MR. SHOR: We can certainly do that.

COMMISSIONER PEARSON: Just to have an example, because that would tell us something about how in the real world these issues are dealt with.

MR. SHOR: Certainly, we'd be happy to do that.

COMMISSIONER PEARSON: Okay, thank you.

COMMISSIONER PEARSON: Mr. Stockton, you may have commented on this already, but do you foresee continued decline in demand for brass sheet and strip in the United States or is there a bottom in sight? Are we getting down to where there's kind of residual demand and you're going to have U.S. customers that you serve over time?

MR. STOCKTON: I'll address our thoughts on the marketplace post-hearing. I think there was an earlier question just asking about the market. I mean, what I would just say is that as a company, our goal is to be close to our customer base. So, as long as our customers in the United States are using parts made of brass sheet and strip, it would be our aim to have our manufacturing facilities close to them.

COMMISSIONER PEARSON: Okay. And that's an excellent answer from a businessman who has a customer focus. And, finally, I think for Mr. Shor, you talked recently about the fabrication as a function of income, the fabrication charge as a function of income, as a way of measuring how well the industry is doing. Do we have the data that we need to do that calculation across the period of review?

MR. SHOR: I believe you do. The way I would look at the industry -- and the term "fabrication charge" is used differently in different context, so let me use my own terminology, maybe that would be helpful. I think that the measure of what the industry is actually doing is what I would call margin over metal. This is -- look at the total purchase price, subtract the LME metal component of the price, and then you're looking at the price that the industry actually sets. And that's what I believe Global Brass does in their own financial statements. The staff report contains a calculation of that amount and that's what I believe in the staff report, it's called fabrication charge. It's not the actual fabrication charge. It includes some of the variable component of the metal price. And that's what I would look at and there is a calculation of that in the staff report.

COMMISSIONER PEARSON: Okay. So, our staff report currently does a good job of presenting this issue that you've been --

MR. SHOR: Yes.

COMMISSIONER PEARSON: -- talking about?

MR. SHOR: Yes, it does.

COMMISSIONER PEARSON: Okay. Okay, good. It wasn't clear to me whether you wanted us to do something more.

MR. SHOR: No, we agree with -- it's an estimate, but it's based on the actual data you have gathered. And you can also see some of it in the pricing data, because, there, the product prices were broken out by the different components. You have fabrication part. You have metal premium. So, you can see the trend over time, as well, from that data.

COMMISSIONER PEARSON: Okay. Well, thank you, very much. With that, I think, Madam Chairman, that I have no further questions. So, I'd like, very much, to thank this panel and have good flights home. I don't know whether we'll see you again in five years or not. I won't be here. Thank you.

MR. SHOR: Nothing personal, but we hope not.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madam Chairman. In the preliminary review, German producers reported that about 10 percent of their total BSS production in Germany was higher value, specialty products. Can you update the record for us on that and tell us whether that amount has changed during the current review period? And if you want to take a look at what you said the last time around and make sure you're using the same definition, please go ahead and do that post-hearing.

MR. SHOR: I think we'll take a look at that.

COMMISSIONER ARANOFF: Okay, thank you. The issue of transportation costs has come up a number of times today and I know there are some anecdotal examples in the record. If there's anything that you could provide that would give us some additional information on transportation costs from Germany to Asia and to the U.S. and, in particular, to China from Germany, that would be helpful in rounding out the information that we have on the record on transportation costs.

MR. SHOR: Yes, if I could address that, just so you understand what's already on the record, because you just see the summary of it in the staff report. We provided on the record copies of invoices, actual freight invoices for shipments from Wieland Germany to Wieland Metals. And we don't ship direct to China. It tends to go through Singapore. That's where their facility is. So, we provided freight, actual freight invoices for shipment from Wieland Germany to Singapore.

Not to belabor the China point, but China is a very, very small market for Wieland. In 2010, you have in the questionnaire response the total shipments of Wieland to Asia. Twenty percent -- I'm sorry, for 2010, 15 percent of that is China. So, it's a small percentage of a small number. China is not a significant market for Wieland for the reasons that the Petitioners testified to. Prices are low there. We do not ship increased in quantities to low-priced markets.

COMMISSIONER ARANOFF: Okay. It's an open opportunity to fill in any additional information on transportation costs.

