

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of:	)	Investigation Nos.:
COLD-ROLLED STEEL FLAT PRODUCTS	)	701-TA-540-544 and
FROM BRAZIL, CHINA, INDIA, JAPAN,	)	731-TA-1283-1287,
KOREA, RUSSIA AND	)	1289-1290
THE UNITED KINGDOM	)	(Final)

**REVISED AND CORRECTED**

**Pages: 1 - 334**  
**Place: Washington, D.C.**  
**Date: Tuesday, May 24, 2016**



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THE UNITED STATES  
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF: ) Investigation Nos.:  
COLD-ROLLED STEEL FLAT PRODUCTS ) 701-TA-540-544 AND  
FROM BRAZIL, CHINA, INDIA, JAPAN, ) 731-TA-1283-1287,  
KOREA, RUSSIA, AND THE UNITED KINGDOM) 1289-1290 (FINAL)

Main Hearing Room (Room 101)  
U.S. International Trade  
Commission  
500 E Street, SW  
Washington, DC  
Tuesday, May 24, 2016

The meeting commenced pursuant to notice at 9:38  
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

10

11

12

13 Staff:

14 Bill Bishop, Supervisory Hearings and Information

15 Officer

16 Sharon Bellamy, Program Support Specialist

17 Nadiya Samon, Student Intern

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19 Nathanael Comly, Investigator

20 Karen Taylor, International Trade Analyst

21 Cindy Cohen, Economist

22 Charles Yost, Accountant/Auditor

23 Michael Haldenstein, Attorney/Advisor

24 Douglas Corkran, Supervisory Investigator

25

1 Congressional Appearances:

2 The Honorable Ron Wyden, United States Senator, Oregon

3 The Honorable Sherrod Brown, United States Senator, Ohio

4 The Honorable Rob Portman, United States Senator, Ohio

5 The Honorable Peter J. Visclosky, U.S. Representative, 1st  
6 District, Indiana

7 The Honorable James E. Clyburn, U.S. Representative, 6th  
8 District, South Carolina

9 The Honorable Richard M. Nolan, U.S. Representative, 8th  
10 District, Minnesota

11

12 Embassy Appearances:

13 Embassy of India

14 Washington, DC

15 Dr. Ajay Kumar, Counselor (Commerce)

16

17 Opening Remarks:

18 Petitioners (Jeffrey D. Gerrish, Skadden, Arps, Slate,  
19 Meagher & Flom LLP)

20 Respondents (Donald B. Cameron, Morris Manning & Martin LLP)

21

22

23

24

25

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

3 King & Spalding LLP

4 Washington, DC

5 on behalf of

6 AK Steel Corporation

7 Kirk W. Reich, President and Chief Operating Officer,

8 AK Steel Corporation

9 Scott M. Lauschke, Vice President, Sales and Customer

10 Service, AK Steel Corporation

11 J.B. Chronister, General Manager, Products, AK Steel

12 Corporation

13 Stephen A. Jones and Stephen P. Vaughn - Of Counsel

14

15 Kelley Drye & Warren LLP

16 Washington, DC

17 on behalf of

18 ArcelorMittal USA LLC ("AMUSA")

19 Daniel Mull, Executive Vice President of Sales and

20 Marketing, ArcelorMittal USA

21 Gordon O'Neill, Director, Product Control, Cold-Rolled

22 Steel, ArcelorMittal USA

23 Leo Gerard, International President, United

24 Steelworkers

25

1 Michael Kerwin, Economist, Georgetown Economic  
2 Services, LLC

3 Paul C. Rosenthal, Kathleen W. Cannon and R. Alan  
4 Luberda - Of Counsel

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6 Wiley Rein LLP  
7 Washington, DC

8 on behalf of  
9 Nucor Corporation

10 John Ferriola, Chairman, Chief Executive Officer and  
11 President, Nucor Corporation

12 Rick Blume, Vice President and General Manager,  
13 Commercial, Nucor Corporation

14 Dr. Jerry Hausman, MacDonald Professor Of Economics at  
15 the Massachusetts Institute of Technology

16 Alan H. Price, Timothy Brightbill and Daniel B. Pickard  
17 - Of Counsel

18

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1 Schagrin Associates

2 Washington, DC

3 on behalf of

4 Steel Dynamics, Inc.

5 Barry Schneider, Senior Vice President of Flat-Rolled  
6 Products, Steel Dynamics, Inc.

7 Tommy Scruggs, Manager of Sales and Marketing, Steel  
8 Dynamics, Inc.

9 Roger B. Schagrin, Christopher T. Cloutier and Paul W.  
10 Jameson - Of Counsel

11

12 Skadden, Arps, Slate, Meagher & Flom LLP

13 Washington, DC

14 on behalf of

15 United States Steel Corporation

16 Mario Longhi, President and Chief Executive Officer,  
17 United States Steel Corporation

18 Douglas R. Matthews, Senior Vice President of  
19 Industrial, Service Center and Mining Solutions, United  
20 States Steel Corporation

21 Robert Y. Kopf, General Manager, Revenue Management,  
22 United States Steel Corporation

23 Jeffrey D. Gerrish, Nathaniel B. Bolin - Of Counsel

24

25

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

3 Morris Manning & Martin LLP  
4 Washington, DC

5 on behalf of

6 Korea Iron and Steel Association

7 Hyundai Steel Co., Ltd.

8 POSCO (collectively "Korean Producers")

9 Charles Chung, Manager, POSCO America

10 Jung Sik Kim, General Manager (Sales), POSCO America

11 Won Kim, Manager, Hyundai Steel Trade Affairs &  
12 Planning Team

13 Y.S. Bin, Vice President, Ohio Coatings Company

14 Ken Kinyo, General Manager of Black Plate Procurement,  
15 Ohio Coatings Company

16 Lori Clark, General Manager Marketing & Quality  
17 Control, Ohio Coatings Company

18 James P. Dougan, Vice President, Economic Consulting  
19 Services, LLC

20 Emma Peterson, Staff Economist, Economic Consulting  
21 Services, LLC

22 Donald B. Cameron, R. Will Planert, Julie C. Mendoza  
23 and Mary S. Hodgins - Of Counsel

24

25

1 Morris Manning & Martin LLP

2 Washington, DC

3 on behalf of

4 Companhia Siderurgica Nacional

5 CSN LLC (collectively "CSN")

6 Julie C. Mendoza, Donald B. Cameron, R. Will Planert

7 and Mary S. Hodgins

8

9 Sidley Austin LLP

10 Washington, DC

11 on behalf of

12 Nippon Steel & Sumitomo Metal; JFE Steel Corporation; Kobe

13 Steel Ltd. and Nisshin Steel Co., Ltd. (collectively

14 "Japanese Mills")

