

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
CUT-TO-LENGTH CARBON STEEL PLATE) 731-TA-753-754 and 756
FROM CHINA, RUSSIA AND UKRAINE) (THIRD REVIEW)

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THE UNITED STATES
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
CUT-TO-LENGTH CARBON STEEL PLATE) 731-TA-753-754 and 756
FROM CHINA, RUSSIA AND UKRAINE) (THIRD REVIEW)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, September 29, 2015

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable Meredith M.
Broadbent, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Meredith M. Broadbent (presiding)

5 Vice Chairman Dean A. Pinkert

6 Commissioner Irving A. Williamson

7 Commissioner David S. Johanson

8 Commissioner F. Scott Kieff

9 Commissioner Rhonda K. Schmidtlein

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11

12 Staff:

13 Bill Bishop, Supervisory Hearings and Information

14 Officer

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17 Michael Haberstroh, Investigator

18 Karen Taylor, International Trade Analyst

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20 Michele Breaux, Economist

21 Jennifer Brinckhaus, Accountant/Auditor

22 John Henderson, Attorney

23 Douglas Corkran, Supervisory Investigator

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1 APPEARANCES:

2 Congressional Appearances:

3 The Honorable Peter J. Visclosky, U.S. Representative,
4 1st District, Indiana

5 The Honorable David Loeb sack, U.S. Representative, 2nd
6 District, Iowa

7 Embassy Witnesses:

8 Embassy of Ukraine, Washington, DC

9 Ihor Baranetskyi, First Secretary

10

11 Opening Remarks:

12 In Support of Continuation (Roger B. Schagrin, Schagrin
13 Associates)

14 In Opposition to Continuation (Craig A. Lewis, Hogan Lovells
15 US LLP)

16 In Support of the Continuation of the Antidumping Duty

17 Orders:

18 Wiley Rein LLP, Washington, DC on behalf of:

19 Nucor Corporation

20 Chad Utermark, Executive Vice President of Beam and
21 Flat Products, Nucor Corporation

22 Jeff Whiteman, Sales Manager, Nucor Corporation

23 Alan H. Price, Christopher B. Weld and Laura El-Sabaawi

24 - Of Counsel

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1 APPEARANCES (Continued):

2 Kelley Drye & Warren LLP, Washington, DC on behalf of:

3 ArcelorMittal USA LLC ("AMUSA")

4 Jeffrey W. Unruh, Director, Plate Products, AMUSA

5 Benjamin Rosenberg, Product Manager, Plate Products,

6 AMUSA

7 Holly Hart, Assistant to the International President

8 and Legislative Director, United Steelworkers

9 Michael Kerwin, Director, Georgetown Economic Services

10 Gina Beck, Economic Consultant, Georgetown Economic

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12 Kathleen W. Cannon, Paul C. Rosenthal and R. Alan

13 Luberda - Of Counsel

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15 Schagrin Associates, Washington, DC on behalf of:

16 SSAB Enterprises, LLC

17 Jeff Moskaluk, Vice President and Chief Commercial

18 Officer, SSAB Enterprises, LLC

19 Roger B. Schagrin - Of Counsel

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1 APPEARANCES (Continued):

2 In Opposition of the Continuation of the Antidumping Duty
3 Orders:

4 Hogan Lovells US LLP, Washington, DC on behalf of:

5 Metinvest

6 Svitlana Romanova, Chief Legal Officer and Executive
7 Committee Member, Metinvest Holding

8 Ivan Iurchenko, Legal Counsel, Metinvest Holding

9 Yuriy Shvetsov, Sales Representative, USA and Canada,
10 Metinvest Holding

11 Maryna Ziborova, Sales Manager, Metinvest Holding

12 Thomas J. Prusa, PhD, Professor of Economics, Rutgers
13 University

14 Craig A. Lewis, Jonathan T. Stoel and Wesley V.

15 Carrington - Of Counsel

16

17 Rebuttal/Closing Remarks

18 In Support of Continuation (Paul C. Rosenthal, Kelley Drye &
19 Warren LLP)

20 In Opposition to Continuation (Jonathan T. Stoel, Hogan
21 Lovells US LLP)

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P R O C E E D I N G S

(9:35 a.m)

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

CHAIRMAN BROADBENT: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on investigation number 731-753, 754 and 756 involving cut-to-length carbon steel plate from China, Russia and the Ukraine. The purpose of these five-year review investigations is to determine whether revocation of the anti-dumping orders on cut-to-length plate from China, Russia and the Ukraine would be likely to lead to the continuation or recurrence of material injury within the reasonably foreseeable future.

Documents concerning this hearing are available at the public distribution table. Please give all prepared testimony to the Secretary and do not place it on the public distribution table. All witnesses have been sworn in by the Secretary before presenting testimony. I understand that parties are aware of time allocations but if you have any questions about time, please ask the Secretary. Speakers are reminded not to business proprietary information in their remarks or in answers to questions. If you will be submitting documents that contain information that is classified as business confidential, your request should comply with commission rule 201.6. Finally, I would like to

1 request that all witnesses and counsel state your name for
2 the record before delivering testimony and responding to
3 Commissioner questions. This helps the court reporter to
4 know who is speaking at any given point. Mr. Secretary, are
5 there any preliminary matters?

6 MR. BISHOP: No Madam Chairman.

7 CHAIRMAN BROADBENT: Very well. Will you please
8 announce our Congressional witnesses?

9 MR. BISHOP: The Honorable Peter J. Visclosky,
10 United States Representative, First District, Indiana.

11 STATEMENT OF THE HONORABLE PETER J. VISCLOSKY

12 REPRESENTATIVE VISCLOSKY: Madam Chair and
13 members of the Commission, thank you very much again for
14 allowing me to testify before you. I appreciate, in the
15 past, consideration you have given to my opinions and I am
16 certain that you will continue to do so. I do come before
17 you to urge you to maintain the existing antidumping orders
18 on cut-to-length steel plates from China and the suspension
19 agreements from Russia and Ukraine. I would like to
20 take my time for a minute or two to discuss the issue of
21 injury, injury to American Workers. This past March, The
22 House Congressional Steel Caucus had a hearing on the state
23 of the steel industry and Mario Longhi, President and CEO of
24 the United States Steel Corporation specifically spoke about
25 his concern that the process for determining material

1 industry is a very time-consuming process and by the time
2 relief reaches domestic steel companies, irreparable damage
3 can have been done.

4 Congress and the Administration, I believe,
5 recognize the severity of this problem and this past June
6 approved public law 114-27, the Trade Preferences Extension
7 Act of 2015 which updated the definition of injury. I
8 supported this legislation as it ensures that injury cannot
9 be denied simply because an industry is still profitable or
10 because its performance has recently improved. It also
11 requires that real-world factors, such as the actual and
12 potential decline in output and the utilization of capacity
13 can be used to determine injury.

14 I appreciate that the commission has adopted this
15 new definition for the review of this case. Again, we would
16 urge that you maintain the existing antidumping orders and
17 the suspension agreements and again do appreciate, as
18 always, your serious consideration.

19 CHAIRMAN BROADBENT: Thank you, Mr. Visclosky.
20 Are there any questions for the witness?

21 (No response.)

22 CHAIRMAN BROADBENT: Thank you very much.

23 REPRESENTATIVE VISCLOSKY: Thank you very much.

24 CHAIRMAN BROADBENT: Mr. Secretary, will you
25 please announce our next witness.

1 MR. BISHOP: The Honorable David Loeb sack, United
2 States Representative 2nd District, Iowa.

3 CHAIRMAN BROADBENT: Welcome Mr. Loeb sack. You
4 may begin when you are ready.

5 STATEMENT OF THE HONORABLE DAVID LOEBSACK

6 REPRESENTATIVE LOEBSACK: Okay. Good morning
7 Chairwoman Broadbent and members of the Commission. I do
8 have to say at the outset that it's a little bit unusual for
9 me to be sitting at a table like this testifying because
10 usually I'm up where you are, but it really is wonderful to
11 be here. My name is Dave Loeb sack and I have the pleasure
12 of representing the 2nd District of Iowa in the U.S.
13 Congress.

14 My district represents a diverse group of
15 communities ranging from the Quad cities over on the border
16 with Illinois on the Mississippi River which are home to
17 manufacturers like Alcoa for example to Iowa City, home of
18 the University of Iowa and to hundreds of rural communities
19 who contribute to the State's agricultural sector and just
20 to be clear, we're not all agriculture. We're a whole heck
21 of a lot of other things in my district and throughout the
22 State.

23 This morning, I appear before you in support of
24 SSAB, formally known as IPSCO Steel, which is one of the
25 parties in this sunset review. For nearly two decades, SSAB

1 has played an important role in growing the economy in
2 Eastern Iowa. Located along the banks of the Mississippi
3 River, Montpelier was an ideal Greenfield site for a steel
4 investment in 1997. The location provided efficient access
5 to raw materials, reliable transportation of finished
6 products, energy and agricultural customers in the region
7 and a highly skilled and motivated workforce. And I might
8 add, I've visited that plant a number of times since I've
9 been in office in my nine years.

10 Today, it remains a place where good
11 manufacturing jobs provide workers and their families an
12 opportunity to have a good quality of life, enabling them to
13 send their children to college, contribute to the local
14 economy and make a difference in their communities. As a
15 producer of cut-to-length steel plate, SSAB's Montpelier
16 plant has over six hundred and fifty workers, making this
17 critical steel product that is used in a variety of
18 applications including agricultural machinery and equipment,
19 wind towers for our burgeoning wind industry in Iowa, and
20 bridges. All products that are widely used in our state and
21 region that are important to revitalizing our state, local
22 and national economies.

23 This facility in Montpelier is in fact one of the
24 most innovative and efficient in the world. The research
25 and development facility on site, which I have visited, has

1 cutting edge testing simulation and metallographic equipment
2 allowing SSAB to develop new grades of lighter and yet
3 stronger grades of steel for their customers. However, as
4 we all know, this is an incredibly unstable and uncertain
5 time for the industry. Unfair trade practices carried out
6 by foreign producers are crippling American manufacturing
7 and threatening the worker's pursuit of the American dream.

8 The parties here today that assemble, the
9 Domestic Industry Panel are all dealing with the painful
10 effects of growing levels of undersold imports and reduced
11 demand in the Domestic Market. These conditions have
12 created less than favorable circumstances as I am sure you
13 all know and many in the industry have been forced to reduce
14 their operations and workforce. As we recognize adjustments
15 in these workers' hours mean lower wages and less money
16 directed into the local economy. I expect that you will
17 hear this morning from SSAB's Vice President and Chief
18 Commercial Officer Jeff Moskaluk, that SSAB was looking to
19 expand the Montpelier facility, increasing melting and
20 casting capabilities by 1.2 million tons and creating as
21 many as two hundred new jobs.

22 Unfortunately, this project is now on hold.
23 Allowing the return of unfairly traded imports into this
24 weak demand environment will result in further curtailment
25 of domestic production, injury to the direct and indirect

1 workforces as well and pricing and profit pressures that
2 will make it difficult for the industry to continue
3 investment in plants in order to stay competitive in the
4 future. I understand that Subject Imports in this
5 investigation continue to threaten the industry.

6 This is a cause of great concern to me and I want
7 to be certain that companies like SSAB and their workers
8 have the ability to compete in the global arena. I want
9 fair trade. On behalf of SSAB and the steel communities in
10 my district and their workers, I urge the commission to take
11 the appropriate steps to ensure that these antidumping
12 duties are not revoked. I fully understand that trade is
13 the most complicated subject that I'm going to be dealing
14 with while I'm in Congress. At the same time, there's no
15 question that there are activities that are taking place
16 that are in violation of free trade principals. So I
17 thank you today for the opportunity to appear to you today
18 and I really appreciate it. Thanks.

19 CHAIRMAN BROADBENT: Thank you Mr. Loeb sack. Are
20 there any questions for the Congressman? Thank you very
21 much for joining us today. We appreciate your message.

22 MR. BISHOP: Madam Chairman, that concludes our
23 Congressional appearances.

24 CHAIRMAN BROADBENT: Mr. Secretary, will you
25 please announce our Embassy witnesses?

1 MR. BISHOP: Thank you so much. Our Embassy
2 witness is from the Embassy of Ukraine Ihor Baranetskyi,
3 First Secretary.

4 STATEMENT OF IHOR BARANETSKI

5 MR. BARANETSKYI: Chairman Broadbent,
6 Commissioners, Honorable Congressmen and Staff, good
7 morning. My name is Ihor Baranetskyi. I am Commercial
8 Secretary of the Embassy of the Ukraine to the United States
9 of America. It's an honor for me to be here and I thank you
10 for this opportunity to speak with you today about the
11 situation in the Ukraine. Regarding your review into the
12 dumping measures of cut-to-length steel plate from Ukraine.

13 Your proceeding comes at a time of great
14 political and economic importance for the Ukraine. You all
15 know that unprecedented Russian aggression and continued war
16 in Eastern Ukraine and the severe impact this is having on
17 Ukraine's economy. The Ukraine's government is committed to
18 peace, stability, economic growth and transparency and
19 naturally mutually beneficial trade with the United States
20 is an important element of this policy.

21 Today, Ukraine is undergoing the complicated
22 process of economic ambitious reforms and present a national
23 economy of therefore a matter of survival for all the
24 country. The antidumping measures on steel plate from
25 Ukraine were originally imposed at the end of 1997, some

1 eighteen years ago. At that time, of course our economy was
2 in the midst of profound transition from a system of state
3 ownership to a current free enterprise economy.

4 Ukraine since then has implemented sweeping
5 economic reforms, joined the WTO in 2008 and has entered
6 into trade agreements with major western partners, including
7 the EU. These changes have also profoundly reshaped the
8 Ukrainian steel industry. The Ukrainian steel industry has
9 been privatized and is now characterized by modern
10 profit-oriented companies that play a responsible role in a
11 world market for steel products. The Ukrainian steel
12 producers are respectful of trade rules and wish to compete
13 on a fair and equitable basis.

14 As you may know, the European Union and Ukraine
15 signed a cessation agreement and are currently implementing
16 new deep and comprehensive free trade agreement which will
17 come into force on the 1st of January 2016. The EU has also
18 unilaterally granted preferential access to its markets to
19 Ukraine prior to the full implementation of the agreement.
20 The International Monetary Fund has also pledged strong
21 support to the Ukraine.

22 These measures are greatly assisting Ukraine's
23 government and economy and opening new markets and
24 opportunities for our steel industry. The United States is
25 also a trusted and valued partner for us, especially as the

1 Ukraine deals with Russian aggression and attempts to
2 strengthen our economy. We greatly appreciate the support
3 the Ukraine has received from the United States during this
4 difficult time. The United States has provided direct
5 financial assistance to Ukraine and has sought to reduce
6 barriers to U.S. Market access.

7 Yes, leaders including President Obama, Vice
8 President Biden, Commerce Secretary Pritzger have all pledge
9 to support Ukraine's government and economy and hope
10 together to result a stable and prosperous Ukraine. As
11 Ukraine seeks to stabilize its economy and to engage more
12 fully with the rest, the financial support and efforts to
13 maintain open trade that we have received from both the
14 United States and the EU have been particularly important.

15 We consider the Sunset Review proceeding
16 concerning the Antidumping Suspension Agreement on
17 cut-to-length plate as an important element in Ukraine's
18 broader efforts to engage in the world's economy on the
19 basis of free and fair competitive conditions. We also view
20 this proceeding as critical for Ukraine's security and
21 economy. The Commission's fair and thorough treatment of
22 Ukraine in this proceeding is particularly welcome because
23 the heart of the Ukraine in the steel industry is located in
24 or near Damask region in Eastern Ukraine where fighting
25 unfortunately is still occurring.

1 Russian aggression has significantly disrupted
2 Ukraine and steel producer's supply chains, access to raw
3 materials, energy and production of cut-to-length plate.
4 There have been armed attacks on mill personnel, damage to
5 transportation networks and mill shutdowns as a result of
6 the aggression. These developments make significant
7 shipments to the United States difficult and unlikely for
8 the foreseeable future.

9 Moreover, I understand that Ukraine and producers
10 have faithfully fulfilled the terms of the suspension
11 agreement and have shipped only limited quantities of
12 cut-to-length plate to the U.S. Market. This was even true
13 that where no legal limits to the quantities of such
14 exports. Further, understand that Ukraine's mills are
15 committed principally to serving our domestic market as well
16 as important regional export markets, such as EU, our
17 closest neighbor.

18 Finally, I understand that the leading Ukraine
19 and steel producers are here to testify before the
20 Commission today and to elaborate on these facts. I hope
21 that you will give this testimony full consideration. I
22 thank you again for this opportunity to appear before you
23 and I thank you for your hard work on this important matter.
24 I look forward to continued cooperation with the U.S.
25 Government in securing peace, protecting international law

1 and stabilizing the Ukrainian economy. We do hope to
2 continue to develop an open and mutually beneficial trade
3 and investment relationship with the U.S. Thank you.

4 CHAIRMAN BROADBENT: Thank you Mr. Baranetskyi.
5 We really appreciate your statement today. Any questions
6 for the witness?

7 (No response.)

8 CHAIRMAN BROADBENT: Then you are dismissed.
9 Thank you very much.

10 MR. BISHOP: Madam Chairman that concludes our
11 Embassy witnesses.

12 CHAIRMAN BROADBENT: Opening remarks?

13 MR. BISHOP: Opening remarks on behalf of those
14 in support of continuation of the orders will be by Roger B.
15 Schagrin, Schagrin Associates.

16 CHAIRMAN BROADBENT: Welcome Mr. Schagrin.

17 OPENING REMARKS OF ROGER SCHAGRIN

18 MR. SCHAGRIN: Good morning, Chairman Broadbent,
19 members of the Commission. For the record, I'm Roger
20 Schagrin and I'm presenting the opening statement for the
21 Domestic Industry. The Commission should have no doubt that
22 if the trade remedies on cut-to-length plate imports from
23 any of the subject countries were lifted, a significant
24 volume of such imports would flow back into the U.S. Market
25 at extremely low prices.

1 The case for China is obvious. Chinese Producers
2 have more place capacity than the rest of the world combined
3 and they run their factories regardless of market conditions
4 which are deteriorating. Russia and Ukraine also have
5 plenty of excess capacity and are very export oriented
6 industries. The Ukrainian Industry actually has boatloads
7 of unused capacity at the moment.

8 The conflict in Ukraine has contributed to that
9 by suppressing Ukrainian demand and making it more difficult
10 to ship to Russia, which used to be Ukraine's main market.
11 Contrary to Metinvest claims, that conflict actually makes
12 it more likely that exports of plate will increase in an
13 eminent period. The conflict certainly has not hurt
14 Ukraine's plate exports to the EU which have grown much
15 faster than the EU economy which is hardly growing at all.

16 In a few years they have increased their exports
17 to the EU in amounts that would have a very significant
18 impact in the U.S. Market and all of good quality plate.
19 This shows how Ukrainian Producers would respond if the
20 suspension agreement with the U.S. was ended. Metinvest
21 spins this another way, it says, and this is a quote from
22 its prehearing brief, "Ukraine has strong and growing
23 non-U.S. export markets" in Europe and the Middle East.
24 These markets are not strong and they are not growing.

25 What Metinvest means is that Ukrainian plate

1 sells for such low prices that it can gain market share
2 anywhere it wants, anytime, even in weak markets. If
3 Ukrainian Producers did not need to worry about the
4 suspension agreement and could set prices at any level they
5 so chose, they would have a field day in the U.S. Ukrainian
6 Producers claim that much of their plate is too low quality
7 or the wrong kind to interest U.S. customers. That's a red
8 herring.

9 We don't claim the Ukraine by itself can take all
10 of the U.S. Market. However, there are plenty of U.S.
11 Customers who care only if the plate is low-priced, meets
12 minimum standards and for that matter that it sinks in
13 water. They will take the plate Ukraine does offer.
14 Ukrainian Producers will quickly gain a material market
15 share by drastically underselling the U.S. Industry. Does
16 Metinvest really expect this commission to believe that the
17 Ukrainian plate that competes right now in the EU Market
18 cannot compete in the U.S. Market? That's far-fetched.

19 Metinvest also predicts, and this is another
20 quote that "The Ukraine Home Market will be stimulated by
21 aid and rebuilding efforts". We hope that that is in fact
22 true but it will not happen anytime soon unfortunately.
23 Billions of dollars of aid have already gone to the Ukraine
24 and its economy has been shrinking for years. Perhaps
25 Ukrainian Steelmakers will be using some of that aid to

1 upgrade some of the infrastructure they say is hampering
2 their ability to export.

3 Metinvest even claims the U.S. Market now needs
4 imports. The Staff Report belies that claim. There might
5 someday be a time when the U.S. Industry cannot meet U.S.
6 demand but that surely is not the present time. There is no
7 reason to think imports from Ukraine will substitute only
8 for non-subject imports in a fungible market. There is
9 really no reason to decumulate Ukraine in this Sunset
10 Review.

11 Cut-to-length plate from the Ukraine is fungible
12 with plate from the U.S. and other Subject and non-Subject
13 Producers. Global shipping costs are at extremely low
14 levels now and present no barrier to the Ukraine's exports
15 to the U.S. Dollars are appreciated almost everywhere, no
16 more so than a country like Ukraine which needs hard
17 currency that steel exports bring to it. A ton of plate
18 from the Ukraine will have the same impact on the Domestic
19 Industry as a ton of plate from China or Russia and
20 Ukrainian plate is likely to arrive in the U.S. in
21 significant amounts if the Commission votes negative, and
22 extremely low prices.

23 Recently, U.S. Producers' production capacity,
24 capitalization and sales have all declined significantly
25 along with a precipitous drop in net profits. Demand fell

1 in the first half of this year, prices are at their lowest
2 in a decade. The industry's cap X has been less than it's
3 depreciation for years so on average the U.S. Industry has
4 been slowly liquidating, even before the recent downturn.

5 The U.S. is also facing a surge in non-Subject
6 Imports that are already oversupplying the market. At this
7 point, letting in hundreds of thousands of tons of imports
8 from the Ukraine or any other country would be disastrous.
9 We would all be very happy if this were not the case but
10 right now ending the orders or suspension agreements would
11 result in a recurrence of material injury. We urge you not
12 to end these agreements. Thank you.

13 CHAIRMAN BROADBENT: Thank you.

14 MR. BISHOP: Opening remarks on behalf of those
15 in opposition to continuation of the orders will be by Craig
16 A. Lewis, Hogan Lovells.

17 CHAIR BROADBENT: Welcome, Mr. Lewis, you may
18 begin.

19 OPENING REMARKS OF CRAIG A. LEWIS

20 MR. LEWIS: Good morning, Chairman Broadbent and
21 Vice Chairman Pinkert, Commissioners, and staff. My name is
22 Craig Lewis of the Hogan Lovells law firm appearing today on
23 behalf of the Ukrainian producer Metinvest.

24 This is the Commission's third sunset review of
25 the suspension agreement on cut-to-length plate from the

1 Ukraine. Nearly 18 years ago the Commission made a
2 determination that cumulated imports from China, Russia and
3 Ukraine had not caused material injury to U.S. producers,
4 but that such imports threatened to cause injury to the U.S.
5 industry. That decision was based on an extraordinary surge
6 in the volume of subject imports at a time when Ukraine had
7 barely emerged from 70 years of Soviet control.

8 Petitioners' arguments to maintain dumping
9 measures on Ukraine are premised on a theory that what the
10 Commission saw in the mid-1990s is what we will see again in
11 2016 if the order is revoked on Ukraine. Nothing has
12 changed, petitioners will tell you. But is that true? Is
13 that claim credible?

14 In fact, neither the Ukrainian nor the U.S.
15 industry look anything like they did in 1997. Time has not
16 stood still. Ukraine in 1997 was still a nonmarket economy.
17 The Ukrainian steel industry was characterized by state
18 ownership and suffered under the vestiges of Soviet era
19 economic policies. By way of contrast, the Ukrainian steel
20 industry today has been privatized and is market oriented.
21 The Metinvest group which accounts for virtually all viable
22 plate capacity in the Ukraine has brought with it modern
23 corporate principles to the production and marketing of its
24 steel. Ukrainian producers and Metinvest in particular are
25 responsible players in global steel markets.

1 Ukraine in 1997 was also a newly independent
2 country and at peace. Today it's a country racked by a
3 violent armed conflict with Russia in the eastern region of
4 country where virtually all of Ukraine's steel and mining
5 assets are located.

6 As you will hear today, these tragic
7 circumstances are not only inflicting a terrible human toll
8 on residents of the area, but are also having a serious
9 negative impact on Ukraine's ability to produce and market
10 its steel.

11 As you will also hear today, while the Ukrainian
12 industry is under responsible modern management, its
13 manufacturing infrastructure is not at 21st century levels.

14 Many of Ukraine's key production facilities date
15 from the second world war and most of Ukraine's mills are
16 not capable of producing products of the types of quality
17 that are readily acceptable in the U.S. market.

18 Ukrainian producers are also focused on their
19 home and regional markets where Ukrainian products are more
20 readily accepted and where logistical costs and lead times
21 pose less of a competitive hindrance.

22 As you will hear from our witnesses, under
23 current circumstances the maximum volume of subject imports
24 that could realistically be shipped to the United States if
25 the suspension agreement is terminated would be low and well

1 below any level that could possibly cause harm to U.S.
2 producers in the context of a 9 million ton plate market.

3 Time has also not stood still in the United
4 States. While the U.S. producers will do their best this
5 morning to paint a picture of weakness and vulnerability,
6 the reality is quite different. To their credit, the U.S.
7 plate industry has made impressive progress in restricting
8 and reinvesting since the 1990's. U.S. producers have
9 closed inefficient plants and have invested heavily in
10 modern manufacturing equipment including heat treatment
11 facilities need to produce the most profitable value-added
12 grades of plate. The fruits of these efforts can be seen in
13 the extraordinary operational results at the U.S. industry.
14 For five straight years U.S. producers, as a group, garnered
15 operating profits above 20 percent. This was true, by the
16 way, in the presence of significant import volumes.

17 Conditions obviously fluctuate in any market and
18 demand is temporarily lower today than it was a year ago.
19 We do not deny this. However, the Commission should not be
20 misled by this into confusing a temporary market downturn
21 with evidence of a weakened U.S. industry. The U.S.
22 industry today is fundamentally stronger and more
23 competitive than it was even two years ago. Thus, as the
24 current temporary downturn passes, as it will, U.S.
25 producers will again be in a position to disproportionately

1 reap the benefits.

2 After 18 years, Ukrainian producers deserve at a
3 minimum that the Commission unbind itself from the past and
4 give the evidence a fresh look. Under the conditions that
5 exist today and will continue to exist for the foreseeable
6 future, imports of plate from Ukraine pose no credible
7 threat to U.S. producers. To the contrary, it is Ukrainian
8 producers that are facing an existential threat literally in
9 their backyard as they struggle with the shelling of their
10 plants, the destruction of railways and roads and the
11 horrendous loss of over 6,000 people including multiple
12 employees of Metinvest.

13 Thank you very much.

14 CHAIR BROADBENT: Thank you, Mr. Lewis.

15 MR. BISHOP: Would the first panel, those in
16 support of continuation of the orders please come forward
17 and be seated.

18 Madam Chairman, all witnesses on this panel have
19 been sworn.

20 [PAUSE]

21 CHAIR BROADBENT: I want to welcome the panel to
22 the ITC. You may begin when you're ready.

23 OPENING REMARKS BY ALAN H. PRICE

24 MR. PRICE: Good morning, Chairman Broadbent and
25 Commissioners. I am Alan Price, counsel to Nucor

1 Corporation. I am here today to explain why it is
2 absolutely critical to the U.S. plate industry that the
3 order and suspension agreements on plate from China, Russia
4 and Ukraine stay in place.

5 Quick overview of the presentation. At the
6 outset I will address cumulation. I will then review
7 conditions of competition which render the domestic industry
8 vulnerable to injury from subject imports. These conditions
9 with likely volume, price and impact effects of subject
10 imports show that revocation as to even one of the subject
11 countries will likely lead to the continuation and
12 recurrence of material injury to the domestic industry.
13 Indeed, this is precisely the finding that the Canadian CITT
14 made with regard to Ukraine earlier this year.

15 First, subject imports should be addressed
16 --assessed cumulatively. As you can see, evidence from this
17 record, this is from your staff report, a summary of one of
18 the key charts supports what the Commission has repeatedly
19 found that subject imports and the domestic like product are
20 highly interchangeable -- interchangeable as U.S. producers,
21 importers, and purchasers overwhelmingly report.

22 Two key things here. First of all, essentially
23 when you look at this population of folks, no one is saying
24 these products are never interchangeable. And if you look
25 at the trends for the U.S. versus China versus U.S. versus

1 Ukraine, U.S. versus Russia, look identical. Similarly when
2 you look at each other they look identical. So there is no
3 fundamental difference on interchangeability between these
4 products.

5 There are also a few significant differences in
6 quality or product offerings as this evidence would imply
7 despite what the Ukrainians argue. The vast majority of
8 plates sold in the U.S. is basic, standard-grade plate, made
9 to dimension that the Ukrainian producers can easily meet.
10 The U.S. market is no more demanding than other markets. If
11 Ukrainians can sell in the U.S., for example, they can sell
12 here.

13 Subject producers also operate under similar
14 conditions of competition. Notably the Commission should
15 assess differences in likely conditions in the U.S. market,
16 not their home countries as the respondents would have you
17 consider.

18 If the imports -- if the orders and agreements
19 are terminated, imports of each of the subject countries
20 would likely have a discernible adverse impact on the
21 domestic industry. Subject producers from each country have
22 shown the ability to increase exports to the United States
23 rapidly and substantially. Indeed, in the original
24 investigation Ukraine was the largest exporter to the United
25 States. They have enormous excess capacity and each are

1 among the largest and lowest-priced plate exporters in the
2 world. They will all be simultaneously present.

3 The Ukrainian producers have even told you that
4 imports will increase at least, quote, "moderately" if the
5 agreement is terminated. Even moderate increase in dumped
6 imports will have a discernible adverse impact on the
7 domestic industry.

8 Finally, despite what the Ukrainians argue,
9 foreign policy arguments are not relevant to the
10 Commission's cumulation decision. Foreign aid should not
11 come at the expense of American steel workers.

12 Now, let's move to the conditions of competition.
13 As you can see, apparent U.S. consumption in cut-to-length
14 plate plummeted in 2015, dropping by nearly 10 percent in
15 the first half of the year.

16 You will hear from our witnesses today that the
17 outlook for U.S. plate demand going forward is similarly
18 bleak. At the same time despite what you just heard from
19 Mr. Lewis, global markets, global plate demand remains weak
20 and will be weak for quite some period of time as there is
21 enormous excess capacity throughout the world, especially in
22 the subject countries and their major export markets leaving
23 subject producers desperate in a desperate need for
24 alternative markets.

25 Even as U.S. demand declines, U.S. plate imports

1 have continued to skyrocket on incredibly high levels
2 causing severe oversupply to the U.S. market. The import
3 surge has intensified in late 2014 and has continued into
4 2015.

5 In fact, plate prices are now at their lowest
6 levels in a decade. Really we haven't seen prices this low
7 since the last steel crisis and we are looking at a new
8 steel crisis here.

9 This chart shows the drastic decline in prices
10 from September 2014 to September 2015 of \$325 a ton
11 according to CRU. As you can see, prices have continued to
12 fall into the third quarter of this year. CRU has
13 documented the current pricing declines that are occurring
14 as we speak. If unfairly traded subject imports return,
15 U.S. prices will crash even further.

16 Despite steep declines in U.S. prices, they
17 remain higher than those in alternative markets making the
18 U.S. market very attractive to subject imports. Indeed,
19 there's a price war between Russia, Ukraine, and China going
20 on in the world market with prices currently on the export
21 market ascending levels that start with a three on it, \$300
22 levels. This chart shows that average unit values of
23 subject producers, global plate exports, you can see that
24 they are consistently and drastically lower than U.S.
25 producer AUVs. And consistently Ukrainian AUVs are the

1 lowest of any of these three. Given the attractiveness of
2 this market, subject imports will undoubtedly come here if
3 given the chance.

4 Now, the subject producers can significantly
5 increase their exports to the United States rapidly and
6 would do so if the orders are revoked. The subject
7 countries are uniquely problematic in the global market.
8 Each one of them is among the top ten largest in the world
9 for cut-to-length plate capacity, production, and exports.
10 Of course, China is the world's largest in each category.
11 But notably Ukraine is the fourth largest exporter of
12 cut-to-length plate exporting, according to public documents
13 from Metinvest, about 80 percent of its product. Combined
14 subject countries have 71 million tons of excess capacity
15 and the exported 14 million tons of plate last year. Much
16 of this would be directed to the U.S. if these orders are
17 revoked given the relative attractiveness of the U.S.
18 market.

19 Now, this is a chart you can't make up. Not only
20 are the subject imports among the largest plate exporters in
21 the world, they are actually the three lowest-priced
22 exporters in the world. This is the country data for
23 exports of the top 30 producers and the top 30 exporters in
24 the world. And Russia is the third lowest priced, China is
25 the lowest-priced exporter, next -- the next to

1 lowest-priced exporter and the lowest in the world is
2 Ukraine. These countries have massive excess capacity and
3 set the low price points in the marketplace and will export
4 at incredibly low prices. Ukraine's AUVs were lowest of any
5 country, lower than China. I don't think I've ever actually
6 said that or seen that in any other steel product line.

7 Now, plate producers from the three subject
8 countries are uniquely disruptive given their nature of
9 their pricing in the world. They are targeting plate
10 markets around the world with unfairly traded prices. As a
11 result, multiple countries have imposed trade remedies.
12 Many of these are actually quite recent. And many barriers
13 were imposed only recently, as I just said. But there are
14 dumping order, there are safeguards. In the case of India,
15 just a radical increase in the column one tariff which they
16 had room to do because of their bindings.

17 The producers from each of the subject countries
18 have been caught circumventing dumping duties which is also
19 something I've never seen before. All three of our
20 countries here have been found in circumvention around the
21 world and further showing their desperation to export at
22 unfair prices.

23 Now, I'm tired of hearing comments that freight
24 costs make it very difficult to export to the United States
25 because it's just not true. Because plate is highly

1 fungible, subject producers can insert themselves into the
2 U.S. supply chains very quickly and freight is not a major
3 barrier. The prices are attractive and the freight to the
4 U.S. vis- -vis other major markets that the Ukrainian sell
5 in are competitive. We'll provide more information on this
6 in our post-hearing brief including rail freight options
7 into parts of Europe including rail freight to Odessa and
8 Odessa freight rates. The bottom line is, it is attractive
9 to ship to the U.S. And in some cases it is more attractive
10 from a freight perspective to ship into the U.S. than many
11 of their major destinations.

12 As a result, the cost of freight is essentially a
13 nonissue especially given the large gap between the U.S.
14 prices and Ukraine's other potential export markets.

15 Now, the conflict in the Eastern Ukraine has has
16 obviously a significant and severe effect on the domestic
17 market in the Ukraine and the situation in Ukraine obviously
18 is tragic in many perspectives. And obviously there have
19 been impacts on consumption in the Ukraine. But not much
20 impact on their exports. And we can go through the recovery
21 of the export market in the Ukraine after a rough winter
22 that occurred and we can go through all the statements about
23 how their exports are going to improve significantly that
24 they're making that they have no problem, that they're
25 honoring their contracts, et cetera to export large volumes

1 around the world.

2 So despite the conflict, Ukrainian producers
3 continue to export. As I mentioned, Ukraine was the fourth
4 largest exporter last year and continues to export at very
5 impressive rates. They were actually in the month of August
6 setting various production records on various product lines,
7 Metinvest is in particular. And I'll refer you to the
8 confidential staff report at Table IB4 for more evidence on
9 various items. But we'll also provide more in our
10 post-conference brief.

11 Metinvest, by the way, is controlled by the most
12 wealthy and powerful oligarch in Ukraine. Let's be blunt
13 about this. He's approached this himself and in a difficult
14 situation dealt with it the way he's needed to. As AP just
15 said in a major article on September 22nd, "Ukrainian
16 richest man plays both sides of the front line." He's done
17 what he has needed to do to continue to run his business and
18 to export. They are the major power supplier, in fact, to
19 the -- power supplier to the rebel territory, according to
20 this article, and that has allowed him to do a lot of
21 things. So there's a lot of problems in Ukraine. Metinvest
22 has managed to manage through them. I'm not going to say
23 it's easy. I'm not going to say there are not issues. Of
24 course there are. But at the end of the day that have had
25 limited problems or no problems in their ability to continue

1 exports, and particularly recently as they continue to ramp
2 up and the economy in the Ukraine continues to stabilize.

3 Ukrainian producers have shown themselves to be
4 able to rapidly shift markets. In 2008 as the U.S. market
5 was collapsing, the Ukrainian producers including Metinvest
6 radically increased exports to the United States. This is
7 not a unique pattern as the Ukrainian plate producers,
8 essentially Metinvest, rapidly enter and exist markets
9 around the world in search of wherever they can make the
10 best profit. This chart shows that some of the drastic
11 changes in Ukraine export patterns in 2013 and 2014 if the
12 suspension agreement is terminated Ukrainian producers will
13 quickly shift their shipments into the United States. They
14 have a North American sales department. They have trading
15 companies that they work with, they will have no probably
16 shifting rapidly into the United States.

17 Without the orders and suspension agreements,
18 there will be substantial negative price effects. Even with
19 the disciplines of the orders in place when you look at the
20 overwhelming quantity of product imported by the subject
21 producers, the subject producers undersell by quantity,
22 substantial quantity even with the orders and suspension
23 agreements in place when they sell.

24 This behavior should not be a surprise and is
25 consistent with the radical low pricing we see around the

1 world for Ukrainian product. We all know that the Commerce
2 Department in looking at the situation including the
3 situation with Ukraine concluded that dumping would likely
4 recur at enormous margins. This agency, Congress be clear,
5 this agency is not to look behind the margins, but let's be
6 blunt, the lowest-priced producer in the world, Ukraine has
7 the highest dumping margins. The margins are consistent
8 with the three lowest-priced producers or lowest-priced
9 sellers in the world market. So very enormous amounts of
10 dumping will occur if these orders are revoked.