MR. TRAA: Werner Traa. I wanted to make a remark on that. I heard today about Germany being very strong in exporting and that's correct but, of course, mainly in the European area. If you look at China and specifically Europe into the United States, you have to keep in mind that most of the products shipped in containers overseas are coming from China to the United States and from China to Europe. Therefore, the freight rates from Europe to China and the freight rates from the U.S. to China are lower than the opposite way, because the forwarders are looking how to bring their empty containers back to China, where then they get filled with all the products we buy from China, also the U.S. buys from China. So, as a matter of fact, the freight from Europe to China is very, very low because, otherwise, they have to ship empty containers back. This is an explanation I get from our people because they are constantly asked this question and at least this was a logical or is a logical explanation. But, we will supply you with the data.

MR. SHOR: The numbers are not confidential. It's 12 cents a pound to the United States and five cents a pound to Singapore.

COMMISSIONER ARANOFF: Okay. The last question and I asked this, this morning with the domestic producers. In the brief, you argue about the domestic industry is immune to a cost-price squeeze because raw material prices are passed through to the customer. In the last review, though, the Commission found that "the practice of separating metal prices from fabrication or conversion prices does not insulate the domestic producers from pricing pressure." Has something changed in the current review period that now makes the industry more immune to a cost-price squeeze than the Commission found five years ago?

MR. SHOR: I hope that we provided a better explanation of the industry's pricing practices this time. I don't think that finding last time was accurate. They pass through in full the raw material costs. And I can address the things they mention. They talk about melt loss, the amount that evaporates up the furnace. That is less than one percent -- closer to zero or closer to one percent is it -- it is between zero and one percent and they build that into the metal premium. So, the idea that the melt loss has some impact on this is totally false. Moreover, if they're operating better over time, that melt loss is going to decrease. If there's some reason the melt loss is increasing, it has nothing to do with rising copper prices. That's a production problem they're having. So, melt loss is a complete non-factor.

And, you know, I don't know how to say it clearly enough, but the proof is in the numbers. Cost went up dramatically during this period. Raw materials cost doubled. Look at operating income per pound. It didn't decrease. It increased. That has to mean -- it can't mean anything but -- you know, the arithmetic is simple. If your costs go up and your operating income is going up, too, it means you're more than able to pass along your cost increases.

MR. SCHULER: I can maybe also add one other sentence here. Costs have gone up and it will always trail certain increases in passing it through to your customers. But, I think if you just look at the numbers that we discussed today, for the copper price, what we're all paying at the pump today, what electricity is compared to what it was years ago, today, nobody can deny it anymore. Nobody can absorb smaller changes in price increases and sort of pretend, okay, others are not increasing it, I don't accept an increase from you. Now, the increases have been so massive, that everybody was forced to put it on the forefront and really report it and ask for those surcharges that are now part of this margin over metal. And that aspect, really, the perspective has changed because it has become obvious to every citizen around the world that a lot of these costs have escalated in ways that we have never seen before.

COMMISSIONER ARANOFF: So, I don't think based on that, that there's actually a fundamental disagreement between this panel and the panel this morning. But with respect to pricing, there's been an increasing attempt to capture every variable piece that goes into a formula and somehow get it indexed or in some way included, so that the cost variability is not quite as hard on the producer. But that said, they're not all going to time out perfectly. So, there's still going to be some risk. The risk is not 100 percent passthrough down to the customer.

MR. SHOR: There's no risk on copper price increases. That's a full passthrough.

COMMISSIONER ARANOFF: It depends on when you're charging it, relative to when you bought it.

MR. SHOR: No. You have to understand, that is absolutely incorrect. They do not go long on copper. They do not buy copper one day and sell it the next day. They buy it and sell it at exactly the same time. They are taking no metal risk at all. That's what Olin means by its balanced book approach.

They do not buy or sell metal without covering that position that day. It is absolutely incorrect to assume that they are taking some metal risk between the time they sell it and the time they buy it. It happens at the same time.

MR. TRAA: Well, I guess -- Werner Traa -- no brass mill or no producer in the world is really capable of covering that risk. So, we have 100 percent hedge policy, as we call it -- everybody calls it a little bit different, but it's really, we don't have any risk out there. So, we don't speculate. This is what everybody in our company learns on his first working day, we do not speculate. We know we might make a lot of money in buying at low price and trying on speculating on a rising market. This is absolutely no, no, because our owners would not -- would kick us out. They would say, look, you speculate, you don't produce or fabricate products. So, this is really the thing every employee in our company has to learn on his first day, we don't speculate.