15 Tadaaki Yamaguchi, President, JFE Steel Americas, Inc.

16 Scott Davidson, Vice President and General Manager,

17 Nippon Steel & Sumikin Bussan Americas, Inc.

18 Donald T. Cassidy, Purchasing Manager, American

19 Nickeloid Company

20 Hideki Hara, General Manager, Trade Administration

21 Division, Nippon Steel & Sumitomo Metal Corporation

22 Jun Akiba, Manager, Nippon Steel & Sumitomo Metal

23 U.S.A., Inc.

24 Takeshi Esumi, Staff General Manager, JFE Steel

25 Corporation

1           Manabu Anada, Deputy General Manager, Kobe Steel, Ltd.

2           Richard Weiner, Neil R. Ellis, Brenda A. Jacobs and

3           Rajib Pal - Of Counsel

4

5           Husch Blackwell LLP

6           Washington, DC

7           on behalf of

8           Chinese Respondents

9           Jeffrey S. Neeley and Cortney O. Morgan - Of Counsel

10

11          Steptoe Johnson LLP

12          Washington, DC

13          on behalf of

14          Tata Steel IJmuiden BV

15          Tat Steel UK Ltd.

16          Chris McCarthy, Tata Steel International (Americas),

17          Inc.

18          Bruce Malashevich, President, Economic Consulting

19          Services, LLC

20          Richard O. Cunningham and Joel D. Kaufman - Of Counsel

21

22

23

24

25

1 Crowell & Moring LLP

2 Washington, DC

3 on behalf of

4 Severstal Export GmbH

5 PAO (collectively "Severstal")

6 Daniel J. Cannistra and Benjamin Caryl - Of Counsel

7

8 Cameron LLP

9 Washington, DC

10 on behalf of

11 Liberty Performance Steels Ltd. ("Liberty")

12 Alexander W. Sierck and Galina Gurok - Of Counsel

13

14 Davis & Leiman P.C.

15 Washington, DC

16 on behalf of

17 JSW Steel Ltd. ("JSW Steel")

18 JSW Steel Coated Products Ltd. ("JSW Coated Products")

19 James P. Dougan, Vice President, Economic Consulting

20 Services, LLC

21

22

23

24

25

1 Vorys, Sater, Seymour and Pease LLP

2 Washington, DC

3 on behalf of

4 Stemcor USA, Inc. ("Stemcor")

5 Frederick P. Waite and Kimberly R. Young - Of Counsel

6

7 Rebuttal/Closing Remarks

8 Petitioners (Paul C. Rosenthal and Kathleen W. Cannon,

9 Kelley Drye & Warren LLP)

10 Respondents (Neil R. Ellis, Sidley Austin LLP)

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## 1 P R O C E E D I N G S

2 (9:38 a.m.)

3 MR. BISHOP: The room will now come to order.

4 CHAIRMAN BROADBENT: Good morning. On behalf of  
5 the U.S. International Trade Commission I welcome you to  
6 this hearing on Investigation Number 701-TA-540 to 544 and  
7 731-TA-1283 to 1287 and 1289 to 1290. It's a final  
8 involving Cold Rolled Steel Flat Products from Brazil,  
9 China, India, Japan, Korea, Russia and the United Kingdom.

10 The purpose of these investigations is to  
11 determine whether an industry in the United States is  
12 materially injured or threatened with material injury by  
13 reason of less than fair value imports of cold rolled steel  
14 from those countries and from subsidized imports from  
15 Brazil, China, India, Korea and Russia.

16 Documents concerning this hearing are available  
17 at the public distribution table. Please give all prepared  
18 testimony to the Secretary and do not place it on the public  
19 distribution table.

20 All witnesses must be sworn in by the Secretary  
21 before presenting testimony. I understand that parties are  
22 aware of time allocations, but if you have any questions  
23 about time, please ask the secretary.

24 Speakers are reminded not to refer to business  
25 proprietary information in their remarks or in answers to

1 questions. Please speak clearly into the microphone and  
2 state your name for the record so that the court reporter  
3 knows who is speaking.

4 If you will be submitting documents that contain  
5 information you wish classified as business confidential  
6 your request should comply with Commission Rule 201.6.

7 This is the first of three or four hearings we  
8 will have this summer on steel-related products. Global  
9 steel trade has been the subject of much discussion by the  
10 administration and foreign governments and the industry.  
11 It's not surprising given the magnitude of the steel  
12 markets.

13 By way of introduction, the U.S. market for cold  
14 rolled steel, the subject today is one of the largest that  
15 we have considered within the context of the antidumping and  
16 countervailing duty investigations. There is total  
17 consumption in this market of almost \$20 billion in 2015.  
18 The industry employs over 11,000 workers in at least 15  
19 states.

20 This case which focuses on imports from seven  
21 countries deals with a number of complex legal issues  
22 including whether certain imports are negligible, whether  
23 imports should be cumulated, and whether critical  
24 circumstances should be applied.

25 I think it will be a long day, so I hope you all

1 are comfortable in our hearing room.

2 Mr. Secretary, are there any preliminary matters?

3 MR. BISHOP: Yes, Madam Chairman. With your  
4 permission we will add Frederick P. Waite and Kimberly R.  
5 Young, counsel with Vorys, Sater, Seymour and Pease to the  
6 panel in opposition to the imposition of antidumping and  
7 countervailing duty orders.

8 CHAIRMAN BROADBENT: Thank you, Mr. Secretary.  
9 Will you please announce our first Congressional witnesses?

10 MR. BISHOP: Our first Congressional appearance  
11 is the Honorable Sherrod Brown, United States Senator, Ohio.

12 CHAIRMAN BROADBENT: Welcome, Senator Brown.

13 STATEMENT OF SENATOR SHERROD BROWN

14 SENATOR BROWN: Thank you, Madam Chairman. It's  
15 good to be back in front of the ITC. Thank you for your  
16 public service. You all provide for this country in the  
17 work you do on such extraordinarily important issues. I  
18 thank you for the opportunity to testify on behalf of the  
19 entire U.S. flat-rolled steel industry and the more than  
20 8,000 workers in my state alone represented by the  
21 petitioners in the three flat-rolled steel product cases  
22 before the Commission. And I'd like to speak to all three  
23 if I could.

24 Just last month I testified in this room before  
25 Ambassador Froman and Deputy Secretary Andrews on the state

1 of the global steel industry and the state of the domestic  
2 industry.

3 My message today is the same as my message was  
4 then. Our steel companies are critical to our national  
5 security, to our infrastructure, to our global  
6 competitiveness. Most of all they're critical to our  
7 economy because they provide tens of thousands of Americans  
8 with good, middle-class jobs. But our manufacturers are  
9 struggling in the face of the dumped and subsidized imports.  
10 We must do everything we can to provide them the model they  
11 need to compete or we will see thousands more workers join  
12 the more than 14,000 who have already been laid off. That  
13 includes using our trade remedy laws to stop the flood of  
14 unfairly traded imports and imposing additional duties to  
15 level the playing field for our competitors. That's where  
16 you as Commissioners come in.