11 Now, let's move on to the domestic industry
12 vulnerability. The domestic industry is highly vulnerable
13 to any increase in unfairly traded subject imports. First
14 the Everest Claymont mill shut down during the POR in
15 November of 2013 with little or no notice resulting in the
16 loss of about 400 jobs. The term that we used to hear back
17 in the late '90s and 2000's, this resulted in what we often
18 called survivor bias. An uptick in the market temporarily
19 and an uptick in the numbers the Commission sees, but this
20 uptick was temporary and fleeting. From the interim 2014 to
21 interim 2015, the industry's capacity utilization fell to
22 its lowest level in years, production, shipments, net sales,
23 operating net income, capital expenditures, all dropped
24 significantly.

25 Net income dropped by more than 43 percent. This

1 has left the industry particularly susceptible to material
2 injury by reason of the subject imports. This spring Mittal
3 closed it's Gary, Indiana plate plant. Obviously the
4 industry is continuing to suffer.

5 Throughout the period the domestic industry
6 operated within adequate net income. And we believe it is
7 important for this Commission to start focusing increasingly
8 on net income. That is one of the things Congress pointed
9 to. In 2013 the industry was actually operating at a loss.
10 Following the closure of the Claymont mill the industry's
11 net income improved temporarily before dropping
12 significantly in the first half of this year. And
13 conditions have continued to deteriorate since June, as
14 you've seen from the CRU pricing and that you'll hear from
15 members of the panel.

16 The domestic industry's capital expenditures
17 throughout the POR have not even covered its cost of
18 depreciation. Bluntly, the industry continues to liquidate
19 and under invest and that's consistent with the two closures
20 we've already seen in the industry. But unfortunately, more
21 may come.

22 In conclusion, revocation will lead to higher
23 import volumes. Each of the subject producers are among the
24 largest plate producers in the world, and largest exporters
25 in the world. The subject producers, all export their plate

1 at the lowest prices in the world. These are extremely low
2 priced imports that would undersell the domestic like
3 product and further suppress and suppress collapse in U.S.
4 prices.

5 The domestic industry is already suffering from
6 high import levels, falling demand, and deteriorating
7 financial condition. An increase in unfairly priced subject
8 imports would undoubtedly have an adverse impact on the U.S.
9 plate producers. Therefore, the Commission should find that
10 revocation of the order and suspension agreement as to any
11 one of them, let alone all of them, is likely to lead to
12 continuation of recurrence of material injury in the
13 reasonably foreseeable future.

14 And with that, I would like to introduce our
15 first witness, Mr. Chad Utermark of Nucor Corporation.

16 STATEMENT OF CHAD UTERMARK

17 MR. UTERMARK: Good morning. I'm Chad Utermark,
18 Executive Vice President of Beam and Plate Products for
19 Nucor Corporation. With me today is Jeff Whiteman, Sales
20 Manager at our Hartford Plate Facility.

21 I appreciate this opportunity to explain why the
22 Order and Suspension Agreements involving China, Russia, and
23 Ukraine are critical to the U.S. cut-to-length plate
24 industry.

25 From 2012 to 2014 the U.S. plate industry saw

1 some improvement from the depths of the Great Recession.
2 However, conditions have changed dramatically in 2015 for a
3 number of reasons.

4 First, demand for plate has weakened this year.
5 While nonresidential construction has been relatively
6 steady, other demand drivers like wind tower construction,
7 infrastructure, and heavy equipment has seen declines.

8 Second, the U.S. market has been flooded by a
9 surge of unfairly traded imports. The surge has been
10 ongoing for the past several years, but accelerated in the
11 second half of 2014 and into 2015, far in excess of U.S.
12 demand.

13 Initially the surge prevented Nucor and other
14 U.S. producers from taking advantage of the favorable demand
15 conditions as imports captured market share at the expense
16 of the domestic industry. In fact, Everass Claymont's
17 closure at the end of 2013 contributed to the temporary
18 improvement of the domestic industry in early 2014 as we saw
19 additional tons come our way.

20 With the additional volume and some recovery in
21 pricing due to the death of the Claymont facility, our
22 performance picked up. But the imports reacted to our price
23 improvements and accelerated sharply in the second half of
24 2014. These imports created a buildup of inventories
25 throughout the supply chain.

1 As a result, Nucor's plate performance has
2 deteriorated in 2015. In the first half of the year, our
3 production and shipments dropped sharply. We were forced to
4 slash prices repeatedly, and by June U.S. prices were
5 several hundred dollars per ton lower than at the beginning
6 of 2015.

7 Our operating and net income fell. Our capacity
8 utilization is at its lowest level in years, and is below
9 the historic production levels for our plate facilities.
10 Our capital expenditures and R&D expenses have dropped, as
11 well, making it more difficult to make the necessary
12 investments in our plate operations.

13 Our teammates at the plate mills have also been
14 hit hard, all 950 of them, working reduced shifts at reduced
15 pay rates.

16 The third quarter of this year has gotten even
17 worse. Our volume is down significantly as the market
18 continues to deteriorate. Unfortunately, the outlook going
19 forward is not much better. Plate demand is not expected to
20 improve significantly in the near future.

21 While growth in nonresidential construction is
22 likely to continue, the other demand drivers I mentioned
23 earlier are projected to remain weak. In addition, prices
24 are declining as the market continues to be oversupplied.

25 I expect, unfortunately, conditions to continue

1 to deteriorate into the fourth quarter and beyond. In
2 short, Nucor and other U.S. plate producers are vulnerable
3 to any unfairly traded imports.

4 There is a third factor that makes the domestic
5 plate industry vulnerable to subject imports. Cut-to-length
6 plate is one of the most basic steel products on the market
7 today. It is highly interchangeable, regardless of where it
8 is produced.

9 Quality is essentially a given. As a result,
10 price is far and away the most important factor in securing
11 sales. Because of this, plate imports can quickly penetrate
12 markets with negative volume and price effects, and that is
13 exactly what subject producers are doing.

14 They look for the most attractively priced market
15 in which to sell their products. They are able and ready to
16 divert their products to whichever market will provide them
17 the most potential profit margin.

18 In my job I spend a lot of time with our
19 customers, both end-users and service centers. Price is
20 their primary consideration by a long shot. I am confident
21 that if the Orders are revoked Subject Imports will return
22 at aggressively low prices and many of our customers will
23 buy these dumped imports.

24 We will lose sales and market share as a result.
25 If just one of these countries is allowed to resume dumping

1 in our market, our industry will be overwhelmed. If all
2 three are allowed to do so, the consequences would be
3 disastrous.

4 China, Russia, and Ukraine are three of the
5 largest producers and exporters of cut-to-length plate in
6 the world. Combined, the three countries account for more
7 than 70 million tons of excess capacity, a staggering amount
8 that is many, many times larger than the U.S. plate market.

9 China, Russia, and Ukraine are all export
10 platforms exporting millions of tons annually. They need to
11 export--excuse me, their need to export is only increasing
12 as global plate demand remains weak and is not expected to
13 improve significantly any time soon.

14 As subject producers are shut out of other export
15 markets, they will have no choice but to shift significant
16 volumes to the United States if the Order and Suspension
17 Agreements are lifted.

18 I would also note that the failure of the Chinese
19 and Russian producers to show up at today's hearing is
20 further proof that the evidence is overwhelmingly against
21 them. If they had a different story to tell, they would be
22 here today. On the other hand, the presence of Ukrainian
23 producers is not a reason to terminate the Suspension
24 Agreement.

25 Ukrainian producers have every incentive and

1 ability to ship large volumes to our market. They have
2 virtually no home market to speak of. Almost all their
3 plate is produced for export. With the ongoing conflict in
4 the country, home market demand has fallen even further.

5 But, Ukraine's ability to produce and export
6 plate has been largely unaffected, and Ukrainian producers
7 continue to export millions of tons of plate. And, despite
8 what they are telling you, the Ukrainians can produce a wide
9 range of plate products, including to widths and thicknesses
10 that are commonly sold here in the U.S. market.

11 There is nothing unique or demanding about our
12 market. If you can supply the EU market, you can supply our
13 market.

14 The bottom line is that producers in China,
15 Russia, and Ukraine will come here if given the opportunity,
16 especially because of the attractiveness of U.S. pricing
17 relative to other markets. The consequences would be
18 disastrous given the current state of the domestic plate
19 industry. Even a small quantity of unfairly traded imports
20 from these countries will cause serious injury to the
21 vulnerable U.S. industry.

22 On behalf of Nucor and our 23,000 teammates, I
23 urge the Commission to leave the Order and Suspension
24 Agreements in place.

25 Thank you.

1 STATEMENT OF JEFF MOSKALUK

2 MR. MOSKALUK: Good morning, Chairman Broadbent
3 and Members of the Commission. For the record,. My name is
4 Jeff Moskaluk and I'm Vice President and Chief Commercial
5 Officer, SSAB Enterprises, known in the marketplace as SSAB
6 Americas.

7 I have been employed by SSAB and predecessor
8 companies for over 25 years and have worked in the steel
9 industry for 31 years. SSAB operates two greenfield
10 state-of-the-art flat-rolled mini mills in Montpelier, Iowa,
11 and Mobile, Alabama, with stucco mills that allow us to
12 produce either cut-to-length or coiled plate.

13 Cut-to-length plate is our primary product,
14 representing the vast majority of SSAB's output. We have
15 seen significant changes in the cut-to-length plate market
16 in the past 15 months.

17 First, there has been a surge of nonsubject
18 import sources into the United States, significantly
19 reducing the domestic industry's share of the market.

20 Second, owing to significantly reduced demand
21 from the energy sector, mining, and agricultural equipment
22 sectors we have seen demand decline. Strength in
23 nonresidential construction, rail cars, and barges has not
24 been sufficient to offset these weaknesses, and thus overall
25 demand had been softening.

1 Third, due to the combination of increased
2 imports underselling the U.S. industry and weaker demand, we
3 have seen plate prices plummet by more than \$200 a ton since
4 mid-2014. The Orders against China, Russia, and Ukraine
5 went into effect in 1997, just as our new Montpelier mill
6 was coming online. There is no doubt in my mind that our
7 predecessor company, Ipsco Steel, would have never built our
8 extremely modern plant in Mobile, Alabama, without the
9 benefit of the relief in these cases against these three
10 extremely large export-oriented countries.

11 At the present time, SSAB, like the other members
12 of the domestic industry, is in a very vulnerable position
13 and an increase in imports at dumped prices from China,
14 Russia, and Ukraine that the DOC has concluded will occur if
15 the findings are rescinded would significantly injure our
16 operations and our workers.

17 At both our plants this year we have operated at
18 lower capacity utilization rates resulting in our workers
19 receiving less compensation. This is because, like some
20 other mills, much of our employee pay for team members
21 working in our mills is directly tied to performance bonuses
22 based on production volumes and shipments.

23 If SSAB has fewer orders for plate, these team
24 mates have less plate to produce and therefore take home
25 smaller paychecks. In mid-2014 when the market was good and

1 profits were robust, SSAB developed a strategic plant to
2 make a significant capital expenditure to increase the
3 melting capacity at our Montpelier mill. These additional
4 slabs would have fed increased production of cut-to-length
5 plate and coiled plate in Montpelier, and would also provide
6 additional slabs to be shipped to Mobile to increase
7 production of cut-to-length and coiled plate.

8 Unfortunately, due to the combination of market
9 conditions and increased imports, this project has been
10 shelved. We are hopeful that in the future a combination of
11 restored demand and fewer nonsubject imports will allow us
12 to carry through on this major capital expenditure project.

13 Sunsetting the Orders on plate from China,
14 Russia, and Ukraine would certainly harm these plans and may
15 well result in this plan never being resuscitated.

16 On behalf of our 1,300 employees at SSAB
17 Americas, we ask that you make affirmative determinations in
18 these sunset reviews.

19 STATEMENT OF JEFFREY W. UNRUH

20 MR. UNRUH: Good morning. I am Jeff Unruh,
21 Director of Plate Products for ArcelorMittal USA. I oversee
22 the sales of cut-to-length plate and provide strategic
23 direction for marketing and pricing. I have been with
24 ArcelorMittal for nine years, and have been involved in the
25 steel industry for 20 years.

1 I appreciate the opportunity to appear before you
2 to explain why continuation of these trade remedies is very
3 important to my company and to our industry. With me is Ben
4 Rosenberg, Product Manager for Plate Products.

5 ArcelorMittal produces a wide array of
6 cut-to-length plate products with an extremely broad range
7 of dimensional characteristics. Our cut-to-length plate is
8 used in numerous applications such as heavy construction
9 equipment, rail cars, wind towers, large-diameter pipe,
10 chemical plants, petroleum refineries, nuclear facilities,
11 bridges, structures, barges, and ship building.

12 We were happy to have the Commission staff tour
13 our production facility in Coatesville earlier this summer
14 to see how this important product is made. ArcelorMittal
15 and its predecessor companies have a long and proud history
16 of producing cut-to-length plate in the United States.

17 Our plate has been used in building some of the
18 most well-known structures in our country such as the
19 Gateway Arch in St. Louis, the Walt Whitman Bridge in
20 Philadelphia, the Tappan Zee Bridge which is being rebuilt
21 across the Hudson River, the original World Trade Center in
22 New York, and the Freedom Tower which opened last year at
23 the same location.

24 Those of you who were able to make it to our
25 plant tour saw our 9/11 Memorial in Coatesville which

1 displays the trees from the exterior of the World Trade
2 Center, those trees were made from our plate and were the
3 only elements of those buildings to remain standing after
4 the attacks.

5 We are proud of our history but we are concerned
6 about our future. The trade remedies against the three
7 countries under review have been critical in restoring fair
8 pricing to our market. But even with these remedial
9 measures in place, we are faced with a very challenging
10 market.

11 While demand for cut-to-length plate in the U.S.
12 market was reasonably healthy from 2012 to 2014, the market
13 has experienced a severe downward adjustment in 2015.
14 Before the decline in demand, we saw a substantial increase
15 in import volumes and market shares from nonsubject
16 countries beginning in March of 2014. That increase
17 resulted in large inventory buildups of imports by the
18 beginning of 2015. The combination of falling demand and
19 increasing imports has led to a large decline in U.S. prices
20 and a dramatic dropoff in orders for cut-to-length plate
21 this year.

22 During the first two quarters of 2015, we
23 experienced price declines of over 20 percent. Through most
24 of the third quarter we have seen an additional price
25 declines of roughly 10 percent.

1 Prices in the U.S. cut-to-length market are now
2 at their lowest level in a decade and continue to fall
3 further into the fourth quarter. This collapse in pricing
4 is having a severe impact on ArcelorMittal USA's financial
5 performance and our ability to reinvest in operations.

6 Further, we have been told by customers have
7 current offers for imported plate to be delivered in the
8 late fourth quarter of 2015 and first quarter of 2016 are
9 \$60 to \$100 per ton lower than current low pricing.

10 The increase in volumes of nonsubject imports and
11 resulting inventory overhang are also causing our production
12 and shipments to decline. Much of the increase in
13 nonsubject imports has been driven by displacement of sales
14 in third-country markets by increased imports from China,
15 Russia, and Ukraine.

16 Our order books are off dramatically. Current
17 levels of inventories mean that distributors and service
18 centers are not interested in buying. End-users are
19 delaying their purchases, which are already at reduced
20 volumes, until the absolute last minute. When prices fall
21 as much and as quickly as they have this year, customers
22 tend to put off buying the product because they anticipate
23 prices are going to fall further, and they do not want to be
24 left holding inventories that are losing value.

25 I cannot over-emphasize the abysmal condition of

1 our market. We permanently closed our plate rolling
2 operations at our Gary, Indiana, Mill in May of this year.
3 Our capacity utilization rates and prices are already at
4 unsustainable low levels. It is truly frightening to think
5 where our plate operations would be if the trade remedies on
6 imports from China, Russia, and Ukraine had not been in
7 place, and how much worse off we will be if they are
8 removed.

9 The growth of the plate industry in China since
10 the time of the original investigation has been staggering,
11 and the industry continues to expand despite slowing demand
12 for the product in China.

13 The Chinese industry now accounts for well over
14 half of global capacity to produce cut-to-length plate, and
15 a very substantial element of this capacity is unused. In
16 fact, the Chinese industry has enough excess capacity to
17 supply the entire U.S. market for cut-to-length plate many
18 times over.

19 And we know that even though U.S. prices are low
20 and falling, they are far more attractive than those in
21 China. Based on these facts, there is no doubt that imports
22 from China would quickly establish an enormous U.S. market
23 presence and threaten the existence of the entire U.S.
24 industry if the Order was revoked.

25 The facts in relation to the Russian and

1 Ukrainian industries are sobering, as well. The Russian
2 industry also has expanded significantly in recent years,
3 but faces declining demand in its home market as the Russian
4 economy contracts. The industry has substantial
5 overcapacity and faces antidumping orders in a number of
6 countries. Given the relatively attractive prices in the
7 U.S. market and the strength of the U.S. dollar, Russian
8 imports will flood back into the U.S. market if the
9 Suspension Agreement is revoked.

10 At the time of the original case on this product,
11 Ukraine was the number one source of U.S. imports of
12 cut-to-length plate. Ukraine continues to be one of the top
13 exporters of plate in the world, and sells that plate at the
14 lowest prices among all the top global exporters.

15 The relative attractiveness of U.S. prices and
16 barriers to entry in other markets make it likely that
17 imports from the Ukraine will also increase quickly if the
18 Suspension Agreement is revoked.

19 As concerned as we are about the current
20 condition of the U.S. market for cut-to-length plate, the
21 return of imports from the three Subject Countries with no
22 price constraints would spell devastation for my company's
23 plate operation and for the domestic industry.

24 China, Russia, and Ukraine have always sold their
25 products on the basis of low and aggressive pricing. Their

1 return with no trade remedies in place would be disastrous
2 for both our prices and production of cut-to-length plate.

3 I use the terms "devastation" and "disastrous"
4 quite deliberately. We are in a precarious position in this
5 industry and we simply cannot withstand a further barrage of
6 low-priced imports.

7 On behalf of my company and our workers, I urge
8 the Commission to leave the Order and the Suspension
9 Agreements in place. Thank you.

10 STATEMENT OF HOLLY HART

11 MS. HART: Good morning, Chairman Broadbent and
12 Members of the Commission. My name is Holly Hart and I am
13 an Assistant to the International President and Legislative
14 Director of the United Steelworkers. We are the largest
15 industrial union in North America with over 850,000 members.

16 Our Union has consistently opposed the unfair
17 foreign--unfair trade practices of foreign governments and
18 foreign companies that seek to gain unfair advantages by
19 violating U.S. and international trade rules.

20 On behalf of our Steelworker members and
21 retirees, I am here today to discuss the need for a
22 continuation of the Antidumping Order against China, and
23 Suspension Agreements with Russia and Ukraine on
24 cut-to-length steel plate imports.

25 These Steelworkers represent thousands of workers

1 in several different states at numerous different plants.
2 Our members in the cut-to-length plate industry work at the
3 ArcelorMittal USA mills in Burns Harbor, Indiana; the C
4 Coatesville, Conshohocken and Steelton Mills in
5 Pennsylvania, and the LaPlace Mill in Louisiana, from just
6 2012 to 2014 production and related workers in the
7 cut-to-length steel industry have declined by more than 200
8 employees.

9 In the first half of 2015, both hours worked and
10 wages dropped, as well. In addition, ArcelorMittal USA
11 notified the Union that effective May 9th of this year its
12 Gary, Indiana, plate-rolling operations would be permanently
13 closed. In providing notice of this closure to the
14 Steelworkers, ArcelorMittal cited substantial foreign
15 competition and the recent surge in cut-to-length plate
16 imports as factors leading to this decision.

17 As you know, these closures and other worker
18 reductions have a devastating effect far beyond the affected
19 employees. They affect families and small businesses,
20 local, communities, and states where these men and women
21 reside as well.

22 Without a continuation of the current trade
23 remedies against China, Russia, and Ukraine, we will likely
24 see more of the same as unfairly traded imports will quickly
25 surge into the U.S. market, displacing further U.S. sales

1 and U.S. jobs.

2 I certainly understand and appreciate the
3 Ukrainian Government's efforts to assist its workers, but
4 those efforts to save Ukrainian workers' jobs come at the
5 expense of U.S. Steelworkers' jobs. And despite the tragic
6 situation in the Ukraine, the Ukrainians should not be
7 allowed to export their unemployment here causing American
8 workers to lose even more jobs.

9 As the Commission is well aware, the U.S. Steel
10 industry as a whole is under siege by surging imports on a
11 number of different steel products. The Steelworkers have
12 testified, and you're probably getting sick of seeing me on
13 behalf of the domestic industry and its workers in the
14 recent corrosion-resistant, cold-rolled, and hot-rolled
15 steel trade cases. China is already subject to an Order on
16 hot-rolled steel and the corrosion-resistant and cold-rolled
17 steel cases are moving forward against Chinese imports.

18 Russia is subject to a hot-rolled steel Order,
19 and a case on cold-rolled steel is also moving forward
20 against Russia. Russian imports of that product, excuse me.

21 Ukraine is also subject to an Order on hot-rolled
22 steel. While relief under those Orders is important, the
23 domestic industry and its workers cannot be truly protected
24 from unfairly traded imports without the continued relief on
25 cut-to-length plate.

1 On behalf of our Union's members who make
2 cut-to-length plate, the retirees that depend on the
3 continuing health of this industry and all of the
4 communities that they in turn support, I urge you to find
5 that termination of the Order or revocation of the
6 Suspension Agreements would likely lead to a continuation or
7 recurrence of material injury to the U.S. industry and its
8 workers within the reasonably foreseeable future.

9 Thank you, and I appreciate the opportunity to
10 testify before you today.

11 MR. PRICE: That concludes Petitioner's direct
12 presentation. We reserve our remaining time for rebuttal.

13 CHAIRMAN BROADBENT: Thank you, Mr. Price.
14 Thank you for the succinct presentation and let's see, I
15 think it's Ms. Holly, is that correct? Holly, we don't tire
16 of seeing you, so please keep coming, okay?

17 All right, let's see. I'm trying to kind of get
18 a sense of how the suspension agreements that are in effect
19 relate to how we should consider conditions of competition
20 with respect to these three orders. Mr. Price, can you help
21 me with that?

22 MR. PRICE: So I'll start it off. So there are
23 suspension agreements in place with Russia and Ukraine.
24 Those set, rather than having dumping duty deposits, those
25 set minimum export prices for these countries. The export

1 prices are set, taking into account prices and costs in the
2 whole market, and they vary by grade and type of steel also.

3 CHAIRMAN BROADBENT: Okay, but how do they
4 impact our consideration of whether these orders ought to be
5 revoked, whether injury would reoccur?

6 MR. SCHAGRIN: For the record, this is Roger
7 Schagrin. Chairman Broadbent, I do not believe that they do
8 impact the Commission's consideration of conditions of
9 competition. This is probably about the sixth or seventh
10 sunset review involving products in which there are
11 countries subject to the review that have both -- some
12 countries have suspension agreements and some countries are
13 subject to dumping orders.

14 Past cases include hot-rolled from Russia and
15 other countries on three occasions, and this is the third
16 sunset review of cases in which, under cut-to-length plate,
17 you have some countries with suspension agreements and, in
18 this case, one with the dumping order.

19 In the Commission's past considerations of these
20 sunset reviews and we can further elucidate this in our post
21 hearing brief, the Commission has not given consideration to
22 the differences among the subject countries, depending on
23 whether they're suspension agreements or orders.

24 And there's a good reason for that. Because, of
25 course, the suspension agreements are governed by statutory

1 provisions of the Department of Commerce that require that
2 those suspension agreements, in a sense, illuminate the
3 injurious impact of the pricing on the domestic industry.

4 So, recently, approximately three to four months
5 after this Commission's affirmative determination and
6 finding of recurrence of injury, by reason of hot-rolled
7 sheet from Russia, the commerce department found on that,
8 that suspension agreement on hot-rolled sheet from Russia no
9 longer served its statutory purpose and it revoked that
10 agreement and imposed dumping duties.

11 Here, we have a similar situation which is the
12 domestic industry filed a letter with the Department of
13 Commerce approximately three months ago asking that the
14 department revoke the suspension agreement as to Russia
15 because we advocated that it no longer was in accordance
16 with the statutory directive and just at the end of last
17 week, the Department of Commerce published notice in the
18 federal register asking for public comment within thirty
19 days on that issue.

20 The industry has not made a similar request with
21 the Ukraine, and I think for good reason. I know I've gone
22 on, but I recollect just one other very recent determination
23 by this Commission, which was world country tubular goods
24 from six countries.

25 That included the Ukraine and commerce has

1 entered into a suspension agreement with Ukraine. The other
2 countries were subject to antidumping duty orders and
3 countervailing duty orders, and the Commission treated all
4 those countries, including the Ukrainian suspension
5 agreement, equally for purposes in that case of determining
6 present material injury.

7 So I do not believe, under the Commission
8 precedence, that you should treat any of these countries
9 differently as condition of competition, because they have a
10 suspension agreement versus an order. Thank you.

11 MR. ROSENTHAL: Chairman Broadbent. Paul
12 Rosenthal, ArcelorMittal. Very quickly. I would say that
13 the -- whether it's an order or suspension agreement --
14 should not be considered a condition of competition. We
15 don't look at it that way, I don't think the Commission's
16 ever looked at, though, the existence of an order or
17 suspension agreement as a condition of competition.

18 The rest of what you consider, the market,
19 what's happening the marketplace, etcetera, may be
20 considered conditions of competition, but the orders are
21 simply the restraints that are imposed in their alternative
22 forms, but not a condition of competition.

23 MR. PRICE: Alan Price, let me quickly come back
24 to one more thing, which is Slide 16, which is Congress
25 basically entrusted the Commerce Department to say what the

1 margins of dumping would likely be, what the negative
2 effects would likely be for your consideration.

3 Trying to make somehow, rather distinguish
4 between a suspension agreement or for a condition of
5 competition, I think, displaces the direction of Congress
6 that you should accept what these likely margins would be,
7 and then judge the injurious impact of lifting the orders,
8 going forward, since the conditions of competition relate to
9 what the counterfactual are likely to be and whether or not
10 they'll be farmed to the U.S. industry, whether or not
11 they'll be increased. Imports, whether or not they would
12 compete with each other, whether or not they'd be
13 simultaneously present, it's all in the counterfactual
14 situation. That's where you should be focused.

15 CHAIRMAN BROADBENT: Okay. I guess this is --
16 we haven't done any of these cases yet, but deal with the
17 suspension agreements, but I guess I would kind of look at
18 it to try to figure out what is this restraining effect that
19 these agreements are having on the market as we find it?

20 MR SCHAGRIN: Chairman Broadbent, Roger
21 Schagrin. You know, the way that the statute works at
22 commerce and in practicality, the way these now market
23 economy's suspension agreements with Russia and the Ukraine
24 work, is that they establish a normal value by specific
25 product for every six month period based upon a request.

1 It's the Russian and/or Ukrainian producer that has to make
2 a formal request to the Department to establish normal
3 value.

4 They then present old questionnaire data they
5 would normally present during an investigation period, as
6 the whole market prices and whole market costs, and then the
7 department establishes a normal value for a future six month
8 period. And we believe that, depending on certain
9 conditions, that those types of suspension agreements can
10 remove any adverse pricing effect. Sometimes they don't
11 work well.

12 In the case of Russia, both as the hot-rolled
13 and as the plate, a massive sudden devaluation of the
14 currency can result in very precipitous downturns in those
15 normal values, and that's because there's a timing lag, so
16 not to get too far in the weeds, but I think you're
17 interested in how these work.

18 If the Department of Commerce is now looking at
19 establishing first half 2016 normal values based on first
20 half 2015, whole market prices and costs, it would then say
21 in October or November of 2015, take all of those whole
22 market sales and costs which were in Russian rubles using
23 Russia as an example, and it would translate them into whole
24 market prices and whole market costs using the ruble
25 exchange rate in October or November of this year.

1 And the ruble is plummeted by more than, maybe
2 fifty, sixty, seventy percent, and so that can result in a
3 very severe downward adjustment. We've argued to the
4 Department that that's why that agreement is not working as
5 it should and why it should be revoked. I would point out
6 that suspension agreements -- I was involved in these cases,
7 I was the petitioner's counsel in '96 and '97 --

8 CHAIRMAN BROADBENT: Okay.

9 MR. SCHAGRIN: -- when these cases were brought.
10 Those suspension agreements were made because at that time,
11 the Soviet Union -- no, the former countries, then the CIS
12 countries -- steel was their primary export. And they badly
13 need the currency, and the Clinton administration said,
14 "Look, steel industry, you have to take one for the team.
15 We're not going to impose these 237% and 185% duties. We're
16 gonna give these folks --

17 CHAIRMAN BROADBENT: Okay, looks like my time is
18 up.

19 MR. SCHAGRIN: I'm sorry.

20 CHAIRMAN BROADBENT: Thank you.

21 VICE-CHAIRMAN PINKERT: Thank you, Madame
22 Chairman and I thank all of you for being here today to help
23 us to understand these issues. I understand your argument
24 about the suspension agreements and the impact that they
25 might have had on pricing, but how much of an increase in

1 Ukrainian volume is likely in the event that the suspended
2 investigation on Ukraine is revoked?

3 MR. SCHAGRIN: Vice-Chairman Pinkert, this is
4 Roger Schagrin. We believe a tremendous amount and we point
5 to you as an example. So the EU had a quota system with the
6 Ukraine in place for many years. And after they ended that,
7 in part because of the political changes, you just saw a
8 tremendous increase in Ukrainian plate exports, the EU. So
9 we believe the same thing would happen here.

10 We have not asked for the Ukrainian suspension
11 agreement to be terminated. We understand the politics. We
12 did not oppose -- by the way, knowing the OCTG industry --
13 oppose the suspension agreement with the Ukraine on OCTG.
14 Once again, we understood the politics.

15 But we believe the EU is the perfect example you
16 have on the record. There's a lot of public information on
17 it, your record information is confidential, about the
18 massive growth in Ukrainian exports to EU, we believe that
19 without any discipline in the U.S. market, given the massive
20 excess capacity the Ukrainian industry has, that we would
21 see a similar growth in exports from Ukraine to the U.S.
22 without the suspension agreement. Thank you.

23 MR. ROSENTHAL: Vice-Chairman Pinkert, Paul
24 Rosenthal. Real quickly. Again, I don't think you should
25 be looking at the -- whether it's a dumping order or

1 suspension agreement -- any differently. There's trade
2 relief in effect, they're supposed to have a similar
3 restraining effect -- and your job, as you know it, is to
4 anticipate or guess what will happen in the absence of this
5 restraint.

6 And that's the crux of our testimony today by
7 the witnesses is to say there is massive excess capacity in
8 the Ukraine. They're able to ship to Europe.
9 Transportation costs are not an issue. They'll be able to
10 ship their products here. It doesn't matter whether there's
11 a suspension agreement that's being lifted, or antidumping
12 orders being lifted, once they're unrestrained, they have
13 the capability to flood this market with imports. That is
14 the key point.

15 VICE-CHAIRMAN PINKERT: But I guess the
16 question, just to follow up with you, Mr. Rosenthal, for a
17 second. The question here is, "Why haven't they done that
18 already?" Given the nature of the suspension agreements in
19 question?

20 MR. ROSENTHAL: There are several reasons for
21 that. One of them is that it actually has been a -- despite
22 what they say, it has been a restraint, it has been an
23 impediment to their exports. They may claim that they
24 could've satisfied the margins, etcetera, but in fact, the
25 suspension agreements have, in fact, been a restraint on

1 their ability to export.

2 MR. UTERMARCK: Commissioner Pinkert, Chad
3 Utermarck, Nucor. I would just add -- if you look at
4 Ukraine's behavior prior to the suspension agreement
5 decision in the late '90s, they were the leading exporter to
6 the United States. They are built on an export platform and
7 I concur with what was just said.

8 Thanks to your Commission's decision, I believe
9 that is one of the reasons they have been constrained over
10 the years of not bringing more imports into the United
11 States. But if this suspension agreement is revoked, I
12 firmly believe they will come to our market, they will come
13 quickly. They're able to come here. You saw the freight
14 rates. They have resources, they have connections with
15 customers, and we believe those imports will flood our
16 market.

17 MR. MOSKALUK: Commissioner Pinkert, it's Jeff
18 Moskaluk with SSAB. Just perhaps to add a little to the
19 comment already made. I believe your question is, "Why
20 would we think they will come to the U.S. market if the --
21 is that correct?"

22 VICE-CHAIRMAN PINKERT: Well, the follow up
23 question was, given the nature of the suspension agreements,
24 and particularly the one on Ukraine, why haven't they
25 already come in larger volumes into the U.S. market?

1 MR. MOSKALUK: Okay. Your first question was,
2 "Would they come if it was removed?" Is that -- I was
3 trying to answer the first one perhaps.

4 VICE-CHAIRMAN PINKERT: The first one was, "What
5 do you expect the increase in volume to be?"

6 MR. MOSKALUK: I think the increase in volume
7 would be significant. And I'll point out a few reasons why.
8 One, our company has assets in Europe and so we see, you
9 know, who's exporting into Europe and clearly, the
10 Ukrainians are a large player there. And as we see, the
11 European market has slowed. The markets in Asia have slowed
12 significantly, and other markets that would be potential
13 markets to export plate would be Europe, Asia, South America
14 or the U.S.

15 And so if you look globally, the U.S., while
16 it's a declining market, it is still probably the most
17 attractive on demand, compared to the others I have listed.
18 And so it seems a pretty straight connection that the
19 opportunity would be there, and this would be a market that
20 would attract them.

21 MS. BECK: Commissioner Pinkert, if I could also
22 just point out -- in the first six months of 2015, there was
23 a very notable increase in imports from the Ukraine, and if
24 you look at the prices, at very low prices. Oh, I'm Gina
25 Beck from Georgetown Economic Services.

1 VICE-CHAIRMAN PINKERT: Thank you.

2 MR. PRICE: Alan Price, Wiley Rein. September
3 7, 2015. This is actually from Medinvest website.
4 Interview from their Director of Business. Basically, I'll
5 summarize it. Talking about the crash in world markets
6 occurring because of China. It's chasing them out of a lot
7 of their Asian markets, forcing them to scramble.

8 With the decrease in the domestic market,
9 Chinese shipping still, China stepping up exports, thus
10 reshaping the balance of forces in all international
11 markets. This will result in a decrease in steel prices and
12 tougher competition with steel making, among steel makers.

13 They view this as a long term issue. They view
14 this -- they have the lowest prices. Actually they're
15 arguing China's now lower than them. They're fighting it
16 back and forth. Faced with the opportunity to sell in the
17 U.S., which is a higher priced market, they will exploit it
18 like they -- and they will exploit it substantially.

19 There is no question that they will shift to
20 market as they shift from market to market. They shift
21 readily, they shift easily and with the attractiveness of
22 the U.S. market going forward with plate prices on the world
23 market, now you saw these numbers in the fives, I think?
24 Put a three as a beginning number on that in the world
25 market right now.

1 The U.S. is the most attractive market in the --
2 for them to shift into. It's hard to conceive how they
3 wouldn't do it. There's no shortage of ships. There's no
4 shortage of shipping. The attractiveness is there. And
5 just as they did in -- between 2007 and 2008, they shipped
6 very quickly, ramped up to the U.S. into a collapsing U.S.
7 market. They're very opportunistic and they're businessmen.

8 Why wouldn't they increase substantially into
9 the U.S. is equally the question. It's hard to believe that
10 they wouldn't.

11 VICE-CHAIRMAN PINKERT: Mr. Schagrin.

12 MR. SCHAGRIN: Vice-Chairman, I want to point
13 out one other thing about the suspension agreements, which I
14 have seen happen constantly and maybe Mr. Price could put up
15 the price on the fallen U.S. prices. This has happened
16 consistently over the last seventeen or eighteen years with
17 these agreements. And that is, I talked about the lag with
18 Chairman Broadbent of setting the prices, but it's really
19 tough for these farm producers, Ukrainians, Russians, we've
20 seen it with Chinese, South Africans.

21 When U.S. prices are falling, it's very tough
22 for them to sell at their suspension agreement, normal
23 values. And that's because they are set based on a period a
24 year before. And so they really can be uncompetitive when
25 U.S. prices are plummeting because their normal values are

1 set based on such an earlier period.

2 It's just the opposite when U.S. prices are
3 increasing, is that the suspension agreement helps them be
4 more competitive. So I think that's the real reason, even
5 with the increase we've seen in 2015, that's why they're not
6 able to ship like crazy, and you know, given the time
7 periods, I'm sure some of the U.S. customs would say, "Well,
8 for stuff that's gonna arrive here in three months, why
9 should we buy at your minimum normal value price?" U.S.
10 prices could be below that.

11 So, you know, these agreements don't always work
12 to the farm producers' benefit. If there's no suspension
13 agreement, then these guys can say, "Well, U.S. prices are
14 down to \$524 a ton. We'll give you \$300. Who cares where
15 U.S. prices are in six months." They can't do that with
16 suspension agreements. I think that's the real answer and I
17 really can say truthfully, that I've seen this happen time
18 and again over the sixteen or seventeen years of these
19 agreements that, the benefits of the farm producers are very
20 different given the time lags, depending on whether U.S.
21 market prices are going up or down. I hope that helps you.

22 MR. ROSENTHAL: I'm thinking I know your time is
23 up, but just take one last look at Slide 9, where the, you
24 see that, even in 2014, at the height of the problems in
25 Ukraine, the Ukrainians managed to be the fourth largest

1 exporter of cut-to-length plate in the world.

2 It's an incredible performance for a company
3 that's in a country under siege. Can you imagine what will
4 happen if there is no restraint on the U.S. market for the
5 Ukrainians to export here? That is our fear.

6 VICE-CHAIRMAN PINKERT: Thank you very much. I
7 think that's the end of my round.

8 CHAIRMAN BROADBENT: Commissioner Williamson.

9 COMMISSIONER WILLIAMSON: Thank you. I want to
10 thank all the witnesses for their testimony. I just can't
11 help but continue with Mr. Schagrin. I understood very
12 clearly why you said the suspension agreement didn't help
13 the foreign exporters when the prices are falling in the
14 U.S. market, because it's based on prices the year before.
15 So why'd you ask for the suspension agreement in Russia?