COMMISSIONER ARANOFF: Okay.

MR. SCHULER: You have to see the -- Markus Schuler -- you have to see the relationship of, for example, again, the cost for raw material at 28 cents and copper price swings of 10, 15, and sometimes even 20 cents a day. It would be horrible for everybody's business to be open and exposed to such swings. All of us here in this room, all companies here have developed methodologies to deal with those swings and none of us is taking a risk on buying something at a higher price and having to sell it at a lower cost later on. We do bridge those time lapses between purchases and sells through hedging transactions, like Mr. Traa explained. But, we are perfectly secure and safe on metal swings, if we do our work properly.

COMMISSIONER ARANOFF: Okay. I appreciate all of those answers and I do want to thank this panel for all of your time and assistance this afternoon. Thank you, Madam Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Madam Chairman. I just have a few more questions. I want to begin, though, by offering the Petitioners an opportunity in the post-hearing submission to comment on this question of whether Wieland, in its U.S. re-rolling facility, has had a difficult time obtaining high quality or top quality inputs. And if, in fact, they have had a difficult time with that, then, please, also, comment on why that might be the case.

MR. HARTQUIST: We'll do so. Thank you.

COMMISSIONER PINKERT: Thank you. And I want to give -- since the original testimony on this came from Mr. Stockton, I want to give you another opportunity to comment on that issue, if you have any additional comments.

MR. STOCKTON: Okay. I'll do so in the post-hearing.

COMMISSIONER PINKERT: Thank you. Now, in terms of the cost-price squeeze and whether or not the U.S. industry is subject to the possibility of a cost-price squeeze, I note the testimony about profitability and about the arithmetic relationships that you, Mr. Shor, have identified on that, but can you extend the analysis also to the ratio of cost of goods sold to sales, either here or in the post-hearing?

MR. SHOR: Okay. I'll have to take a look at the numbers.

COMMISSIONER PINKERT: Thank you. And, in particular, let's say, look at it over the past two or three years.

MR. SHOR: Well, actually, I can address it now. That's the argument I started with in my opening statement. They are basically saying that if their costs double, then they should be entitled to have their prices double and their profits double, because that's the only way you keep those ratios the same. The way I look at it is a cost-price squeeze is not that your profits keep up with your costs. It's that your prices keep up with your cost. So, the ratio is going to change, but the absolute amount of profit should stay the same. That's why the ratio is changing, because their cost doubled, their profit went up, but it didn't double. So, they're claiming they're hurt by the fact their ratio declined. That's just an argument that their profits didn't double.

COMMISSIONER PINKERT: Thank you. Now, does having -- I think this is more a question for the business folks on the panel, but does having scrap as a raw material tend to keep the margins on the finished product down?

MR. SHOR: There's one aspect of that, that's interesting, which is on the tolling side, which we haven't talked about, and it's part of the explanation, I think, why we argued that rising copper prices helped the domestic industry's profitability. You heard testimony this morning about if you're in a tolling arrangement, you have -- your customer has to deliver the scrap or the metal to you six weeks before the production date. And sometimes, they start with you. If you're a large generator of scrap and you don't have room for it, you'll ship it off to your supplier. The beauty of that arrangement is, they don't have to hold that scrap for that supplier. They can melt it and sell it to somebody else and they haven't paid a penny for it and they don't have to finance it. It's a way that the domestic producers have their customers finance their metal inventory.

So, that's another condition of competition that we tried to argue needs to be considered, is it's not only we can't compete in the tolling segment of the market, but it provides huge benefits to the domestic industry because they have their customers finance their metal inventory. Did someone want to address the rest of the question?

COMMISSIONER PINKERT: Specifically in regard to scrap and whether or not that, as an import, tends to keep the margins on the finished product down.

MR. TRAA: I tried to repeat the question because it's for us probably hard to understand. Do I understand, it is correct, you asked us whether we feel that if you put more scrap into the process, that then the profit is down? No, I mean, our colleagues this morning said it in the same way and we agree to this, if you add scrap to the manufacturing process, the right grade of scrap, then your profits go up definitely. So, again, for us, a reason why this -- be as products, that's -- in our home market, it works. It's acceptable. But, this is not a product to export because you need a certain portion of scrap for this. Otherwise, you cannot make money on this. We heard this, this morning. I agree fully to the colleagues, to the U.S. producers, who said this is the same for us. So, in Europe, fine, this is a way of dealing with it but not overseas. We cannot do tolling or scrap business here, if I understand your question fully.