17 The Commission plays a critical role in enforcing  
18 U.S. trade laws by determining whether the domestic industry  
19 has been injured by the imports in question. You're being  
20 asked to examine injury in the flat-rolled steel sector in  
21 three cases on cold-rolled, on corrosion-resistant and on  
22 hot-rolled steel flat products. I know the case before you  
23 today is only the cold-rolled petition, but I hope you'll  
24 allow me the opportunity to speak to all three since I might  
25 be unable to testify at the other two hearings.

1           It's clear that the domestic flat product steel  
2 sector has met the statutory definition for injury in all  
3 three cases. Steel imports are causing serious harm to our  
4 industry. We are seeing it in terms of import volumes,  
5 those imports' effect on prices, and their impact on  
6 domestic producers. Even though domestic demand for  
7 flat-rolled products is up, U.S. steel manufacturers are  
8 experiencing decreased market share, declining prices, shut  
9 downs or production curtailments in consolidation and  
10 restructuring in the sector. Yet overall employment and  
11 hours worked dropped. In fact, since January a year ago, a  
12 year and a half ago, the U.S. shed 14,000 jobs in the steel  
13 sector; 1,500 of those jobs have been lost in Ohio, in the  
14 state that the I and Senator Portman, who will testify in a  
15 moment, represent almost entirely in Warren and Canton and  
16 Youngstown, and Lorraine. Fifteen hundred families  
17 struggling to get by, trying to figure out what's next for  
18 them. That's four communities wondering whether the layoffs  
19 are permanent and what the future holds for them.

20           But the problem is bigger than the thousands of  
21 Ohioans who have lost their jobs. Two thousand are out of  
22 work in Granite City, Illinois, and 1,100 lost their jobs  
23 when the Ashland, Kentucky facility closed. Fairfield,  
24 Alabama is struggling from the loss of 1,400 jobs at one  
25 mill.

1           I don't know a better way of demonstrating injury  
2 than pointing to the idled or boarded-up factories that were  
3 forced to shut down due to a surge in unfairly traded  
4 imports. The workers in Lorraine, Ohio, where I used to  
5 live for a decade, are wondering where their next paycheck  
6 will come from. Those are the faces of the harm caused by  
7 imports. The longer the dumped and subsidized steel imports  
8 are allowed to come into the U.S. market unchecked, the  
9 lower prices will slide, the harder it will be for American  
10 companies to stay afloat.

11           We know what happens once unfairly traded imports  
12 have taken their toll. We've seen it in the tire industry  
13 and I've testified to this Commission on that issue. We've  
14 seen it in paper. We've seen it before in the steel  
15 industry a decade ago. First the layoffs are temporary and  
16 steel mills are idled. Then the period of idling gets  
17 extended a few more times, then more workers are laid off,  
18 finally the mill is closed for good. When that mill  
19 shutters, supply chains shrink, jobs connected to the mill  
20 are lost too. The community is devastated, the U.S. loses  
21 another part -- another part of our manufacturing sector  
22 forever.

23           That's what our trade laws are supposed to  
24 prevent. When our foreign competitors use unfair trade  
25 practices to get ahead to put our companies out of business,

1 our trade laws are supposed to provide the relief necessary  
2 to level the playing field. That's all we ask for, a level  
3 playing field. American companies can compete if we give  
4 them the chance. Take ArcelorMittal located five or six  
5 miles from where I live in Cleveland. They are one of the  
6 petitioners in the case before you. At the ArcelorMittal  
7 facility in Cleveland they make hot-rolled and cold-rolled  
8 products among others. It's recognized as one of the most  
9 productive steel facilities, not just in my state or in our  
10 country, but in the world because it produces one ton of  
11 steel in a little more than one worker hour. Think about  
12 that. We have workers in Cleveland, Ohio who can make a ton  
13 of steel in just about an hour.

14 ArcelorMittals' Cleveland facility is proof that  
15 our steel companies and steel workers can compete against  
16 anyone anywhere, but they can't compete against dumped and  
17 subsidized imports.

18 In your preliminary determinations of the  
19 cold-rolled, corrosion-resistant, and hot-rolled cases, one  
20 of which is in front of you today, but all three of those  
21 cases will be, you found the domestic industry has been  
22 materially injured or was threatened with material injury by  
23 the imports in question. I urge you to draw the same  
24 conclusion in your final determination. The facts support  
25 that decision. More than 5,000 workers in my state depend

1 on it.

2 Thank you so much.

3 CHAIRMAN BROADBENT: Thank you.

4 SENATOR BROWN: Thank you all.

5 CHAIRMAN BROADBENT: Are there any questions for  
6 Senator Brown?

7 (No response.)

8 CHAIRMAN BROADBENT: Okay. No questions. Thank  
9 you, sir.

10 MR. BISHOP: Our next Congressional witness is  
11 the Honorable Rob Portman, United States Senator, Ohio.

12 CHAIRMAN BROADBENT: Welcome, Senator Portman.

13 STATEMENT OF SENATOR ROB PORTMAN

14 SENATOR PORTMAN: Thank you, Madam Chairman.

15 It's good to be here. I was just here about a month ago in  
16 this very room talking about this same issue. I'm going to  
17 focus a little more on the specific issue before us today  
18 which is material injury. But I will say that as Senator  
19 Brown has just noted, what we talked about a month ago is  
20 still true. We're in crisis in our steel industry in Ohio  
21 and around the country. And I'm here to speak on behalf of  
22 the steel workers in Ohio and on all three of the cases.  
23 Those workers who are producing cold-rolled steel,  
24 corrosion-resistant steel, and hot-rolled steel.

25 These ongoing investigations are absolutely

1 critical to Ohio and to our entire economy of this country  
2 because of the American steel industry being in that crisis.

3 We produce the best steel in the world with the  
4 most productive workforce and yet last year more than 13,000  
5 steel workers around the country were laid off. And as Sher  
6 Brown has just said, nearly 1,500 of those were in Ohio.

7 These layoffs are, of course, devastating for the  
8 families of these hard-working steel workers, but also in  
9 the communities where they live. Senator Brown talked some  
10 about that and the supply chain and other effects.

11 Lorraine, Ohio is a good example of this.  
12 Lorraine is home to both Republic and U.S. Steel. In the  
13 last year the companies have been forced to lay off about  
14 1,200 steel workers in one town, Lorraine. This has had a  
15 huge impact on that community. Brian Sealy who is a former  
16 employee of Republic actually now works for the USW calls  
17 this the darkest period that Lorraine has ever seen. He  
18 points out that the effects of the layoffs are well beyond  
19 the workers themselves. As he says, and I quote, "You're  
20 going to have 1,200 people out of work, that's a devastation  
21 for the community. It's going to affect everything, bussing  
22 system on down the line because people aren't going to be  
23 able to go anywhere." So I think he says it well. It's  
24 devastating.