16 MR. SCHAGRIN: Why did we ask for it to be
17 revoked?

18 COMMISSIONER WILLIAMSON: Yes.

19 MR. SCHAGRIN: Well, we all think it was --

20 COMMISSIONER WILLIAMSON: Prices are going to
21 continue to fall, aren't they? You're expecting that right
22 now?

23 MR. SCHAGRIN: I hope not forever.

24 COMMISSIONER WILLIAMSON: Yeah, but then --

25 MR. SCHAGRIN: All these mills that Ms. Hart was

1 talking about, they're all closing.

2 COMMISSIONER WILLIAMSON: Yeah, we're in
3 trouble, yeah --

4 MR. SCHAGRIN: These prices are below cost for
5 the U.S. industry at this point. But, you know, I'll be
6 honest, Commissioner Williamson, I always am. There's some
7 politics involved.

8 You know, there's, I mean having been through
9 kind of every major suspension agreement negotiated, they've
10 pretty much, other than uranium and tomatoes from Mexico,
11 all the rest have been on steel products. They've always
12 been political and Russia's not in a good position
13 politically vis- -vis these United States right now, and
14 with the domestic industry that is really suffering as badly
15 as I've seen it in the last fifteen years, our duty on
16 behalf of these producers is to take advantage of some of
17 those politics and to try to get them in a better position,
18 which would be the imposition of 185% duties.

19 In hot-rolled, where we asked for the Commerce
20 Department to revoke the agreement, imports from Russian
21 fell from approximately eight hundred thousand tons annually
22 to zero, even though a lot of that was taken by other
23 imports. That still benefited the U.S. industry which would
24 have been in worst position. That's the answer.

25 COMMISSIONER WILLIAMSON: Mm-hmm.

1 MR. SCHAGRIN: We do what we can appropriately,
2 given the politics here in a city full of politics called
3 Washington, D.C.

4 COMMISSIONER WILLIAMSON: So sometimes, in
5 falling prices, it appears there's falling prices,
6 suspension agreements can be useful, but sometimes there are
7 better deals.

8 MR. SCHAGRIN: I would agree with both of those
9 statements. They're useful, but sometimes the dumping, or I
10 would say, also, the U.S. industry always prefers dumping
11 orders to suspension agreements. We'll just put up with
12 suspension agreements if that's what the politics dictate.

13 COMMISSIONER WILLIAMSON: When politics are
14 involved, like I said, it's about as rational explanation as
15 one could expect. So thank you. Let's turn to, Buy
16 American, another preference is, Table 2-9 of the staff
17 report indicates that over 50% of purchases of cut-to-length
18 plate are subject to a requirement or preference for U.S.
19 market product. Could you explain how these requirements or
20 preferences operate in practice? Do they represent a
21 significant impediment to imports?

22 MR. MOSKALUK: Jeff Moskaluk, SSAB. Are you
23 referring specifically to Buy America clauses or just
24 preferential?

25 COMMISSIONER WILLIAMSON: Buy America customers,

1 I guess you might say stated preference or policy.

2 MR. MOSKALUK: Sure, sure.

3 COMMISSIONER WILLIAMSON: I don't know. They
4 all may have the same impact or they may have different
5 impacts.

6 MR. MOSKALUK: Right. I believe they have
7 different impacts.

8 COMMISSIONER WILLIAMSON: Okay.

9 MR. MOSKALUK: So prescriptive Buy America is a
10 relatively small portion of a customer's preference on
11 sourcing.

12 COMMISSIONER WILLIAMSON: Yeah.

13 MR. MOSKALUK: So Buy America or anything that
14 would be a contractual clause for supply is typically very
15 small and has to do with government spending on specific
16 projects, typically infrastructure. As you're probably well
17 aware, that spending is very limited right now.

18 So in any particular year, our company's
19 participation could be a small amount of volume all the way
20 down to zero, if we are unsuccessful as a bidder on a
21 contract that should have that language. Customer
22 preference for domestic supply tends to be their balance in
23 the assessment of delivery, holding inventory, cost at the
24 time of purchase.

25 So while they may prefer in a balanced market to

1 buy domestically because it shortens their supply chain and
2 allows them to hold less inventory, free up more working
3 capital for their business. In a market where import
4 products may be 100 or in some cases 200 dollar a ton
5 advantage, they may waive that decision and decide they're
6 fine with putting more working capital into inventory.

7 So the preference is as much economic as it is
8 delivery or service or anything else that goes in their kind
9 of triangular decision-making.

10 COMMISSIONER WILLIAMSON: Okay, thank you. Mr.
11 Whiteman.

12 MR. WHITEMAN: Jeff Whiteman, Nucor Steel.
13 While I'd agree with my colleague, Mr. Moskaluk, the actual
14 Buy American requirement would represent a very small
15 portion of our business.

16 COMMISSIONER WILLIAMSON: Okay, and low prices
17 meets the other preferences, you would say?

18 MR. WHITEMAN: Correct.

19 COMMISSIONER WILLIAMSON: Okay, thank you.

20 MR. UNRUH: Commissioner Williamson, Jeff Unruh
21 with ArcelorMittal. As has been noted by Mr. Moskaluk and
22 Mr. Whiteman, Buy America is primarily seen in the bridge
23 market, where there is federal funds. As a quick estimate,
24 we're talking very low single digits as far as requirements
25 that supply that market. So again, a very small portion of

1 the total requirement.

2 COMMISSIONER WILLIAMSON: Wish it were more, but
3 that's not going to matter.

4 MR. UNRUH: We would love -- we would love a new
5 highway bill. Nothing would make the industry happier.

6 COMMISSIONER WILLIAMSON: Okay, thank you.

7 MS. BECK: Commissioner Williamson, Gina Beck
8 from GES. Just consistent with the data in the staff
9 report, the percentage that's required Buy America is a
10 very, very low percentage.

11 COMMISSIONER WILLIAMSON: Yeah. That's why I
12 was also wondering about these other, shall we say,
13 preferences.

14 MR. PRICE: Alan Price, Wiley Rein. The only
15 other thing I would say is that what we've seen case after
16 case, customers don't call you and say "Hey, it's the Buy
17 America project. Charge me more on these tons." So the
18 market price always establishes the price for all the
19 tonnage.

20 COMMISSIONER WILLIAMSON: Okay, okay, thank you.
21 Metinvest argues, at page 51 of its brief, that "The
22 industry's new production facilities and ArcelorMittal's new
23 plate heat treating line, SAAB's new investment facility,
24 and Nucor's new normalization line shifts the focus of the
25 U.S. industry to high value products that are insulated from

1 import competition."

2 So I guess they're saying you're making higher
3 quality products means that you no longer have to worry
4 about their low quality imports.

5 MR. MOSKALUK: This is Jeff Moskaluk with SSAB.
6 Our production capacity is over 2-1/2 million tons. Our
7 investments in moving some products up the value chain is a
8 very small proportion of that. We have a very keen interest
9 in serving the broadest and largest portfolio in the market,
10 because for us to sell all of our capacity, we have to be
11 active in all of those products.

12 So while we have invested to supply in some of
13 the higher value products, it's not been at the expense of
14 us vacating any of the other parts of our product portfolio.

15 COMMISSIONER WILLIAMSON: Thank you.

16 MR. WHITEMAN: Commissioner William, Jeff
17 Whiteman, Nucor. Again, I would agree with what Mr.
18 Moskaluk had said. As far as Nucor would be concerned, two
19 factors to that. The imports that are coming in from the
20 non-subject countries have essentially shifted the focus to
21 the value-added product.

22 One, it represents single digit volume
23 components for Nucor Steel, and secondly the cost or the
24 price of the imports coming in would also have an adverse
25 effect on the price of those products as well.

1 COMMISSIONER WILLIAMSON: Okay, thank you. Yes.

2 MR. UNRUH: Jeff Unruh, ArcelorMittal USA.

3 Again, the main factor is being in a position where we can
4 go ahead and compete head to head with Metinvest.

5 MR. PRICE: Alan Price, Wiley Rein. Just want
6 to add again from Metinvest website from 9/28 or September
7 14th, excuse me. One is they're bragging about all of the
8 new HSLA grades they're now producing and qualifying for.
9 So the idea that they're only a low end supplier is actually
10 not consistent.

11 Oh, and one of their targets in the near future
12 is to start going after this exact U.S. business. They see
13 that as precisely attractive. Now they have to do some
14 investments for it, but Metinvest has been making
15 substantially investments in its plate facilities as we
16 speak.

17 COMMISSIONER WILLIAMSON: Okay. Thank you for
18 those answers. Table C-1 shows that total capacity of the
19 domestic producers far exceeds apparent U.S. consumption
20 over the Period of Review. What explains these capacity
21 levels, and what does this capacity mean for intra-industry
22 competition for sales in the U.S. market?

23 MR. MOSKALUK: Jeff Moskaluk, SSAB. I think the
24 U.S. domestic industry has done a significant amount of
25 rationalization of capacity, and I think over an extended

1 period, we have seen facilities close entirely, and more
2 recently we've seen Claymont close entirely and the
3 announcement for the Gary Works from ArcelorMittal.

4 So I think the capacity for the domestic market,
5 when you look at it and when you look at our own capacity,
6 we balance between plate and coil and plate. So if you're
7 counting all of our capacity as plate, some is plate and
8 coil. We would move that around, depending on the market
9 activity and the demand by product.

10 So I think the domestic market does a good job
11 of matching operating capacity and product mix to the market
12 demand. So I think it's not such a subject that the U.S.
13 industry that has to read about overcapacity; we're
14 relatively in balance. You could point out at any point in
15 time there may be some overcapacity in an operating period.
16 But in general, the market's pretty much in balance for
17 plate.

18 MR. UTERMARCK: Chad Utermarck, Nucor. I know
19 your time's about up. But I would just echo that point.
20 The excess -- there's a good balance here in the U.S. We
21 had consolidation in the early 2000's. We suffered a couple
22 of plant closures recently. The excess capacity issue is
23 not here in the U.S.

24 It's around the world, and it's coming here. It
25 came here in late '14, doubled -- monthly tonnage doubled.

1 We were seeing 90 to 100 thousand tons of import. Suddenly,
2 we were closing in on 200,000 tons per month and it has
3 continued into 2015, even though U.S. consumption is down.
4 So I would argue that the excess capacity issue is a world
5 issue, not a U.S. issue.

6 COMMISSIONER WILLIAMSON: Okay. Thank you for
7 those answers.

8 CHAIRMAN BROADBENT: Commissioner Johanson.

9 COMMISSIONER JOHANSON: Thank you, Chairman
10 Broadbent, and I would like to thank all the witnesses for
11 appearing here today. Unfortunately, I was unable to visit
12 the site in Pennsylvania, Coatesville, but I understand it's
13 very interesting. I was actually there I believe for the
14 clad steel case back in 2012-2013. So I have a good idea of
15 what that plant looks like. I remember it being very big.

16 So thank you for appearing here, and I would
17 also like to mention this. Cut-to-length plate has a very
18 long history. As you all know well, I'm looking at pages
19 1-6 to 1-8 of the staff report, three full pages in small
20 print of investigations involving this product. So I think
21 it's very interesting that I finally get to learn about it.
22 It looks like a lot of other Commissioners have studied this
23 in the past.

24 I'd like to begin on a very difficult issue, and
25 that is the issue of cumulation involving Ukraine. The

1 situation in Ukraine right now is of course not ideal. Why
2 doesn't the armed conflict in eastern Ukraine mean the
3 Ukraine producers compete under significantly different
4 conditions of competition than Russian or Chinese producers?

5 MS. CANNON: Kathy Cannon from Kelley Drye. So
6 I looked at the brief that the Ukrainians filed,
7 Commissioner Johanson, very carefully, where they argued
8 about different conditions of competition, and I've compared
9 to the Commission's typical analysis when the Commission
10 identifies different conditions of competition in the
11 cumulation context.

12 It's quite unusual. It's not consistent with
13 normal practice. Typically, what the Commission would look
14 at is what would be different conditions of competition that
15 would influence your statutory factors, your analysis of
16 volume or price. So you would look at trends, you would
17 look at behaviors that might be different, that would
18 differentiate.

19 The armed conflict situation would be relevant
20 to that, to the extent it would mean that the behaviors with
21 respect to volume and price by the Ukrainians would
22 differentiate them from China or Russia. But as you see
23 from the information that we've provided and that was
24 summarized in the PowerPoint this morning, the behaviors
25 that would be anticipated from the Ukraine in those

1 statutory factors are similar.

2 The volumes, the idle capacity exists in the
3 Ukraine. The export orientation is extensively heavy. The
4 underselling has occurred. The low average unit values in
5 the chart of all three of the countries are absolutely the
6 same and differentiate them from other countries.

7 So the critical statutory factors that would
8 really be relevant to the Commission's cumulation analysis
9 for the Ukraine are very similar to those of the other two
10 countries under review in this case, irrespective of the
11 conflict situation.

12 COMMISSIONER JOHANSON: Yes. Thank you Ms.
13 Cannon. Mr. Price?

14 MR. PRICE: Yeah. So I agree with Ms. Cannon.
15 I'd also add some other thing here. First of all, Ukraine
16 has and Metinvest in particular has managed to export
17 significant quantities. They continue to do so. So
18 according to CRU, they say that they'll be an increase in
19 plate production exports in the third and fourth quarters.

20 So the idea that there is somehow rather an
21 inhibition to export and an inability is wrong. It's
22 continuing. Ukraine has largely been stable recently, and
23 the plants have been ramping up production. In fact,
24 Metinvest actually now has some production records on some
25 other product lines as we speak, produced at these same

1 facilities.

2 The sales director says Metinvest has had no
3 problem fulfilling all of its contracts. You have to
4 remember when you trade internationally, it's going to be
5 letter of credit and a contract there, and that's what he's
6 talking about. They're having no problems doing that.

7 Their crude steel production increased 32
8 percent between the first and the second quarter. The first
9 quarter was a tough situation, but things have radically
10 improved there. Production of finished flat products have
11 increased by 18 percent. Let's go on to SPB for a minute.
12 Ukraine's steel production is recovering quickly. This is
13 what their SPB is currently reporting.

14 Metinvest reports that it is operating as usual.
15 According to Azovstal director said "Thanks to recent
16 stabilization in the region, the company has seen
17 opportunity to gather strength." Azovstal and Illyich
18 produced more than 235,000 tons of steel products in May,
19 demonstrating the mills are "almost fully recovered to
20 levels of the same period last year."

21 According to SPB, Metinvest plans to invest \$230
22 million in an iron ore complex, 90 million in its blast
23 furnaces, 200 million to the continuation in a new
24 continuous caster. The idea that these companies are not
25 able to export and export significant quantities just are

1 not consistent with the current facts.

2 So whatever the sympathies are, and there is a
3 tragic situation going on there, the issue for the
4 Commission is are these imports going to increase. Are they
5 going to have a discernible adverse impact. Are they all
6 going to have a discernible adverse impact. Are they
7 interchangeable? Are they going to affect the U.S. industry
8 in a negative way, and the answer to each of those questions
9 we think is undoubtedly yes.

10 No matter what you come to, as you see who are
11 the three lowest priced leaders and what that impact is
12 going to be, and what market can the Ukraine take advantage
13 of, which is the substantially higher priced U.S. market.

14 MR. SCHAGRIN: Commissioner Johanson, I'm just
15 going to pile on here, only because I think this is the most
16 critical issue for the Commission in the sunset review, and
17 I found in reading the Metinvest prehearing brief that the
18 two major points they made about conditions of competition
19 being different from the Ukraine than Russia and China were
20 completely contradictory.

21 Their first and main argument is that the
22 strife, the conflict in the Ukraine prevents them from
23 producing and exporting. Their second major issue is they
24 have grown their exports so much to the EU and the Middle
25 East that we don't have to worry about them here.

1 Those are just fundamental contradictions. If
2 in fact this conflict kept them from producing, I probably
3 wouldn't be here telling you you should keep this order. I
4 mean if Metinvest in fact could not operate their plants and
5 produce plate, then they wouldn't be a threat of increasing
6 exports to the United States.

7 But if you look on this record and see over the
8 past three years by how much they have increased their
9 exports to the EU, as soon as the EU released their quote
10 restrictions, it just shows that they are able in this
11 environment, in part because of the incredible power of
12 their owner. I mean this is -- their owner is the most
13 powerful man in their country.

14 He is more powerful than the president of the
15 Ukraine. He is the wealthiest man in the Ukraine. He is
16 one of the wealthiest men in the world. He makes Donald
17 Trump look like a pauper, okay. He is able to play the
18 politics, so that he can operate his plants as much as he
19 wants in the area that's affected by the conflict and the
20 area outside, and he's doing that and his companies are
21 setting production records. He's got no home market and he's
22 exporting like crazy anywhere he can.

23 So I think this is the central issue, and I
24 really think that the Commission should make an affirmative
25 vote, because they'll do to the U.S. what happened to the

1 EU, and trust me in the rest of your time on the Commission,
2 you don't want to see us back here in a year filing a new
3 plate case on Ukraine.

4 So you don't want to deal with more plate cases
5 now that this is your first sunset review on plate, because
6 that's what we would be forced to do. I don't want to do it
7 either.

8 COMMISSIONER JOHANSON: Given the unique
9 situation in Ukraine, while considering the Ukrainian
10 industry should we be considering Ukrainian mills on a mill
11 by mill basis, in terms of the impact of the conflict in
12 eastern Ukraine and in terms of the products that are
13 produced there?

14 MR. SCHAGRIN: No, we don't believe so. I think
15 you have to look at the industry as a whole. There's
16 substantial excess capacity in the entire industry. There
17 is no dispute that the Metinvest plants are fully capable of
18 shipping large volumes and exporting huge volumes to the
19 United States.

20 COMMISSIONER JOHANSON: Along those lines again,
21 Metinvest argues that the Commission should disregard
22 Alchevsk, a mill whose production has been crippled by the
23 conflict in the eastern Ukraine, and is no longer -- which
24 is no longer located within Ukraine-controlled territory,
25 and Metinvest contends we should do this when analyzing

1 likely volumes coming from the Ukraine in the event of
2 revocation. It looks like you'd like to address this, Mr.
3 Schagrin.

4 MR. SCHAGRIN: I would, Commissioner Johanson.
5 We would disagree with that as a fundamental legal question,
6 because the United States, as a country, recognizes Ukraine
7 as a sovereign government and all of its previous borders
8 with Russia are intact and, you know, unless that eastern
9 part of the Ukraine became an internationally recognized
10 separate country or like the Crimea, you know, became
11 actually legally a portion of Russia, which case it would be
12 covered under the U.S. law by the Russian suspension
13 agreement, I think legally, as a matter of U.S. law and
14 jurisprudence, that that argument is without foundation, and
15 that this Commission is required to treat all of the plants
16 within the sovereign borders that the international
17 community recognizes as Ukrainian territory as Ukrainian
18 mills.

19 COMMISSIONER JOHANSON: Yeah. I realize this
20 might be a unique situation, because we have the sovereign
21 borders. But we also have what appear to be de facto
22 borders right now due to the war. So it's a hard one. As
23 you say, this is a legal issue. If you could address this
24 further in the post-hearing brief, I would appreciate it,
25 just to help fill me in. Thank you, and my time has

1 expired.

2 CHAIRMAN BROADBENT: Mr. Kieff.

3 COMMISSIONER KIEFF: Okay, thanks. I'm sorry.
4 I didn't mean to cut you off.

5 CHAIRMAN BROADBENT: No. He said his time's
6 expired.

7 COMMISSIONER KIEFF: All right. I join my
8 colleagues in thanking the counsel and the witnesses for
9 coming and preparing and presenting such great information,
10 especially of course hearing the perspectives of both
11 management and labor is very helpful, and I greatly
12 appreciate the conversations you have had with my colleagues
13 before getting to me.

14 So let me use my time, if I could, to ask some
15 different questions, just to round out my thinking a little
16 bit. First, if I could, you've had slide -- well, the
17 current slide up for some time, and I'm still trying to make
18 sure that I actually understand it.

19 Can I ask you to explain it to me a little bit
20 more, and in so doing, let me tell you why I'm confused.
21 There's a -- not to pick favorites, there's a fun Saturday
22 evening live television comedy show that has a fun skit, in
23 which they take a popular advertised TV brand of men's suits
24 and express the view that they are so inexpensively priced
25 that they could thus be thought of and marketed as, I guess,

1 towels or wipes or rags, and then in fact they provide a
2 sample box in their video of this men's suit product
3 packaged as wipes. Then you take a whole man's suit out and
4 wipe up your spill.

5 I'm having a hard time understanding. I think
6 the point of the video is that something that's priced so
7 different from something else may in fact be different, and
8 what I'm having trouble with is I don't understand who would
9 ever buy Swedish and German export steel? Why in their
10 right mind would they do that if the three highlighted in
11 red are available in the export market? Why does someone
12 buy Swedish steel?

13 MR. MOSKALUK: Jeff Moskaluk, SSAB. The SS
14 stands for Swedish steel. So I think I'm probably the best
15 person to answer your question.

16 COMMISSIONER KIEFF: That's wonderful.

17 MR. MOSKALUK: What you're seeing here is some
18 of the countries focus almost exclusively on things like
19 heat treated abrasion resistance, ultra high strength or
20 advanced high strength steels, and so that's -- and as you
21 move down, you'll see probably from two-thirds of the list
22 down, those are countries that focus on what we would call
23 the more general part of the market, structural grades, mild
24 carbon grades.

25 So it's only -- there's a small number at the

1 top of this list that would focus more on those other
2 products. But the majority of this list are countries that
3 focus on mild carbon steel. So that would explain perhaps
4 one or two outliers at the top. The balance of the
5 difference tends to be attracting share or the large volume
6 of export, where you chase the broadest part of the market.

7 COMMISSIONER KIEFF: And I guess -- look, that
8 makes sense and I'm just struck even by the, to use your
9 slide, from France down through the Netherlands, the average
10 price is still almost twice what the average price is for
11 China, Russia and Ukraine. So and again, I'm sure there are
12 good reasons for it. So the question that I'm really asking
13 is in a nutshell, should that impact our thinking about how
14 fungible all of these things are, or how the market treats
15 all of them.

16 MR. MOSKALUK: Jeff Moskaluk, SSAB again. I
17 think what this is demonstrating is there are particular
18 countries and particular companies within countries that
19 choose to consistently undersell markets to garner share.
20 So that's why you will see the differentiation in price. If
21 your question is if everybody undersells, why do they
22 undersell by so much, it's the case that not everybody
23 choose to undersell, but these particular countries
24 undersell almost exclusively.

25 COMMISSIONER KIEFF: Yeah. I mean I guess what

1 I'm wrestling with its magnitudes, and so for example on your
2 slide -- just bear with me for one moment -- you have a
3 slide where you highlight -- here we go, Slide 5, where you
4 -- and maybe this is just advocacy.

5 MALE SPEAKER: What slide? What slide?

6 COMMISSIONER KIEFF: Slide 5, the one that's up
7 there now. I found the 8.7 to be extremely helpful as an
8 annotation, because when I first glanced, I thought the
9 buildings I was looking at, one was twice the height of the
10 other, and then I realized I was looking at an urban skyline
11 of skyscrapers, one which was slightly taller than the
12 other, right.

13 The 8.7 drop, the stock market dropped yesterday
14 two percent. 8.7 percent over a year would have been a
15 pretty good last year for the U.S. stock market. I'm just
16 trying to -- what I'm trying to wrestle within, I mean I
17 think just in the interest of transparency, I don't perceive
18 there to be a lot of wrestling today around China or Russia.
19 I perceive the rubber hitting the road, to pick another
20 product, on the Ukraine, and I perceive the tension there to
21 be around getting everybody comfortable with either one or
22 two relatively simple cases.

23 The pro, the one you're making, is that when you
24 -- when you apply the traditional factors and you look at a
25 glance, this looks like a straightforward case, and then

1 it's gosh, only augmented by the very looming presence of
2 Russia and China as well. I take it that the other side is
3 pressing us to press you by asking how material is this
4 going to be, and they highlight the future tense, right.

5 In their opening remarks, they highlighted the
6 point that the initial case was a threat case, not an injury
7 case. They highlight the fact that a threat case is always
8 speculative. They highlight the fact that that decision was
9 made a long time ago, when a whole lot of things were very
10 different, and then they highlight, as most of your dialogue
11 with my colleagues have highlighted, the difficulties
12 ongoing in the Ukraine.

13 And they I think then leave us with a difficult
14 question, which is that we have to then have confidence
15 about what we will occur in a case where we're making a
16 number of inferences. Inferences are always, gosh we try
17 our best to do them well, but they're just inferences. So
18 what I'm asking you is should I -- should I have that degree
19 of anxiety around all of those different factors, or are
20 those -- are those truly red herrings?

21 MR. ROSENTHAL: Commissioner Kieff, let me just
22 start the answers here. You start with the slide with all
23 the prices at the bottom, and I want you to relate that to
24 the Slide No. 9. These are related. There's a reason why
25 these are the biggest exporters in the world. That's

1 because their pricing is the lowest in the world. Those are
2 related.

3 Now not everyone can buy SSAB product, and not
4 everyone wants it or needs it in their applications. But
5 the large volumes are bring sold on price. That is crucial.
6 That goes to your second point, which is what confidence do
7 you have that their behavior will be harmful to the U.S.
8 producers if the suspension agreement were revoked?

9 Again, you go back to even to 2014, with all the
10 claimed troubles, they're still the fourth largest exporter
11 of cut-to-length plate in the world, and the U.S. market is
12 still one of the most attractive. So why would you expect
13 them to behave differently with respect to the U.S. market,
14 which they have not had open access to, when they are the
15 lowest priced producer, the fourth largest exporter. Why
16 would their production not come here?

17 That's the inference that we're urging you to
18 make, and it's not a very difficult inference to make.

19 COMMISSIONER KIEFF: Mr. Whiteman, I missed you
20 or Mr. Utermark.

21 MR. UTERMARK: Yes. Your question to me
22 centered around two things. One, do they have the ability
23 to -- if the suspension agreement is lifted, to export here
24 in larger quantities, and then will they. Then I for the
25 record, and I'll submit it for the record, but would share

1 something that has happened in Nucor in just the last few
2 days.

3 In a recent wire rod sunset review, the AD order
4 was lifted for Ukraine. Only months later, Ukraine wire rod
5 is being offered at ridiculously low prices, below \$400 a
6 ton. There's no doubt in my mind that if we lift the
7 suspension agreements in plate, they will export to the U.S.
8 in significant volumes a very, very low prices, which is
9 what is indicated in this slide with prices.

10 COMMISSIONER KIEFF: And in a way that pinches
11 your businesses?

12 MR. UTERMARK: Correct.

13 MR. WHITEMAN: Commissioner, another component
14 to that previous slide is the volume component. The main
15 thrust of the volume is going to be sold at these lower
16 levels as opposed to the higher pricing that you might see
17 coming out of the combination of products sold by countries
18 in Sweden and Germany. So the bulk of the product is being
19 sold at these types of prices.

20 COMMISSIONER KIEFF: And that any differences in
21 grades will be still rolled into the effect that it would
22 have?

23 MR. WHITEMAN: Correct, yes sir.

24 COMMISSIONER KIEFF: All right. Well, thank
25 you.

1 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

2 COMMISSIONER SCHMIDTLEIN: Thank you, good
3 morning. I'd also like to thank the witnesses for joining
4 us here today. Continuing on this line of questions about
5 potentially different conditions of competition, I wonder if
6 you might like to respond to the Respondent's argument that
7 the Ukrainian industry has undergone a significant change,
8 at least this issue, apparently this happened maybe by the
9 time of the second sunset review but wasn't considered,
10 because the Ukrainian producers weren't here.

11 That is that they've transitioned from a
12 state-owned industry to a privately-owned industry. Do you
13 think this is a valid condition of competition that we
14 should consider, and if so, how should we? How should we
15 analyze that?

16 MR. SCHAGRIN: Commissioner Schmidtlein, this is
17 Roger Schagrin. I think you should take it into
18 consideration as making them an extremely much more
19 competitive and able to export industry. Having been the
20 attorney who filed these cases originally, I can tell you
21 that in 1997, these Ukrainian mills were really in bad
22 shape.

23 Having been privatized and being owned by one of
24 the wealthiest people in the world, who is investing heavily
25 in these plants and making them much more efficient makes

1 them a much more significant threat to the U.S. industry
2 today than they were at the time that they were really
3 shoddy, underinvested-in Communist era mills. So I think
4 it's something you can take into account.

5 COMMISSIONER SCHMIDTLEIN: You think it's
6 something we should take into account, but it actually
7 dictates the opposite outcome of what the Ukrainians are
8 arguing?

9 MR. SCHAGRIN: Yes, that's what I would say,
10 Commissioner Schmidtlein. The other thing I would say is,
11 you know, Commissioner Kieff asked about threat back in '97,
12 when the industry was actually in a very strong demand
13 perspective, but these imports were starting to overwhelm
14 and threaten the industry.

15 I think, having represented members of this
16 industry continuously now for 20 years, that the worst is
17 truly ahead. If you look at yesterday's stock market drop,
18 it was caused by the implosion of the second largest mine in
19 the world called Glencore, which had borrowed billions and
20 billions to become the second largest miner, and now people
21 are realizing they may not be able to service their debt.

22 Last week, the stock market fell precipitously
23 when Caterpillar announced that worldwide, demand for their
24 equipment is plummeting. Unfortunately, we are seeing the
25 end abruptly, without the proper expectation, of this

1 commodity super-cycle that was driven by China over the past
2 decade, and no steel product made in any mills in the world
3 are more subject to use in these commodity areas, mining,
4 energy, construction and agricultural equipment than plate.

5 So the bad news in the stock market, which an
6 8.7 percent drop might be fine, but you know, the
7 Caterpillars of the world are down 40 or 50 percent, and
8 that's one of the biggest U.S. users of plate. So we are
9 seeing a U.S. industry in the most vulnerable position going
10 forward from a demand perspective, facing Ukrainian industry
11 that notwithstanding the conflict, is probably in its best
12 shape in terms of being able to make quality products for
13 exports at any time over the past 20 years.

14 COMMISSIONER SCHMIDTLEIN: Mr. Utermark. Yes,
15 go ahead.

16 MR. UTERMARK: If I may. I just wanted to make
17 a comment on some of the discussion as it relates to the
18 drop in demand that we're seeing currently. I don't want
19 the Commissioners to underestimate how impactful that is,
20 and while I agree, I think the Commissioner mentioned a
21 Skyline approach, and it's an 8.7 percent drop.

22 But that's almost a million tons out of the
23 domestic capacity, and it impacts us. I was recently able
24 to visit our Tuscaloosa, Alabama plant and our Hertford
25 County, North Carolina plant. These plants are efficient,

1 they're low cost and there is just something sad about
2 walking in there and seeing the guys painting hand rails and
3 sweeping floors, instead of being able to roll steel.

4 So it is real, this drop in demand and that's so
5 far, you know. I unfortunately don't have a rosy outlook
6 for the future with what we're seeing with current imports.

7 COMMISSIONER SCHMIDTLEIN: All right. Well this
8 is actually decent segue to my next question, which was can
9 you talk a little bit about the role that imports play in
10 the U.S. market, and maybe elaborate on why domestic
11 producers are themselves importing subject product, given
12 the fact that there is excess capacity in the U.S.?

13 MR. MOSKALUK: Jeff Moskaluk, SSAB. The
14 products -- so the pricing you're referring to, the products
15 we bring in are relatively small in volume compared to our
16 domestic production, and they're products that supplement
17 our domestic production capacity, in that it would be items
18 or sizes or things that go beyond what we can manufacture
19 here.

20 If we can make it in the United States, and so
21 in the United States that's the most efficient and the best
22 choice for our company. So for us, the choice that we would
23 make would be to supplement our products.

24 COMMISSIONER SCHMIDTLEIN: So is there a part of
25 the U.S. market then that requires subject imports, because

1 U.S. producers don't manufacture those imports or those
2 products?

3 MR. SCHAGRIN: I think the subject is between
4 the domestic producers, we can cover everything. I believe
5 that's the case.

6 COMMISSIONER SCHMIDTLEIN: Mr. Utermark, do you
7 want to respond to that for your company?

8 MR. UTERMARK: Yes, I concur. If you look at
9 the industry as a whole, we believe we can meet the need
10 here in the U.S. and the product breadth is capable. Now is
11 it --

12 COMMISSIONER SCHMIDTLEIN: So why are we -- why
13 is the U.S. producers then importing subject product if
14 across the industry we can -- you can meet it.

15 MR. MOSKALUK: I'm sorry, Jeff Moskaluk again.
16 I'm not sure that what we bring in, there's a very small
17 amount that would be considered subject goods. So as I
18 said, most of it is to supplement beyond our own production
19 capacity. There may be others can manufacture beyond our
20 production capacity, and so our ability to compete even in
21 the U.S. market would have us using some of our other
22 facilities.

23 But again, those are -- those are not sold at
24 dumped prices and there's sold by our domestic group at
25 domestic prices, prevailing domestic prices. So --

1 COMMISSIONER SCHMIDTLEIN: Mr. -- I'm sorry. I
2 can't see your name tag back there, next to Mr. Rosenthal,
3 yeah.

4 MR. UNRUH: That's fine. Jeff Unruh,
5 ArcelorMittal. Commissioner, the ArcelorMittal USA, as I
6 had mentioned in my opening testimony, from a capability
7 standpoint has the broadest dimensional and also grade
8 capability. So certainly ArcelorMittal USA can supply all
9 of the products that would be covered by subject goods.
10 Thank you.

11 COMMISSIONER SCHMIDTLEIN: Okay. Mr. Utermark.

12 MR. UTERMARK: For the record, we bring in very
13 little, if any, imported plate.

14 COMMISSIONER SCHMIDTLEIN: Okay. Can you talk a
15 little bit about the specification, I guess is it 1/2 or 1/2
16 ASTM A6 flatness, and the argument that the Ukrainians
17 respondents make that? Certain of their producers are unable
18 to meet this requirement.

19 MR. MOSKALUK: Jeff Moskaluk, SSAB. So what
20 you're referring to is 1/2 A6 and A6 is a governing
21 specification that goes with materials that are ordered in
22 mild carbon steels. The concept of 1/2 A6 is more something
23 that steel mills will advertise as a capability that they
24 have, rather than being a market demand that material must
25 be half A6.

1 There are customers, there are applications,
2 there are end uses where half A6 or perhaps even quarter
3 tolerance may be for a specific end use. That is a small
4 portion of the market. The broadest part of the market is
5 governed by A6, which is the full tolerance, and certainly I
6 would suggest that all of the domestic industry ships a
7 large portion of our material governed by A6 and the full
8 tolerance of A6.

9 Half tolerance exists and it is -- it kind of
10 goes to the preference conversation we had earlier with one
11 of the other Commissioners. It may be a preference for
12 certain customers, but it is not the prevailing description
13 for the product.

14 COMMISSIONER SCHMIDTLEIN: Is there a
15 universally understood in the industry division between what
16 you would call commodity? You know, what part of this plate
17 is considered commodity grade and what would be
18 non-commodity grade?

19 MR. MOSKALUK: I don't -- Jeff Moskaluk, SSAB.
20 I don't know that we would use that term with that
21 description. There are -- there are --

22 COMMISSIONER SCHMIDTLEIN: I think SSAB's brief
23 uses the term "commodity grade."

24 MR. MOSKALUK: Yeah. No, we may use that
25 language, but that would be reference to material that are

1 further processed, such as heat treating or blasting and
2 painting, which takes it downstream further. But I think
3 the in mild carbon plate business, there are a multitude of
4 grades and specifications that govern the product.

5 So it's a very broad description what you're
6 asking. It would be a lot of items that would fit into
7 that, the broadest part of the market.

8 COMMISSIONER SCHMIDTLEIN: But you don't think
9 there's a -- there's some part of the market that could be
10 described as non-commodity?

11 MR. MOSKALUK: There are parts of the market
12 that are definitely, yeah. What we would use the term for
13 that is value-added product.

14 COMMISSIONER SCHMIDTLEIN: Value-added?

15 MR. MOSKALUK: Yes. So there's been further
16 processing or upgrading, such as heat treating, normalizing,
17 blasting and painting, those types of things.

18 COMMISSIONER SCHMIDTLEIN: Okay. All right,
19 thank you . My time is up.

20 CHAIRMAN BROADBENT: Okay. Mr. Price, this
21 would be for you. In looking at the Economist Intelligent
22 Unit data, I see that Ukraine's exports of goods and
23 services declined by about 14.5 percent in 2014, and are
24 forecast to fall by 22 percent at the end of 2015, while EIU
25 projects some increase in exports in 2016 and afterwards.

1 They say that this will be sort of lower order of magnitude,
2 I think in the two to four percent range.

3 EIU attributes the decline in exports to
4 disruptions in domestic supply, not the collapse of markets.
5 Is there a way to harmonize the projections with your
6 statements that Ukraine's civil and economic crisis isn't
7 affecting exports?

8 MR. PRICE: Alan Price, Wiley Rein. So what I
9 would say is there are a variety of different economic
10 measures. The Ukrainian economy as a whole is having very
11 significant issues. Certainly, overall the exports of steel
12 are very robust. The latest reports from Metinvest is that
13 they're, for example, that they're improving substantially,
14 that steel exports are, and particularly plate
15 imports/exports are not expected to be substantially
16 affected, and therefore it's a question of broad
17 macromeasures and looking at this industry and what the
18 likely exports are from this particular industry.

19 We'll submit a whole group of statements from
20 CRU, SPB. Things are improving. Exports are up.
21 Metinvest, while saying they can't export and they can't
22 produce to you, on the website just announced that, for
23 example, in corrosion resistant steel, they set an all-time
24 record of production last month.

25 So the idea that -- the idea that these

1 macromeasures and macrostatements necessarily reflect
2 negatively on the ability to export steel I just don't think
3 are connected.

4 CHAIRMAN BROADBENT: So wait. You're saying
5 macro so --

6 MR. PRICE: Macrostatements as to GDP, as to
7 exports of other products.

8 CHAIRMAN BROADBENT: But if you just look at
9 steel exports, because I mean they're saying steel export
10 makes up about 25 percent of the exports that we're looking
11 at, yeah.

12 (Simultaneous speaking.)