COMMISSIONER PINKERT: No, that's helpful. That's very helpful. Thank you. And can I get any testimony from this panel about what's currently happening in the relevant scrap markets. That is, the scrap that's used as an input to BSS?

MR. SCHULER: Markus Schuler. We did hear that we index our price for new virgin metal that we, also, as a re-roller, obviously have to apply because we don't cast or hot-roll material. We do apply the COMEX and LME exchange prices as the basis of our cost calculation of metal. In the case of virgin metal, you have premiums on top of the virgin metal. It's the insurance, the freight, the financing of the virgin metal upon arrival to any port in the U.S. or in Europe. But, you do have, on the other hand, deductions for scrap of those official notifications. And like the metal, they to -- they are volatile and move. They move primarily also along with the virgin metal prices, but the deductions also sometimes take a little bit of a dynamic of their own. So, you do have, also, on that side, constant changes. What in general remains is that for virgin metals, you always pay premiums over the publications of LME or COMEX and for scrap, you will have deductions of those official published prices.

So, if you do have scrap material available from your own production to bring that back into the production process, it's always beneficial to every customer, because they will always have to sell it at a loss, compared to what they actually paid it for in the first place.

MR. SHOR: Yeah. Maybe to bring the point home, Markus, can you just describe kind of what the average scrap deduction is for copper, for brass these days?

MR. SCHULER: I think we have for pure

copper, probably in the range of seven, 10, or 12 cents per pound, maybe a tidbit more for brass alloys. It's again, in relation to the re-roll price, a very important factor, because it takes on very quickly a significant percentage.

COMMISSIONER PINKERT: Thank you. And my last question is more of a legal question and it relates to this issue of what to do when a responding entity fails to supply information to the Commission, but that entity has some affiliation with the domestic industry. Has the Commission ever used an adverse inference in that situation to actually go against the interest of the domestic industry because of that affiliation with the domestic industry?

MR. SHOR: I'm not aware of any case in which the Commission has expressly stated it's drawing an adverse inference. You normally will say things like we have an obligation to view the record as a whole and we consider this, that, and the other thing, and everything combined. But, it has certainly been the case, and you can look at your decision in the last review, basically, if the responding industry doesn't respond, you don't say you're drawing adverse inferences, but you will say, for example, that we have data on the French industry, even though nobody produces BSS, that they have total capacity of copper alloys of 800 billion pounds and so we're going to assume that some of that 800 billion pounds would come to the United States. It would be nice for a change to do something similar to the domestic industry.

COMMISSIONER PINKERT: Thank you. And with that, I have no further questions. I appreciate the information that the panel has given us and I look forward to the additional information in the post-hearing submission.

CHAIRMAN OKUN: I don't think there are any other questions from my colleagues. Let me turn to staff to see if they have questions of this panel.

MR. MCCLURE: Jim McClure, Office of Investigations. We do have one question, as we've gone back and forth about France today and we have tried our best and have gotten very little. So, I'm inviting both the current panel and this morning's panel to throw in whatever you may have that's on the public record, wherever, on the industry in France during this period of review. That's starting in 2005. We don't need to go back to the Napoleonic era on this. But, if you could capture the last five years, we would appreciate it. That's all. Thank you.

CHAIRMAN OKUN: Thank you. Do those in support of continuation have questions for this panel? No questions for the court reporter.

Very well. Before we turn to our closing and rebuttal, let me take this opportunity to thank this panel of witnesses for your participation this afternoon, for answering our many questions. And let me just go over the time remaining. Those in support of continuation have a total of nine minutes, four for redirect and five for closing. Those in opposition of continuation have a total of 10 minutes, six remaining for redirect and five for closing -- I'm sorry, six minutes for direct, minus one minute for questioning, and five for closing, for a total of 10. If there's no objection from counsel, we will do closing and rebuttal together. So, we'll take this opportunity to let this panel go back to their seats and bring those in support up for their closing and rebuttal.