25 It's hard enough for families today in Ohio and

1 around the country to make ends meet. Working families are  
2 experiencing a middle-class squeeze where wages are flat and  
3 even declining on average and yet expenses like health care  
4 are up. This is on top of that. The major reason these  
5 layoffs are happening, in my view, is because the U.S.  
6 market is being flooded with unfair imports.

7 Take for example just the steel at issue in these  
8 three cases. From 2013 to 2015 U.S. imports of cold-rolled  
9 steel increased by 110 percent. Imports of hot-rolled steel  
10 doubled and imports of corrosion resistant steel increased  
11 by 75 percent. That's just in two years.

12 And these increases continue. Last year China  
13 exported a record high 112 million tons of steel. This  
14 year, despite China's assurances that production would be  
15 cut, its largest listed steel maker plans to increase output  
16 by 20 percent.

17 I'm confident that when you review the record in  
18 each of these cases you will find that domestic producers  
19 have suffered material injury by reason of unfair trade.

20 Unfairly pitted imports not only prevented  
21 domestic producers from taking full advantage of the  
22 stronger demand conditions in 2014 but contributed to a  
23 dramatic decline in prices in 2015. The results have been  
24 disastrous.

25 Last year, for example, U.S. producers of

1 cold-rolled steel suffered a net loss of \$162.4 million.  
2 U.S. producers of corrosion-resistant steel suffered a net  
3 loss of \$77.6 million.

4           Rather than repeat good arguments that are made  
5 by the petitioners about why there is material injury in  
6 these particular cases, Madam Chair, I would like to talk  
7 instead about the role of this Commission in U.S. trade  
8 policy and to explain why those of us in Congress recently  
9 clarified and improved the material injury standard that you  
10 will be applying all three of these cases.

11           In the world of trade litigation, just delayed is  
12 justice denied. Trade relief can be effective, and by the  
13 way, we're already seeing signs following the Commerce  
14 Department's preliminary determinations that the cases  
15 before you are making a difference for U.S. mills. But  
16 trade relief cannot bring back the profits that were already  
17 lost due to unfair trade. It cannot bring back the income  
18 workers lose when they're laid off, or the cost companies  
19 must pay when idling a plant. It cannot make up for the  
20 investments a company are unable to make or the product they  
21 can't develop while waiting for relief to occur. And often  
22 trade relief cannot bring back the jobs that are lost.

23           Last October Blake Arnett from Bidwell, Ohio  
24 wrote to me worrying about potential layoffs at A.K. Steel  
25 across the river in Ashland. Unfortunately, his concerns

1 turned out to be well-founded. In December 620 workers were  
2 laid off including a lot of Ohio workers.

3 Around the same time I received a letter from  
4 Jeff Massey from Kitts Hill, Ohio who also worked at A.K. in  
5 their Ashland facility. Jeff has been able to keep his job  
6 so far, but he says he goes to work every day wondering if  
7 he's going to have a job at the end of it, wondering how the  
8 government could sit back and watch as illegal dumping  
9 destroyed an entire industry and an entire community.

10 And his concerns aren't unfounded. In Jeff's  
11 neighborhood alone, one neighborhood, five people have  
12 already lost their homes as a result of the steel crisis.

13 These stories show why it's critical that when  
14 unfairly traded imports are hurting a domestic industry our  
15 producers must be able to obtain relief in a timely manner.  
16 For this reason U.S. law has long defined material injury  
17 as, quote, "harm which is not inconsequential, immaterial,  
18 or unimportant." End quote. That's it. That's all the  
19 domestic industry has to show.

20 If an industry suffered harm, which is not  
21 inconsequential and material or unimportant, or if it's  
22 threatened with such harm, and this harm or threat of harm  
23 is by reason of imports, then the industry is entitled to  
24 relief.

25 In recent years, however, many of my colleagues

1 and I have heard from our constituents, including  
2 constituents from the steel industry that they hesitated to  
3 use the trade laws until they were severely injured. Some  
4 worried about bringing trade cases during the period of  
5 rising demand. This hesitancy only allows for material  
6 injury to continue and undermines the effectiveness of our  
7 trade laws. That's why last year as part of the Trade  
8 Preferences Extension Act of 2015 Congress acted to clarify  
9 the material injury standard by passing the Level the  
10 Playing Field Act. I along with Senator Sherrod Brown led  
11 this effort and worked with our colleagues to pass this  
12 measure on the Senate floor and get it to the President for  
13 his signature.

14 Our Level the Playing Field Act was meant to  
15 ensure that domestic producers can get relief faster and  
16 more effectively. They don't have to wait until plants are  
17 shuttered and workers are laid off to get that relief.

18 I now urge the Commission to pay very close  
19 attention to two provisions in that statute. First, we made  
20 clear that the Commission may not determine that there is no  
21 material injury or threat of material injury due to a  
22 domestic industry merely because that industry is  
23 profitable, or because the performance of that industry has  
24 recently improved. There may be many cases, particularly in  
25 periods of strong demand where domestic industry remains

1 somewhat profitable even though its profitability is  
2 diminished by the harmful impact of unfair trade. This new  
3 provision makes clear that was -- what was in my view  
4 already present in the law, that domestic producers do not  
5 have to wait until they are losing money and jobs and market  
6 share to seek and obtain trade relief.

7 We also made clear that the Commission should  
8 consider a broad set of economic data that reflects the  
9 real-life performance of the domestic industry such as the  
10 industry's net profits, its ability to service its debt, its  
11 investments into technologies, its investments in R&D.

12 Sometimes unfair trade may drive down an  
13 industry's operating income. In other cases the industry's  
14 operating income may remain stable while other aspects of  
15 its performance such as its net income or its ability to pay  
16 its debt may suffer. The intent of Congress is that the  
17 Commission should be sensitive to the effects of unfair  
18 trade wherever they are found.

19 I know this Commission to be a diligent and  
20 thoughtful body that's been given a great responsibility by  
21 Congress. The responsibility to enforce our antidumping and  
22 countervailing duty laws in a manner that will lead to a  
23 better and fair market competition. In fulfilling that  
24 important responsibility I urge you to pay close attention  
25 to our recent clarification of the injury standard and to

1 ensure that our laws are being strictly enforced. Otherwise  
2 we risk encouraging further market distorting practices by  
3 foreign competitors.

4           Madam Chairman, our steel workers are producing  
5 the highest quality product anywhere and more efficiently  
6 than ever. And they've worked with management and made  
7 concessions to be competitive. And they are competitive, if  
8 it's fair. They're doing their part, we must do our part  
9 and protect them from the unfair and dishonest foreign  
10 competition that threatens their livelihoods and communities  
11 all across Ohio.