13 MR. PRICE: --is actually
14 projecting that their production will be up. There will be
15 no problem with exports. SPB is reporting the same, again
16 based upon what's going on on the ground in Ukraine.

17 So again, each of -- it depends at what
18 datapoint you look at in time. The more recent datapoints
19 are all pointed to very substantial and positive
20 improvements going on in the market, particularly in the
21 export capability and production capabilities, particularly
22 from the publications that focus on steel.

23 CHAIRMAN BROADBENT: Okay, but I'm looking at
24 GIIS, which is data that we use, that says that the steel is
25 going to be down 25 percent like the rest of the exports.

1 MR. SCHAGRIN: Chairman Broadbent, this is Roger
2 Schagrin for the record. So one thing I would caution the
3 Commission, and we'll have to look at the data you're
4 citing, is whether that data is based on volume of exports
5 or value. So for example, in the United States so far this
6 year, our exports are down about nine percent by value
7 compared to last year.

8 The main reason for that is we're a big
9 agricultural exporter. Prices of corn and wheat have
10 plummeted by half in the past year. For the Ukraine, they
11 were the breadbasket of the Soviet Union. My mother's
12 family was from the Ukraine, so I studied a lot of Ukrainian
13 history. There's a historian at Yale who's writing a lot of
14 books about Ukraine and what Hitler and Stalin did to it,
15 and they're very interesting books.

16 But so for Ukraine, which is probably still the
17 largest grain exporter of all the CIS countries, and is a
18 big steel exporter, and you can see that their prices for
19 steel have plummeted in the past year, any data that is
20 based on value not volume is going to show huge declines.
21 The same thing is happening to Brazil, a big commodity
22 exporter. The same thing is happening in Australia. So I
23 would just caution the Commission not to rely on value data
24 versus volume data.

25 MR. PRICE: Right, and let me just add. Steel

1 export prices from this point here, the world market price
2 is down 25 percent from these sets of prices from 2014. So
3 if you're looking at 25 percent declines on value, that's
4 not surprising given the absolute collapse going on in the
5 world export market for steel.

6 CHAIRMAN BROADBENT: Okay. Another question for
7 the industry witnesses here. You guys have made a vigorous
8 defense of these three remedies the Ukraine, China and
9 Russia, and you want all three continued. But if had to,
10 can I ask you to rank the importance of the three orders?

11 MR. SCHAGRIN: You want to know which of my
12 children I love most?

13 [Laughter.]

14 MR. MOSKALUK: This is Jeff Moskaluk. That's a
15 difficult question and I guess, without being smart, I'd say
16 one, one and one, because they're interchangeable. So it's
17 hard to differentiate one from the other when we've already
18 provided information that they're highly interchangeable.

19 CHAIRMAN BROADBENT: Looking at the capacity and
20 the production in China, I mean, you'd think the Ukraine
21 order was just as important to you as the China order for
22 the suspension agreement.

23 MR. MOSKALUK: Yes. Jeff Moskaluk again. They
24 all have huge overcapacity, so again, they're
25 interchangeable from my perspective.

1 CHAIRMAN BROADBENT: Okay. Let's see, Mr.
2 Price, you noted in your brief that Ukrainian plate is being
3 displaced by Chinese plate in other markets. You also
4 stated the Ukraine has the lowest prices in the world. What
5 is accounting for the displacement of that price?

6 MR. PRICE: Actually it's very interesting.
7 There is a tremendous price war between the Chinese and the
8 Ukrainians right now going on. Actually, again, I'll refer
9 you to their own website that talks about this price war
10 going on.

11 Basically, two percent decline in consumption in
12 China is forcing a massive amount, about fifteen million
13 tons total new steel out onto the world export marketable
14 products and is causing about a twenty-five percent collapse
15 in prices around the world.

16 It's very small marginal now, but it's gonna
17 have huge outside price effects, something I think
18 Commissioner Kieff is nodding, so that, and because of this
19 they are basically fighting it out on price. This week
20 they're saying the Chinese are, you know, may be lower than
21 them, but it's also interesting when they say look at all
22 the non-price factors. You know, they all count, provided,
23 of course, your price is not too much higher than your
24 competitors.

25 At the end of the day, it's all price that is

1 occurring here. And so the Ukrainians are scrambling
2 around. They're complaining about having lost substantial
3 volume from Singapore, which was their largest export
4 market, and I still actually think may be, single country.
5 Again, ocean freight shows you they can move it. And having
6 to shift into other markets.

7 Well, in this type of context and scenario, the
8 U.S. market is incredibly attractive to them. Before, these
9 orders and suspension agreements have been in place and have
10 maintained the U.S. market at levels that are above the
11 levels that have driven by this complete collapse in the
12 bulk of the market that the domestic industry ships, which
13 is this commodity product, because that's effectively consumed
14 the vast bulk domestically in the U.S. And this price
15 collapse will be huge. It's just a price war going on.
16 It's a price war between all three of these countries.
17 They're all incredibly export oriented, and they all export
18 huge amounts of basic grade products.

19 CHAIRMAN BROADBENT: Okay. Let's see. I ask an
20 uneducated question here. What economic sanctions are on
21 Russia that would affect their production of steel or not at
22 this point, based on the political frictions on them?

23 MR. PRICE: None.

24 CHAIRMAN BROADBENT: There's no sanctions on
25 Russia?

1 MR. PRICE: Sanctions do not apply directly to
2 any of the Russian steel producers or oligarchs who own the
3 steel companies. So the sanctions in place do not affect,
4 are very narrow, very targeted, and do not affect the
5 recovered steel at all.

6 CHAIRMAN BROADBENT: How are they narrow? Tell
7 me why they would affect others?

8 MR. PRICE: I can give you the details, because
9 I have an expert in my office in it. But essentially
10 they're focused on a discrete group of specific oligarchs
11 who are close to Mr. Putin, and on the financial and certain
12 parts of certain banks, and only certain banks. So there,
13 the Russians have no problem exporting to the United States.

14 CHAIRMAN BROADBENT: Okay. Vice-Chairman
15 Pinkert.

16 VICE-CHAIRMAN PINKERT: Thank you. I just have
17 a few follow up questions. I want to clarify the advantages
18 or lack of advantages that the non-subject imports have in
19 the U.S. market. I'm talking about the non-subject imports
20 that are already here. Do they have an advantage over
21 subject imports that may try to get into the U.S. market in
22 the event of replication?

23 MR. SCHAGRIN: Vice-Chairman Pinkert, do you
24 mean inventories over here presently on the ground in the
25 United States versus the non-subject imports in general?

1 Because obviously most of the non-subject imports, with very
2 few exceptions, are not covered by any present orders, where
3 they have the advantage of being able to ship to the United
4 States without worrying about the price disciplines of
5 either antidumping duty orders or suspension agreements.

6 And that very much advantages them vis a vis
7 China, Russia, Ukraine and I think, as you've seen, and the
8 U.S. industry's argued this to the Commission in each of our
9 pre-hearing briefs, that the significant growth in
10 non-subject imports to the United States over the past,
11 particularly, eighteen months, is making the U.S. industry
12 more vulnerable to further imports from subject countries.

13 VICE-CHAIRMAN PINKERT: I understand that and I
14 wasn't referring specifically to inventories. I was
15 referring to the market presence of non-subject imports.
16 Does that give them an advantage? And are there other
17 advantages that they might have relative to subject imports
18 that may try to get into the U.S. market?

19 MR. MOSKALUK: The -- Jeff Moskaluk from SSAB --
20 the advantage would be the advantage of price. So if you
21 are here or you are priced aggressively in the market, then
22 I supposed that would be an advantage. I'm not sure I
23 understand what other advantage they could have. Because
24 the products tend to be interchangeable, so there's not a
25 manufacturing process advantage or anything like that.

1 VICE-CHAIRMAN PINKERT: There's not a
2 distributional advantage and there's not any difference in
3 product quality advantage? I'm just trying to get a -- all
4 the different things that might be there.

5 MR. MOSKALUK: Great question, okay. So I
6 understand better now. I think the distribution and supply
7 chain is universal for the products so it would be the same
8 people making the same decisions on sourcing countries, so
9 there is not -- there is maybe advantage of incumbency
10 because they're here now. But that is until there's the
11 next deal to be made. And I think on quality we've already
12 discussed earlier. That the broadest part of the market
13 manufacturers and sells to a specification that's been in
14 place for decades well known in the market, and I think
15 based on that, there's no huge advantage for being here
16 first, because everybody's gonna sell to the same standard.

17 MR. WHITEMAN: Commissioner, I just add, along
18 with Mr. Moskaluk just stated --

19 VICE-CHAIRMAN PINKERT: Please identify
20 yourself.

21 MR. WHITEMAN: I'm sorry. Jeff Whiteman from
22 Nucor. It is that there would be no advantage, other -- you
23 had commented on the distribution side of it. There would
24 be no favoring the incumbent in cases like this. What it
25 would really come down to would be the price.

1 MR. UNRUH: Jeff Unruh, ArcelorMittal USA, just
2 echoing the comments of my colleagues. It's exclusively a
3 price discussion. The supply chains that exist are there
4 for any country and the deal is as good as the last deal.
5 There is no real first mover advantage here.

6 VICE-CHAIRMAN PINKERT: Let me take the same
7 question in a slightly different direction. Would the
8 presence of the non-subject imports in the U.S. market
9 discourage Ukrainian exports to the U.S. markets in the
10 event of revocation?

11 MR. MOSKALUK: Jeff Moskaluk, SSAB. I would
12 doubt that that would happen because the countries we're
13 talking about are very well-established exporters throughout
14 the world, and I don't think they're discouraged in other
15 locations by exporting, because other people are also
16 exporting into those jurisdictions or countries, so I don't
17 think that would be the case at all.

18 MR. UTERMARK: Commissioner, Chad Utermark,
19 Nucor. I agree. It would not discourage them at all. They
20 would see a U.S. market that is attractive, compared to the
21 rest of the world, even with our plummeting prices of over
22 \$300 a ton in the last twelve months. They know how to get
23 here, they can get here quickly, so no, I don't think it
24 would distract them at all, or discourage.

25 MR. ROSENTHAL: Commissioner Pinkert, Paul

1 Rosenthal. If you, again, look at the chart on who the
2 leading exporters. It's China, Russia and Ukraine. And
3 what are now, for us, non-subject imports are shipping all
4 around the world and Russia, Ukraine and China are not
5 discouraged going after those other markets competing
6 against what are now non-subject imports, so this process is
7 going on all around the world, and there's no impediment to
8 these countries exporting elsewhere, except for when there
9 are trade remedies imposed as they are in a number of
10 countries.

11 VICE-CHAIRMAN PINKERT: Thank you. Now shifting
12 back to a subject you talked quite a bit about in response
13 to a Commissioner question earlier, I want to try to
14 understand the sustained levels of unused capacity in the
15 domestic industry that show up in the report. And I heard
16 the panel talk about product shifting as a possible
17 explanation. But even looking at, for example, 2008, which
18 I think was a particularly good year, there was a
19 significant amount of unused capacity in the domestic
20 industry. What explains that? Is that product shifting?

21 MR. MOSKALUK: Jeff Moskaluk, SSAB. I believe
22 if the capacity is unused, then it's not product shifted,
23 because it would show up as -- the capacity would be
24 occupied by some other product mix, so that's not the answer
25 to that question.

1 When I made the comment about product shifting,
2 I was referring to our own operating capacity, and so,
3 depending on demand for plate and coil versus plate
4 manufactured as cut plate, we happen to shift ours based on
5 the market dynamics for the two products.

6 That's how we manage our capacity, and so at any
7 time measuring our capacity, you can't measure it as being
8 all one product or all the other, because internally we
9 would make decisions each month, each quarter, each week,
10 based on our order book and the operating schedule and
11 market demand to manage the two.

12 But I can't comment for others and how they
13 manage their capacity, so but that would be the answer for
14 how we address that.

15 VICE-CHAIRMAN PINKERT: Before you answer, Mr.
16 Schagrin, I would just suggest that if folks want to answer
17 this question in the post hearing brief, they can do that as
18 well, but go ahead, Mr. Schagrin.

19 MR. SCHAGRIN: Vice-Chairman Pinkert, one of the
20 things that you see repeatedly in the steel industry,
21 particularly in what I would call these transition periods,
22 '08 to '09 when markets are starting to collapse, capacity
23 utilization is falling, '14 to '15, same thing happening.
24 In the present period, you'll see the industry's capacity
25 utilization fall.

1 But profits hold up for a while, and that's
2 because of, very often, a lag in pricing, so the deals are
3 made three, four, six months in advance and the industry for
4 a little while going into one of these deep downturns like
5 happened in '09, can do well, because it's got some pricing
6 benefits of some longer term deals, and then everything
7 starts to just fall apart.

8 So you see, this industry did well in '08, even
9 though capacity utilization's falling, and in '09 everything
10 goes to hell in a handbasket, including capacity utilization
11 and pricing. And unfortunately, the same thing is very
12 likely to happen '14, '15 to '16.

13 I may be a little bit more pessimistic than even
14 people in the industry. I just think the end of this
15 commodity boom and the really, what's gonna be plummeting
16 demand in mining, agricultural equipment and energy sectors
17 is just going reek holy hell on plate demand. And these
18 folks, it's gonna be a combination of things.

19 At some point, capacity utilization falls so
20 much that companies that have multiple mills, like
21 ArcelorMittal had, prior to shutting down the Gary works,
22 which they announced in May, I think it's just being closed
23 now. You know, they finally say, capacity utilization's so
24 poor that we have five different plants, let's go to four.
25 If we have four different plants, let's just go to three.

1 Or in the case of Evraz, they said we have two plants, let's
2 go to one.

3 And that's gonna happen. It's gonna happen
4 throughout the steel industry. I'll bet you're gonna pick
5 up the papers in the next six to twelve months and be
6 reading about lots of bankruptcies in the energy area, the
7 mining area and the steel area, because they're all
8 connected.

9 VICE-CHAIRMAN PINKERT: Thank you. Mr. Price,
10 last word this round?

11 MR. PRICE: I was gonna save it for the post
12 hearing brief. But what I would say is that the capacity
13 levels in the industry reflected -- the industry has had a
14 fair amount of optimism that things were gonna recover as
15 things went lower from '11, '12, '13, '14, from the great
16 recession.

17 It turns out that we are headed into a huge
18 downturn on a global basis due to excess supply and over
19 optimism and we can all point to different portions of it,
20 and I think Mr. Schagrin has done a good job of it.

21 The bottom line is, there is tremendous amounts
22 of unfair trade going on from these three countries. The
23 question for you is, and there will be capacity adjustments
24 globally. There'll be capacity adjustments probably, sadly
25 in the United States.

1 Question is, will it be unfair trade that forces
2 additional capacity adjustments in the United States, or
3 will it be based on a fairly traded basis? There will be,
4 unless there's two hundred fifty million tons of
5 rationalized out of China, rationalized tonnage elsewhere in
6 the world, this problem's not gonna resolve itself. These
7 orders are all credible --

8 VICE-CHAIRMAN PINKERT: Thank you. For the post
9 hearing again, I would like to try to get an understanding
10 of what happened with unused capacity in 2008. Thank you
11 very much.

12 CHAIRMAN BROADBENT: Commissioner Williamson.

13 COMMISSIONER WILLIAMSON: Mr. Whiteman, I know
14 you were gonna make a point of following up Commissioner
15 Schmidtlein's question regarding the ASTM-86 flat and
16 standard. Now I want to give you an opportunity to make
17 that now.

18 MR. WHITEMAN: Thank you very much,
19 Commissioner. Jeff Whiteman at Nucor. Yes, just as a point
20 of clarification, I echo what Mr. Muskaluk stated. However,
21 I would say that, where you typically see that requirement
22 is on some very high-end value-added products, which would
23 represent a very, very small portion of the business.

24 In fact, one of our plate facilities does not
25 have the ability to guarantee half commercial flats. So it

1 would represent, while there are some requirements for that,
2 it would represent a very small portion of the business, the
3 largest portion of our business that's really not required.
4 It is not required.

5 COMMISSIONER WILLIAMSON: Is that a very
6 difficult standard to meet? A very challenging standard to
7 meet?

8 MR. WHITEMAN: You would have to have specific
9 equipment in place for it. So it could be costly. In fact,
10 if that requirement is out there, we would charge extra
11 money for that requirement.

12 COMMISSIONER WILLIAMSON: Okay. Thank you. Ms.
13 Hart, you -- what is the status of ongoing labor
14 negotiations? Would a potential work stoppage support
15 market prices, even if the orders, even the orders or
16 suspension agreements were revoked?

17 MS. HART: Could I ask you to repeat that
18 question? I didn't quite catch.

19 COMMISSIONER WILLIAMSON: What is the status of
20 ongoing labor negotiations?

21 MS. HART: Holly Hart from the Steelworkers.
22 The negotiations are ongoing, so at this point we still
23 don't know what the outcome will be, obviously, but one
24 thing I can say is that the conditions in the market are
25 certainly contributing to the length of and difficulty of

1 negotiations at the present time.

2 COMMISSIONER WILLIAMSON: If there were a work
3 stoppage, how would this affect market prices if the orders
4 or suspension agreements were revoked?

5 MS. HART: At the moment, I mean, as far as I
6 know, we are not speaking about a work stoppage at all.

7 COMMISSIONER WILLIAMSON: It's just a
8 speculative question.

9 MS. HART: Of course. And I can't speculate to
10 that.

11 COMMISSIONER WILLIAMSON: Mr. Schagrin, can you
12 speculate?

13 MR. SCHAGRIN: Sure, Commissioner Williamson,
14 I've been known to speculate now and then. If you look at
15 AcelorMittal's stock at least than five Euros a share, it
16 used to be over a hundred Euros a share, US Steel, less than
17 ten dollars, used to be a hundred and sixty a share, I would
18 not, it would not take too much speculation to believe that
19 these companies and the Union both know that a work stoppage
20 by either of these companies would likely lead to bankruptcy
21 filings and I can't imagine that either the companies nor
22 the Union would desire that outcome. It would be really sad
23 for the companies, and particularly for the retirees in the
24 United States if that occurred.

25 MR. PRICE: Alan Price. Just to actually hit

1 one thing that Mr. Schagrin mentioned. One of the things
2 we've said in a variety of different cases, when you look at
3 the bottom market ratings of these case -- of these
4 companies, would be, the exception of Nucor, most of this
5 industry is essentially now got junk bond rating. The stock
6 market valuations, AK Steel, two dollars a share yesterday,
7 in the twos. Basically, for about what the continuous
8 caster that Metinvest is putting in right now, you could buy
9 all of AK Steel.

10 US Steel, 1.65 billion on market cap yesterday,
11 essentially less than cost of building a new integrated -- a
12 new mini mill facility in the United States for one of them.
13 The market is saying that there is tremendous stress out
14 there for all of these companies, and so I would speculate
15 that it would be very distressful and cause for there to be
16 work stoppages, but who knows. None of us can actually
17 predict -- let's all hope that that doesn't come to that.

18 COMMISSIONER WILLIAMSON: Okay, thank you.

19 MR. MUSKALUK: Commissioner. Jeff Muskaluk,
20 SSAB. I'll try and actually answer the specific question
21 you asked. What do you expect would happen on price? I
22 think that was your question.

23 COMMISSIONER WILLIAMSON: Yes.

24 MR. MUSKALUK: So, I think there are a few
25 things that the market would consider, domestically times

1 are extremely short. Arguably, in a month or less for lead
2 time and I'm certain that's the same for everybody. I don't
3 know that, but I'm certain it's the same. Lead time for
4 imports can be anywhere from four to six weeks all the way
5 out to months, depending on the source country and the
6 specific mill you're dealing with.

7 So the opportunity for pricing to change would
8 be the gap between what the domestic mills could cover with
9 current lead time, and what imports would be available to
10 offer in substitution for the absence of ArcelorMittal.
11 That period would be very short. It would be the order of
12 magnitude of a few weeks, perhaps a month.

13 So there may be the opportunity to recover some
14 price for a month, but then as soon as there is availability
15 and supply, then we would come back to the price discussion
16 we have all the time, and that would be domestic price in
17 reference to import, and so the recovery would be very short
18 and very limited. If that was what you were asking, which I
19 think it was.

20 COMMISSIONER WILLIAMSON: Okay.

21 MR. MUSKALUK: If you were to argue where
22 there's an opportunity, it would be quite small in nature.

23 COMMISSIONER WILLIAMSON: Okay. Thank you for
24 that verification. Ms. Hart, just one other question,
25 because we haven't talked about this. Earlier, we talked

1 about how the Union's at work with management to make the
2 workers more competitive, and this is kind of a basic
3 commodity, I don't know how much production is changing and
4 all that, but would you want to comment on just how the work
5 force is evolving in recent years and what impacts they have
6 in the order suspended might have?

7 MS. HART: I don't know if I can exactly address
8 that with any great deal of expertise, because I'm not
9 intimately involved with the day-to-day functioning of the
10 plants, I mean, I do know that we have worked cooperatively
11 with management throughout the course of the years to ensure
12 that we are making these products in the most efficient way
13 possible. And that's really all I can say with any, you
14 know, without speculating, and not giving you a full answer.
15 So we can address that in the post hearing.

16 COMMISSIONER WILLIAMSON: Or someone else want
17 to add something? Okay, well let's, maybe a point or two on
18 that might be useful at post hearing. Good. With that, I
19 have no further questions and I want to thank everybody for
20 their testimony.

21 CHAIRMAN BROADBENT: Commissioner Johanson.

22 COMMISSIONER JOHANSON: Thank you, Chairman
23 Broadbent. Ukrainian imports, unlike Chinese or Russian
24 imports, were only present in the U.S. market in two months
25 between January 2013 and June 2015. Should this play any

1 role in our consideration of cumulation?

2 MR. SCHAGRIN: Commissioner Johanson. Roger
3 Schagrin. No, because of the suspension agreements. It
4 would be different if you were looking at this as issue of
5 cumulation in an investigation phase, but I think the
6 Commission has seen innumerable sunset reviews, complete
7 absence very often of any imports from countries subject to
8 either an antidumping duty order or suspension agreement, and
9 normally the Commission does not give that any weight in the
10 context of sunset review.

11 COMMISSIONER JOHANSON: All right. Thanks for
12 your explanation there. How do y'all respond to Metinvest's
13 argument that pricing comparison data from the original
14 investigation cannot be reliably be used due to the
15 fundamental changes in the nature of Ukraine's plate
16 industry since the original investigation? And this would
17 include the privatization of the mills and I think what I'm
18 thinking about, specifically here, is underselling.

19 MS. CANNON: Kathy Cannon with Kelley Drye. So I
20 can start with that. I think the critical part here,
21 Commissioner Johanson, is we're not contesting that there
22 have been changes in 18 years. There always are changes
23 pretty much in any industry that you observe. After that
24 period of time, it would be unusual for there not to be.

25 What we're saying is that some of the changes

1 that they've tried to highlight, including in particular the
2 change in the privatization, haven't altered the fundamental
3 facts that were found before. There was significant
4 underselling before by the Ukraine, and that is relevant.
5 That is actually in the statute, Something the Commission
6 is required to consider is what was going on before the
7 Orders were imposed. And there are many cases where
8 significant changes have happened, including privatizations
9 and ownership changes and, you know, mergers, all types of
10 things that you've seen over the years and as sunset reviews
11 come back. But the critical question is now that you're
12 looking at the Orders, are you expecting likely those same
13 patterns to reemerge? And that is where the additional
14 information we've provided as to how the Ukraines are
15 behaving in terms of price elsewhere in the world, the very
16 low average unit values and the continued underselling that
17 was evidenced ever since this Order, the Suspension
18 Agreement was put in place, are relevant to your analysis.

19 So the facts don't show that the privatization of
20 the industry has really transformed them in terms of
21 limiting their ability to ship significant volumes. It
22 hasn't changed the export orientation. It hasn't changed
23 the very low prices at which they sell.

24 So since all of the new information following
25 privatization continues to show those same factors, saying

1 that we privatized and therefore magically that should wash
2 away prior findings, I don't think is a fair argument.

3 MR. ROSENTHAL: Yes, Commissioner Johanson, just
4 one thing. Paul Rosenthal. This is another good example of
5 the more things change the more they stay the same.

6 Yes, there have been changes in both the domestic
7 industry and the industry in Ukraine. One of the major
8 changes you can look at is now there are a bunch more
9 antidumping and safeguard orders against the Ukraine than
10 existed 18 years ago.

11 `Now the Ukraine is the lowest priced exporter in
12 the world, rather than just being one of many. Now the
13 Ukraine is much more efficient and able to penetrate markets
14 than they could before. So you can't be misled by the
15 surface nature of the changes described.

16 The fact is, their export orientation and their
17 pricing behavior is as aggressive as it ever has been.

18 MR. JOHANSON: Thank you for your answers.

19 While we do not have a witness from EVRAZ here
20 today, in your view did its mill closure come about because
21 of the inability to make the type of value-added investments
22 that Nucor, ArcelorMittal and SSAB have made since 2009?

23 MR. MOSKALUK: Jeff Moskaluk, SSAB. I can't
24 comment as to, as to why they specifically closed the mill,
25 but I can tell you that the lack of investment in downstream

1 didn't impact--it was their inability to compete in the
2 broadest part of the market, I would assume.

3 MR. JOHANSON: What is the broadest part of the
4 market?

5 MR. MOSKALUK: Nonvalue-added. As we said
6 earlier, the value-added part of the market is a very small
7 percentage of the total. And so for any one of the
8 producers, while we invest in downstream and we do that
9 looking to capture additional revenue, but it's on a very
10 small volume, we still have to be competitive in the
11 broadest portfolio of the market.

12 MR. JOHANSON: Yes, Mr. Whiteman.

13 MR. WHITEMAN: Thank you, Commissioner. Jeff
14 Whitman, Nucor. I would just add, along with Mr. Moskaluk's
15 comments, there were certain capabilities that EVRAZ
16 Claymont did have that other domestic mills did not. So I
17 think it is a component of their ability to compete on the
18 largest mix of the product range that hampered their ability
19 to stay in existence.

20 MR. SCHAGRIN: Commissioner Johanson?

21 MR. JOHANSON: Yes.

22 MR. SCHAGRIN: In the last sunset review I
23 represented EVRAZ. So I would say from my perspective, and
24 it's fortunately something I can apply to the companies at
25 this table, I reason that that mill was shut is that it was

1 an older facility and there was a failure of several owners,
2 because that mill had been owned by the Chinese, a company
3 called CITC. There had been a real lack of investment in
4 Claymont over a period of a couple of decades.

5 And when you go through periods in which
6 competition gets tougher, and pricing gets worse, and you've
7 got a mill that has been under-invested, that's going to
8 close. And one of the things that shocks me, and it came
9 about as I was, you know, listening in a recent case about
10 the closure of most of U.S. Steel Fairfield, I was saying,
11 wow, that was, you know, trumpet is such a great new
12 state-of-the-art mill, and then I was thinking, yeah, that's
13 when I started doing this in the early '80s, you know? And
14 what happens is, just like Mr. Moskaluk talks about
15 Montpelier being built in '97, I mean that mill was just
16 super duper in '97, but that's almost 20 years ago, and
17 that's why they're looking at investing almost another
18 billion dollars. Because even a super duper brand new mill
19 in an area like steel, if you under-invest for 10 years, all
20 of a sudden you're not going to be competitive anymore.

21 And that's what really concerns me, is that some
22 of the--what we think of as, you know, super duper new
23 greenfield mills, they might have been super duper 20 years
24 ago, but if this industry is forced to under-invest they may
25 be closed in the next, you know, 5 to 10 years. And I think

1 Claymont is an example of that.

2 MS. BECK: Commissioner Johnson, if I could direct
3 you to the staff report at 3-4, it's proprietary so I can't
4 go into it in a public setting, but it does go into some
5 specifics as to why Claymont actually has had to close. And
6 I think it's very pertinent to the market situation now and
7 would be helpful.

8 MR. JOHANSON: Thank you.

9 MS. BECK: Gina Beck from GES.

10 MR. JOHANSON: All right, thanks Ms. Beck.

11 Similarly, do the value-added investments made by
12 Nucor, ArcelorMittal and SSAB on the one hand, and the
13 closure of the Claymont facility on the other hand, point to
14 a decline of a reliance on sales of commodity-grade plate by
15 the domestic industry?

16 MR. MOSKALUK: Commissioner, I don't think that's
17 possible--oh, Jeff Moskaluk, SSAB. I don't think that's
18 possible or likely because just earlier at least one, and
19 perhaps two Commissioners asked about over-capacity for
20 production. So it's almost impossible to draw the line that
21 adding downstream value-added products and having others
22 close and in the same time having questions as to us having
23 more manufacturing capacity than demand, I don't think we've
24 vacated any part of the market.

25 MR. UTERMARK: Commissioner--Chad Utermark, Nucor.

1 I would say the answer is no, for us. We obviously do have
2 value-added products that we offer, but it is a small
3 portion of our volume, single digits. So we compete heavily
4 in what we call the commodity market day in and day out.

5 MR. JOHANSON: What--

6 MR. UNRUH: Jeff Unruh, ArcelorMittal USA. The
7 investment at our Burns Harbor facility for heat treatment
8 was an upgrade of an existing facility. So while it might
9 have brought on very, very modest additional capacity, it
10 was mostly an upgrade reinvesting in our facility.

11 And again, as was just mentioned, the value-added
12 portion of the market is in the high single digits.

13 MR. JOHANSON: What portion of the U.S. industry
14 would you characterize as commodity plate, if that's a
15 correct term, as opposed to value-added plate? That seems
16 to be an issue here today.

17 MR. MOSKALUK: Jeff Moskaluk, SSAB. I think a
18 good benchmark number would be that 10 percent of the market
19 perhaps is value-added. At most in the balance is the broad
20 portfolio of mild carbon steels.

21 MR. UNRUH: Jeff Unruh, ArcelorMittal USA. I
22 would agree with that. Ten percent is a very fair estimate.

23 MR. JOHANSON: Is that 10 percent of the market,
24 or 10 percent of U.S. production?

25 MR. UNRUH: Ten percent of the market.

1 MR. JOHANSON: Okay. Yes, Mr. Price? If you
2 can make it kind of quick.

3 MR. PRICE: There are nonsubject imports of value,
4 of the heat-treated product, too. So it's not like the U.S.
5 industry has this market to itself.

6 CHAIRMAN BROADBENT: Commissioner--Oh, excuse me,
7 Scott. Commissioner Kieff.

8 MR. KIEFF: That's okay. Thank you all, and let
9 me if I could just ask a conceptual question that may be
10 best for you to answer in the post-hearing. And while I
11 recognize that it may impose a nontrivial cost in energy to
12 prepare your answer, I ask it in the spirit of recognizing
13 that it would impose a greater cost to have you file a
14 separate case. So I am actually hoping to ask it, saving
15 everybody effort not giving useless homework, so to speak.

16 But the question basically asks you to help, at
17 least me and perhaps my colleagues get comfortable with the
18 view that if we were to decumulate, to treat the Ukraine as
19 different conditions of competition, different, that we
20 would still be completely comfortable deciding in your favor
21 with respect to the Ukraine.

22 So that's the concept. And if in the context of
23 answering that, if you could highlight to the degree
24 possible whatever you think are the key points of factual
25 disagreement, and whatever you think are the key points of

1 legal or economic significance around which you and your
2 opponents might disagree. And then lastly, again I think
3 this may still be helpful for everybody:

4 To the extent you can as soon take some of the,
5 some degree of the factual determinations against you, can
6 you tell us why you still win, if you will?

7 Because if I'm hearing you correctly, I think
8 what you're basically telling us is that even if we
9 decumulated, and even if we didn't agree with a lot of what
10 you're saying, to the full extent that you're saying it, we
11 would still be compelled to reach an affirmative decision in
12 your favor.

13 And that's a pretty compelling case, and I'm just
14 asking you in a medium way to make it, recognizing that it's
15 expensive to prepare full post-hearing briefs, and I'm not
16 asking you to file a completely separate brief on the
17 matter, but if you could devote a small number of pages to
18 that discussion it would be very helpful because I think it
19 would put the Commission in a position where we would be
20 compelled to decide in your favor.

21 I will obviously ask the other side when they
22 come up to please do the opposite and to please explain why
23 even if we put ourselves in that mind frame we have to go in
24 their direction.

25 MR. ROSENTHAL: We'll be delighted to do that in

1 our post-hearing brief.

2 MR. SCHAGRIN: The same here, Commissioner
3 Kieff. And I'm reminded of something that Patton said. And
4 that is, we'd much rather put the extra effort in here to
5 hold the ground we already took than to have to do a lot
6 more effort to retake the ground after it's lost.

7 MR. KIEFF: And it's in the spirit of that kind of
8 efficiency that I ask the question. Great. Well that's all
9 for me for this panel. And again, I really appreciate the
10 lawyers and the witnesses for their very helpful input and I
11 thank you very much.

12 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

13 MS. SCHMIDTLEIN: Thank you. I just had a
14 question following up on an answer, Mr. Schagrin, that you
15 gave to Commissioner Johanson about the fact that from
16 January 2013 to June of 2015 Ukrainian product was in the
17 market for only two months, the U.S. market.

18 And I thought I understood your response to be
19 that that's because the Suspension Agreement is in place.
20 And so what I'm trying to understand--and this sort of goes
21 back to the discussion at the beginning of the Petitioners'
22 panel--is how exactly this Suspension Agreement works.

23 Because I thought there was a scenario under
24 which the volume and price is not restricted if the U.S.
25 market price is greater than what is considered, you know,

1 the normal value under the Agreement.

2 So I guess my question is: Is it the Petitioners'
3 position that U.S. market prices were below normal value
4 during that period of time, except for those two months?
5 And that that therefore was restricting Ukrainian Subject
6 Imports into the U.S. market? And if so, like where can I
7 see that in the record? Or if not, where can I see that in
8 the record?

9 MR. SCHAGRIN: So, Commissioner Schmidtlein, Roger
10 Schagrin. So I know where the Ukrainians will go with this
11 information, so it is important to clarify it.

12 And so it's not that when Ukrainians receive
13 their normal values, which they get approximately somewhere
14 between 15 and 60 days, as I remember it, a couple of times
15 Ukrainians were actually late with their responses and they
16 may have gotten a normal value actually a month or two in,
17 and then they're not allowed to sell. So if the normal
18 value period is, let's say for example, July to December of
19 2015, or 2014 is a better example, and they don't get their
20 normal values assigned to them until August or September,
21 they have to be out of the market because they didn't get
22 their normal values on time and that's because they didn't
23 get their responses in to the Department on time.

24 But the real thing in terms of looking at their
25 shipments and what the normal values do vis-a-vis U.S.

1 market prices, is not to do what the Ukrainians will do when
2 they're here this afternoon and in their post-hearing brief,
3 and they can give you their normal value, and they can
4 compare it to U.S. market prices from CRU at a given time.
5 The key for U.S. purchasers is looking forward.

6 So when U.S. purchasers are seeing, as you saw in
7 one of the charts that Mr. Price did, how much prices are
8 falling, they're going to say, wow, your stuff's going to
9 get here in three or four months. And when it gets here,
10 that normal value price you're offering me which you're not
11 allowed to go below, because if they go below it on one sale
12 ever the Agreement gets revoked. So I do give them a lot of
13 credit. They have abided by their Agreement, and that's why
14 it hasn't been revoked.

15 So they never sell below their normal value, as
16 they're not supposed to. But a U.S. customer says, hey, I
17 don't feel comfortable with buying from you for something
18 that's going to arrive in four months because your price may
19 be below the current price. But I'm looking at U.S. prices
20 likely to fall, and I don't want to take the risk that I pay
21 you X the normal value price, but by the time the product
22 gets here I can buy domestic for less.

23 And I really think that's what's been happening
24 in '14 and '15, is that this chart that you saw of U.S.
25 prices falling keeps U.S. customers from wanting to buy

1 Ukrainian product under the Suspension Agreement.

2 MS. SCHMIDTLEIN: Okay--

3 MR. SCHAGRIN: Now that wouldn't happen if the
4 Suspension Agreement were revoked. Then they could price
5 that, oh, \$50 below you don't want it? But how about at
6 \$200 below you don't have to worry?

7 MS. SCHMIDTLEIN: Alright, well then how does it
8 explain, then, when you look at the interim data and you
9 look at that chart which shows the price plummeting. But
10 then you see the Ukrainian product coming back into the
11 market, you know, the first six months of 2015 as compared
12 to the first six months of 2014, and that's called an
13 appreciable increase. I mean, you know--

14 MR. SCHAGRIN: It's an appreciable--

15 MS. SCHMIDTLEIN: So how--like when you were
16 saying it doesn't benefit foreign producers when the U.S.
17 market price is dropping, well it's obviously plummeting but
18 that is the time they chose to, whoosh, again. So how does
19 that square with your explanation?

20 MR. SCHAGRIN: I'm a little careful, Commissioner
21 Schmidtlein, not to overplay my hand with percentages
22 sometimes. So I would say while that percentage change is
23 sizeable, it's not a huge amount of tonnage. So I don't
24 think--I'm not going to rest my case on behalf of my client
25 on the percentage change between '14 and '15. What concerns

1 me is the millions of tons of excess capacity that the
2 Ukraine has, the incredible increase in their exports to the
3 EU after the EU relaxed all their restrictions on Ukrainian
4 plate, and I really do believe, which is why I think our
5 arguments are so good and we'll be able to argue this to
6 Commissioner Kieff in our post-hearing brief, that their
7 pattern of behavior in the U.S. market if this Commissioner
8 were to revoke the Suspension Agreement will be identical to
9 their behavior in the EU market which is so similar to our
10 market in terms of quality requirements, the focus on price,
11 the way plate is used in the EU. They're just so similar.

12 I just can't see what reason they wouldn't ramp
13 up production further and take advantage of their ability to
14 export to a very large market in the United States.

15 So I'm a little less keyed in on that percentage
16 change and differences between the first half of '14 and the
17 first half of '14. I'm more focused on what will happen in
18 the future where it's not just the percentage the tons are
19 going to from the hundreds and the thousands to the hundreds
20 of thousands of tons.

21 MS. SCHMIDTLEIN: Okay. The last comment that I
22 wanted to get a response from you, or the last question I
23 guess, is on the argument regarding distribution networks in
24 the United States.