MR. SHOR: Madam Chairman, could I just ask for a five-minute break? My friends from Germany have a flight to catch, so they're going to need to leave right now. So, could we just have a five-minute break before starting closing?

CHAIRMAN OKUN: Okay.

MR. SHOR: Thank you, very much.

(Whereupon, a brief recess was taken.)

CHAIRMAN OKUN: Mr. Hartquist, you may proceed when you're ready.

MR. HARTQUIST: Thank you, Madam Chairman. We'll address many of the issues in the brief, but I do have a few things that I'd like to talk about in my closing. With respect to Wieland and whether they would dump again, they have not been able to present any, at least in my judgment, convincing arguments to dispute the validity of the finding by the Commerce Department not too long ago, that the U.S. facility has every reason to input feedstock from Germany. And you heard their concern about domestic suppliers, they'd like to have that option available to them, and I think that's quite clear.

The U.S. producer reported capacity does not include capacity to produce other products. Mr. Shor's assertion along these lines is simply incorrect.

With reference to lead times, long lead times did occur temporarily at one point during the POI, in response to a sudden spurt. Remember when the U.S. economy was on its way back up for a very short period of time. So, there was a short term unfortunately increase in sales. But, overall, the industry has had significant unused capacity for the subject products and still does.

The profit numbers that Mr. Shor has cited for Global Brass are for the company as a whole and what he studiously ignores is the key profit figure in this case for this industry, which, as we pointed out, is a meager 1.4 percent operating profit to sales ratio, and that's the figure the Commission has used for -- that's the test the Commission has used for decades.

Now, Mr. Schuler testified that he, having seen non-public data -- he didn't say that, that's my words -- his concern about the viability of domestic re-rollers, concerned about them going out of business. I think that is absolutely irresponsible and has no place, no basis for a public hearing, for counsel to make that kind of an assertion. And I would urge Mr. Schuler to reexamine what he said in the light of what he knows the case is and comment further and straighten that out.

He, also, testified, again I think with no evidence whatsoever, that the U.S. producers keep the best stuff for themselves and don't sell it to Wieland. There is no basis for that on the record and we don't think Wieland can provide any evidence of that to the Commission. Again, simply irresponsible and without factual basis.

Mr. Traa commented about the desirability of producing low-priced or low-margin goods versus high-priced goods. And he made an analogy that if he's in the champagne business, why would he want to make tap water. I think he had to leave, but I was going to try to bet him 20 bucks or 20 Euros that Deer Park makes a lot more money than Dom Perignon does. The point is, if you have the volume, you can make money on a low-margin product but, the volume has not been there.

Contrary to the Respondents' assertions, the website of the German producer, Carl Schreiber, shows clearly that it does produce 200 series brass and produces sheet and strip, not just plate. We'll have more on that in the brief.

And, lastly, there's been some discussion about a grade B-274, whether it's available from domestic producers. It can be made by domestic producers. It will be made by producers, but it depends upon negotiations to get a price that is attractive. It's not a matter of whether they can make it. It's a matter of whether it's economically desirable for them to do so. And with that, I'll conclude and thank you all for your time and patience today.

CHAIRMAN OKUN: Thank you.

MR. SHOR: Madam Chairman, members of the Commission, first, let me address Mr. Hartquist's point. I was not relying upon any non-public data. I didn't even look at the domestic re-roller questionnaire responses because they're so significant -- insignificant in this industry. I was referring to the fact that Scott Brass went through bankruptcy proceedings once already and is -- that was the basis for my statement, that there are domestic re-rollers that we're worried about in the industry.

Let's look at the issues before the Commission. The first question before you is, is there excess capacity in the industry. We provided the data for all German primary producers. Carl Schreiber, Mr. Hartquist didn't mention this, did notify the Commission that they do not produce BSS. They talked to the Commission, they told you they don't. Lots of companies put products on their website that, if you order, they obtain from somebody else. There's nothing on their website that says they actually produce that product and they have told the Commission that they don't.

MKM and KME do not produce brass in Germany. We can go through it company by company. We've provided the detail in our brief. But, it's interesting to hear how the domestic producers speak about Aurubis, which is the third largest brass producer in Germany, the largest re-roller, affiliated with the domestic industry, did not respond to the questionnaire. They don't talk about what assumptions you should make about Aurubis but what they did say was interesting: don't worry about Aurubis because it's just a small re-roller and it's not significant. Well, if Aurubis is just a small re-roller that is not significant, so, too, is every other producer in France, Italy, and Germany, that they talk about.