12           I've been to these steel mills, I've met with  
13 these steel workers whose jobs are affected. If you give  
14 them a level playing field, they'll be just fine. So I urge  
15 the Commission today to use the tools we gave you and level  
16 the playing field and recognize that material injury is a  
17 fact that's suffered by the petitioners in each of these  
18 three cases.

19           Thank you, Madam Chairman.

20           CHAIRMAN BROADBENT: Thank you, Senator Brown ---  
21 I mean, Senator Portman. Are there any questions for  
22 Senator Portman?

23           (No response.)

24           CHAIRMAN BROADBENT: Thank you, very much.

25           MR. BISHOP: Our next Congressional witness is The

1 Honorable Peter J. Visclosky, United States Representative,  
2 First District, Indiana.

3 CHAIRMAN BROADBENT: Welcome.

4 STATEMENT OF REPRESENTATIVE PETER J. VISCLOSKY

5 REPRESENTATIVE VISCLOSKY: Thank you very much,  
6 Chairwoman, and Members of the Commission. It is good to be  
7 back again. And I do appreciate the opportunity very much.

8 On May 17th, the Commerce Department found that  
9 critical circumstances exist relative to the trade in steel  
10 for China and Japan. I would suggest to the Commission that  
11 critical circumstances exist in the steel industry in our  
12 Nation from an economic standpoint and for our national  
13 defense.

14 As always, I do believe that the Commission will  
15 look at the evidence presented today thoughtfully and in an  
16 exacting fashion, and will follow the law, including the new  
17 Trade Preferences Extension Act that was passed this past  
18 year.

19 I do want to present, and understand it is now  
20 part of the record, a letter that has been forwarded to the  
21 Commission by Chairman Tim Murphy, myself, and 78 other  
22 Members of the Caucus. The emphasis is the damage that has  
23 been done, the material injury that has been suffered by  
24 over 13,500 Americans who have lost their jobs over the  
25 course of the last year.

1           It is a misleading statistic because it doesn't  
2       emphasize the individual nature of the dislocation for each  
3       one of those 13,500 individuals. So there are critical  
4       circumstances that exist today. I appreciate that you  
5       understand that and will take that into consideration and,  
6       as always, appreciate the opportunity to testify before you  
7       today.

8           CHAIRMAN BROADBENT: Are there any questions for  
9       the Congressman?

10           (No response.)

11           CHAIRMAN BROADBENT: No? Thank you, very much.

12           REPRESENTATIVE VISCLOSKY: Thank you very much.

13           MR. BISHOP: Our next Congressional witness is The  
14       Honorable Richard M. Nolan, United States Representative,  
15       Eighth District, Minnesota.

16           CHAIRMAN BROADBENT: Welcome, Mr. Nolan.

17           STATEMENT OF REPRESENTATIVE RICHARD M. NOLAN

18           REPRESENTATIVE NOLAN: Thank you. And good  
19       morning. And with your permission I would like to ask  
20       consent that my formal remarks become a part of the record.

21           CHAIRMAN BROADBENT: Yes, without objection.

22           REPRESENTATIVE NOLAN: And if it's alright, I will  
23       try to be concise and ad lib a little bit here.

24           I would like to begin by thanking the Commission  
25       for devoting a great portion of your distinguished careers

1 to doing, analyzing, and considering these incredibly  
2 important petitions. And in this particular case, against  
3 what many of us would refer to it as illegal steel dumping  
4 by China and seven other nations.

5 And I am here to urge you in the strongest tone  
6 possible to approve these tariffs and these taxes, and to  
7 make them permanent.

8 The inescapable truth here is really that our  
9 national security and our national economy are so dependent  
10 upon mining, on steel, and on manufacturing. And I don't  
11 know if you are all--I trust you are--but I just want to  
12 remind you of the recent Homeland Security study that was  
13 done on the importance of a seemingly not-all-that-important  
14 little issue, which is the pole locks connecting Lake  
15 Superior to the Great Lakes and the St. Lawrence Seaway.

16 Homeland Security did a study and they found that  
17 13 percent of the Nation's gross national product goes  
18 through that obsolete lock. And, that were that lock to  
19 fail, it would throw the country into a depression. And why  
20 is that lock so important?

21 Well, it is Lake Superior's entry into those  
22 Great Lakes. And the bulk of the goods going through that  
23 lock come from the iron range of Minnesota, through the Port  
24 of Duluth, taconite and iron ore, as well as agricultural  
25 and western coal and some other goods. But the bulk of it,

1 the single largest product going through that is iron ore.

2 And why is that so important? Well, because it  
3 supplies the steel mills of the Great Lakes. They in turn  
4 supply the automobile industry and all the industrial  
5 manufactured goods of the Great Lakes' economy, which they  
6 say, were it to be a nation in itself would be like the  
7 third or fourth largest economy anywhere in the world.

8 So it is clear that what happens in mining and  
9 steel is not just important for one or another of the many  
10 little segments of our national economy, but it is critical  
11 for the success of our entire economy. And obviously  
12 critical for our national security as well, which is why  
13 they have a Military contingency protecting that lock  
14 against any kind of isometric, let alone overt warfare. The  
15 lock is aged and deteriorating and we've done some things in  
16 the Congress and in the Administration to upgrade it. In  
17 fact we just got a feasibility study to rebuild it because  
18 of its importance.

19 Well, it could be rendered ineffective by any  
20 number of ways. One would be, you know, an act of terrorism  
21 or warfare. It could be affected by obsolescence. It could  
22 be also affected by the abandonment of our mining and steel  
23 industry in this country. And any one of the three  
24 instances, the study concluded, would have disastrous  
25 consequences for our economy.

1           So at the end of the day, the simple truth really  
2           is that with a level playing field, with a level playing  
3           field, we can compete with anyone in the world. And make no  
4           mistake about it, American steel is the gold standard. I  
5           have actually sold American steel and tubular and other  
6           goods around the world. While I am a Member of the Congress  
7           of the United States, I spent 32 years of my life in export  
8           trading. So I do know a little bit about that.

9           But it is also another true that we can't  
10          compete, nor can anyone compete with state-owned,  
11          not-for-profit companies that are selling product below what  
12          it costs even them to produce.

13          And I would like to divert, if I can, for just a  
14          minute here and remind the Commission of this: Unbelievable  
15          progress was made in this country in the last generation or  
16          two. In my grandfather's time, the life expectancy was 47.  
17          Today it is almost 80. You know, historians may look at  
18          that as some of the greatest accomplishments in the history  
19          of human kind.

20          Well how did that happen? I mentioned I spent 32  
21          years in business. Now as a business person, I know the  
22          reality of--and I'm not complaining about it--but I know the  
23          reality of having to pay Social Security, and having to pay  
24          Medicare, and having to pay Unemployment, and having to pay  
25          Workers Comp, and having to pay liability for this, and

1 liability for that, and comply with the EPA standard, and  
2 the OSHA standard, and the Consumer Protection standard, and  
3 to pay living wages, and to pay health care, and to pay  
4 retirement benefits, when you haven't done any business yet,  
5 or you haven't made a buck.