25 Can you respond to their argument that they do

1 not have the more established distribution networks like the
2 Chinese and the Russians, apparently, do? And that's why
3 they would not return--

4 MR. MOSKALUK: Jeff Moskaluk, SSAB. I don't
5 believe that to be true. The network--the introduction, the
6 network to gain entry into the market is typically through
7 trading companies. And trading companies, by the very
8 nature of what they do, are constantly sourcing globally.

9 So I think that avenue would be open entirely. I
10 don't believe that there's any restriction in entering into
11 distribution. Selling directly to U.S.-based service
12 centers, if that was the argument of avoiding the trading
13 company argument, again the U.S.-based service centers have
14 knowledge of these facilities. And so it would be a matter
15 of either a direct introduction or through a trading
16 company, again.

17 So I don't believe there is any barrier or
18 advantage to one or the other. The distribution channel
19 itself is very adaptive to changing countries of origin all
20 of the time.

21 MS. SCHMIDTLEIN: Is that how the Chinese and the
22 Russians--

23 MR. MOSKALUK: Yes.

24 MS. SCHMIDTLEIN: --through the global--

25 MR. MOSKALUK: Some of them have their own trading

1 companies, and some of them trade through international
2 trading companies. Both.

3 So while perhaps they may have their own trading
4 companies as well, they also use the international ones,
5 which would be open to substituting country of origin.

6 MS. SCHMIDTLEIN: Mr. Price?

7 MR. PRICE: So just a quick addition. The record
8 shows how the Ukrainians, what volumes they have sold in the
9 United States. You know, how they've sold it is
10 confidential. So we will leave it at that.

11 Ukrainian producers are actively right now
12 selling products in the United States. They can distribute-
13 -have distribution networks. They're calling on Nucor's
14 customers right now, taking Nucor sales away and other
15 product lines. So the idea that there's some great
16 inability, whether through direct sales channels or through
17 trading companies, is just not accurate. It's not the
18 history of steel.

19 It's basically, as their head of sales will say,
20 hey, a few dollars will get--you know, a small price
21 difference is what everything transacts on. And that's what
22 ships volume around.

23 MS. SCHMIDTLEIN: All right, thank you. I have no
24 further questions.

25 CHAIRMAN BROADBENT: Let's see. I think I just

1 had one or two here. I just wanted to get your reaction.
2 This plant that's owned by Alchavesk--is that a familiar
3 name to you? Do you think that that producer, which is in
4 separatist controlled area of the Ukraine, will export to
5 the United States if the Suspension Agreement goes away?

6 MR. SCHAGRIN: Chairman Broadbent--Roger Schagrin--
7 -I don't know about speculating on that particular
8 production facility, their ability to produce and export,
9 but as Commissioner Johanson requested earlier, we will
10 address the legal issues in our post-hearing brief about how
11 the Commission should treat facilities based on--

12 CHAIRMAN BROADBENT: You know, this is just a
13 question of capacity and ability to do business at this
14 point. Realistically would you think a plant like that
15 would still be exporting?

16 MR. SCHAGRIN: I think at least from our
17 perspective we'll do some further research and also try to
18 give you some guidance in our post-hearing brief, if we
19 could.

20 CHAIRMAN BROADBENT: Okay. Good.

21 Do Commissioners have any more questions?

22 MR. JOHANSON: Yes, I do.

23 CHAIRMAN BROADBENT: Commissioner Johanson.

24 MR. JOHANSON: Returning to my latest line of
25 questioning when I was speaking about the commodity grade

1 plate versus value-added, could you all write in the
2 post-hearing brief how much U.S. production is commodity
3 plate versus value-added?

4 I assume that's probably proprietary so you
5 probably don't want to give that out in public.

6 MR. PRICE: Yeah, we will address that in our
7 post.

8 MR. JOHANSON: That would be helpful. Thanks a
9 lot. Actually my staff already said they're going to write
10 all about that anyway, but I figured I'd ask just in case.

11 That concludes my questions. Thank you.

12 CHAIRMAN BROADBENT: Okay. Alright, if
13 Commissioner have no further questions, does the staff have
14 any questions for this panel?

15 MR. CORKRAN: Douglas Corkran, Office of
16 Investigations. Thank you, Madam Chairman. Staff has no
17 additional questions.

18 CHAIRMAN BROADBENT: Okay, do those in opposition
19 to the Orders have any questions?

20 MR. LEWIS: No questions.

21 CHAIRMAN BROADBENT: Okay. Alright, in that case
22 I think it's time to take a lunch break. We will resume at
23 quarter of two o'clock. The hearing room is not secure, so
24 please do not leave confidential business information out.

25 And again, I want to thank all the witnesses for

1 coming today.

2 (Whereupon, at 12:46 p.m., the hearing was
3 recessed, to reconvene at 1:45 p.m., this same day.)

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

2 (1:46 p.m.)

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

4 CHAIR BROADBENT: Mr. Secretary, are there any
5 preliminary matters for the afternoon session?

6 MR. BISHOP: Madam Chairman, I would note that
7 the panel in opposition to continuation of the antidumping
8 duty orders have been seated. All witnesses have been
9 sworn.

10 CHAIR BROADBENT: Thank you, Mr. Secretary.

11 I want to welcome the afternoon panel to the ITC.
12 I would like to again remind all witnesses to speak clearly
13 into the microphone and state your American for the record
14 for the benefit of the court reporter.

15 You may begin when you're ready.

16 STATEMENT OF CRAIG A. LEWIS

17 MR. LEWIS: Thank you and good afternoon,
18 Chairman Broadbent, Vice Chairman Pinkert, Commissioners,
19 and staff. Once again for the record, my name is Craig
20 Lewis of the Hogan Lovells law firm appearing before you
21 today on behalf of the Ukrainian producer Metinvest.

22 It's a pleasure to be back before you.

23 We are fortunate now to have with us this
24 afternoon a panel of industry witnesses from Ukraine who
25 will share with you the current status of the industry

1 including some important information about the impact of the
2 continuing armed conflict in Eastern Ukraine.

3 Let us begin with a brief video of current
4 conditions.

5 (Video played.)

6 PRESIDENT OBAMA: Congratulations on that
7 excellent work that you've done. You have a strong friend
8 not only in me personally, but I think as you saw in
9 Congress today, you have a strong bipartisan support here in
10 the United States and the people of America stand with the
11 people of the Ukraine. We wish you not only luck, but you
12 know that you also have a strong commitment and friendship.

13 SEN. JOHN KERRY: We talked about the largest
14 threat that Ukraine faces today and that is Russia's
15 continued aggression in the east.

16 VOICE OVER: This is what remains of part of
17 Europe's largest coke plant situated in East Ukraine. This
18 massive factory has come under shelling again in recent days
19 and now this complex has been forced to cease trading.
20 Signs of significant damage are all around, concrete and
21 steel that once made up the roof of one building is now
22 scattered across the floor. A symbol of a Soviet star on
23 the wall surrounded by a Moscow skyscraper left untouched,
24 an image of Ukraine's past close ties to Russia and the
25 Kremlin. Authorities just several days ago, one worker was

1 killed and two other injured by shelling. The obituary of
2 the deceased 25 year old worker posted on the door of the
3 company's administration building. A train and a crane were
4 destroyed in the attack along with a major part of the power
5 supply.

6 The plant's owner, Ukrainian steel maker
7 Metinvest described it as the heaviest shelling since the
8 declaration of the Minsk cease fire agreement, a statement
9 supported by one worker we spoke to.

10 VOICE OVER: Damage to internal rail tracks of
11 the factory means raw materials cannot be brought in and
12 finished products cannot be shipped out. The company's
13 management says the town of Avdiivka lies in
14 government-controlled territory, but is close to the front
15 line and a key target for militant forces. Ukrainian
16 soldier guard the complex.

17 One service would describe the shelling earlier
18 this week.

19 VOICE OVER: Any production outages here could
20 threaten output at Ukraine steel plants including two of the
21 largest in Mariupol, a strategic government-held port city
22 in the southeast of the country. Meanwhile management says
23 the work here at Avdiivka will resume once the situation
24 stabilizes. The company now relies on third-parties in
25 Russia, Australia, Canada, and government-held areas of

1 Ukraine for deliveries of coal due to the conflict. Before
2 the conflict erupted in April last year, some 35,000 people
3 lived in Avdiivka, many reliant on the local industry.
4 Those who didn't flee face the daily challenge of no
5 electricity and running water. The local police chief said
6 on Sunday for them the shutdown of the plant is another
7 challenge in what is a war with no end in sight.

8 [PAUSE]

9 VOICE OVER: A blast destroyed a railway bridge
10 in the eastern Ukrainian region of Zeparisia on Wednesday
11 cutting a railway link between the port city of Mariupol and
12 Ukraine's west. The blast damaged several homes in the
13 vicinity of the bridge, shattering windows and damaging
14 doors. No casualties were reported as a result of the
15 blast. The east of Ukraine has suffered a surge of violence
16 in recent days with fight between the Ukrainian army and
17 Russian forces intensifying. The United Nations says almost
18 5,000 people have lost their lives since the conflict began
19 after Russia invaded Crimea and and eastern Ukraine almost a
20 year ago.

21 VOICE OVER: Russian-backed militants have
22 stepped up attacks on Ukrainian positions throughout the
23 combat zone in eastern Ukraine according to military
24 officials who said the heaviest shelling was reported early
25 on April 27th near Mariupol.

1 VOICE OVER: The organization for security and
2 cooperation in Europe has concluded that the shelling which
3 killed 30 people in the government-controlled port city of
4 Mariupol last Saturday came from territory controlled by
5 Russian-backed militants. That's according to remarks from
6 U.N. Political Affairs Chief, Jeffrey Feltman made at an
7 emergency meeting of the 15-nation security council on
8 Ukraine.

9 MR. FELTMAN: Mariupol lies outside of the
10 immediate conflict zone. The conclusion can thus be drawn
11 that the entity which fired these rockets knowingly targeted
12 a civilian population. This would constitute a violation of
13 international humanitarian law. We must send an unequivocal
14 message. The perpetrators must be held accountable and
15 brought to justice.

16 VOICE OVER: U.S. Ambassador to the U.N. Samantha
17 Power condemned Russia for assisting the militants in
18 seizing more Ukrainian land.

19 MS. POWER: Unfortunately, we are back here today
20 because Russia and the separatists have once again flouted
21 these commitments. The targets are fresh ones, but Russia's
22 end goal remains the same, to seize more territory and more
23 the line of Russian-controlled territory deeper and deeper
24 into Ukraine.

25 VOICE OVER: Russia has prepared the ground in

1 Ukraine for a major new invasion of the country according to
2 Thessel Critsack. Ukraine's state security chief, Critsack
3 said, heavy weaponry and troops have been pouring into
4 occupied areas of Donbass in eastern Ukraine throughout
5 August. He claimed Russia had deployed the troop buildup by
6 using railway lines from Russia to occupied Donbass and
7 through uncontrolled segments of the 400 kilometer stretch
8 of the Russian Ukrainian border which Ukraine no longer has
9 any control over.

10 (End video.)

11 STATEMENT OF SVITLANA ROMANOVA

12 MS. ROMANOVA: Chairman Broadbent, Vice Chairman
13 Pinkert, Commissioners, and staff, good afternoon, my name
14 is Svitlana Romanova and I am chief legal officer of
15 Metinvest Holding. Currently residing in Kiev, Ukraine. I
16 assumed my current position back in 2012.

17 I thank you for this opportunity to appear here
18 and present our case.

19 I would like to briefly discuss how the war in
20 Eastern Ukraine has impacted the Ukrainian people, the
21 Ukrainian economy and Metinvest's business. The
22 armed conflict and the resulting economic downturn in
23 Ukraine have led to enormous problems for our country and my
24 company. These problems are even more pronounced in the
25 Eastern part of Ukraine, where most of our key steel

1 production facilities are located. We have experienced a
2 serious impact on our ability to do business.

3 I believe it would be helpful for the Commission
4 to see a map of Eastern Ukraine and to see the scope of the
5 current conflict and the locations of our steel mills.

6 Before the fighting started, Metinvest's
7 corporate headquarters were located in Donetsk, which you
8 can see right in the middle of the map behind the
9 demarcation line. As you have undoubtedly seen in the
10 press, Donetsk has been, and continues to be, the target of
11 frequent artillery shelling and fighting that has destroyed
12 the city's brand new airport, closed the central railway
13 station, and caused serious damage to countless buildings,
14 including civilian apartment blocks.

15 As the conflict escalated, in June 2014,
16 Metinvest management made the decision that it was no longer
17 safe for our employees to continue operations in Donetsk and
18 evacuated them to other locations. We don't know when, or
19 whether, we will be able to return.

20 Metinvest has two mills that are capable of producing
21 subject cut-to-length plate of a quality potentially
22 suitable for export to the United States. These mills are
23 Azovstal and Ilyich. Azovstal is 80 years old. Ilyich is
24 roughly 120 years old.

25 Both facilities are located in the port city of

1 Mariupol on the immediate edge of the conflict zone.
2 Mariupol is so close to the front lines that you can hear
3 artillery fire from the center of the city. Even worse,
4 Mariupol has been the target of shelling. Thirty civilians,
5 including two children, were killed in January this year.
6 Sadly, Metinvest employees were amongst them.

7 As Mr. Shvetsov will explain in more detail
8 later, Metinvest also operates another mill in Ukraine,
9 Zaporizhstal, which does not produce plate that would ever
10 be shipped to the United States. While located outside of
11 the conflict zone, Zaporizhstal mill also has suffered
12 disruptions due to infrastructure and other damage being
13 suffered in the conflict.

14 Finally, there is a fourth Ukrainian mill that
15 produces cut-to-length plate that is not owned by our
16 company. The Alchevsk Mill. Alchevsk is located squarely
17 in the conflict zone and has been adversely affected by the
18 war, with limited raw material supplies leading to the mill
19 halting production. My understanding is that Alchevsk may
20 now be producing very limited quantities of steel. However,
21 its
22 future is uncertain as the fighting near the plant
23 continues.

24 The fighting has also directly limited Azovstal
25 and Ilyich's production of steel. Both mills rely on

1 Ukraine's railways to deliver raw materials and ship
2 finished products. These railway lines not only pass
3 through regions outside of Ukrainian Government control, but
4 they also regularly suffer heavy damage from shelling. For
5 example, a railway bridge was destroyed in December 2014,
6 cutting the access to Mariupol's commercial port. Currently
7 Metinvest is paying and physically rebuilding this bridge.
8 Tragically, this incident included an armed attack on
9 Metinvest personnel, resulting in the death of a mill plate
10 worker and serious injury to a mechanic-repairman.

11 Similar tragedies have occurred in other
12 Metinvest facilities since the outbreak of the war. For
13 example, Metinvest's vital coke plant, which supplies coke
14 to Azovstal and Ilyich, has been
15 shelled more than 270 times and has seen production drop to
16 one-third of its pre-war output. Local residents of the
17 city say that not a single building in Avdiivka has escaped
18 shelling.

19 Metinvest's steel operations across the region
20 have also been repeatedly interrupted by production and
21 supply chain problems resulting from the conflict, including
22 logisticals, railway, power, infrastructure, and
23 electricity-related obstacles. As recently as June 2015,
24 for example, artillery shelling damaged a gas pipeline,
25 disrupting gas deliveries to Azovstal and Ilyich. The two

1 mills thus halted steel production for several days
2 completely.

3 As a result, Azovstal and Ilyich have not been
4 able to consistently deliver finished products to their
5 customers on schedule. Timely delivery has been
6 particularly problematic because Metinvest is no longer able
7 to export from Ukraine's Crimean ports, and the Mariupol
8 commercial port has been reduced to 30 percent of normal
9 capacity of raw materials and 60 percent of normal metal
10 shipments. While the Mariupol port is an important part of
11 Metinvest's transportation network for shipping finished
12 products outside of Ukraine, technical limitations along
13 with war-related safety issues further limit potential
14 shipments out of Ukraine.

15 Our production costs also have been substantially
16 higher than normal. For example, last year Azovstal and
17 Ilyich were forced to take additional costs to transport raw
18 materials due to the fighting near the Yasinovataya train
19 station in the Donetsk region. The cost increase was also
20 due to growing railway tariffs, natural gas pricing, and the
21 necessity to import coking coal.

22 Metinvest raw material suppliers - Avdiivka Coke,
23 Krasnodon Coal, and Komsomolskoye Flux Plant
24 also experience regular artillery shelling and
25 continuous disruptions in production. These facility

1 disruptions continue to compound the major problems
2 confronted by Azovstal and Ilyich.

3 Because of the ongoing, substantial conflict
4 facing Ukraine, Metinvest is now experiencing perhaps the
5 most difficult time in its history. The war has caused
6 major harm to Metinvest's business, including our production
7 numbers, revenue, and net income. Our output of crude steel
8 fell by 26 percent in 2014 as compared to 2013, and this
9 downward trend has continued in the first half of 2015.

10 Metinvest also has experienced declines in 2014
11 of 18 percent in revenue and 59 percent in net
12 income. Unfortunately, based on our mid-year 2015 numbers,
13 it is clear that these trends are continuing into the next
14 year. Moreover, steel production in Ukraine as a whole is
15 also in decline. 2014 was the worst year for steel
16 production in Ukraine since
17 the mid-'90s. Production has fallen 28 percent
18 year-over-year during the first five months of 2015.

19 Before I conclude my statement to the Commission,
20 I would also like to speak briefly about our main asset, our
21 employees and their families that have suffered as a result
22 of the war. Many employees have left Mariupol to relocate
23 to safer parts of the country. As a result of this,
24 Azovstal and Ilyich have witnessed an unprecedented outflow
25 of skilled personnel and are still struggling to fill these

1 vacancies to date.

2 In the first half of 2015, Azovstal and Ilyich
3 had a net decrease in approximately 2000 employees. These
4 positions remain unfilled.

5 Metinvest headquarters and other group companies
6 have moved to various locations throughout Ukraine following
7 mass evacuation of our personnel and their families from the
8 sieged regions. I, like my fellow employees, had to
9 urgently leave my home behind taking my
10 two-and-a-half-year-old daughter and just a few possessions
11 with me. My husband, excuse me, left --

12 (Begins to cry.)

13 MS. ROMANOVA: My husband left Donetsk two months
14 later, sorry.

15 But my family is one of the lucky ones that had
16 the opportunity and means to make this move. Our employees
17 remain in the region and struggling every day to for
18 stability and safety in their workplaces. As well, in the
19 cities they live in.

20 We are optimistic in the future and we hope that
21 it will stabilize very soon.

22 I apologize. I cannot speak without emotion
23 because lots was said here about the situation in that part
24 of the country. But none of the people have seen what is
25 actually going on and I assume the Commissioners will excuse

1 my emotion because it's very hard to speak about something
2 and to speak about things on behalf of the employees who
3 remain in Mariupol and continue to keep their lives running
4 and safe.

5 And a few words beyond what is said in my
6 testimony. I heard something was said about a shareholder
7 and how he's making money out of the entire situation. No,
8 we are not making money. We are making people survive
9 there. We are keeping jobs, we are keeping the mills
10 running despite the bombing and shelling and we are actually
11 feeding the families who still live there. Apologies. I am
12 done.

13 STATEMENT OF YURIY SHVETSOV

14 MR. SHVETSOV: Chairman Broadbent, Vice Chairman
15 Pinkert, Commissioners, and staff, good afternoon. My name
16 is Yuri Shvetsov and I am the Metinvest Sales Representative
17 for Canada and the United States. I assumed my current
18 position in 2005, and I am based near Toronto, Canada. I am
19 pleased to be here.

20 I would like to take a few moments to discuss
21 Metinvest's plate mills and their ability and incentive to
22 ship plates to the United States if the antidumping measures
23 are terminated.

24 I understand that one of the key questions the
25 Commission is trying to answer is what the likely volume of

1 plates from Ukraine will be. Naturally enough, in light of
2 my position, I have given this question a lot of thought.
3 Based on my evaluation of the difficult circumstances facing
4 the plate mills in Ukraine, relevant market conditions, and
5 discussions with Metinvest senior management, I can assure
6 you that this number is very modest, and nowhere near the
7 amounts claimed by U.S. producer witnesses. It would
8 certainly be at the levels that could possibly have a
9 negative impact -- should not be at the levels that could
10 possibly have a negative impact on U.S. market prices.

11 And let me explain how we came to this
12 conclusion.

13 There are currently four mills in Ukraine with
14 the capability to produce cut-to-length plate. Metinvest
15 owns three of them: Azovstal, Ilyich, and Zaporizhstal.
16 Alchevsk, the fourth mill, is not owned by Metinvest.
17 Alchevsk mill is located in the far eastern Ukraine, in the
18 territory which no longer controlled by Ukrainian
19 government. The Alchevsk mill has been adversely affected
20 by the war, with limited raw material supplies to the mill
21 halting production.

22 My understanding is that Alchevsk may now be
23 producing very limited quantities of steel, but that it is
24 still greatly impacted by the war and has a very uncertain
25 future. In terms of potential exports to the U.S. market,

1 Alchevsk will remain a non-factor for the foreseeable
2 future.

3 I also note that some certain parties have
4 claimed that there is a fifth plate mill in Ukraine, the
5 Donetsk steel mill. This is actually incorrect. This mill,
6 also located outside of Ukraine government-controlled
7 territory, no longer produces plates. It's open-hearth
8 furnace and rolling mill have been shut down for years.
9 Portions of the mill have been disassembled and the mill
10 itself may be scrapped. Even when the mill produced plate
11 years ago, it was low quality and with extremely limited
12 size and grade ranges. In short, there was no possibility
13 of resuming plate production at the Donetsk steel mill.

14 That leaves the three Metinvest mills in Ukraine
15 with potential to ship plates to the United States.

16 The Zaporizhstal mill, which dates from before
17 the Second World War, is not a viable source of plate for
18 the U.S. market. First of all because our Zaporizhstal
19 plate products are produced by cutting hot-rolled coils from
20 a strip mill, severely limiting its quality and range of
21 products. As importantly, it's existing outdated equipment
22 means that Zaporizhstal cannot meet U.S. quality standards,
23 in particular for the flatness and cleanliness of steel.
24 Metinvest thus has no intent or practical ability to export
25 plate from Zaporizhstal to the United States now or in the

1 foreseeable future. In fact, to upgrade this facility to
2 modern standards would require billions of dollars in
3 investment for Ukraine, and investment that today no one is
4 willing to undertake.

5 Metinvest is also very unlikely to ship
6 significant volumes of plates from the Ilyich mill to the
7 United States if the antidumping measure is revoked. One of
8 Ilyich's two rolling facilities is similar the outdated
9 mill at Zaporizhstal and therefore is completely unusable
10 for the U.S. market.

11 The other rolling mill at Ilyich also is not
12 currently capable of meeting the U.S. market requirements
13 for plate flatness. The standard in the U.S. market today
14 is to produce a one-half of ASTM's A6 flatness standard.
15 Ilyich cannot do this. Moreover, certain customers demand
16 plate with a thickness of 38 millimeters or greater. Ilyich
17 likewise does not make these higher-value products. These
18 constraints severely limit the marketability of Ilyich plate
19 in the U.S. market.

20 In fact, where Metinvest has seen smaller
21 opportunities to sell plate to the U.S. market over the last
22 five years, Metinvest has almost always shipped from its
23 Azovstal mill, not from Ilyich. And, contrary to what the
24 U.S. industry witnesses have been saying, I cannot foresee
25 any scenario where Metinvest would ship more than very

1 moderate volumes of plate to the U.S. market from the
2 Azovstal mill. Let me explain why.

3 First, the conflict in Ukraine affects our
4 exports. While we have worked very hard as a company to
5 adapt to the loss of transportation infrastructure and to
6 repair damage to our facilities, these extraordinary
7 circumstances have significantly reduced our ability to
8 produce plate and to ship it reliably.

9 MR. SHVETSOV: The uncertainty of supply is a
10 huge obstacle to our ability to serve long distance markets
11 like the United States. Unfortunately, we do not believe
12 that this situation will improve anytime soon. To the
13 contrary, there are disturbing signals that conditions may
14 be getting worse in the Donbas region.

15 Second, Azovstal has certain technological
16 production limitations that curb its ability to serve the
17 U.S. market. For example and most importantly,
18 Azovstal has very limited capability to meet certain U.S.
19 license requirements. Additionally, much of Azovstal's
20 production is unable to meet the plate specification for the
21 U.S. energy industry mandated by API requirements, such as
22 requiring that heavy plates be over 10, 11 metric tons or
23 greater.

24 Most of Azovstal's production cannot meet this
25 requirement. Lastly, many less demanding market segments,

1 where Azovstal might otherwise possibly find customers, such
2 as in construction, are subject to Buy America restrictions.

3 Thirdly, Azovstal's ability to ship to U.S.
4 market is very limited. Sure, Metinvest is seriously
5 disadvantaged by long lead times. Metinvest estimates lead
6 times for its shipments of plate to United States are four
7 to five months, substantially longer than the forty days
8 average lead time reported by U.S. producers in this
9 proceeding.

10 This factor, by itself, excludes Metinvest from
11 significant share of potential business that requires
12 reliable shorter lead times.

13 Fourth, Azovstal has significant existing
14 customer commitments that limits the volume that could be
15 shipped to the United States. These customer commitments
16 are confidential, but further details in our questionnaire
17 response to the Commission.

18 Fifth, Metinvest is particularly focused on
19 other region. Our shipments to Europe have increased
20 substantially here in the last few years, and it is a very
21 important long term market from Metinvest and Ukraine.
22 Metinvest is able to more easily meet the requirements of
23 its European customers. For example, our expertise is that
24 European customers do not generally require the demanding
25 one-half A6 ASTM flatness tolerance that the U.S. customers

1 generally require.

2 The European market is also economically
3 attractive to Metinvest due to favorable logistical costs.
4 It is obvious that shipping originally to European customers
5 is easier than transatlantic shipping to the United States.
6 Shipments to Europe can often be made simply by rail or
7 through the Azov Sea Port and Danube river, at cost and
8 logistical advantage. By contrast, shipments to the United
9 States have to be made through the Black Sea port of Odessa.
10 This adds roughly forty to forty-five dollars per metric ton
11 in extra railway costs.

12 Customers in Europe are also generally located
13 very close to ports or ports of entry while a significant
14 number of potential U.S. customers are located far from the
15 main delivery ports. I estimate that additional logistical
16 costs to bring the plate inland in the United States could
17 be from fifty to over a hundred dollars, depending on the
18 destination. Because of this substantial cost, Metinvest
19 shipments to certain regions in the United States are simply
20 not competitive.

21 Metinvest prioritization of the European region
22 over the United States is also clear when you look where we
23 have established our offices. Metinvest has an extensive
24 network of eleven sales offices or agents throughout Europe.
25 And every office is not just one person, some offices have

1 up to twenty people. In contrast, I am a single sales agent
2 for Metinvest responsible for Canada and the United States,
3 and I am based near Toronto, Canada and am the only
4 Metinvest steel sales simply in either Canada or the United
5 States.

6 In light of these circumstances, and given my
7 position in the company, I have discussed with our senior
8 management at Metinvest the capacity to supply plate and our
9 intentions to supply plate to the United States market. We
10 have concluded that if market circumstances in both Ukraine
11 and the United States remains the same, the maximum quantity
12 of exports to United States, we could realistically have to
13 ship up to twenty-five thousand tons annual.

14 This is, from my opinion, is negligible portion
15 of the U.S. market, and even this target could be reached
16 only if every factor favors Metinvest. Those are those
17 "if"s. If the war does not again lead to massive
18 disruptions of supplies and outbound shipments. If U.S.
19 prices are high enough to offset the bigger transportation
20 costs. If Metinvest is able to qualify its products. If
21 U.S. demand is strong enough. And if Metinvest is able to
22 find customers willing to accept the heightened risk and
23 lengthy lead time associated with purchasing plate from a
24 war zone.

25 Even then, Metinvest would take significant time

1 to reach such modest level. It is thus far more likely that
2 we will ship significantly less this month for the
3 foreseeable future if the antidumping fares are revoked.

4 I note that our company made a similar promise
5 to the Commission about sixteen months ago in the recent
6 sunset review on the wire-rolled. As several of you may
7 recall, Metinvest similarly testified that its shipments to
8 the United States, if the wire-rolled order was revoked
9 would be limited by existing customer commitment and strong
10 domestic and regional export markets.

11 Specifically, Metinvest stated that if the order
12 on the wire-rolled was revoked, Metinvest would expect to
13 ship roughly twenty thousand tons per year. We have stayed
14 true on this word since the order of wire-rolled was revoked
15 in July 2014. In the last fourteen months, it's more than a
16 year, Metinvest has shipped approximately eleven thousand
17 metric tons of wire-rolled to the United States.

18 I figure that this completely consistent with
19 our pledge. In fact, Metinvest shipments have actually been
20 at the lower end of Metinvest's projection. Thank you very
21 much for the time. I would be pleased to answer any
22 additional questions that the Commission may have.

23 STATEMENT OF WESLEY V. CARRINGTON

24 MR. CARRINGTON: Chairman Broadbent,
25 Vice-Chairman Pinkert, Commissioners and staff. Good

1 afternoon. My name is Wes Carrington. I am with Hogan
2 Lovells on behalf of Metinvest. I would like to discuss why
3 the Commission should decumulate Ukraine from Russia and
4 China and consider Ukrainian imports separately.

5 As we've outlined in Metinvest's prehearing
6 brief, the evidence in this third review compels a
7 decumulated analysis for Ukraine. Cumulating Ukraine with
8 imports from China and Russia, neither of whose producers
9 are even participating in this review, would be
10 inappropriate and contrary to the spirit and intent of the
11 statutory cumulation provision. There are two principle
12 reasons for this.

13 One, imports from Ukraine alone are likely to
14 have no discernible adverse impact on the domestic industry
15 in the event of revocation.

16 Two, imports from Ukraine compete under
17 significantly different conditions of competition than those
18 from Russia or China.

19 I will first address why imports from Ukraine
20 are likely to have no discernible adverse impact. As you've
21 heard from the company witnesses from Metinvest this
22 afternoon, any import volumes upon revocation are likely to
23 be moderate at most. These projections are, if anything,
24 optimistically high. They depend on a number of factors
25 favorable to Metinvest that may or may not occur, including

1 stabilization of the conditions in Ukraine.

2 There also would be no likely adverse price
3 effects that could cause a discernible adverse impact if the
4 antidumping measures are terminated. The pricing data
5 collected by the Commission shows more instances of
6 overselling than underselling during the period of review
7 for Ukrainian imports.

8 Any attempt by petitioners to use pricing data
9 from 1994 to 1996, as somehow dispositive of what would
10 occur today, is inappropriate. As Metinvest has made clear
11 in testimony today, the plate industry in Ukraine is
12 completely different today than in the mid-90s due to
13 privatization, new management and a shift to a modern,
14 profit-oriented industry. All of the volume and price
15 factors I've just described mean that any Ukrainian imports,
16 upon termination of the suspension agreement, would have no
17 discernible adverse impact on the U.S. industry.

18 However, even if the Commission finds that
19 subject imports from Ukraine are not likely to have no
20 discernible adverse impact, the Commission should exercise
21 its discretion not to cumulate imports from Ukraine with
22 those from Russia and China

23 There are a number of different ways in which
24 imports from Ukraine compete under significantly different
25 conditions of competition than the other subject countries.

1 One fundamental difference in competition that would, by
2 itself, warrant decumulation is the ongoing war in Ukraine,
3 which has severely affected the Ukrainian economy and
4 Metinvest in particular.

5 As you've heard, the plate mills in Ukraine have
6 been affected by shelling and their supply chains disrupted
7 by armed attacks and fighting. Bridges and railcars used by
8 these mills have been destroyed. One plate mill is no
9 longer even within Ukrainian government controlled
10 territory.

11 Tragically, Metinvest steel workers have even
12 been killed. Ukraine thus faces unique, extremely difficult
13 market conditions, and these are substantially different
14 from the conditions of competition facing producers in
15 Russia or China.

16 A second important condition of competition
17 warranting decumulation is the change in Ukrainian industry
18 since the original investigation. Since the Commissions'
19 original investigation period over twenty years ago, the
20 three Metinvest mills have undergone privatization, changes
21 in management and a fundamental shift to a modern,
22 Western-oriented industry focused on efficiency and profits.

23 A third factor supporting decumulation is the
24 small size of Ukraine's plate industry compared with the
25 Chinese industry. Although the exact data are confidential,

1 several individual firms in China each have greater plate
2 capacity than all of Ukraine. This massive difference
3 between the two industries impacts their respective
4 abilities to ship injurious quantities of plate to the
5 United States.

6 Finally, and very importantly, the Commission
7 should exercise its discretion to decumulate Ukrainian
8 imports because Ukraine is the only country actively
9 participating in the sunset review, as well as the only
10 country whose producers have filed any questionnaires
11 providing coverage of the industry.

12 The Commission has no questionnaire data
13 regarding the subject industries in Russia or China since
14 zero Russian or Chinese producers filed questionnaire
15 responses with the Commission. By contrast, the Commission
16 has substantial questionnaire data for the Ukraine industry,
17 spanning three mills and covering what the Commission calls,
18 virtually all CTL plate production in Ukraine.

19 Moreover, importers filed questionnaire
20 responses covering what the Commission called virtually all
21 U.S. imports of CTL plate from Ukraine, which is in contract
22 to questionnaire coverage for imports covering only half of
23 Russian plate imports and no importers covering Chinese
24 imports.

25 The Commission's lack of questionnaire data from

1 the producers in China and Russia mean the Commission must
2 resort to secondary, unverifiable trade publications for
3 basic information regarding the industries in China and
4 Russia. Petitioners themselves argue that the lack of
5 questionnaire data from Russian and Chinese producers
6 warrants application of adverse inferences for those
7 industries.

8 By contrast, Metinvest is here before the
9 Commission today and is willing to provide detailed data and
10 other information pertaining to the Ukrainian industry and
11 its operations. This puts the Commission in a much
12 different place. From an industry knowledge and data
13 perspective, when trying to assess the likely effect of
14 termination of the Ukrainian suspension agreement versus the
15 agreement covering Russia or the order covering China.

16 Metinvest's full participation in this sunset
17 review is another step in its journey of cooperation with
18 the Commission and the Department of Commerce under the
19 suspension agreement. In fact, in 2013, Commerce concluded
20 that Metinvest was in full compliance with the terms of the
21 suspension agreement and that the agreement was functioning
22 as intended. This is in sharp contrast to the Russian
23 suspension agreement.

24 The U.S. producers recently filed a request
25 under Russia's suspension agreement that it be terminated

1 for no longer being in the public interest, and since it may
2 have been violated. Just last week, Commerce requested
3 comments on Russia's compliance under its suspension
4 agreement. This is yet another reason to consider Ukrainian
5 imports separately from Russian imports.

6 In conclusion, we strongly urge the Commission
7 not to cumulate subject imports from Ukraine with those from
8 China or Russia. Thank you.

9 STATEMENT OF JONATHAN T. STOEL

10 MR. STOEL: Chairman Broadbent, Vice-Chairman
11 Pinkert, Commissioners and staff. Good afternoon, my name
12 is Jonathan Stoel of Hogan Lovells. It is a pleasure to be
13 appearing before you again. This time I'm here on behalf of
14 Metinvest.

15 I want to address briefly the current condition
16 of the domestic industry and to alleged vulnerability to
17 limited subject imports that emanate from the Ukraine.
18 First, the domestic industry has fundamentally restructured
19 since the Commission's original threat of material injury
20 finding nearly twenty years ago.

21 The industry has substantially increased its
22 production capacity, has invested hundreds of millions of
23 dollars to develop and install state-of-the-art technology
24 and is able to control its production during down cycles to
25 avoid financial harm.

1 The historical data compiled by the staff in
2 Appendix D of the prehearing report show these many
3 improvements. From 1999 to 2003, the industry reported
4 negative operating margins in each year, including
5 abominable -12.3% in 2001. But since 2003, the domestic
6 industry has recorded only one year of negative
7 profitability in 2009, the very heart of the great
8 recession.

9 From 2004 to 2008, the industry reported
10 operating profits of more than 20% each year. Moreover, in
11 the last full year of this review, 2014, the industry
12 reported a 9.6% operating margin.

13 Let me put this margin in perspective. During
14 the POI, 1994 to 1996, the industry's operating margin
15 averaged 4.4%, and yet the Commission did not find actual
16 present material injury during that period. I'd also like
17 to point out that the industry's total wages in 2014 were
18 the most since 1998. The industry's hourly wage was \$14
19 higher during 2014 than during the POI. And the industry's
20 productivity was more than double during the POI, a very
21 impressive performance.

22 Second, the industry's performance in the first
23 half of 2015, admittedly a temporary down period for the
24 industry, with lower U.S. shipments and capacity utilization
25 than 2014, should be seen as a sign of strength. The

1 domestic industry managed to report an operating margin of
2 5.9%, the same level of profitability as the first half of
3 2014, and higher than the average during the POI.

4 Moreover, the industry actually increased its
5 U.S. market share in the first half of 2015 to 83.4%
6 notwithstanding claims the higher prices of the United
7 States market have caused a "Tsunami" of imports. These are
8 hallmarks of a competitive agile industry.

9 Finally, in a sunset review, the Commission
10 seeks to discern what might happen in the next year or two
11 without restraints on imports. We have explained why
12 subject import volumes from Ukraine are likely to be small
13 for the foreseeable future, and why pricing for Ukrainian
14 plate would not be injurious to domestic industry.

15 Under such circumstances, small quantities of
16 additional imports in the U.S. market will not cause harm to
17 the domestic industry. The industry's performance over the
18 last three years actually confirms this fact. The domestic
19 industry earned 7.9% and 9.6% in 2012 and 2014,
20 respectively, when import volumes reached 1.1 million and
21 1.6 million short tons.

22 On the other hand, U.S. imports were only six
23 hundred and thirty-eight thousand short tons in 2013, when
24 domestic industry performance slumped to 1.6%. To discuss
25 these issues in greater detail, I would now like to turn the

1 rostrum over to Dr. Tom Prusa.

2 DR. PRUSA: Good afternoon. My name is Tom
3 Prusa and I'm a professor of economics at Rutgers
4 University. I'm here today on behalf of the Ukrainian
5 producers, Metinvest, to discuss economic considerations
6 that the Commission should consider in this review.