The fact is that, and you have the data in your confidential staff report, the German industry operated at capacity in 2010. In 2011, there was a drop of slightly less than full capacity but, you heard testimony today that in 2012, they are back to full capacity. The issue of whether you talk about BSS or other products or how you allocate capacity between subject and non-subject is irrelevant in that context because when the rolling mills are operating at full capacity, there is no allocation issue. It's all being utilized. There is nothing left to produce more BSS. There are no inventories to sell to the United States.

I do not understand the domestic industry to be making a product shifting argument. If there's one thing that both sides seem to agree on this morning it's that BSS is the lowest margin alloy, so there is no incentive to shift production from other alloys into BSS. It doesn't matter whether you call it a -- it doesn't matter what you call it, if you can profitably sell higher value-added products with higher profit margins, you don't shift back.

So that leaves us with the potential for market shifting. Now, who do we have on the domestic industry? We have PMX, whose parent company is in Korea. We have Aurubis, whose parent company is in Europe. We have other companies with affiliates in the Netherlands and other European countries. They all have access to the same pricing data Wieland has because they are selling in the same markets we do. It is telling that the only testimony they submitted was that prices in China are lower than the United States. You didn't hear any testimony from them that prices in Europe are lower. You didn't hear any testimony from them that prices in Germany are lower. The reason you didn't hear that is because they're higher in those two markets.

So, you have the only producer they claim to be worried about, Wieland, selling in Germany and in Europe at higher prices than they can sell in the United States before taking into account the additional freight, duty, and financing costs to sell to the United States. That, to me, pretty clearly establishes that there is no incentive for any of these producers in Germany to shift markets and abandon the customers in their own backyard in Germany and their own backyard in Europe, to shift those sales to the United States, even if they could, which they can't because of the qualification requirements, the long-term contracts.

Now, long-term contracts are an issue not only on the purchaser side, but also on the supplier side. If Wieland has 80 percent of their sales under long-term contract of a year or more, that reduces their flexibility for market shifting. They can't abandon their existing customers.

Then, there's a whole question of why they would want to. The testimony by domestic producers is that the U.S. market is a declining market. They, also, testified, and this is another point of agreement, is that the markets in Europe are growing and the markets in Asia are growing faster still. So, they are worried about a company giving up customers in growing markets, to get lower prices in a shrinking market. That's the thrust of their case.

The only other argument they make is that Wieland will ship re-roll material to its facility in Wheeling, Illinois. Re-roll material, again, there is no dispute, this is the lowest profit alloy -- excuse me, the lowest profit product of the lowest profit alloy. It sells for 28 cents in the United States. It cost 24 cents to get it here. Mr. Hartquist says, we haven't made a case that it's uneconomical to ship that stuff here. Well, if those numbers don't make the case, I don't know what will. Maybe, he thinks we have to show that it would cost 35 cents to ship it here. The testimony was that that's below Wieland-Werke's variable production cost. There is no economic incentive at all to increase production where you don't even recover your variable production costs.

On top of that, we have the new condition of competition in this review of the fact that all of the major German producers now own production facilities in the United States and has no incentive to disrupt the market in the United States, to undersell their own production in the United States, or to do anything that would undercut the value of their investments in the United States.

It's been 24 years. At some point, these orders near the end of their useful life. Whatever the condition of the domestic industry -- and we have different views on that, based on different assessments -- whatever the condition of the domestic industry, it's hard to say it has anything to do with imports. They're at 92 percent market share. They did not provide any convincing explanation of why non-subject imports declined over the period, but they expect subject imports to increase. It just doesn't make any sense. Thank you, very much.

CHAIRMAN OKUN: Thank you. Post-hearing briefs, statements responsive to questions, requests of the Commission, and corrections to the transcript must be filed by February 10, 2012. The closing of the record and final release of data to parties is March 12, 2012 and final comments are due March 14, 2012. With no other business to come before the Commission, this hearing is adjourned.

(Whereupon, at 5:03 p.m., the hearing in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Brass Sheet & Strip from France, Germany, Italy, & Japan

INVESTIGATION NO.: 731-TA-313-314, 317, 373 (3rd Rev)
HEARING DATE: January 31, 2012

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: January 31, 2012

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Washington, D.C. 20005

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