6 Well, all those things are what, you know, made  
7 the greatest middle class in the history of the world.  
8 Doubled life expectancies. Made our country the strongest  
9 economy in the world, one that everyone wanted to emulate.  
10 And then, you know, after all that's been accomplished, to  
11 come along and say now we have to trade and do business with  
12 people that don't have to do any of that?

13 Well that's not going to work. That is a race to  
14 the bottom. And that is what this is all about. I am a  
15 trader. I believe in trade. Mr. Williams can tell you, I  
16 am former chairman of one of the world's largest  
17 private-sector trade policy committees. So I believe in  
18 trade.

19 But it has to be fair. And we have to do what is  
20 in our best economic and national security interests. And  
21 make no mistake about it, the current policies have been  
22 devastating. There are tens of thousands of workers in the  
23 steel and mining industry that have been placed out of work.  
24 In my District, you know, small towns have closed their  
25 grocery stores and closed their pharmacies, and the service

1 companies, not to mention the several thousand steel workers  
2 who are out of work, and the devastating effect that has had  
3 on their families and their children and their educational  
4 aspirations, and the impact that it has had on even things  
5 like the food shelves, and the contributions to the local  
6 charitable organizations where more help and assistance is  
7 needed than ever before, but It just so happened that many  
8 of the people employed in mining and steel were very  
9 generous to the charitable organizations and now they don't  
10 have any money to contribute because they've lost their jobs  
11 and they are in need of help.

12 Dennis McDonough, the President's Chief of Staff,  
13 came out to Minnesota and he saw first-hand how devastating  
14 the effects of all this illegal steel dumping is having on  
15 the economy. And, quite frankly, McDonough and the  
16 President became converts, I believe, to our cause.

17 And since that time, nary a day has gone by where  
18 they haven't tried to do something, you know, increasing the  
19 personnel at Commerce to help process these claims through  
20 the Enforce Act. You know, beefing up Customs to kind of,  
21 to do a better job at catching the cheating that takes place  
22 that I'm sure you're all aware of. The Trade Ambassador  
23 jawboning with China and these other nations to stop their  
24 excess production.

25 And they have been doing, in my judgment, a

1       wonderfully good job. In fact there's a phrase that is  
2       being heard throughout Minnesota's iron range, and that is  
3       the day the President's Chief of Staff came up there and  
4       learned about all this first-hand, as one of the leading  
5       mining executives has said, is the day that changed  
6       everything.

7                 It changed everything in the sense that ore  
8       prices have started to go up from the \$40 low of a year ago.  
9       They're up to \$60. Production is increasing from 60 to 75  
10      percent. In the neighborhood of 1,000 workers up on our  
11      iron range have been called back to work. And so there is  
12      still a lot of pain, a lot of damage, and a lot of  
13      suffering, but there is a lot of hope based on what the  
14      President and his Administration are doing here.

15                And so I am here to urge you in the strongest  
16      language possible to keep that progress going forward, to  
17      approve these petitions that are being considered here today  
18      so that the recovery which is in its infancy can also be  
19      made permanent and we can revitalize and get back our steel  
20      and mining industry, and our manufacturing back to full  
21      capacity.

22                So thank you very much for the opportunity.  
23      Thank you for the great work that you do in considering and  
24      analyzing these petitions. And I hope that you will make  
25      them permanent. Thank you, very much.

1                   CHAIRMAN BROADBENT: Are there any questions for  
2 Mr. Nolan?

3                   (No response.)

4                   CHAIRMAN BROADBENT: Thank you very much, Mr.  
5 Nolan. We really appreciate your statement.

6                   REPRESENTATIVE NOLAN: Thank you.

7                   MR. BISHOP: Our next Congressional witness is  
8 The Honorable James C. Clyburn, United States  
9 Representative, Sixth District, South Carolina.

10                  CHAIRMAN BROADBENT: Welcome, Congressman Clyburn.  
11 We're glad to have you here today.

12                  STATEMENT OF REPRESENTATIVE JAMES E. CLYBURN

13                  REPRESENTATIVE CLYBURN: Thank you very much,  
14 Madam Chair, Members of the Commission.

15                  Thank you for giving me the opportunity to  
16 participate today. I am Jim Clyburn and I proudly represent  
17 the Sixth Congressional District of South Carolina, and  
18 serve as the Assistant Democratic Leader in the United  
19 States House of Representatives.

20                  The Sixth District includes all or parts of 15 of  
21 South Carolina's 46 counties. I understand that at least  
22 three of the Commissioners have recently paid a visit to the  
23 Berkeley facility, and I hope that while you were there you  
24 got an opportunity to go to downtown Charleston and enjoy  
25 some of our local country cuisine and other libations that

1 we enjoy in Charleston. And I don't come today to apologize  
2 for how you may have felt the morning after.

3 (Laughter.)

4 REPRESENTATIVE CLYBURN: Of course the Southern  
5 hospitality is there and it is legendary. I also hope that  
6 you took some time to interact with some of the hardworking  
7 people who make the Berkeley facility run.

8 I know that many of them told you how important  
9 Berkeley is to the local economy. It is an economy that has  
10 made significant strides since the steel industry arrived.

11 I have spent a lot of time recently reflecting on  
12 the Presidency of Lyndon Johnson. During 2015, we  
13 celebrated quite a few 50th anniversaries of landmark laws,  
14 laws that made education more attainable, health care more  
15 affordable, voting more accessible, housing more available,  
16 immigration more equitable, and the environment cleaner.

17 When Lyndon Johnson conceived the War on Poverty  
18 he could have had my District in mind. Parts of South  
19 Carolina's Sixth District have been locked beneath the  
20 poverty level for multiple generations.

21 I believe government can and must play a role in  
22 fighting poverty. And by far the most important weapon in  
23 the War on Poverty is a good-paying job that allows  
24 individuals to buy a home, educate their children, and live  
25 out their golden years in dignity. These are exactly the

1 kind of jobs the Nucor Plant in Berkeley provides.

2           The 940 Nucor jobs alone would make a big  
3 contribution to our local economy, but a plant like Berkeley  
4 creates a ripple effect throughout the region, supporting  
5 hundreds of local businesses, as well as our schools and  
6 municipalities.

7           For an area like eastern South Carolina, strong  
8 manufacturing jobs are the difference between poverty and  
9 prosperity. The impact of a mill like Berkeley goes far  
10 beyond its gates. The plant is a major part of our local  
11 community.

12           It is involved in all sorts of ways, from  
13 providing laptops to local schools, to partnering in  
14 antipoverty programs like the East Cooper Community  
15 Outreach. Perhaps more importantly, the success of a  
16 facility like Berkeley provides visible proof to our  
17 children and grandchildren that hard work pays off; that  
18 having a job means more than just a paycheck. It is a  
19 source of dignity, pride in oneself, and one's community.  
20 And, a belief that the American Dream is still achievable.