7 If the order on Ukraine is revoked, there will
8 not be a significant volume of U.S. imports from Ukraine.
9 The volume of imports from Ukraine has been low during the
10 period of review. About eighteen thousand short tons in
11 total over the last three and a half years.

12 This morning, the domestic industry spoke of the
13 large plate imports from Ukraine between 2004 and 2008. The
14 domestic industry is ignoring two key factors. One, the
15 raging steel bull market that caused buyers to scramble for
16 supply. And two, that Ukrainian plate producers are
17 currently severely hampered by the war.

18 With respect to the first factor, in each year
19 of the bull market, the domestic industry had operating
20 income of at least 20%. There were many, many reports of
21 U.S. buyers unable to source U.S. plate. Widespread
22 shortages were the order of the day.

23 As a result, U.S. buyers turned to foreign
24 suppliers, including Ukraine. Only during the bull market
25 of 2004 to 2008 did Ukraine ship more than a miniscule

1 volume. Moreover, during this period of time, Ukraine's
2 suspension agreement was in the form of a quota of a hundred
3 and seventy-four thousand short tons. Even though Ukraine
4 could've sold more plate during that period of time, it did
5 not.

6 I'd also like to make one additional point
7 regarding the 2004 through 2008 period. As the record
8 shows, the domestic industry made record profits over a five
9 year period. Yet, even in the midst of this record market,
10 the domestic industry reported capacity utilization rates in
11 the mid-70s to low 80s.

12 Full capacity utilization by this industry is
13 simply not feasible. On the contrary, the domestic industry
14 can be quite healthy when its capacity utilization is below
15 70%. The capacity issue also has relevance for Ukrainian
16 producers. Nominal capacity far exceed practical capacity
17 for the Ukrainians.

18 Even if one is willing to assume reliable raw
19 material availability, regular electricity and a work force
20 that is able to commute to work safely, Ukraine mills only
21 produce a limited range of plate products.

22 While the domestic mills have emphasized Ukraine
23 shipments to the EU, they failed to mention that the EU's
24 product specifications and requirements are more suitable
25 for Ukrainian producers than are the specifications required

1 in the U.S. market.

2 Moreover, the domestic industry ignores the
3 logistical and delivery complications caused by the war. As
4 you have heard, the war is literally in the backyard of
5 plate, of the Ukraine's plate producers. Twenty kilometers.

6 In this map of Washington, I give a perspective
7 of the equivalent distance from 500 E Street Southwest. The
8 Commission should also consider how different conditions of
9 competition are since the last review. A calamitous war has
10 been thrust upon Ukraine.

11 Also, the last review was conducted during the
12 heart of the great recession. In light of the sharp drop in
13 demand and adverse effects of the great recession on the
14 industry, the Commission was justified in its findings of
15 vulnerability. That is simply not the case today.

16 Between 2009 and 2014, U.S. plate consumption
17 increased by a 107% and domestic production by 84%. Between
18 2012 and 2014, plate consumption increased by 10% and
19 production by 6%. This industry is not vulnerable.
20 Growing? Yes. Vulnerable? No.

21 Using data collected by the USITC in this review
22 and in the 2011 plate sunset review, one can see how quickly
23 the industry rebounded from the great recession. Unlike its
24 pre-restructuring incarnation, the current domestic industry
25 rebounded quickly, returning to profitability in the second

1 half of 2010 and to double-digit profits in 2011.

2 The strength of the domestic industry can also
3 be seen in other statistics. For example, capacity
4 utilization rates fell sharply in 2009, but then
5 significantly rebounded in 2010, and henceforth has
6 maintained good utilization rates.

7 Another issue the Commission must consider is
8 the role of non-subject suppliers in the U.S. market. While
9 the domestic industry claims that increased non-subject
10 supply makes it more vulnerable to imports from Ukraine, the
11 far larger issue was how non-subject suppliers have
12 effectively cornered the market.

13 Non-subject suppliers are already fully serving
14 the needs of U.S. buyers. The Commission's historical
15 record shows that U.S. buyers have always purchased about
16 80% or more of their plate from domestic firms. Foreign
17 suppliers serve the residual.

18 If Ukrainian producers were to re-enter the
19 market, they would primarily compete with other import
20 suppliers. Consider the dilemma facing a U.S. buyer
21 considering importing plate. On the one hand, it could
22 purchase from a known non-subject supplier. The buyer will
23 know the finish and quality of the plate. They will know
24 that the supplier will deliver the product with the desired
25 chemistry, dimensions and flatness.

1 Equally important, the non-subject supplier will
2 have a reliable delivery schedule. Neither the raw
3 materials, nor the finished product will pass through a war
4 zone.

5 Now consider the possibility of purchasing from
6 Ukraine. As a threshold matter, the staff report indicates
7 that the quality of Ukraine is below both U.S. plate and
8 non-subject plate. Ukrainian mills are unable to provide
9 many products desired by U.S. customers. This limits the
10 portion of the U.S. market accessible by Ukrainian plate.

11 Moreover, given the lack of supply over the last
12 five years, many buyers will not have qualified Ukrainian
13 plate for supply. As pressing as the quality concerns are,
14 the uncertainty of supply due to the war is even more
15 difficult.

16 Can U.S. buyers actually count on the projected
17 delivery window? Will the plate even be produced within the
18 delivery window? If produced, will the plate be held up
19 along the way due to a rail problem, or a problem at a port?

20 I'm not saying the Ukraine will not be able to
21 produce any plate. I'm saying that the production and
22 delivery challenges confronting Ukrainian mills raise red
23 flags for U.S. buyers. For many, given the availability of
24 U.S. plate and the ready availability of reliable,
25 non-subject supply, many buyers will decide not to gamble on

1 Ukrainian plate.

2 The final comment I want to note regarding
3 conditions of competition is that a significant fraction of
4 plate imports are purchased by U.S. mills themselves. The
5 exact amounts are confidential, but the point is, that U.S.
6 mills claim that every ton of imports means lost production
7 and jobs. Their own purchases tell a different story.

8 The domestic industry is not vulnerable. U.S.
9 industry has restructured and strengthened since the
10 original threat determination. The restructuring and merges
11 over the last eighteen years have provided previously
12 unachievable pricing power for the domestic industry.

13 As shown on this chart, the domestic industry's
14 many, many complaints about declining pricing does not
15 account for declining raw material costs. One facet of the
16 industry's success is its major investments designed to make
17 its facilities more competitive. ArcelorMittal's new plate
18 heat-treating line, SSAB's new heat treat facility, and
19 Nucor's new a hundred and twenty thousand ton short-ton
20 normalizing line are three noteworthy developments. The
21 U.S. mills were far more modern than the Ukrainian mills
22 back in 1998, and they are light years ahead now.

23 The domestic industry's main claim to
24 vulnerability appears to be the closure of Evraz' Claymont
25 mill in Delaware. This claim only makes sense if one knows

1 nothing about that mill.

2 Since Evraz has elected not to participate in
3 today's hearing, I'll comment on Claymont. The mill was
4 built in 1917 in a poor location. It was a high-cost mill
5 and was long plagued by environmental problems that continue
6 to yield large claims today. In fact, the mill's recent
7 financial problems are hardly new. The mill has been
8 bankrupt, had numerous owners and was previously shuttered
9 multiple times. In fact, Claymont was owned by Chinese
10 investors for almost twenty years.

11 At the cusp of the record boom market, a private
12 equity firm with no steel making experience bought the mill
13 for seventy-four million dollars, then financiers do what
14 they do. They extracted as much cash out of the mill as
15 they could. During the go-go years preceding the crash, the
16 private equity firm issued hundreds of millions of dollars
17 in debt, and transferred much of the cash to themselves.

18 With the mill burdened by the debt to the tune
19 of four hundred dollars per ton, financiers somehow managed
20 to find a buyer, the Russian firm Evraz. Almost immediately
21 following the sale, Evraz began marking down the value of
22 the assets, and recently closed the mill. In other words, a
23 poor asset has been shuttered, thereby strengthening the
24 U.S. industry.

25 The strength of the U.S. industry is also

1 witnessed in their strong export performance, as documented
2 in the staff report, the domestic industry exports a
3 significant volume of exports at higher prices than on their
4 U.S. sales. These exports are a clear indicator that the
5 domestic industry is internationally competitive.

6 I also want to draw attention to the U.S.
7 producers' commentary on why they don't export more volumes.
8 U.S. producers identified transportation costs and limited
9 foreign sales and distribution networks as two reasons why
10 they do not export larger volumes. I know that these are
11 the exact same two reasons offered by the Ukrainian
12 producers, why they are really challenged to expand their
13 exports to the U.S. market.

14 Going forward, the domestic industry is
15 well-placed to successfully compete, both in terms of volume
16 and profitability. This is not the same domestic industry
17 that came before the Commission two decades ago and received
18 an affirmative threat determination.

19 The old domestic industry had capacity of about
20 nine million short tons. Today's industry has a capacity of
21 more than twelve million short tons. The industry regained
22 its competitiveness by closing inefficient production and
23 investing in new, high-value capacity. Today's domestic
24 industry is well-placed to serve the needs of U.S. customers
25 in a way Ukrainian capacity simply cannot.

1 The U.S. industry has weathered the current
2 moderate downturn well, and its strong and persistent
3 pricing power will enable it to continue to mark up its
4 costs and sell plate at a profit. Thank you.

5 MR. LEWIS: Thank you, Commissioners. That
6 concludes our direct presentation.

7 CHAIRMAN BROADBENT: Thank you. I want to thank
8 all the witnesses for coming today. We very much appreciate
9 your participation and for taking time away from your work.
10 This afternoon, we will begin our questioning with Vice
11 Chairman Pinkert.

12 VICE CHAIRMAN PINKERT: Thank you, Madam Chairman
13 and I want to thank all of you for being here. I want to
14 express my sympathy, Ms. Romanova, to the people of Ukraine,
15 the workers of your company. I understand that a lot of the
16 questions this afternoon will be technical but I also want
17 to recognize the human dimension of it.

18 MS. ROMANOVA: Thank you, Vice Chairman.

19 VICE CHAIRMAN PINKERT: Beginning with you, Mr.
20 Prusa, I know that you testified that the Domestic Industry
21 has achieved healthy capacity utilization but when I look at
22 the persistence of unused capacity in the United States on
23 the Domestic Industry side, I wonder what explains that,
24 particularly in the period for example, the boom period that
25 you talked about of 2008. Why is there a significant amount

1 of unused capacity?

2 MR. PRUSA: I know you address that to them and
3 we didn't get a very good answer this morning trying to
4 figure it out. It appears to be that they report a nominal
5 capacity that far exceeds the amount of plate that would
6 ever go to the plate mill. So any time the U.S. plate mills
7 could have achieved ninety-five percent capacity
8 utilization, it was in 2006, 2007 and the first half of 2008
9 but they didn't. They were being throttled by not receiving
10 the raw materials to make the plate. So for all intents and
11 purposes, their capacity is some nominal capacity that
12 simply can't ever be achieved because they don't get the
13 materials to make the plate so they can't ever achieve high
14 capacity.

15 MR. STOEL: Mr. Pinkert, Jonathan Stoel for the
16 record. This is a question that we've looked at and I think
17 Dr. Prusa mentioned it from Metinvest. Well I think that
18 there's a difference between nominal capacity and actual
19 capacity and the Commission's question is obviously trying
20 to get to that but I think in this particular product it's
21 very difficult to ascertain.

22 I think the Domestic Industry, if I understood
23 them this morning, offered one possible explanation, which
24 is they can make different products on the same product line
25 so your nominal capacity might be yes, you could absolutely

1 make perhaps twelve million if that's all you were doing but
2 you don't ever do that. You're doing a number of different
3 products on the same machinery, or at least the same mill
4 and so you're never going to reach one hundred percent
5 capacity utilization, at least that's what the data seems to
6 suggest.

7 VICE CHAIRMAN PINKERT: Thank you, that's helpful
8 and you may want to comment on whatever the Domestic
9 Industry puts in post-hearing on this particular issue.
10 Now, I know that there was testimony in this panel about the
11 shipping costs, in particular whether that eliminates any
12 price incentive to ship shipments from the European Market
13 to the United States Market, but generally speaking, is
14 there in fact a price incentive to ship from Europe to the
15 United States when you're shipping exports?

16 MR. LEWIS: Commissioner, Craig Lewis from Hogan
17 Lovells. I think I'd prefer to ask my witness, Yuri
18 Shvestov to answer that but I would like to make one brief
19 comment on the transportation costs that I think he could
20 elaborate on, which is that I don't think the figures you
21 were shown by Petitioners this morning take into account the
22 full transportation cost picture, specifically left out of
23 that picture are transportation from the mill to the port of
24 exportation particularly given the circumstances in the east
25 of the Ukraine. There's been some elaborate

1 requirements to sort of ship around normal shipping channels
2 which adds to the cost as well, but I would refer it to Mr.
3 Shvestov. He knows the details of that.

4 MR. SHUESTOV: Vice Chairman Pinkert, I am Yuriy
5 Shvestov from Metinvest. Of course, our logistic cost of
6 shipment to Europe is more advantageous and therefore we
7 consider the European Market as our major market for our
8 export sales. As for shipments to the United States, it
9 depends on the type of product. It was a discussion of is
10 it possible to call a product a commodity plate. It's
11 questionable.

12 I would say there is a very well admitted of the
13 market term as commercial plate. For commercial plate in
14 most cases it's not. The higher cost of shipping to the
15 United States making our sales of commercial plates
16 disadvantageous. For higher value plates, where we have
17 higher margin, yes we can find a room for margin and we can
18 consider shipments of this product to the United States,
19 even if there is a high logistical cost are attractive for
20 us.

21 VICE CHAIRMAN PINKERT: Thank you. Now, I heard
22 the testimony about Metinvest and wire rod and the reaction
23 to the revocation of the order but you also heard testimony
24 this morning about how in general wire rod shipments to the
25 United States, post-revocation increased substantially. So

1 can you help me to get this whole picture in context?

2 MR. LEWIS: Yes, this is Craig Lewis again and
3 again I'll invite Yuriy possibly to elaborate on that. But
4 what you heard from Mr. Shvestov's testimony is that
5 Metinvest, who stood before the Commission for the wire rod
6 Sunset Review, projected twenty thousand tons per year and
7 it is a fact that they've actually shipped a little more
8 than half of that, eleven thousand tons. So the answer to
9 your question is where's the rest of that coming from? We
10 don't know for a fact because we don't have that, we're not
11 the ones that shipped it, we being Metinvest, but we do
12 understand ironically with the folks that are behind me here
13 today that ArcelorMittal Credere is the other major wire rod
14 producer and I think putting two and two together, if it's
15 not coming from Metinvest that implies it's coming from
16 ArcelorMittal.

17 VICE CHAIRMAN PINKERT: Thank you for that answer
18 and of course the other side may wish to comment on that in
19 post-hearing. Did you have -- somebody else?

20 MR. LEWIS: I might just have one other sort of
21 follow on point to that too. Just to draw a contrast
22 between wire rod and this case. Whereas there is a supplier
23 in the wings, ArcelorMittal, oddly enough, ironically enough
24 and for wire rod. That is not true in the case of plate,
25 which is the issue before the Commission here. What you've

1 got, and I think we've laid that out very clearly and in
2 detail, the only viable source of plate to the United States
3 would be Metinvest mills and even within that really only
4 the Azoustal Mill.

5 So it's not a situation where there's capacity
6 waiting in the wings as apparently ArcelorMittal did to
7 exploit a situation that Metinvest, true to its word did not
8 exploit.

9 VICE CHAIRMAN PINKERT: Thank you. Now turning
10 back to the subject product, not wire rod. If you look at
11 the staff report there appears to have been an increase in
12 exports from the Ukraine to the United States between 2012
13 and 2014. In light of all the turmoil that we've heard
14 about today and we've heard about through other sources as
15 well, what's the explanation for that increase?

16 MR. LEWIS: Well, I guess I'll begin again on
17 that one. Just to be clear, it's not been our position that
18 the war has eliminated the ability to produce plate or to
19 export plate. There is still obviously both the capability
20 and the fact of exports that is still the case. Our point
21 is that there is significant restraining factors, and I
22 think your question is related specifically to shipments to
23 Europe right?

24 VICE CHAIRMAN PINKERT: Exports generally from
25 the Ukraine.

1 MR. LEWIS: And I think we're talking Europe when
2 we're talking exports generally because, and I think the
3 answer there is the issues that Mr. Shvestov pointed to.
4 It's that, that's their natural market. That's where they
5 have a logistical advantage and that's where they also have
6 a product advantage in that their product is better accepted
7 by customers, better known in that market and where they
8 also have a distribution network, which they are completely
9 lacking in the United States.

10 I think all those factors explain why Europe and
11 in answer to what your actual questions was, why ability to
12 produce at all. We're not saying it was completely
13 eliminated but I think Ms. Romanova pointed out that even
14 with the ability to continue production in exports, the
15 actual overall production figures are really substantially
16 down overall in Ukraine and that's just a fact reflected in
17 the questionnaire responses. I don't know if anybody else
18 wanted to add to that.

19 VICE CHAIRMAN PINKERT: Thank you. Thank you
20 Madam Chairman.

21 CHAIRMAN BROADBENT: Mr. Williamson.

22 CHAIRMAN WILLIAMSON: Thank you. I do want to
23 express my appreciation to the witnesses who are coming
24 today for coming so far. I forgot who it was who talked
25 about that one reason why the Ukraine wouldn't be exporting

1 much to the U.S. is the demand in the U.S. for what is the
2 one-half ASTM6 steel custom plate. What is your estimate of
3 the size of that market? What percentage of U.S.
4 Consumption does that represent?

5 MR. SHVESTOV: Chairman Williamson, Yuriy
6 Shvestov from Metinvest. The plate market I know in the
7 United States, all our customers buy half A6 tolerance for
8 steel plates. We can provide post-hearing evidence of all
9 our contracted. Basically, our customers, if we cannot
10 sell/provide half A6 tolerance, American customers will not
11 buy our product. I was really surprised to hear testimony
12 today of Petitioner's say it's a very small market.

13 So basically, this is the market I know. I don't
14 know if they do not meet the standard we have a claim.
15 Size-wise, while we do not go to every corner of U.S. Market
16 to every consumer, especially -- for obvious reasons, but as
17 I say, we see an opportunity to serve this market at this
18 current condition up to twenty-five thousand tons a year.
19 That's how I see the current condition.

20 CHAIRMAN WILLIAMSON: Okay.

21 MR. SHVESTOV: How many other customers may
22 require? I don't know these customers.

23 CHAIRMAN WILLIAMSON: Post-hearing if you could
24 provide some type of documentation to support that and I
25 also invite the petitioners to provide some documentation to

1 support their statements this morning about the size of that
2 market.

3 MR. LEWIS: We will do that Commissioner.

4 CHAIRMAN WILLIAMSON: Okay, thank you. In your
5 post-hearing brief on page six, you assert that there were
6 times during the review in which U.S. Market prices exceeded
7 the normal value established under the suspension agreement.
8 You assert that during these time periods, Ukrainian
9 producers have effectively had, unrestricted access to the
10 U.S. Market. So could you provide the Commission with any
11 data you have that would support the assertion that the U.S.
12 Market prices exceeded the normal value under the suspension
13 agreement? If the information is confidential, of course
14 you can do it post-hearing.

15 MR. LEWIS: Commissioner Williamson, if I could
16 respond to that. Of course we will be happy to provide that
17 but one think I wanted to point out and I think you heard
18 fairly accurately from Petitioners the way the suspension
19 agreement works. It's prohibited to sell above normal
20 value.

21 CHAIRMAN WILLIAMSON: Prohibited to sell above or
22 below?

23 MR. LEWIS: I'm sorry? Did I say above?

24 CHAIRMAN WILLIAMSON: Yes, thanks.

25 MR. LEWIS: I think I need a cup of coffee.

1 CHAIRMAN WILLIAMSON: Okay.

2 MR. LEWIS. So any time you're seeing any imports
3 in the U.S. Market by definition they're above normal value.
4 That doesn't mean they're necessarily above market prices
5 but I think it stands to reason you're not able to sell if
6 you're not at market prices. But we're happy to supply the
7 data backing that up.

8 CHAIRMAN WILLIAMSON: Thank you. Appreciate
9 that. Total of 4-18 of the Staff Report indicates that U.S.
10 prices had been consistently significantly higher than EU
11 prices since 2012. Would these kind of prices enable the
12 Ukrainian Producers to sell plate profitably to the U.S.
13 Market even with somewhat higher transportation cost to the
14 U.S. Market? I think there was some reference to that.

15 MR. SHVESTOV: Commissioner Williamson. Yes,
16 they already said, for the higher value-added products we do
17 see this opportunity for commercial quality it will be hard
18 for us to see the market.

19 CHAIRMAN WILLIAMSON: That leaves me to ask you
20 what your estimate of the U.S. Market for the higher
21 value-added products. How significant is that market? That
22 you want to address in post-hearing.

23 MR. SHVESTOV: We will provide in post-hearing.

24 CHAIRMAN WILLIAMSON: You can see why I'm getting
25 at that question. You're saying for the, shall we say run

1 of the mill, the commodity grade would not be able to, it
2 still would not be attractive to sell in the U.S. Market?
3 Even with the higher U.S. Market prices.

4 MR. SHVESTOV: Yes, at the current market
5 conditions, that's correct. It would be not coming in
6 first. Also, one of the highest, one of the main reasons
7 for that is the high logistical cost.

8 CHAIRMAN WILLIAMSON: Okay, and I guess you
9 already addressed, I, guess the higher cost that you said
10 would add shipping to it.

11 MR. SHVESTOV: Yes, our mills are located in
12 Mariupol and to ship to United States we have to ship from
13 Deplexi Port. Metinvest used to own and operate Blexiport
14 in Crimea, which is not in our possession anymore and you
15 know why, so we have to ship, any goods we ship to the
16 United States we have to ship to the Bolexi Port. The cost
17 of shipping by rail to Odessa is higher for us versus the
18 shipment to Mariupol Port for Mariupol Mill, for
19 forty/forty-five dollars. That's not even considering the
20 higher ocean freight cost versus to sea-freight cost when we
21 ship from Mariupol to Bulgaria, Greece, Romania, or Italy.

22 CHAIRMAN WILLIAMSON: Why, because that's all by
23 rail and there's no transfer?

24 MR. SHVESTOV: Well, two types of cost. One is
25 railway because when we ship to those European countries I

1 just mentioned by sea, we ship from Mariupal but don't have
2 to rail to Odessa because Mariupal is a shallow port but
3 it's capable to accept smaller vessel which we can use for
4 shipments to Europe. For ocean shipments, we have to find a
5 bigger vessel because smaller vessels simply do not cross
6 the Atlantic.

7 We find cargo is based on we wait for this vessel
8 for longer time that we would wait for shipments for Europe.
9 The latest practice shows that vessels to the United States,
10 because no one has full cargo for the full vessel to the
11 United States, it has to be a combination of zero cargo on
12 this. Recent couple years' practice shows it takes about
13 roughly thirty-five to forty-five days, every thirty-five to
14 forty-five days to have vessels available for shipments that
15 are destined to the United States. It extends the lead
16 time.

17 CHAIRMAN WILLIAMSON: Now, you have significant
18 markets I think in the Far East and in the Middle East, how
19 do you compete with say the Chinese Product in those areas,
20 because I assume those have to go out of Odessa too. Is
21 that correct?

22 MR. SHVESTOV: Yes, that is correct. Shipments
23 from Odessa. I would probably ask to have the opportunity
24 to answer this question in post-hearing because I'm involved
25 in South and North America. I would need to consult with my

1 colleagues -- who know about the shipments better. But you
2 are right, the shipments are done from Bilexi Ports.

3 CHAIRMAN WILLIAMSON: Okay, thank you. You said
4 that the Ukrainian Products would have only limited
5 acceptance by U.S. Purchasers because of all of the quality
6 issues. Now, however Ukrainian plate was present in the
7 U.S. Market in volumes approaching or surpassing one hundred
8 thousand tons annually in 2004, 2005, 2006, and 2008.
9 Wouldn't these suggest a fairly high degree of acceptance to
10 the U.S. Market?

11 MR. SHVESTOV: At the time when Ukraine is
12 showing shipments, my shipments to the United States and I
13 assume you mean years 2004, 2005, 2006, 2007 and 2008; at
14 this period of time Metinvest didn't own Elich steel mill
15 and we did not control how much Elich ships to the United
16 States, so this is the first reason.

17 CHAIRMAN WILLIAMSON: I don't understand how that
18 affects this. Is Elich shipping a better quality or another
19 quality?

20 MS. ROMANOVA: Well, basically, their sales
21 techniques were much more aggressive so they didn't think,
22 you know, ahead. No strategic planning, no marketing, no
23 nothing. Basically we overtook the plant in 2010 and right
24 now we are presenting and basically making our case on
25 behalf of Elich as well because we do control production, we

1 do control -- marketing and basically do the planning. We
2 do control the final destination through all of our sales,
3 basically, it doesn't matter whether we sell directly to the
4 end customer and we know where it goes or we sell to the
5 distributor trade center.

6 Basically, for various reasons including
7 corporate compliance and sanctions compliance, we always
8 reconfirm the final destination and final use of our end
9 product. So that's the difference. The sales which you
10 refer to, they occurred before 2010 where basically there
11 was a statement made with Petitioner's presentations that
12 while still Soviet-era type of management, ruthless sales,
13 dumping the markets, this is what they did and this is not
14 what we do. That is the reason why we are here.

15 CHAIRMAN WILLIAMSON: Is there a difference in
16 the quality of the production in Elich then versus what that
17 plant produces now or?

18 MS. ROMANOVA: Well, I think the technical
19 question is better trusted to Yuriy.

20 MR. SHVESTOV: Yes, there are some differences.
21 Elich produced much limited range in grades. It has more
22 limitation on weight and the thickness of the plates
23 compared to what -- is capable to do. Moreover, Elich is
24 not capable to meet half A6 tolerance in ASTM.

25 CHAIRMAN WILLIAMSON: Okay, thank you for those

1 answers.

2 MR. SHVESTOV: I know what was the practice of
3 Elich. I was at base when it was not owned by Metinvest.
4 They were selling to trading houses indefinitely, just
5 knowing that it goes to the United States without knowledge
6 where it will be offered, how it will be damaging the
7 market, what kind of ripple effect it will make, they didn't
8 care about that. We do care. We are a responsible company.

9

10 CHAIRMAN WILLIAMSON: Okay. Thank you very much
11 for those answers.

12 CHAIRMAN BROADBENT: Commissioner Johanson.

13 COMMISSIONER JOHANSON: Thank you Chairman
14 Broadbent and I would also like to thank the witnesses and
15 their counsel for appearing here today. What is Metinvest's
16 response to slide ten from this morning's panel? And this
17 is the slide that received the most airtime. This slide
18 showed the export average unit values for Russia, China and
19 it had at the very bottom, Ukraine as being among the top
20 thirty global plate exporters.

21 MR. LEWIS: Well I guess I'll start, if I might.
22 Craig Lewis, Hogan Lovells. I think there's a lot of things
23 that chart shows. Very few of them are the things I think
24 Petitioners were trying to present it for.

25 One is I think it's, as was demonstrated in the

1 prior testimony, is it shows that this is not a commodity
2 product as it's been described. You can't have prices--I
3 don't have them in front of me now, but I think they range
4 from \$1200 a ton down to \$400, at the same time.

5 It's just ludicrous to suggest that we've got a
6 commodity product when that's the case. And I think through
7 significant probing by the Commission eventually that was
8 drawn out of Petitioners that, oh, yes, indeed, the top half
9 of that chart is dealing with different products. So I
10 think that's one point, is that it demonstrates it's not a
11 commodity product.

12 Secondly, I think the Commission has been around
13 the block enough with these cases to understand that average
14 unit values are also a dangerous source of so-called pricing
15 data, because average unit values are not prices. What they
16 are are aggregate values divided by aggregate quantities
17 coming up with some sort of aggregate value. But it's not a
18 price.

19 And so product mix is what I'm getting at is also
20 manifested in that chart in terms of well what exactly are
21 each of those countries' product mixes reflecting there?
22 And so to show that one country has got lower average unit
23 values than another may merely be an issue of product mix
24 rather than, as Petitioners would portray it, that somehow
25 or other that means that Ukraine is the lowest priced

1 product.

2 And if you want to go to the question I think
3 you're actually asking and what that chart was intended to
4 show, which is well how do Ukrainian prices match up against
5 comparable U.S. prices?

6 Well the Commission's staff drafted a
7 questionnaire and requested data for four comparable pricing
8 products. And it's a matter of public record that of the
9 five comparisons that the Commission did where it was an
10 apples-to-apples comparison, unlike that chart, in three out
11 of the five cases the Ukrainian product was higher than the
12 U.S. product, oversold the U.S. product.

13 And so I think it's a little hard to square that
14 concrete result of comparable numbers against a chart that's
15 mixing averages and product mix.

16 MR. JOHANSON: As a follow-up to your answer, and
17 thank you for providing it, Mr. Lewis, in your prehearing
18 brief at page 30 you state that Ukrainian producers of CTL
19 plate produce CTL plate in non-U.S. standards. What
20 standards do Ukrainian producers produce to? And why does
21 the standard not meet typical U.S. standards, if that is
22 indeed the case?

23 MR. LEWIS: Well I am definitely not qualified to
24 answer that one.

25 MR. SHVETSOV: Well, Commissioner, to answer this

1 question in a shorter way, the standards are local Ukrainian
2 standards, former Soviet standards, European standards,
3 so-called EM standard. It also could produce on GIS,
4 Japanese standard, and some Indian standards.

5 To go into details of the standard differences, I
6 would take--ask for possibility to answer this question
7 post-hearing.

8 MR. JOHANSON: That would be fine. I look forward
9 to seeing it.

10 And to follow yet a bit more on this question,
11 what type of plate do Ukrainian producers sell in the
12 European Union? Is it your contention that such plate could
13 not be sold in the United States due to product differences,
14 or consumer requirements in this market?

15 MR. SHVETSOV: Well I'm not involved in sales to
16 Europe, To answer this question in full we'd probably need
17 to provide more information in post-hearing. But I know,
18 and I'm confident that most the plates we sell to European
19 Union are according to European standard because European
20 consumers require plate be put in European specifications.
21 American customers bought plate according to American
22 specification. And end-users normally did not mix these
23 plates. That's in general.

24 MR. LEWIS: I guess I just--I hope this isn't
25 straying from your question too much, but I hope it's clear.

1 It's not been the position of Metinvest, and it is not the
2 position of Metinvest that it can't sell plate in the U.S.
3 market. Number one. That it has no interest in the U.S.
4 market? It does. I mean, we wouldn't be here today if
5 there wasn't some interest in it, or an ability, too. If we
6 had no ability, we would likewise not be here today because
7 it would be a waste of our time.

8 I think the question that's relevant to the
9 Commission, and the burning question is: If you lift this
10 Order, how much can you reasonably expect to see coming from
11 the Ukraine? And that is a question in part on capability,
12 and incentive. You know, how are the prices doing? Market
13 conditions? You know, are the railroads destroyed?

14 But another element to it as well is, frankly, I
15 guess what I'd call corporate culture. And is Metinvest a
16 responsible corporate player in the global steel market? I
17 am sure the people behind me are saying, no, you know,
18 Metinvest's interest is moving as much volume as possible
19 with complete disregard for its impact on the U.S. market
20 and what it does to prices.

21 We flatly reject that. I understand that U.S.
22 Commissioners are going to have to make a judgment call as
23 to who is more credible on that point. It's a little hard
24 to prove our sincerity and the reality of a company's
25 corporate policies. But I'd like to call it what it is.

1 That is what we are talking about. And a major part of what
2 we're here to present to you today is that Metinvest is not
3 the kind of company that existed immediately after the
4 Soviet era where, I heard the term of "red manager" is a
5 term that was used for the type of management that existed,
6 people that had never dealt with markets before, didn't have
7 shareholders, and didn't need to maximize profits, et
8 cetera.

9 And, you know, if you're looking for evidence to
10 back this up, which I think you deserve to find, ironically
11 I think the wire rod example that was brought up by
12 Petitioners is a pretty good one. As I said before,
13 Metinvest accounts for virtually all the viable capacity in
14 Ukraine that came before you about 14, or however many
15 months ago it was, and told you what they thought would
16 happen, and what they said would happen is what happened.
17 And I think they're deserving of that judgment call by you.

18 But again, you know, all the other factors do
19 matter: capability, incentive--I'm not trying to tell you
20 you shouldn't evaluate those. You should. And I think
21 those also favor what we're saying. But I also don't think
22 you should dismiss the role of corporate responsibility and
23 corporate policy in determining what the likely volumes
24 would be, and pricing for that matter.

25 MR. JOHANSON: Thank you, Mr. Lewis.

1 And I'm going to refer back to another slide of
2 the Petitioners from this morning. This is slide 9 of their
3 hearing handout. And from this slide, how is it that
4 Ukraine was the fourth largest exporter of plate in the
5 world in 2014, if the dispute and the issue in Ukraine is
6 severely disrupting production and shipments?

7 MS. ROMANOVA: The data--I'm afraid, again, I'm a
8 lawyer not a technical specialist or a sales person, but
9 just to be clear on the facts, that the problems started in
10 the mid-2014. So basically those numbers do not account for
11 the entire year in crisis. So the first half of year
12 basically they were sales contracted back in the end of
13 2013. So the sales contracting goes, you know, planning
14 goes ahead.

15 So whatever we sold on paper in December-November
16 2013, arrived in custom and cleared in 2014. So basically
17 that data is not accurate and does not translate literally
18 to what we've described as the current situation.

19 That is why it might--and again I will let my
20 colleagues comment further--it might appear that in a crisis
21 here the numbers appear to be pretty high, but that's the
22 way which we call it from the previous year, basically.

23 MR. STOEL: Jonathan Stoel for the record.
24 Commissioner Johanson, I think it's important to remember
25 that Europe is right next door. I mean, that's a backyard.

1 That's a huge market for Metinvest and for Ukraine. We're
2 not here to tell you we're not going to ship to Europe.
3 That's what we consider to be our natural market, along with
4 the Ukrainian home market.

5 So if there are good prices and logistical costs,
6 as Mr. Shvetsov has testified, or much lower to Europe,
7 that's where we're going to ship. So it's natural that at a
8 time when the war is impacting the Ukrainian economy we're
9 going to ship to Europe. I think that's to be expected.

10 MR. JOHANSON: Thank you for your response. My
11 time has expired.

12 MR. KIEFF: Thank you. I echo my colleagues'
13 appreciation for the testimony of the witnesses and the
14 presentations of the lawyers. And one doesn't have to have,
15 as I do, a last name matching your national capital to be
16 impacted by the human story as we all are in each of the
17 cases that present a human element. But of course we have
18 to focus our thinking on the rules we're supposed to apply
19 and reach our decision in the face of that.

20 And so it is with all of that in mind, and
21 building upon the excellent discussions you had with my
22 colleagues, that I ask if we could to shift briefly to a
23 version of the question I asked this morning.

24 So what if we were to assume that we recognize
25 differences in the conditions of competition between the

1 Ukraine and the other countries of origin. We recognize
2 that a profit maximizing majority shareholder would want to
3 maximize profit, not dump, but we still would recognize the
4 argument your counterparts have made, which is in effect
5 that even recognizing all those things you lose under the
6 law that we're supposed to apply. Which is that so long as
7 there would be at least a threat of material adverse impact,
8 we should maintain the Order.

9 Can you in effect address that case, either in
10 the post-hearing or briefly now as you like, but I take it
11 that that is where the rubber may end up hitting the road.

12 MR. STOEL: Jonathan Stoel for the record.

13 First of all, you're hurting me with these tire
14 references, knowing the outcome of that case, but that's
15 okay.

16 (Laughter.)

17 MR. STOEL: A couple of--

18 MR. KIEFF: That was appreciated, and was
19 accidental.

20 (Laughter.)

21 MR. STOEL: A couple of facts just to make sure
22 we're talking apples to apples. We're not asking you to say
23 that Metinvest is a good actor just based on what we're
24 saying today. I think if you look at the record that makes
25 it clear.

1 We have shipped very small quantities over the
2 last three years, which I think goes to one of your
3 questions, which is, you know, are we today, looking right
4 now, have we been a good actor? Yes, we have.

5 We have shipped very small quantities. And,
6 unlike the Russians as you heard about from Mr. Schagrin
7 this morning, the U.S. industry isn't asking to have the
8 Suspension Agreement on Ukraine revoked. That suggests
9 that the U.S. industry also believes that under the terms of
10 the Suspension Agreement at least we have been acting as a
11 good actor. I think that's an important predicate to start.

12 Secondly, the volumes that we're talking about, I
13 think somebody made a reference this morning of some huge
14 increase in volumes from Ukraine. Let's just be very clear.
15 We're talking about 3500 tons in the first half of this year
16 under the Suspension Agreement. That's a very small
17 quantity.

18 So then, sticking with volumes, Mr. Shvetsov has
19 testified that the maximum Metinvest expects to ship would
20 be 25,000 tons. That's a decent number. But what does it
21 mean? As I remind the Commission, you found in 1996-1997
22 1.3 million tons cumulated did not equal material injury,
23 1.3 million compared with 25,000 tons as we've testified
24 today.

25 MR. KIEFF: So to stick with their numbers from

1 this morning, if you agree with their roughly 8 percent
2 reduction in volume as important to them, and you agree that
3 that equates to roughly 1 million, you're basically telling
4 us that even if we focus on that, that's still not material
5 adverse impact?

6 MR. STOEL: I believe that under the market
7 conditions if we shed 25,000 tons as we've said, that would
8 not be in any way material injury. And I think, as Mr.
9 Shvetsov has testified, we're talking about products that
10 would obviously not be injurious--at prices that would be
11 injurious to the market, because as he's testified we would
12 not be shipping commercial quality because that's not
13 feasible under the logistical conditions that we're talking
14 about. Not to mention whether we can even get supplies to
15 manufacture the product, which I think your presumption
16 about cumulation you have to decumulate here.

17 No other country is facing a war. No other
18 country is facing raw material shortage like this. No other
19 country is facing employees who can't come to work because
20 shells are exploding.

21 MR. KIEFF: Yeah, I think they were willing to
22 give you decumulation, but I think they'll tell you--they
23 told us that even decumulating you lose.

24 MR. STOEL: Right. So I think with the quantities
25 and the prices that we're talking about, I don't see

1 material injury on this record.

2 And, you know, you also heard this morning I
3 think an admission from the domestic industry, to which I
4 did not hear a good answer, to be very frank, they are
5 importing very substantial quantities.

6 If every ton matters, then why are they importing
7 quantities that are confidential but I think we all agree
8 are substantial. So one ton, 25,000 tons, that's not going
9 to cause harm, especially not when in 2014 the industry--
10 there was 1.6 million tons and they made 10 percent.

11 So I do not believe, standing here before you
12 today, that 25,000 tons at reasonable, responsible pricing
13 will cause harm; that you should go affirmative in this
14 case.

15 MR. KIEFF: And you're--to pick a law school
16 metaphor--your favorite precedent then is steel wire rod?

17 MR. STOEL: Well I think actually--and I'll let
18 everyone comment--but wire rod I think you're going to hear
19 more in the post-hearing, but just to be clear, we are the
20 only ones who could ship plate. So whatever is going on in
21 the market, we've been true to our word and for plate I
22 think what we're telling you today is what you can accept.

23 MR. SHVETSOV: Commissioner, Yuriy Shvetsov from
24 Metinvest. I just would like to add one more argument about
25 plates.

1 As all of us here know, that not all plates,
2 which EVSTOL is capable to make, are restricted for United
3 States. There are plates which are called alloy plates, or
4 the market prefers them called (inaudible). Those plates
5 have no restrictions.

6 We just heard stories of domestic producer have
7 successfully invested into additional capacity to produce
8 this kind of product. So there is a market for this
9 product. And we don't have restriction. We didn't pull out
10 the market. Again, because we are responsible.

11 So if--please take this argument into our favor,
12 not only the argument with wire.

13 MR. KIEFF: Thank you. No further questions.

14 CHAIRMAN BROADBENT: Commissioner Schmidtlein?

15 MS. SCHMIDTLEIN: Thank you, very much. I would
16 like to join my colleagues in thanking the witnesses for
17 being here, and also to join Vice Chairman Pinkert's
18 comments expressing my sympathy to you and the Ukrainian
19 people and the workers of Metinvest.

20 I would like to follow up on this line of
21 questions about the 25,000 tons that you estimate would be
22 shipped to the United States, and just understand a little
23 bit more about how you arrived at 25,000.

24 Can you elaborate on that in the public setting
25 here?

1 MR. SHVETSOV: Commissioner Schmidtlein, Yuriy
2 Shvetsov from Metinvest. We estimated the market, which we
3 know, and we've been at the market for more than, well, from
4 the early '90s, but as Metinvest from the beginning when
5 Metinvest was founded. So even though we did not ship, we
6 communicate with the market.

7 So we understand. We estimate the market, which
8 we know, which can buy at the current market condition, this
9 volume of predominantly value-added product. If we ask what
10 kind of value-added product, we could elaborate and mention
11 now or later if you prefer.

12 MS. SCHMIDTLEIN: Do you have an estimate? When
13 you say ";predominantly" what?

14 MR. SHVETSOV: Predominant, because--

15 MS. SCHMIDTLEIN: 75 percent?

16 MR. SHVETSOV: Some products could be more
17 value-added than others. Let's put it this way. If--I know
18 that some people who understand more technical stuff would
19 understand more than what I would, will just say, for
20 example Grade A 5 16, 17 normalized, and A-5/16, 17 as
21 rolled, basically with same grade but normalizing, or heat
22 treating add some value to the product. Both products are
23 valued. Both products are used predominantly in oil and gas
24 industry, but one of them is cheaper than the other, but
25 both are value added.

1 MS. SCHMIDTLEIN: And in your assumptions about
2 this 25,000-, you're assuming that you all would ship
3 three-quarters of that that would be in that product, or 90
4 percent?

5 MR. SHVETSOV: Seventy, annually I would say it
6 would be 60 to 70 percent.

7 MS. SCHMIDTLEIN: Okay.

8 MR. SHVETSOV: That's my expert estimation.

9 MS. SCHMIDTLEIN: And what's the remaining?

10 MR. SHVETSOV: There are also grids like API 2H
11 for example, and some other API grades which are not in high
12 demand in big tonnage coming to every order we can see. So
13 for order each grade it may be like 5, 6 percent. But
14 cumulating this is the smaller demanded grades that would
15 make another 30, 40 percent.

16 MS. SCHMIDTLEIN: And would those be considered
17 more commodity grade type products?

18 MR. SHVETSOV: No, we would prefer on commodity
19 grade, if you're talking grade, we would be focusing on
20 heavy, so-called heavy-gauge, which is called heavy
21 thickness. And here I do not see a problem of conflict of
22 interest with most domestic producers because, for example,
23 both Nucor and SSAB normally do not produce plates over 2
24 inches. We would--targeting some of the portion of this
25 25,000 tons on heavier than 2 inches, or thickness plates

1 for the markets.

2 If these plates would come in a commodity grades,
3 they will be value added, because limited number of
4 producers in the world are capable to make this kind of
5 thickness.

6 MS. SCHMIDTLEIN: And in your statement you talk
7 about if the U.S. prices--I know you spoke about this a
8 little bit earlier with another Commissioner--if the U.S.
9 prices are high enough to offset the transportation costs,
10 can you elaborate on what type of U.S. price you would need
11 to ship that product here?

12 COMMISSIONER SCHMIDTLEIN: Are current prices
13 high enough?

14 MR. SHVETSOV: Can I do it in post-hearing?

15 COMMISSIONER SCHMIDTLEIN: Okay. Yeah, you can
16 do it in post-hearing. I'd be interested to know, you know,
17 what your estimate is of what that price would be. Is the
18 price -- are the current market prices at that level, and if
19 not, is it your forecast that they would be at some level?
20 Do you estimate that U.S. prices are going to be going back
21 up?

22 MR. SHVETSOV: I have answers on both questions,
23 but would prefer to make it not in the public hearing.

24 COMMISSIONER SCHMIDTLEIN: Okay, all right.

25 MR. LEWIS: Commissioner Schmidtlein, if I could

1 add to that.

2 COMMISSIONER SCHMIDTLEIN: Yes, okay.

3 MR. LEWIS: I think there's two things going on
4 here in that question. One is are the, you know, what's the
5 point at which it's economical for them to ship to the U.S.
6 I think I understand that in your question. But I think
7 there's a second dimension to that, which is when you reach
8 that point, what kind of volumes are you expecting to see
9 and what kind of pricing in the market?

10 I think those are two distinct things. I want
11 to point that I think another one of our natural
12 experiments, if you will, to see what in fact is evidence of
13 Metinvest corporate behavior in those circumstances is, and
14 I think this goes to Commissioner Williamson's question,
15 where he wants to see the data behind this, what has
16 happened in those periods of time where Metinvest's had no
17 restraint from the suspension agreement, and has had an open
18 territory, the scary scenario that the friends behind me
19 don't want to ever see come about.

20 What in fact did Metinvest do in those
21 circumstances? Did they desperately flood the market with a
22 tsunami of products, and I think the evidence speaks for
23 itself. No, it didn't. I mean there were some periods of
24 time where there were larger volumes than others. But none
25 of it had levels, I think, to go back to Commissioner

1 Kieff's comment, that you could possibly argue could cause
2 material injury in the context of nine million ton market.

3 So it's an issue of, you know, was that
4 threshold ever met? Yes. So we can get a little more
5 specific as to when and where that threshold was met.

6 COMMISSIONER SCHMIDTLEIN: Yeah, and I guess my
7 question, and you can answer this, is I would be curious for
8 the explanation, if you are making a certain margin which
9 you deem satisfactory to ship here, why wouldn't you ship
10 more, you know?

11 MR. SHVETSOV: Well, for this question I guess I
12 have explanation, because we would like to be in this market
13 for longer time. If we would ship more, we would have
14 provoked the domestic industry to go after us again. So we
15 would be, to live with ourselves in a responsible way for
16 our presence as a market.

17 MS. ROMANOVA: That's exactly the reason why
18 we're here today. We do not want to be banned for another
19 20 years, and this is exactly the reason why we came here
20 today, is to say that 20 years ago, the picture was
21 different, the way we did things. We and Illich at that
22 point of time, which didn't belong to us, did things
23 different. The strategies were different.

24 Now we're 20 years down the road, and we are
25 looking into the future, and as I said, this is not where

1 the future is.

2 COMMISSIONER SCHMIDTLEIN: I mean it is -- to be
3 honest, it is a little bit hard to square the argument that
4 we want to lift the suspension agreement, but don't worry,
5 the quantities that we're interested in bringing are so
6 modest. But yet you're willing to pay for law firms and
7 professional experts, which are I know are not cheap, to fly
8 all the way from Ukraine to take time out, you know, for
9 this -- what is going to be a small amount of the market.
10 So it does make you wonder what's the real benefit to you?

11 MS. ROMANOVA: Well, our testimony is that under
12 the current conditions, this is the estimate. Obviously, we
13 cannot make a projection.

14 COMMISSIONER SCHMIDTLEIN: Well, what would
15 cause the estimate to go up? What conditions would cause
16 the estimate to go up? How would the conditions of the
17 market have to change in order for that number to go up?

18 MR. LEWIS: Well, we naturally enough talked
19 about that exact issue.

20 COMMISSIONER SCHMIDTLEIN: I would be
21 interested.

22 MR. LEWIS: And it's important to point out that
23 that 25,000 ton figure, we wanted to give you a number,
24 because it seems to be saying it's going to be moderate or
25 it's going to be low as sort of a moderate or low utility to

1 you as Commissioners, and try to give something more
2 concrete on that.

3 That figure does reflect current market
4 conditions, and current market conditions are down. If
5 market demand were to go up, I don't want to put words into
6 Yuriy's mouth on that, but I think that would be one of
7 those circumstances where it would be responsible to ship
8 larger quantities.

9 So are we saying that 25,000 is iron clad, is
10 never going to go above that? If we end up with a 30
11 million ton market demand tomorrow, I think that estimate's
12 probably going to go up and I would, you know. I couldn't
13 look you in the eye and tell you otherwise. Of course it
14 would.

15 But under current market, and you know, you need
16 to have some benchmark to understand what type of volumes
17 and approach the company's going to take. The relevant one
18 is what are the current market conditions. Under current
19 market conditions, we asked Yuriy to consult with his
20 management to determine what would be a realistic estimate,
21 if you lifted the order? Under current circumstances, what
22 could you realistically, within the reasonably foreseeable
23 time frame that you deal with, would expect.

24 But again, to get to your question, could that
25 ever go above that? I'm sure it could, if the -- if demand

1 goes up But not if it doesn't, and that's the important
2 point.

3 COMMISSIONER SCHMIDTLEIN: Okay, thank you. My
4 time is up.

5 CHAIRMAN BROADBENT: Thank you. Mr. Lewis, how
6 should we consider the fact that the domestic industry in
7 this case looks very completely different from the original
8 industry that filed this case 19 years ago, and that both
9 the processors and the mills have consolidated? Are they in
10 better shape, worse shape? How should we consider the
11 industry that we're looking at today compared to the
12 industry that filed the original petition?

13 MR. LEWIS: Well, I'm probably going to give you
14 a predictable answer to this question. But I think it's
15 pretty clearly laid out, I think, in the staff report. The
16 industry has restructured. It's shed itself of outdated and
17 inefficient capacity. The most recent and dramatic example
18 of that being the Everise plant built in 1917 I learned, and
19 is therefore -- and also, you know, at the same time
20 shedding inefficient capacities. Also invested
21 substantially in improving its capabilities.

22 And I think it's also reflected in productivity
23 figures and profit, but I'm being told to defer to Dr. Prusa
24 by Mr. Stoel. So let me do that.

25 DR. PRUSA: Tom Prusa from Rutgers University.

1 You know, on this issue, to the extent that the domestic
2 industry has changed in the last 18 years, this is not a
3 perfect -- this is not the only metric. This is a pretty
4 informative metric. So you can look at the industry during
5 its time of the original investigation and the period after,
6 after restructuring.

7 So we have a ten year period where the total
8 operating income over a ten year period was negative \$127
9 million. That was the old U.S. industry. Since that time,
10 the total operating profits are \$8.7 billion. So the idea
11 that the industry is vulnerable and number one, this slide's
12 pointed that out, that a one year downturn or a slight
13 downturn, steel is a cyclical industry. Just like the
14 national economy has cycles, so does the steel industry.

15 That does not mean the industry is vulnerable,
16 in the context of \$8.7 billion of profits. But it also
17 points, I think highlights to your question, which is the
18 industry has changed in a lot of different ways, and one
19 summary statistic for how much it's changed is how much
20 profits it can generate. I think that is one measure, and
21 that is all public information that the Commission has
22 collected over the years.

23 CHAIRMAN BROADBENT: Okay. Mr. Shvetsov,
24 there's a press release from your company I think in June of
25 2015, that states that gas supplies resumed in plants

1 following an interruption. Can you explain why gas supplies
2 were interrupted and for how long?

3 MR. SHVETSOV: Chairman Broadbent, yeah I know
4 about this incidence of gas supplies that I was told were
5 interrupted due to shelling, due to military operation. I
6 don't know a specific time, how much it taking to repair,
7 but I know that it didn't take long time, maybe a few days.

8 CHAIRMAN BROADBENT: Okay. Nugrat Stoetz in its
9 pre-hearing brief, that Russian and Ukranian subject
10 producers are forced to compete with massive quantities of
11 Chinese plate in third country markets, and therefore need
12 the U.S. market to offset this competition. Can you respond
13 to that please?

14 MR. SHVETSOV: Chairman Broadbent, I'm mostly
15 involved in North American sales. I cannot answer this
16 question for entire sales, but only to address it in
17 post-hearing with marketing, the marketing information.

18 CHAIRMAN BROADBENT: Okay, yes. Hang on one
19 second. I had a question here and now I can't find it.
20 Okay. I'll go with this one. Russia has traditionally
21 been a major export market for the Ukraine. What effect, if
22 any, has the conflict between Russia and Ukraine had on
23 Ukraine's CTR plate exports to Russia? For that matter, has
24 there been any impact on Russia's exports of plate to the
25 Ukraine? So the bilateral trade in plate between Russia and

1 the Ukraine, what's happening there?

2 MR. SHVETSOV: Well again, to provide specific
3 data we will need to provide in post-hearing. I know that
4 there is still some trade going on between Ukraine and
5 Russia, and some steel products coming either from one
6 country to another.

7 CHAIRMAN BROADBENT: Okay, and then what are you
8 all expecting? There's been a lot of talk about a free
9 trade agreement between Europe and Ukraine. How will these
10 plate exports be treated after the free trade agreement goes
11 into effect?

12 MR. SHVETSOV: My guess, again I'm not an expert
13 in European sales, but if we would hear from European Union
14 and there are certain agency in the European Union which
15 monitor imports of steel. We would probably hear up to date
16 about this. I don't have such kind of information, that
17 there were any concerns about imports of the plate steel
18 into Europe.

19 CHAIRMAN BROADBENT: But maybe in the
20 post-hearing brief, you could just give me some information
21 on what you expect to be the situation?

22 MR. LEWIS: Yeah. Craig Lewis, Hogan Lovells.
23 We'll be happy to address that in the post-hearing. I think
24 we looked at that issue in the context of wire rod and I'm
25 frankly forgetting the details of it at the moment. But

1 we'll address that in the post-hearing.

2 CHAIRMAN BROADBENT: Okay. I think that's the
3 questions I have right now. Vice Chairman Pinkert.

4 VICE CHAIRMAN PINKERT: I have just a few
5 followup questions. We talked about producing the subject
6 product for the U.S. market to U.S. standards, and what I'm
7 wondering is for a product that's currently being shipped to
8 Europe by Ukrainian producers, what would it cost per unit to
9 shift from European standards to U.S. standards for that
10 product? Do you understand my question?

11 MR. LEWIS: To shift from producing one to the
12 other?

13 VICE CHAIRMAN PINKERT: Yeah, from producing to
14 European standards to U.S. standards per unit?

15 MS. ROMANOVA: Obviously, we're not prepared to
16 answer it right now, because we need to talk to the
17 production guys. It's not like you push the button and it
18 starts producing a different product. It needs some lead
19 time to basically reshuffle the production line and bring
20 required raw materials. So basically I think that requires
21 additional calculation, which will go in the post-hearing.

22 MR. LEWIS: That said, Commissioner, and I'm not
23 a product expert either. But it just dawned on me. I do
24 recall a conversation we had about this I think even last
25 night, relating to the A6, half A6 ASTM leveling standard,

1 and I'll ask Yuriy to correct me if I'm wrong.

2 But my recollection of that conversation is
3 actually the process of trying to attain those leveling
4 targets actually results in substantially greater yield loss
5 and, you know, reject material. So it's not quite a timing
6 issue, but I think it's sort of the same thing you're
7 getting at is, you know, how easily or costly is it to shift
8 from one to the other.

9 The understanding I had was that that's a
10 relatively expensive product to produce because of that, but
11 you should confirm that.

12 MR. SHVETSOV: That's correct, Craig. Mr. Lewis
13 answered the question the same way as I would do it.

14 VICE CHAIRMAN PINKERT: Thank you. For the
15 post-hearing, if you could focus on coming up with a number
16 and specify whether you're talking about commodity grade or
17 if you're talking about a higher grade product. Thank you.

18 Now there's this question about non-subject
19 imports that are currently in the U.S. market, and whether
20 they would be some kind of a barrier to increasing Ukrainian
21 shipments into the U.S. market. I want to understand how
22 you see that working out dynamically.

23 In other words, would the -- would Ukrainian
24 exports to the U.S. market have to compete directly with the
25 non-subject product? Is that how you see that potentially?

1 DR. PRUSA: So I think I'll start and give a
2 general thing, but then Yuriy knows more about the dynamics
3 of the actual market. But yes, I think that's in general
4 the case, because right now, in the current situation, I
5 think the statistics in the staff report indicate there has
6 been a lot of non-subject imports in the market.

7 They clearly have a first mover advantage. They
8 have the business relationships with the buyers. So that
9 would be one of the challenges for a one man sales team
10 right now that Metinvest has in North America, to start to
11 overcome, which is starting to build new relationships when
12 they already have sales relationships with, to the extent
13 they don't buy from domestic mills, with large, non-subject
14 suppliers.

15 MR. STOEL: Vice Chairman Pinkert, Jonathan
16 Stoel for the record. A couple of points. I think one is
17 that, as you said, I mean there are just as a fact large
18 volumes of non-subjects here. I mean there's 1.6 million
19 tons last year. That suggests something about the U.S.
20 industry is going on. Either they're not making particular
21 products, they're not meeting certain demands.

22 I think you heard this morning that they are
23 apparently importing products. We don't know exactly the
24 reason, but they're doing it in substantial quantities for a
25 particular reason. So for us to come in, and we've talked

1 about the volume we'd come in, clearly there would be
2 competition for that.

3 Now what the other side I think has said, and
4 it's, you know, a good argument on their part is the reason
5 and how they're going to come in is they're going to dump.
6 They're going to have very low pricing and try to seize
7 market share. I think that's where we are saying to you
8 today that's not Metinvest's plan.

9 That's not how they operate, and although there
10 are some very good questions about why you would spend all
11 the money on high class lawyers like Mr. Lewis here today,
12 you know, the fact is they want to have a low --

13 VICE CHAIRMAN PINKERT: I never asked that
14 question, just to be clear.

15 MR. STOEL: They want to have a long-term
16 relationship here in the United States, in ways that are not
17 injurious to the U.S. industry. To do that, you don't dump
18 and you don't, you know, ship in ways that would harm the
19 industry. So that's what the company plans to do.

20 MS. ROMANOVA: If I may add, we talked about
21 Europe, and I wanted to inject my comment there. But I
22 think it's a good opportunity to draw parallel and to
23 demonstrate how we do actually business, and what our
24 business model is.

25 The philosophy of our sales and the model of our

1 sales that we skip middle man normally, and we prefer to
2 deal with our direct customer face to face, for many
3 reasons, because the modern sales and modern business is not
4 only about the product and the quality of the product.

5 It's about service. It's about talking face to
6 face to people who buy the product. For this reason, in
7 Europe we have a spread of our network. We have offices.
8 We've talked about that. We have personnel taking the
9 phones, meeting with the people, solving the problems,
10 accepting shipments, coming to the ports, to make sure there
11 are no problems.

12 So basically, this is the way we see our
13 business here as well, and this is the only way we will be
14 able to compete with the existing trading centers, with the
15 existing ^^^^ with the existing competitors. And setting
16 that in place, that does require time, and that refers to
17 the question why we will be unfolding slowly, because in
18 order to build a long-lasting relationship and a
19 long-lasting successful business, there is no other way
20 around.

21 This is not our idea, to jump into the market,
22 damage the market and then skip it. That's absolute not
23 about us, and this is exactly the reason why we're paying
24 money, why we're here, traveling here, talking to you here,
25 because we want to be in this market and we want to play

1 fairly at this market, and we want to grow with this market.

2 We will not -- we will never get a share of this
3 market unless we help the market grow. We talked about the
4 low demand, no demand, no supplies. If demand goes up, we
5 want to be here and we want to seize this opportunity to
6 have a better competing leverage against our Russian
7 competitors, for example, or Finnish competitors. That's
8 about philosophy. This is exactly what we're going to do.

9 Steadily, slowly but steadily grow our presence,
10 building our relationships, and that's the long perspective.
11 That's not something, as someone mentioned previously before
12 lunch, saying that well, you'll see they will be here next
13 month. It takes a month just to ship a vessel here, you
14 know, to sail a vessel, not to ship. To sail a vessel.

15 But before that, there is lots to be done. The
16 relationships established, contracts planned, produced back
17 at the plants, transport by railway, shipped and so on and
18 so forth. A few words about the production and the
19 wonderful slide Thomas showed you earlier. What would be
20 the customer's dilemma in the U.S.? Do we believe you
21 Metinvest? Will you ship on time, you know? Will you bring
22 us the product on time?

23 Unfortunately, we're not in the position as of
24 today to provide 100 percent guarantee that we will ship on
25 time. In the last year and a half, we have to declare

1 roughly 50, 5-0 force majeure on our delivery contracts,
2 because of an inability to ship because of interruption of
3 shipments and so on and so forth.

4 Do you know any other lawyer who would, you
5 know, who would have 50 force majeure in a year and a half?
6 Well, I'm one of them in front of you. So and --

7 VICE CHAIRMAN PINKERT: Thank you. Very quickly
8 Dr. Prusa, you said that there's a first mover advantage,
9 and the other side says that there is no first mover
10 advantage. It's all about price. How might I resolve that
11 difference of perspective?

12 DR. PRUSA: I think what you've heard is that
13 Metinvest is trying to build relationships with the
14 customers. So there may be a segment of the market and the
15 suppliers out there, maybe I was not involved in the
16 original investigation. Maybe Ukraine mills at that point
17 also were willing to ship directly and didn't care who it
18 went to.

19 That's not what they're saying, and so the idea
20 it's first mover. They have to develop the relationship
21 with the buyers here. This is what the company
22 representatives are telling me. This is the business model
23 they're approaching the U.S. market with. That means you
24 have to get a buyer to meet with you and choose you, let's
25 say, over just a random, let me just say Posco.

1 Luna Posco is really Nippon Steel. These are
2 really reliable high quality companies. These, this is
3 going to be a challenge for Metinvest to get U.S. buyers to
4 believe that Nippon Steel is worth not continuing a
5 relationship with, to defer to the Ukraine. I'm sorry,
6 that's a challenge for Metinvest. That's why I disagree
7 with the domestic industry.

8 VICE CHAIRMAN PINKERT: Thank you. Thank you,
9 Madam Chairman.

10 CHAIRMAN BROADBENT: Commissioner Williamson.

11 COMMISSIONER WILLIAMSON: Thank you. Let's see.
12 Just to go back to an earlier question, and this may be
13 post-hearing. I'm talking about shipments to the EU. Are
14 there some of the Ukrainian mills that are shipping,
15 exporting to the EU and others that are not? I'm getting to
16 this question of why, you know, you wouldn't be -- how
17 difficult it would be to ship to the U.S. if you're already
18 supplying the EU?

19 MR. SHVETSOV: Commissioner Williamson. I just
20 made a brief overview of Ukrainian mills which are capable to
21 make plates, and of my knowledge, the only mill which is not
22 controlled by -- is Olchevnya, which has been shut down for
23 quite a while. I know that they are trying to resume
24 production on a small scale, and I'm not aware of whether --
25 where they're shipping or whether they are shipping at all

1 at this point of time.

2 So all shipments which are made currently or for
3 last year probably a little bit more than a year, ever since
4 Olchevnya was shut down, all shipments of plates from the
5 Ukraine to Europe were made by Metinvest.

6 MR. SHVETSOV: So saying other mills -- just
7 imagine it ships its products from its mills.

8 COMMISSIONER WILLIAMSON: Okay and so any
9 production that would go to the U.S. would come from the
10 same mills but -- I'm trying to figure out how difficult
11 would it be to shift production from one source to the
12 other, how long would that take?

13 MR. SHVETSOV: Again I have not worked for the
14 company which owns Alchevsk, I don't know what stage they
15 are but --

16 COMMISSIONER WILLIAMSON: I'm talking about the
17 Metinvest Mills though.

18 MR. SHVETSOV: For Miller -- for Metinvest to do,
19 I'm sorry could you repeat that?

20 COMMISSIONER WILLIAMSON: What I am trying to do
21 is get a better understanding why it is going to be so
22 difficult, you say you have several million production
23 targeted for the EU market and basically you are saying that
24 we are not likely to have any of that going -- that
25 production being devoted to the U.S. or that it is not going

1 to be that easy to ship to the U.S.

2 I understand the need to develop the market
3 through relationships that we have often talked about -- I
4 understand that, I appreciate that very much but I am also
5 thinking about the production that you are having and how
6 difficult it is going to be to have that production -- some
7 of that production go to the U.S.

8 Along the same questions Commissioner Johanson
9 was asking.

10 MR. STOEL: I think Commissioner -- Jonathan
11 Stoel, I think Commissioner Williamson we need to consult
12 with the folks who are obviously on the side of the business
13 and we understand the question, we will absolutely get back
14 to you in the post-hearing.

15 COMMISSIONER WILLIAMSON: Okay thank you. Let's
16 see in its pre-hearing brief Nucor cites the experience in
17 Canada in arguing that the Suspension Agreement should not
18 be terminated. Nucor points out that Canada revoked in the
19 Ukraine in 2004, wanting to re-impose in 2010 and do you
20 believe the Canadian experience is relevant to the
21 Commission, to the consideration found?

22 MR. LEWIS: Yes Commissioner, Craig Lewis, yeah I
23 -- I urge the Commission to look at the Canadian tribunals
24 determination in that case because I think it has been
25 inaccurately described by Nucor I think it was Nucor's --

1 COMMISSIONER WILLIAMSON: Right.

2 MR. LEWIS: The impression they have tried to
3 leave the Commission with is there was an Order in place,
4 you lift it then it is Ukrainians immediately shipped a
5 tsunami of product into Canada and Canada and Canadian
6 producers had to immediately you know snap the lid down and
7 stop it.

8 If you look at the Canadian determination they
9 didn't even find material injury number one. It was a
10 threat finding and number two, specifically with respect to
11 volumes and that's I think the big question here in this
12 room. They found that the volumes were low, it was actually
13 the volume element of their determination that as I read the
14 determination led them to a negative present injury
15 determination.

16 So the notion that there was a flood of imports
17 is just factually incorrect, there wasn't. And they made a
18 threat for termination --

19 COMMISSIONER WILLIAMSON: In 2010 now?

20 MR. LEWIS: Yes, this is 2010 we are talking
21 about the same determination because I obviously went back
22 and read it so I don't think it stands for the proposition
23 that they are saying it does, in fact I think the opposite
24 which was that you know volumes actually didn't flood in as
25 soon as it was lifted. That said, and this is important

1 too, even that had occurred I think it's all public, so I
2 don't have access to the confidential version and the
3 volumes that came in to Canada were predominantly from
4 Italy. If I recall too, which was not under Metinvest's
5 corporate control at the time.

6 So the volumes didn't -- there wasn't a trend in
7 the volumes that they said in any event but even if there
8 had been it couldn't have been attributable to Metinvest's
9 policies that I think are so important to the Commission's
10 evaluation this time.

11 COMMISSIONER WILLIAMSON: Okay good enough. Who
12 has Metinvest had this shall we say corporate policy of
13 culture of developing long-term relationships?

14 MS. ROMANOVA: Well I wouldn't speak you know
15 with exactness to the date.

16 COMMISSIONER WILLIAMSON: But I'm thinking about
17 -- you know not market economy, you know back in the '90's
18 to this --

19 MS. ROMANOVA: I came to the company in 2012 and
20 this is the first thing I knew, the way we do the business
21 is by setting up a presence and talking to people face to
22 face. And the reason why I knew is because I was the one
23 responsible in the legal department I was responsible for
24 setting up the presences, settling all the legal issues and
25 so on and so forth and the last three years, yes we did open

1 an office in Holland and Romania and this is the eastern
2 part of Europe where we concentrate, not Germany, not
3 France.

4 So basically our focus right now is Eastern
5 Europe, Southeastern Europe, this is where we are placing
6 our immediate hopes they are closest to us, this is where we
7 open up a presence. But obviously before I came two years
8 ago the company and the management of the company and
9 Supervisor Board of the company and I should mention that
10 the Supervisor Board consists of 10 members, half of them
11 are independent, they are non-Ukrainians, they are people
12 from the industry, technically-skilled people with finance
13 and so on and so forth.

14 So that was the word of wisdom from them saying
15 that this is how we need to proceed so I inherited that
16 vision and basically where I implemented right now. I would
17 assume at least for 5 years I would assume, so.

18 COMMISSIONER WILLIAMSON: Okay thank you. Also
19 you mentioned like the 54th force measure contracts that you
20 had.

21 MS. ROMANOVA: Yeah around 50, 50 forced measure
22 notices.

23 COMMISSIONER WILLIAMSON: Were they all at the
24 height of the conflict?

25 MS. ROMANOVA: Yes it's the last year and a half.

1 I have never done a forced measure in my entire life before
2 last year.

3 COMMISSIONER WILLIAMSON: Is that kind of period
4 over now or I don't want to get into anything confidential
5 or anything.

6 MS. ROMANOVA: What ensued obviously once the
7 entire thing happened is we went through and started filing
8 forced measures but obviously we cannot do that like
9 forever.

10 COMMISSIONER WILLIAMSON: Yeah.

11 MS. ROMANOVA: That forced us to first of all to
12 revise the forced measure clause in our contracts and to
13 speak to our clients up front saying that you know our
14 situation and once you know this is not a forced measure and
15 we cannot refer to it as something unpredictable and outside
16 you know, never knew and put in control so that changed the
17 way -- we changed the way how we deal with the forced
18 measure contractually and it changed the way who we deal
19 with our clients so that basically reflects -- so right now
20 presently now we do not continued to file forced measure
21 notices those issues of delays or inability of supply are
22 sold commercially.

23 In other words instead of forcefully telling
24 people that, "Oops sorry you are stuck with us," we just
25 agree on payment of fines or penalties in the case of

1 certain delays or inability of supplies settle other ways.

2 So we don't have fortunately we don't have court
3 cases or arbitrations as a result of this situation and this
4 is yet another sign of how well the system works of having
5 the client and talking directly. We don't bring the issue
6 into the court we talk to the client and this is thanks to
7 sales guys who manage to do this.

8 But yes that was happening, the interruption of
9 forced measures and all of that.

10 COMMISSIONER WILLIAMSON: It just levels down to
11 the challenges that you have had to deal with last year.

12 MS. ROMANOVA: Well you know if I retire I will
13 probably go and write a book on that.

14 COMMISSIONER WILLIAMSON: Okay, well thank you
15 very much for your testimony, the other witnesses too, thank
16 you.

17 CHAIRMAN BROADBENT: Commissioner Johanson?

18 COMMISSIONER JOHANSON: Thank you Chairman
19 Broadbent. How do you all respond to the domestic industry
20 parties' claims that demand for plate in your export markets
21 is weak, including in Europe and the Middle East?

22 MS. ROMANOVA: Someone just said that we were the
23 fourth largest exporter so it's a bit controversial. If the
24 notion is about the present time then basically we will have
25 to go back and confer with the sales responsible for those

1 regions and we will provide data and the charts in the
2 post-hearing brief because here the representation of sales
3 department is for this region only.

4 MR. STOEL: Commissioner Johanson, Jonathan Stoel
5 for the record, I think one thing to keep in mind about how
6 these issues and I understand the Commissioner's arguments
7 is when you have a profit-oriented company, when you are not
8 going to make money you don't ship. When prices are low and
9 you can't make money on a sale you don't make it, that goes
10 for Metinvest and it also goes hopefully for the people
11 behind me.

12 So when you see capacity utilization rates that
13 we have talked about today in the 60's or even lower for
14 example for some companies, it is not necessarily a bad
15 thing if you are you know, deciding not to produce in order
16 to conserve resources and then shift at a time when you can.

17
18 So Metinvest is a profit-oriented company as I
19 think you referred today they believe firmly in helping
20 their workers and helping their work force and trying to
21 further operations but just because demand is weak,
22 hopefully you don't ship and then you wait until prices go
23 up and you ship when it is profitable.

24 COMMISSIONER JOHANSON: I think the intention of
25 the Petitioners is the situation in Europe is a weak

1 economy, maybe even getting weaker, we don't really know.
2 The Middle East has lots of problems, I know the economies
3 are doing I think okay in the Gulf region but right now
4 around the world the United States has the strongest economy
5 and so what would -- why would Ukraine not ship more product
6 to the United States when this economy is growing faster
7 than other economies?

8 And I know you have mentioned that you want to be
9 a good corporate player and that you are concerned about new
10 actions being brought against you but it seems like this is
11 a place to send your product.

12 MR. CARRINGTON: Commissioner Johanson, Wes
13 Carrington from Hogan Lovells, I think with regard to the
14 European demand coin and the friends for demand for plate in
15 the future I did hear this morning Petitioners state that
16 you know there is data indicating that European demand is
17 declining. I would refer to the staff report itself and
18 some of that data is confidential but I don't think it
19 reflects declining future demand for plate in Europe, I
20 think it reflects the opposite. So that would be the first
21 point.

22 I think also EU construction indicators are
23 trending upward as well which would support increased plate
24 demand in the next few years or the reasonably foreseeable
25 future.

1 COMMISSIONER JOHANSON: Okay but still the United
2 States, the economy here is doing much better than those
3 other regions. I know we have our own issues here the drop
4 in the price of oil, the wind energy, it is not as cost
5 effective as it once was and so we have our own issues here
6 which might dampen the ability -- the draw to this market
7 but still the U.S. is the strongest economy in the world
8 right now, the strongest major economy.

9 MR. LEWIS: Commissioner if I might add, it's a
10 little bit of which is it. We heard extensive testimony
11 this morning about how the U.S. industry is in dire straits
12 and in the doldrums and it has all collapsed in the first
13 year of 2015 so will the real steel economy please stand up
14 here, which is it?

15 And yes in relative terms certainly the U.S.
16 economy has been right a brighter spot globally speaking
17 than elsewhere in the world, you know I can't deny that.
18 But the U.S. market has taken a downturn, our estimates of
19 what the volumes would be that would be shipped takes that
20 into account and the facts also speak for themselves in
21 terms of the European market that we also heard and it is
22 accurate that Metinvest has continued to be able to ship
23 quantities into the European market despite its relative
24 circumstances overall. There's still demand there and still
25 opportunities to sell there.

1 COMMISSIONER JOHANSON: Okay thanks for your
2 responses. I guess the whole economic situation around the
3 world is just a big question mark especially vis- -vis China
4 and what's going to mean. That could certainly impact your
5 position in the U.S. market conceivably, of course some of
6 that might depend on the outcome of this investigation we
7 don't know.

8 Moving on to something else, Mariupol has been
9 discussed at some length today but I wanted to focus into
10 exactly what is -- what the status of the port is at this
11 point in time? I recall from just reading the newspapers
12 back last spring the situation there was very dire. I don't
13 know if you are able to export on that point or not, but
14 this thing was under attack I think. What is the situation
15 like right now?

16 MS. ROMANOVA: Well the port is state-owned and
17 is still functioning but as I mentioned in my testimony
18 there are two serious considerations why we would not use it
19 to you know, as much as we would want to. First of all its
20 technical limitation, it's too shallow we cannot accept
21 cape-size vessels over there.

22 And the second probably the more serious these
23 days is the safety considerations. There was an underwater
24 mine explosion which damaged the water safeguards and
25 basically the ship owners, you know who were contracting to

1 transport our goods, they refuse this port, as the port of
2 loading so we cannot get them to come to Mariupol and ship
3 there.

4 COMMISSIONER JOHANSON: Is that still the case?

5 MS. ROMANOVA: Yeah, yeah because if you look at
6 the map that's not an easy place to get and there are
7 Russians from one side and from the other there is you know
8 not the very pleasant setting to hear the bombs exploding
9 every time so no one wants to lose a vessel. We just have
10 difficulty with that so shallow port and the safety. But
11 the port is operating. I mentioned in my testimony that the
12 capacity of the commercial port has been reduced to 30% of
13 its normal operations and for raw materials and 60% of metal
14 shipments.

15 But not all shipments as you pointed out earlier,
16 it is small quantities going to the Middle East, to the
17 Mediterranean, to Turkey, to the neighboring markets so the
18 cape-size vessels do not -- didn't cross there so everything
19 which goes further should go to Odessa and Odessa, if you
20 look at the map it's you know quite a distance. It's not
21 nearby.

22 We used to ship from the Caribbean ports, but the
23 story of the Caribbean you know it's -- so we have to go
24 across the Caribbean almost to another point basically I
25 guess I say next to Moldova, so it is more or less across

1 the entire country, that is what brings up the issue with
2 the cost of transportation. It's 45 dollars per ton and the
3 rail rate tariff has been reviewed and increased several
4 times during the last two years and I think they are talking
5 about yet another increase, so that's something we cannot
6 get around and obviously the type of product we ship it's
7 not suitable to transport by other means.