21           Nucor's decision to build a mill in Berkeley  
22 County made a lot of sense to me. There are great  
23 transportation links, easy access to raw materials, and most  
24 importantly a dedicated, conscientious workforce, everything  
25 a steel mill needs to be globally competitive.

1           Working together, the company and the community  
2           have created a mill that can out-compete any steel producer  
3           in the world if there is a level playing field.

4           Unfortunately, the playing field has been  
5           anything but level. The Commerce Department has found the  
6           steel producers from the countries you are investigating are  
7           dumping their cold-rolled steel in the United States.

8           Many of these producers have also received  
9           subsidies from their government. They have taken sales away  
10          from our domestic industry--not by being competitive, but by  
11          breaking international rules.

12          I and the people of Berkeley, South Carolina,  
13          have seen the impact of this first hand. Everyone at Nucor  
14          is paid on the basis of performance. The more steel they  
15          make, the more money they earn.

16          When unfairly traded imports take sales away from  
17          the United States, they literally take money out of the  
18          pockets of our workers. What is true of Berkeley is true of  
19          many steel communities across the United States.

20          These steel mills are an important pillar,  
21          sometimes the only pillar, of local economies across the  
22          country. When the mill is running, the community is  
23          prosperous. And if it closes, we know exactly what will  
24          happen. This industry has seen it.

25          In just the past year, major mills in Alabama,

1 Illinois, and Kentucky have all been forced to stop  
2 production because of the surge of dumped and subsidized  
3 imports.

4 When a mill in Granite City, Illinois, suspended  
5 operations last year, 2,000 steel workers lost their jobs.  
6 Multiply that by 7 and you start to sense the impact that  
7 the closure has had on that community.

8 I do not want to see that happen in Berkeley or  
9 any other steel communities in the United States. I have no  
10 doubt that dumped and subsidized imports from the countries  
11 you are investigating have injured the domestic cold-rolled  
12 steel industry. This injury is not theoretical.

13 In this case, and in its two companion cases, you  
14 have the opportunity to stop this injury and demonstrate to  
15 the people of South Carolina and the rest of the country  
16 that America still rewards hard work.

17 Chairman Broadbent, Commissioners Pinkert,  
18 Williamson, Johanson, Kieff, and Schmidtlein, thank you for  
19 your time and your consideration.

20 CHAIRMAN BROADBENT: Thank you, Congressman  
21 Clyburn. We really appreciate your statement.

22 Are there any questions for Congressman Clyburn?

23 (No response.)

24 CHAIRMAN BROADBENT: With that, you are dismissed  
25 and thank you very much.

1                   REPRESENTATIVE CLYBURN: Thank you.

2                   MR. BISHOP: Madam Chairman, we next have an  
3 Embassy appearance. On behalf of the Embassy of India, we  
4 are joined by Dr. Ajay Kumar, Counselor of Commerce.

5                   CHAIRMAN BROADBENT: Welcome, Mr. Kumar. We're  
6 very glad to have you here today.

7                   STATEMENT OF DR. AJAY KUMAR

8                   DR. KUMAR: Thank you, Madam Chair. Good  
9 morning, Madam Chair and Commissioners. I'm Dr. Ajay Kumar,  
10 Counselor of Commerce in the Embassy of India in Washington,  
11 D.C., testifying on behalf of the Government of India at  
12 this hearing. The Government of India wishes to take this  
13 opportunity to highlight its concerns regarding the  
14 preliminary determination of U.S. ITC relating to  
15 cold-rolled steel flat products from India.

16                   The Government of India notes with concern that  
17 even though the domestic producers do not dispute that the  
18 available data indicates that subject imports from India are  
19 below four percent negligibility threshold pertaining to  
20 countervailing duty investigations and import from  
21 developing countries, the U.S. ITC has failed to terminate  
22 the investigation against India.

23                   As per Article 11.9 of the Subsidies and  
24 Countervailing Measures Agreement, where the volume of  
25 subsidized imports actual or potential is negligible, there

1 shall be immediate termination of the investigations. The  
2 U.S. ITC has erroneously cumulated the effects of imports  
3 from India with other countries for its injury  
4 determination. In terms of Article 15.3 of the SCM  
5 agreement, where imports of the product from more than one  
6 country are simultaneously subject to countervailing duty  
7 investigations, the investigating authority may cumulatively  
8 assess the effects of such imports, subject to fulfillment  
9 of certain conditions.

10 In its preliminary determination, the U.S. ITC  
11 has found the imports from India to be eligible for  
12 cumulation in the context of material injury, but eligible  
13 for cumulation in the context of threat to material injury.  
14 Section 7771(h) of the Tariff Act permits cumulation only if  
15 the following two conditions relating to cumulation are  
16 satisfied.

17 A, the amount of subsidization established in  
18 relation to the imports from each country is more than de  
19 minimis, as defined in the paragraph nine of Article 11, and  
20 the volume of imports from each country is not negligible,  
21 and number B, a cumulative assessment of the effects of the  
22 imports is appropriate in the light of conditions of  
23 competition between the imported products and the like  
24 domestic products.

25 The Government of India submits that the Section

1 7771(h) must be read and understood in a manner consistent  
2 with Article 15.3 of the SCM agreement. Article 15.2  
3 permits cumulation only in case of material injury and not  
4 threat to material injury. The clear words of Article 15.3  
5 refers to the injurious effect of actual and present injury,  
6 and not the threat of material injury, which may happen --  
7 which may happen in the imminent and foreseeable future.

8           The article refers to present by using the  
9 explicit through all the text. It nowhere talks about talks  
10 of likely volume or likely margin or likely competition.  
11 Therefore, cumulation is not emphasized in a threat of  
12 material injury analysis.

13           The Commission in its finding has observed in  
14 contrast to the cumulation for material injury, cumulation  
15 for a threat analysis is discretionary. Under Section 7771  
16 Part 7(h) of the Tariff Act, the Commission may, to the  
17 extent practicable, cumulatively assess the volume and price  
18 effects of subject imports from all countries, as to which  
19 petitions were filed on the same day if the requirements for  
20 cumulation in the material injury context are satisfied.

21           This makes it clear that the cumulation, even in  
22 a threat analysis, is subjective fulfillment of the two  
23 conditions in the Articles 15.3. That is only those  
24 countries which qualifies for cumulation, for the material  
25 injury analysis can be cumulated for the purported threat of

1 injury.

2 Since India has been found to be ineligible for  
3 purpose of cumulative assessment in the context of material  
4 injury, it will be ineligible for cumulation in the context  
5 of threat of material injury. The preliminary determination  
6 of the Commission being inconsistent with the provisions  
7 required reconsideration insofar as it relates to India.