8 It's not wall industry that you can put on the
9 truck and actually drive somewhere.

10 COMMISSIONER JOHANSON: Right and I apologize, I
11 know I have read this before but in this investigation but
12 you are sending most of your product to Europe via rail, is
13 that correct?

14 MS. ROMANOVA: Yes, that's cheaper, that's
15 cheaper you just load it in Mariupol and it goes straight to
16 the customer.

17 COMMISSIONER JOHANSON: Okay thanks for your
18 responses. Okay I am going to go back once again to the
19 domestic industry, part of these questions. The Petitioners
20 contend that while there have been disruptions to Ukrainian
21 steelmaking operations, today Ukrainian steel producers,
22 including CTO plank producers are ramping up production and
23 attempting to resume normal operations.

24 SSAD argues that Ukraine has massive excess
25 capacity and is already using it to step up its exports to

1 Europe. Nucor contends that the Russian/Ukraine conflict,
2 actually promotes further subject CTO exports given the
3 negative impact on the home market in Ukraine.

4 How are you all responding to these arguments?

5 MS. ROMANOVA: Okay my English might not be
6 perfect. Revamping means organization right, investment,
7 renewal that's what --

8 COMMISSIONER JOHANSON: I'm sorry which word?

9 MS. ROMANOVA: Revamp.

10 COMMISSIONER JOHANSON: Revamping, resuming
11 basically.

12 MS. ROMANOVA: Okay -- yeah we do obviously --

13 COMMISSIONER JOHANSON: Or impending.

14 MS. ROMANOVA: If we are talking, that's an
15 important difference between if we are talking about
16 resumption of the stoppages then obviously you know we
17 cannot just stop you know, we need people to keep the
18 people, pay the salaries and to run the business but if we
19 are talking about improvements like capital improvements,
20 that's the subject matter which suffered substantial
21 decline.

22 Obviously we have got an investment problem as
23 any company we want to keep our equipment and our plants you
24 know up to date, but the simple example, on the technical
25 side we work with such companies like Daniasm and Seaman's

1 and Early Kids and so on and so forth.

2 Despite of our own contract for improvement,
3 organization, new equipment, the foreign specialists just
4 don't go there, they refuse again, they refuse any
5 obligations referring to basically the safety and danger
6 considerations and we don't have the skilled manpower to
7 install their technology and equipment.

8 And for this reason, that's the reason number one
9 why we cannot continue with our improvements as planned.
10 Lots of projects are just frozen and reason number 2 is
11 obviously money shortages and again if you read the news we
12 have -- we are in construction talks with our Eurobond
13 holders so that is not a consideration that we are figuring
14 in, it's out.

15 No significant improvements in the past year and
16 a half or the next year if the situation continues. That is
17 number one part in talking about improvements. Number two
18 basically that's the dispute about the capacity. The
19 technical capacity which is stated in the documents for the
20 equipment and the practical capacity and as someone
21 explained earlier this is two different stories.

22 Technical capacity I mention that in leeches 120
23 years old, I will not go further. As of styles over 82
24 years old. Yep, there is a stated technical capacity but
25 are we able to achieve it without improvements -- no.

1 COMMISSIONER JOHANSON: Okay thank you for your
2 response I have gone over my time, thank you.

3 CHAIRMAN BROADBENT: Commissioner Kieff?
4 Commissioner Schmidtlein?

5 COMMISSIONER SCHMIDTLEIN: I just have one
6 additional question and it is of a legal nature. Mr. Stoel
7 in your statement you argued that the Commission should
8 de-cumulate because of the ongoing conflict. This was a
9 different condition of competition right? Just to make sure
10 that I am not misstating it.

11 MR. STOEL: That was actually Mr. Carrington.

12 COMMISSIONER SCHMIDTLEIN: I'm sorry. Well I am
13 happy to direct my question to you Mr. Carrington either
14 one, so this is my question. I can see where the issue of
15 the ongoing conflict and how it is impacting the plants and
16 their ability to produce and potentially the transportation
17 and logistics within the country and how that might affect
18 the volume but that is really sort of a volume argument.

19 What I'm having more difficulty with is seeing
20 how this constitutes a different condition of competition
21 given the way the Commission normally looks at that which is
22 what we are looking at is does the product from one country
23 compete differently in the U.S. market from the products of
24 the other subject countries.

25 So can you explain to me how -- what's going on

1 in the Ukraine which I understand is your argument may
2 affect the volume how that is really a -- how that really
3 affects how that product competes here once it gets here?
4 Or --- I'm happy to hear from you as well.

5 MR. CARRINGTON: Maybe I'll start with just a
6 brief comment and any others can jump in if they want. I
7 think you're right that when talking about why Ukraine
8 should be de-cumulated we did focus a lot on the war and the
9 fact that that does create substantially different
10 conditions in Ukraine that can affect production, volumes
11 available to ship, reliability.

12 I would say one way that even in the U.S. that
13 would cause different conditions of competition as far as
14 how Ukrainian imports compete with Russian imports compete
15 with Chinese imports, and that was even said by the
16 Metinvest witnesses here today is that if you are comparing
17 reliability and you know is -- will Metinvest be able to
18 fulfill the shipment?

19 You heard Miss Romanova said that you know they
20 have had over 54 forced measure clauses had to be invoked
21 and said that you know we cannot provide the product we
22 previously contracted with you. That I think is directly
23 relevant to how they do compete in the U.S. market.

24 Metinvest has had to, because of the war, because
25 of the disruptions, it has not been able to ship and fulfill

1 some of its contracts and I think that is in direct contrast
2 to Russian and Chinese producers that haven't faced those
3 conditions and that I think directly impacts perception of
4 Metinvest in the U.S. market, reliability, ability to come
5 through on shipments, that would be one example I think of
6 how they differ.

7 MR. LEWIS: Go ahead.

8 MR. SHVOTSOV: I just -- one example to add to
9 what was just said one of the products we also sell to the
10 United States, it's not plates -- I recently talked to a
11 customer in the United States and we talked about a product
12 is that the war is over in Ukraine, I said no. He said come
13 and talk to me when it is over. That's how the situation in
14 the Ukraine affects the decision-making process of some, not
15 all, American customers.

16 COMMISSIONER SCHMIDTLEIN: So I know that as we
17 have talked about that you have shipped to the United States
18 in the first half of this year, 2015, did you have to break
19 any contracts during that time, maybe you don't want to say
20 you can say in the brief.

21 MR. SHVOTSOV: Fortunately not for plates. We
22 had to cancel one cancel one contract --.

23 COMMISSIONER SCHMIDTLEIN: I'm sorry for what?

24 MR. SHVOTSOV: For plates no we didn't cancel any
25 contracts, we didn't break it. We had some delay in

1 shipment but we shipped this material and plates by
2 railroad, we had to cancel one contract.

3 COMMISSIONER SCHMDITLEIN: Why?

4 MR. SHVOTSOV: This is spring because of the
5 situation in the military operations in the region, it was
6 for the United States.

7 COMMISSIONER SCHMIDTLEIN: Okay.

8 MR. LEWIS: Craig Lewis, I don't have a lot to
9 add to that but I think the reliability issue is clearly a
10 condition of competition that you have heard. It goes
11 directly to the point of competition the point of sale.

12 Additional logistically cost, moving the product
13 long distances, it's required by the work, it's not a factor
14 that the other subject producers are facing and then also
15 the lead times which are -- four or five months which is a
16 really significant, if you think about you know volatility
17 of steel prices and all the rest of it here, you are asking
18 somebody to hold the bag so to speak on steel purchase for
19 five months, that's a huge competitive factor.

20 COMMISSIONER SCHMIDTLEIN: So because of the
21 conflict, the product is having to move through the Ukraine
22 over a longer distance to get to the other port?

23 COMMISSIONER SCHMIDTLEIN: I'm sorry, you said,
24 "that's correct"?

25 MS. ROMANOVA: Yes, that's correct. Because

1 Crimea is closer than Odessa. So previous we shoot through
2 Crimea now we have to go across the country to Odessa. So
3 that does impact our global lead time.

4 COMMISSIONER SCHMIDTLEIN: But is that because of
5 the Crimea is close, or because of the ongoing conflict in
6 --

7 [SIMULTANEOUS CONVERSATION]

8 COMMISSIONER SCHMIDTLEIN: I mean, do you --

9 MS. ROMANOVA: Yes, because the Crimea is closed.
10 We cannot shoot through Crimea ports right now.

11 COMMISSIONER SCHMIDTLEIN: So do you expect if
12 this -- if the conflict in Eastern Ukraine is resolved would
13 that then change how you have to ship this product? Because
14 I don't expect -- I mean, I don't think anyone expects
15 Crimea to reverse, right?

16 MS. ROMANOVA: We do what we expect.

17 COMMISSIONER SCHMIDTLEIN: Oh, really, you hope?

18 MS. ROMANOVA: But, yes, that's -- if we are
19 talking about distances, the war, that does not impact the
20 distance. The distance will still remain the same going
21 from the eastern part to --

22 COMMISSIONER SCHMIDTLEIN: Odessa.

23 MS. ROMANOVA: -- Odessa.

24 COMMISSIONER SCHMIDTLEIN: Right.

25 MR. LEWIS: And you may need to correct me on

1 this, but I think there's actually legal restrictions. I
2 don't know if it's part of the sanctions regime or not, but
3 they cannot ship through Crimea; is that correct?

4 MS. ROMANOVA: The planes cannot fly over Crimean
5 territory. Not when we can ship through it no, absolutely
6 not.

7 COMMISSIONER SCHMIDTLEIN: Right.

8 MR. LEWIS: And needless to say that situation I
9 don't think is changing probably in my lifetime.

10 MR. STOEL: Jonathan. So I mean, I think also
11 just -- and this is competition. I mean, the cost structure
12 is being radically changed. I mean, you have repairs due to
13 the war, you have employees who are no longer able to work.
14 You have the inability to hire new employees. All these
15 things are directly impacting the ability of the company to
16 compete in the market. Even if we're able to produce, it
17 doesn't mean that things are the same today as they were in
18 2013 or 2012. I don't believe any producers in China or
19 Russia are facing those types of challenges. And so it's
20 absolutely affecting the ability of the company to
21 participate in the market the same way as it did before.
22 And I think, you know, just to be clear, you also don't have
23 those two countries here. Those two countries are not here
24 and so what they might do under any similar circumstances
25 if, God forbid they should exist with them, we don't know,

1 because they elected not to be here. And I think that's
2 important.

3 If companies like Metinvest aren't going to be
4 encouraged to be here, then I think that's simply a matter
5 of simple fairness. We're here today as we've said, very
6 honestly and responsibly to try to explain to you the
7 situation. And I think the company has explained its
8 intentions with respect to the market.

9 COMMISSIONER SCHMIDTLEIN: Mr. Carrington?

10 MR. CARRINGTON: Just one more comment. Wes
11 Carrington. Just to finish that out. I think the data
12 itself, as far as the import shipments bear out all we've
13 been saying on how these differences do manifest themselves
14 in the import market. Just from the Commission's public
15 import data, Ukraine had about 15,000 it looks like since --
16 tons imported since 2012, and I think Russia, who is also
17 under suspension agreement had about 70,000 tons. So I
18 think if you look at the import data it bears out how
19 they're competing differently in the U.S. market. And a lot
20 of that is due to the war and the disruption of the
21 production and exports.

22 COMMISSIONER SCHMIDTLEIN: Yeah, I guess I'm just
23 struggling with, you know, every company in any given
24 country faces different challenges in terms of their
25 workforce, natural disaster, I mean, like whatever might be

1 going on in that country or in that particular area that's
2 going to affect the price, the cost at which they can
3 produce their product, and so forth and so on. And so where
4 do we draw the line in terms of like, well, this is
5 obviously is a distinct event that is ongoing. Again, like
6 how does that -- and it's obviously -- I can see where the
7 arguments about price and volume, but how that translates
8 into a condition of competition in the U.S. market. That's
9 somehow different, like I said, then well, anybody can come
10 in here and argue, like, geez, we had a flood in our factory
11 and nobody else had that and look, you know, so I'm having
12 to compete under a different condition of competition
13 because all of my people went out on strike and now I'm
14 having to, you know, it's like, that's where I'm sort of
15 struggling with that legal part of the argument which is not
16 insignificant because, I mean, decumulation in these sunset
17 reviews is obviously a pretty important factor in your
18 outcomes.

19 MR. LEWIS: I guess to respond to that, I think,
20 you know, costs, you know, horizons are going to be
21 different for different producers. And sure you're going to
22 have some natural variability on that. But I think what
23 we're talking about here really extreme extended lead times,
24 a significant reliability factor that's related to an
25 ongoing conflict that's cost 6,000 lives in the country and

1 direct damage to the company, those are qualitatively
2 different factors.

3 And I think your question is perfectly
4 appropriate, you know, tell me how these are competitive
5 factors? I think they are. I mean, I don't see how you
6 could -- I clearly to me, reliability, supply, lead time,
7 the cost factor true, you know, if you are located further
8 from the U.S. market than another supplier, then that's just
9 your environmental circumstance. I get that. But these
10 other factors are qualitatively different and even the cost
11 factor is, I think, qualitatively different too because it's
12 not really just a function of location. They're denied
13 access to a part of their own country where they usually
14 ship from. That's unusual, extraordinary factor. So it's
15 matters of degree, but I think it's clear. And of course, I
16 will be saying this, but, of course I think it's far in the
17 column of a significant difference in conditions of
18 competition that needs to be recognized as a legal matter
19 when you consider decumulation.

20 COMMISSIONER SCHMIDTLEIN: Okay. My time is up.
21 I just wanted to thank the witnesses. I actually have to
22 leave early today for a child-related issue. But I have
23 learned a lot and I really do appreciate your time. So
24 thank you so much.

25 CHAIR BROADBENT: Okay. Commissioners have no

1 further questions. Do the staff have any questions for this
2 panel?

3 MR. CORKRAN: Douglas Corkran, Office of
4 Investigations. Thank you, Madam Chairman, staff have no
5 additional questions.

6 CHAIR BROADBENT: Do those in support of the
7 order have any additional questions?

8 MR. ROSENTHAL: No, we do not.

9 CHAIR BROADBENT: Okay. In that case I'm going
10 to thank everyone for being here with us today and I'll
11 dismiss the panel now.

12 With that we come to closing statements and those
13 in support of continuation have 19 minutes from direct and
14 five for closing for a total of 24 minutes.

15 And those in opposition to consideration have
16 eight minutes from direct, and five for closing for a total
17 of 13 minutes.

18 As is our custom, we will combine those. Please
19 use all your time.

20 [PAUSE]

21 CHAIR BROADBENT: We're going to pause here just
22 for a couple minutes.

23 [PAUSE]

24 CHAIR BROADBENT: Okay. You can begin when
25 you're ready.

1 CLOSING STATEMENT OF KATHLEEN CANNON

2 MS. CANNON: Thank you, Chairman Broadbent.

3 Kathy Cannon with Kelley Drye.

4 Hearings like this are very hard. All of us are
5 very sympathetic for the situation that the people of the
6 Ukraine are facing. The facts that they've described and
7 especially the loss of life that's been suffered there. And
8 as their presentation indication, the U.S. government has
9 responded to this crisis by providing financial aid and
10 other support and we hope that continues and is helpful to
11 them.

12 But the rule of the ITC in these trade cases is
13 not as an aid agency, it's as an enforcer of trade statute.
14 And the trade statute focuses on whether the revocation of
15 the trade remedies at issue here would cause injury to the
16 U.S. industry and the U.S. workers. And that has been the
17 focus of our testimony and needs to be the focus of your
18 final analysis.

19 So on the question of the Ukraine, whether you're
20 looking at the factors on volume and price to decide whether
21 there would be a discernible adverse impact, or whether you
22 ultimately decumulate and look at the Ukraine separately,
23 these factors are very strong and compelling.

24 On volume, although the respondents claim that
25 the volume would not be significant, consider a few of the

1 following record points. The Ukraine was the largest source
2 of imports before the trade remedies were imposed. They
3 were bigger even than China back then. Their exports
4 continued after the trade remedies were put in place.

5 In fact, as recently, even according to their own
6 slide in 2008, they were like 178,000 tons. They're really
7 large compared even to the other source countries here.
8 They haven't lost interest in this market, nor have they
9 lost interest in exporting. They remain the number four
10 exporter in the world. They have massive idle capacity and
11 they focus that capacity on exports, not on a home market
12 which very little exists for them anymore in terms of a home
13 market.

14 Despite the ongoing crisis there, recent articles
15 indicate that in fact the steel industry, their operations
16 are improving, that they're ramping back up and that they're
17 focusing on exports to revitalize those operations. And
18 they're looking for a place to go. More and more countries
19 in the world have trade barriers imposed on the Ukraine
20 specifically including Canada and Mexico, the two countries
21 on our borders have trade remedies against cut-to-length
22 plate from the Ukraine.

23 So then they contend, well, the products that we
24 would sell here really are -- we're not able to compete with
25 what you are looking for in the U.S. market. They won't

1 ship because their products that are somehow special or they
2 don't make the specialized products that we need. As we
3 pointed out earlier, that isn't true. They're selling into
4 Europe and the Europeans find their product perfectly
5 acceptable as have U.S. producer or U.S. customers in the
6 past. And then they admit that they would ship value-added
7 products here. In fact during their testimony they referred
8 to the A516 heat-treated and offshore material which is an
9 API2H50 product which is a value-added product. So even
10 though they have been saying all day they don't make those
11 products, they identify that so they can ship both the
12 commercial standard grades and the higher value added
13 grades, including this two-inch product they referred to as
14 if the U.S. producers can't make it. ArcelorMittal can and
15 does make the product. And if they were selling even 25,000
16 tons of that type of product, that would be injurious. But
17 when pressed, they basically admitted that the 25,000 ton
18 figure they threw out was just under current conditions.
19 That isn't what their projections would be nor does the data
20 support that the exports would be anywhere near that low.
21 And the way that they would get back into this market as it
22 was true in the past is based on price. That's how they
23 would compete with the subject import and the non-subject
24 imports that are currently in this market. At the low
25 prices that they've been selling, they would quickly regain

1 market share.

2 They also say that they won't ship large
3 quantities because they're being a responsible corporate
4 partner. Ms. Romanova said we are not out for profit. We
5 need to feed our people. Okay. But a responsible corporate
6 entity has a duty to its shareholders to maximize production
7 to cover fixed costs rather than try to push that production
8 into a whole market where there's no demand and ruin prices
9 there, or into European or other markets where demand is
10 declining, you would instead ship that product to the U.S.
11 where prices are higher and you could maximize your profits.
12 That's what a responsible corporate person would do.

13 As to price, if you're looking at the price
14 effects, you had underselling in every single instance
15 before the order was imposed. Respondents' counsel says,
16 don't rely on that 1990's data as dispositive. Okay. But
17 it's relevant as is the fact that there's been consistent
18 underselling even after the orders were imposed when they
19 sell in the United States and more importantly the fact that
20 they're at the lowest average unit values of countries
21 around the world, a pattern that's consistent with the other
22 two countries that are the subject of this review.

23 Then they tell you, don't cumulate the imports
24 because of these different conditions of competition and
25 just to remind the Commission, the conditions of competition

1 that you've looked at, we've looked back a few of the recent
2 steel cases just to see what you've identified in the past,
3 and they've been things like different pricing patterns.
4 Between the countries some have underselling, some have
5 overselling. Or some are export focused, others are not.
6 Some have product mix differences. Some have a U.S.
7 affiliate in a country that would behave differently. Some
8 have idle capacity and others do not. Those are the types
9 of conditions of competition the Commission has historically
10 looked at.

11 Contrast that with what they're referring to.
12 Their conditions are an ongoing war, which unless it has
13 some effect on competitive conditions unlike volumes and
14 prices, it's not relevant to a competitive condition. They
15 talk about changes like privatization. Ditto. Unless that
16 has some effect, which it does not, it's not relevant. They
17 talk about they're the only country participating. Again,
18 if that doesn't have an effect on how they would compete,
19 that is not relevant.

20 And then finally just now they threw out that
21 unreliability is a factor that you should consider as a
22 condition of competition. Well, separate and apart from the
23 fact of whether that's really a factor that, you know,
24 you've considered, look at table 2-10 of your staff report
25 where you are identifying differences in the different

1 factors, lead times and reliability are on that table. And
2 you're talking about them being comparable, all of the
3 factors show they're comparable between the different
4 countries and with the United States. So the factors that
5 even they would have you identify, don't show those
6 differences.

7 I won't go through the other conditions of
8 competition. I think that we have emphasized those and we
9 will review those further in our brief, but we maintain our
10 position that the factors here support the cumulation of
11 imports from the Ukraine with the other countries and that
12 there likely would be not only discernible adverse impacts,
13 but injury from the Ukraine alone if it were not cumulated.

14 Thank you.

15 CLOSING STATEMENT BY PAUL ROSENTHAL

16 MR. ROSENTHAL: Paul Rosenthal for ArcelorMittal.
17 I'm going to turn to vulnerability now, but before I do I
18 just want to highlight something that that I think the
19 Commission should be pretty cognizant of. Listening to the
20 respondents first say they're going to be responsible and of
21 course they could never ship more than 25,000 tons and
22 that's a small part of the marketplace. And then upon
23 further questioning they admitted, well, 25,000 tons in the
24 current conditions which is pretty lousy market conditions,
25 but they weren't in a place to commit to limiting their

1 exports of that, nor would they, and nor did they. After
2 some further questioning they made it very clear that, well,
3 maybe we'll ship more if the market demands. And by the
4 way, the statute doesn't allow us or the Commerce Department
5 said, well, we're okay with you as long as you limit it to
6 25,000 tons. That's not how the statute works. And in fact
7 you cannot rely on any promises or any assertions that they
8 are going to limit it that way for all the reasons that Ms.
9 Cannon states, they are very likely to export significant
10 injurious quantities to the U.S.

11 But let's turn to vulnerability now. One of
12 respondent's slides had trying to contrast the period prior
13 to 2001 and the domestic industry's profitability with the
14 profitability in more recent years. Amazingly enough they
15 took a slight slice of the last 14 years and counted that
16 all together. With all respect, that's a ridiculous way to
17 to analyze the industry and its vulnerability. As you have
18 seen t his industry is in a precarious position now. And I
19 want to turn to something that -- by the way if you actually
20 look at your confidential record and want to talk about the
21 closure of the Claymont facility, the Everest facility, you
22 will find out what Everest said as the reasons for the
23 closure. But what was very public at the time is that they
24 blamed imports at least in part for their closure. Not a
25 big surprise, and that is not to say that the Claymont

1 facility was the most modern and efficient facility. But
2 when imports are low priced in coming in they're going to
3 hit and be able to take advantage of the facilities that may
4 not be most efficient. But why should they go out of
5 business and steel workers lose their jobs there when
6 they're being forced out of business because of the
7 overproduction elsewhere around the world.

8 And then I want to turn to -- on that note,
9 Commissioner Johanson's observation, an astute one, looking
10 at the staff report, looking at all the previous cases that
11 have been listed. This is an industry that has had a lot of
12 cases filed over the last 30 years. And why is that? And
13 why do you have a list of 30 countries on the slide of
14 pricing. Every country or just about every country wants to
15 be of the steel industry. For national defense reasons, for
16 national pride reasons, for employment reasons, for social
17 reasons. That is why the steel industry happens to be here
18 very frequently because it is a national interest around the
19 world to be in the steel business. And to borrow a phrase
20 from the poet Ogden Nash, "Everybody wants to be wowed, but
21 not everybody knows exactly how." And it's very hard to be
22 in the steel business with excess production around the
23 world, excess capacity and be in the business and not dump
24 when you have declined in the economies around the world.
25 And that is what this industry is facing today as it has

1 faced periodically throughout the last few decades.

2 And so what to do? And this goes also the
3 question that was raised by the Commissioners earlier,
4 asking, well, isn't there a little bit of excess capacity in
5 the U.S. market? Is that really the problem that you're
6 facing now? And I would argue the answer is no. The U.S.
7 has done a lot, the U.S. producers have done a lot to
8 consolidate to make themselves more efficient. They're able
9 to withstand import competition a lot better than they were
10 five or ten years ago. And they've reduced capacity quite a
11 bit over the years. It's been very, very painful. The U.S.
12 had done a lot more to reduce capacity than most of the rest
13 of the world. And the question is, why should the U.S. cede
14 the capacity when it has the potential for a growing market
15 and give that market to foreign producers who have way in
16 excess capacity in their markets, whether it's Europe, Asia,
17 elsewhere around the world. It is not, frankly, in the
18 interest of U.S. workers to give up that capacity and see
19 that you -- other producers who are not necessarily more
20 efficient. In fact often are being protected by their
21 governments or subsidized.

22 And the other part of it is, it's not so easy to
23 get rid of capacity around the world and in the U.S. We've
24 gone through a lot of pain, but capacity comes on and goes
25 off in large slugs. So what often happens is what has

1 happened in this industry and in the United States. Lines
2 will go down. There will be fewer shifts, there will be
3 fewer workers, and less production. So the reason why I'm
4 going through all this now is because while this is a
5 review, what's happening in the steel industry has been
6 discussed at several staff conferences, but not before you
7 Commissioners. And I think it's important for you to have
8 the larger context for this case and for your others.

9 The recent change in the statute that was
10 referenced earlier this morning made it very clear that the
11 Commission, while always having 16 statutory factors in its
12 purview, should not focus on one or another and particularly
13 not focus on the net operating profit sales ratio which can
14 be very, very distorting. It's especially true in this
15 capital intensive industry and you actually heard the
16 respondents make this argument, probably better than I, but
17 how it is when you want to have it -- well, we have to have
18 a choice and if prices are declining and you're facing
19 import competition you may say, you know, what, I'm not
20 going to go after that sale because it's too low a price.
21 And instead I'm going to forego volume. And that's exactly
22 what's happened starting in 2014 through the current period.
23 And the U.S. industry has foregone volume. As a result
24 production is down 14 percent or more, shipments are down 11
25 percent, and net sales value is down almost 20 percent. The

1 result, of course, is lower capacity utilization. And we
2 can argue about what's the optimal capacity utilization, but
3 we do know that it's lower that the industry has lost a
4 million tons, but if you listen to respondent's counsel say,
5 oh, the industry is doing great. What's the problem here?
6 You look at the net operating profit to sales ratio and that
7 is an issue.

8 One of the reasons why we have been very, very
9 concerned about the -- it's not just the Commission though.
10 It's respondents' and petitioners' focus on the net
11 operating profit to sales ratio. Because that seems to have
12 been, in some instances, in some cases overtaken every
13 factor that the Commission looks at. And in this case and
14 in some other cases, it is the distortive factor because you
15 can maintain profitability for so long by foregoing
16 unprofitable sales, but at a certain point it will catch up
17 to you. And it will be revealed in an instant and almost at
18 a tipping point. And frankly this industry is getting to
19 that tipping point. So you've seen the maintenance of net
20 operating profit to sales ratio, but they're doing that by
21 foregoing unprofitable sales and the volume is coming down,
22 the capacity utilization is coming down, the lines are being
23 closed, mills are being closed, and you're seeing prices go
24 down, down, down, and now the industry has to follow those
25 pricing -- that pricing down. It's happening in this

1 product line and it's happening throughout the steel
2 industry. You've heard Mr. Unruh and others talk about
3 devastation. You heard very, very extreme terms. And
4 probably wondering if you're just looking at the net
5 operating profit to sales ratio, what is he talking about?
6 You've got to look at all your other data including the data
7 cited by Mr. Price on operating income and net income.

8 You cannot run a mill, you cannot pay for
9 equipment, you cannot pay for maintenance which is being
10 deferred in this industry now based on ratios. You need
11 hard dollars. You need profits. You cannot have capital
12 expenditures going down 50 percent and having your capital
13 expenditures being exceeded by your depreciation. That is a
14 scenario for disaster. It's a scenario for bankruptcies and
15 more layoffs.

16 So I want to make sure that you understand that
17 if you look at net operating profit to sales ratio you are
18 going to be missing the larger picture for this industry and
19 the rest of the industry. And all these data will be
20 revealed. All the blood that is being essentially shed now
21 which has not necessarily shown up in all the financials
22 will be revealed as months go on as the longer-term
23 contracts expire and spot pricing which is at all time lows
24 as you've heard earlier today will show up in the
25 financials.

1 It is not a matter of trust. You will see it.
2 You will see it much sooner than anyone would like to admit.
3 But it is going to happen and it's an unfortunate situation.

4 So my point is, it is important for this
5 Commission to understand what is happening in the
6 marketplace for cut-to-length plate and the steel industry
7 overall. It is a vulnerable industry and as you consider
8 the prospects of unleashing any one of the three countries
9 under order or suspension agreement at this point and you
10 have this vulnerability declining demand, large presence of
11 very competitive non-subject imports that is a recipe for
12 disaster for this particular industry.

13 We urge you to maintain the suspension
14 agreements, maintain the order for the health of this
15 industry.

16 Thank you.

17 CHAIRMAN BROADBENT: Thank you.

18 CLOSING STATEMENT OF JONATHAN T. STOEL

19 MR. STOEL: Good afternoon again, Commissioners.
20 Jonathan Stoel, for the record, Hogan Lovells, on behalf of
21 Metinvest.

22 Notwithstanding the slides up before you, I
23 promise you that this will be brief and we will not require
24 our full time. I want to start off by just reminding the
25 Commission that this is in fact the third sunset review.

1 I think Mr. Rosenthal referred to it. This
2 industry has been under protection for a long time. We are
3 here today on behalf of one country in the third sunset
4 review after 20 years to ask you to remove the restraints of
5 the Suspension Agreement with respect to Ukraine. That's
6 all. 20 years.

7 The statute first requires you to look at
8 decumulation. We're not here to talk about China and
9 Russia. They're not here to talk about China and Russia. I
10 think we strongly believe that Ukraine ought to be
11 decumulated. That's a factor.

12 We've heard today, you've heard from us in our
13 prehearing briefs, we believe there are a lot of reasons why
14 Ukraine ought to be decumulated from those two countries.

15 Let me start with the statutory point of
16 discernible adverse impact. We have explained to you today
17 that if the Order was revoked there would be a very small
18 quantity emanating from the Ukraine: 25,000 tons.

19 We have also explained that Metinvest, the only
20 steel plate producer able to ship to the United States,
21 would make sure that its pricing would not be injurious to
22 the United States' industry.

23 Under those circumstances, we think that this is
24 a situation in which there would not be a discernable
25 adverse impact and you ought to decumulate.

1 Commissioner Schmidtlein was asking some very
2 good questions before, and I would make one point. I think
3 under the statute if for example a flood were to say that
4 production could not go on for two years, I would say that's
5 an example of where there could not be a discernible adverse
6 either. I think in this case we're talking about a two-year
7 period, a reasonably foreseeable future, and we do not
8 believe there would be discernible adverse impact within
9 that very short period of time.

10 Secondly, conditions of competition. And Kathy
11 Cannon, Ms. Cannon, ought to remember this well from the
12 Nucor case which we all litigated in the Federal Circuit.
13 You have very broad discretion under conditions of
14 competition to determine which factors to examine.

15 We know that you have to examine factors that
16 will impact the U.S. market. If there is no impact of a
17 particular condition on the U.S. market, then that might be
18 a particular restriction. But in general, you are able to
19 look at a broad array of factors.

20 I think clearly as we have explained in our
21 testimony and our briefs, the war in Ukraine is a factor
22 that will affect the ability of the Ukrainian producers--in
23 this case only one--to ship to the U.S. market. If they're
24 shelling in the Donbass region, or in Mariupol and the
25 factories are closed, then obviously that impacts the

1 conditions of competition. We won't be able to supply the
2 U.S. market. Our costs would be higher.

3 If there are transportation impediments,
4 obviously that affects the conditions of competition. So I
5 think the war alone is one key reason why you ought to say
6 that conditions of competition for Ukraine are different.
7 And we recognize this. This is your discretion. It's up to
8 you, but we believe that it's a reason to exercise your
9 discretion.

10 Secondly, if you look at the record before you,
11 as my colleague, Mr. Carrington testified, Ukraine has not
12 been an active participant in the U.S. market over the last
13 three years. We simply have not been here. That
14 distinguishes us particularly from Russia.

15 I would like to thank Mr. Schagrín for his
16 testimony earlier today. He pointed out that the U.S.
17 industry has not viewed Russia as a good actor. They have
18 been acting apparently in conditions of competition that
19 have allowed them to, in the U.S. industry's view, cause
20 harm. They are asking for the Suspension Agreement to be
21 revoked. Nothing like that has happened with respect to
22 Ukraine. There have been no such allegations against my
23 client, Metinvest.

24 I think that is another example of how the
25 conditions of competition differ. Again, we fully recognize

1 that this is something for your discretion, but we submit
2 that these are examples of how the conditions of competition
3 differ among the three countries.

4 And the last point on that is, we all know China
5 is by far the largest steel industry. You heard from my
6 colleague today that single producers in China are bigger
7 than the--excuse me than the Ukrainian industry. Clearly
8 that changes conditions of competition, and I think affects
9 your analysis of how China and Ukraine would compete in the
10 U.S. market.

11 Next, the Commission has to look at whether there
12 would be material injury to the domestic industry within a
13 reasonably foreseeable period of time. If--and I'll just
14 focus on Ukraine, we won't deal with the if--as Commissioner
15 Kieff suggested, we won't deal with the three countries
16 cumulated, I think we could imagine how you might find in
17 that circumstance.

18 Focusing on Ukraine, though, with the small
19 quantities and the non-injurious pricing that we've talked
20 about, we do not believe there would be material injury to
21 the domestic industry under those circumstances.

22 And I heard a lot of testimony today from the
23 domestic industry, from Mr. Rosenthal and others, and we
24 understand. In the first half of 2015, the domestic
25 industry did not look great. But it's important for the

1 Commission to consider not looking great for a temporary
2 period of time compared to whether the industry is
3 vulnerable to a small quantity and noninjurious prices, this
4 is a very different industry than what you looked at 20
5 years ago.

6 It's a different industry than you looked at,
7 Commissioners Pinkert and Williamson, back in 2009-2010.
8 Back then you said there's a Great Recession. The sky is
9 falling. Absolutely justified. The papers were screaming.
10 The entire country was in jeopardy. We know that. That was
11 different. This is today.

12 Yes, the industry is not doing as well as it was
13 in 2014 when it made almost 10 percent, when it had the most
14 wages paid since 1998. But the industry is still doing very
15 well.

16 And to Mr. Rosenthal's query, which I didn't
17 quite follow in his closing, the industry has made \$8
18 billion--go back a slide--\$8 billion in the last 10 years.
19 That's important. That shows the industry has a reserve.
20 That shows the industry knows how to manage itself.

21 That gives credit to all the industry's
22 witnesses. They are doing something right. They are making
23 a lot of money. And that's great for the United States, and
24 I hope it's great for their workers. Next slide.

25 There's been some indication, though, that times

1 are different now than they were back in the boom period.
2 And we know that the operating margins show that. They're
3 not making 25 percent, which all of us would love to make 25
4 percent. But if you look at this, these (indicating slide)
5 are the capital expenditures comparing the last three years
6 with the boom period.

7 They invested the same amount last year that they
8 invested in 2007. And we all remember how great 2007 was.
9 The staff report makes the observation that during the boom
10 period the industry was able to take its profits and invest
11 them, have new machinery, have new products. It was a
12 terrific time for the domestic industry.

13 Well, apparently 2012, 2013, 2014, those were
14 very good times as well. Perhaps their operating margins,
15 perhaps their net margins are lower because they were
16 investing so much. That suggests that their workers can
17 expect a very strong, bright future that the industry is
18 doing well, certainly not vulnerable to the small quantities
19 of imports that might come from the Ukraine.

20 Let me end with this. The U.S. industry has
21 asked you to imagine a lot of "what if's". They have asked
22 you to imagine the Ukrainian conflict is over, that
23 Metinvest has all of its workers back; that Metinvest has
24 U.S. customers; that Metinvest will have high prices in the
25 United States that would make it attractive to ship to the

1 United States. And they say all of those things will happen
2 in the next two years, and thus we are vulnerable and are
3 going to be materially injured in that period.

4 I submit to you the record doesn't support that.
5 We have a war in Ukraine today. We have shelling that's
6 unfortunately close to our client's factories. We have
7 workers that cannot return to their homes. We have--you
8 heard from Ms. Romanova, you heard emotionally show how much
9 this conflict has affected her and her company, her family,
10 and their employees.

11 Those are facts. Those are affecting how the
12 company operates here in the United States. You also have a
13 U.S. industry that, notwithstanding a slight downturn,
14 still made 6 percent. You have a U.S. industry that still
15 is operating above where it was in the past. And you have a
16 U.S. industry that compared to the POI is operating at
17 higher margins than it was.

18 This is not 1996. We don't have 630,000 tons
19 ready to come to Ukraine. It's not even 2008 when 175,000
20 tons came when there were shortages in the U.S. market, when
21 high prices suggested that that was a good thing for the
22 Ukrainian industry, which was not entirely controlled by
23 Metinvest at that time to do.

24 I respectfully submit that in this circumstance,
25 material injury to the U.S. industry is not likely. On all

1 these reasons, on all these facts, we respectfully ask that
2 you find a negative determination with respect to Ukraine.

3 Thank you.

4 CHAIRMAN BROADBENT: Thank you. And again I want
5 to express the Commission's appreciation to everyone who
6 participated in today's hearing.

7 The closing statement, post-hearing briefs,
8 statements responsive to the questions and requests of the
9 Commission, and corrections to the transcript must be filed
10 by October 8th, 2015. Closing of the record and final
11 release of data to the parties will be on October 29th,
12 2015. Final comments are due on November 2nd, 2015. And
13 with that, this hearing is adjourned. Thank you.

14 (Whereupon, at 4:55 p.m., Tuesday, October 29,
15 2015, the hearing was adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Cut-To-Length Carbon Steel Plate from China, Russia, and Ukraine

INVESTIGATION NOS.: 731-TA-753-754 and 756 (Third Review)

HEARING DATE: 9-29-2015

LOCATION: Washington, D.C.

NATURE OF HEARING: Third Review

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 9-29-2015

SIGNED: Mark A. Jagan
Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Duane Rice
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Larry Flowers
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