8 The Government of India would also like to point  
9 out that the likely volumes of imports from India is neither  
10 significant in absolute terms, nor related to conditions in  
11 the United States market. There is no foreseeable or  
12 imminent threat of injury to the domestic industry.  
13 Government of India reserves its right to raise additional  
14 facts or claims and legal matters during the course of  
15 hearing and further investigation.

16 I would like to note that we have submitted the  
17 prehearing brief, we'll be happy to provide any further  
18 information in our post-hearing submissions. Thank you  
19 Madam Chair.

20 CHAIRMAN BROADBENT: Thank you, Counselor Kumar.  
21 Yeah, Commissioner Kieff.

22 COMMISSIONER KIEFF: Thank you very much  
23 Counselor Kumar for coming and presenting your information.  
24 Thank you also for any written submissions, and we greatly  
25 benefit from these reasoned discussions, from the analysis

1 and from the data.

2 Let me just ask one follow-up question, which  
3 you are welcome to discuss now or in writing as you prefer.  
4 My question relates to the core legal argument about threat.  
5 So you've discussed a number of reasons why we should not  
6 cumulate, and you've suggested that a particular measure at  
7 a particular point in time is too low to count as current  
8 injury.

9 And so I'm asking about then the next question,  
10 what about threat and how should we assess threat? You are  
11 welcome to follow up however you would like.

12 DR. KUMAR: Thank you Commissioner Kieff. We'll  
13 be very happy to provide further information on how to  
14 calculate threat from our perspective in our post-hearing  
15 submissions. Thank you.

16 COMMISSIONER KIEFF: Thank you so much.

17 CHAIRMAN BROADBENT: Okay. Thank you very much.  
18 You're dismissed.

19 DR. KUMAR: Thank you, Madam Chair.

20 MR. BISHOP: Madam Chairman, that concludes  
21 Congressional and Embassy witnesses at this time.

22 CHAIRMAN BROADBENT: Thank you, Mr. Secretary.  
23 Let us now proceed with opening remarks.

24 MR. BISHOP: Opening remarks on behalf of  
25 Petitioners will be given by Jeffrey D. Gerrish, Skadden

1 Arps Slate Meagher and Flom.

2 OPENING REMARKS BY JEFFREY D. GERRISH

3 MR. GERRISH: Good morning Madam Chair and  
4 members of the Commission. We are here today because the  
5 domestic industry has suffered severe injury as a result of  
6 a flood of unfairly-traded imports of cold-rolled steel from  
7 Brazil, China, India, Japan, Korea, Russia and the United  
8 Kingdom. The statutory factors that the Commission normally  
9 considers have not only been met here, they have been met  
10 beyond a shadow of a doubt.

11 Imports of cold-rolled steel from all seven of  
12 the subject countries increased dramatically over the Period  
13 of Investigation, and it is clear that they compete with  
14 each other and with the domestic industry across the  
15 spectrum of cold-rolled steel products.

16 Because the law requires cumulation where as  
17 here, there's a reasonable overlap in competition, all of  
18 the subject imports should be cumulated. The facts  
19 regarding the surge in import volumes here are clear and  
20 indisputable. In absolute terms, the volume of dumped and  
21 subsidized imports increased by almost one million tons from  
22 2013 to 2014, and then remained at very high levels in 2015.

23 Over the Period of Investigation, subject  
24 imports increased by more than 137 percent. Subject imports  
25 also increased relative to U.S. consumption and production.

1 In fact, as they poured into this market, subject imports  
2 quickly took sales from the domestic industry and seized a  
3 large amount of additional market share.

4 They increased their share of the market by  
5 almost seven percentage points from 2013 to 2014 alone, and  
6 then added to that in 2015. This came at the direct expense  
7 of the domestic industry, which lost nine percentage points  
8 of market share over the same period. The result was that  
9 the domestic industry lost hundreds of millions of dollars  
10 in sales in both 2014 and 2015.

11 With respect to price, the record shows that  
12 subject imports seized this market share by undercutting the  
13 domestic industry's prices. Over 66 percent of the pricing  
14 comparisons between the domestic like product and subject  
15 imports showed under-selling by subject imports, and this  
16 accounted for 77 percent of the volume compared.

17 This pervasive under-selling resulted in rapid  
18 and substantial gains in market share for the subject  
19 imports, all at the expense of the domestic industry. The  
20 subject imports also depressed and suppressed prices for  
21 cold-rolled steel in this market. When the subject imports  
22 first surged into the United States, they took sales and  
23 gained market share.

24 As U.S. producers tried to maintain market share  
25 at the end of 2014 and into 2015, they dropped their prices

1 even further to compete with the subject imports. Over the  
2 entire Period of Investigation, but particularly from the  
3 fourth quarter 2014 to the fourth quarter of 2015, domestic  
4 cold-rolled prices plunged to unsustainably low levels.

5 The impact on the domestic industry has been  
6 devastating. Based on the favorable underlying demand for  
7 cold-rolled steel, this should have been a period of sharply  
8 increasing sales and strong profits. Instead, the flood of  
9 unfairly-traded imports from the subject countries caused  
10 the domestic industry to cut its prices drastically and to  
11 suffer declines in production, capacity utilization, sales  
12 and market share.

13 In turn, this caused the domestic industry's  
14 gross profits, operating income and operating margins to  
15 fall significantly, and the industry suffered a crippling  
16 net loss of over \$162 million in 2015. The industry has had  
17 to close plants. They have had to lay off workers. The  
18 evidence here is simply overwhelming that unfairly-traded  
19 subject imports have caused present material injury.

20 In addition to causing present material injury,  
21 the subject imports threaten additional injury. Cold-rolled  
22 steel producers in the subject countries have massive and  
23 growing excess capacity. They receive export subsidies and  
24 they are confronting difficult demand conditions and market  
25 barriers in their other markets.

1           The rapid increase in subject imports that has  
2           occurred demonstrates how quickly producers in the subject  
3           countries can increase exports to the United States, that  
4           they have a clear interest in this market. Without trade  
5           relief, there is no question that they will continue to  
6           attack this market, causing additional harm to the domestic  
7           industry.

8           The data you have collected are clear and  
9           compelling in showing that the domestic industry has  
10          suffered present material injury and is threatened with  
11          further injury. Our witnesses today will discuss their real  
12          world experiences behind the data you've collected.

13          As you will hear, the domestic industry faces a  
14          crisis of monumental proportions, a crisis created by  
15          massive excess steel capacity in the subject countries, and  
16          one that can only be stopped with trade relief. We ask you  
17          to grant this relief, and to issue an affirmative  
18          determination for all of the subject countries. Thank you.

19                   CHAIRMAN BROADBENT: Thank you.

20                   MR. BISHOP: Opening remarks on behalf of  
21          Respondents will be given by Donald B. Cameron, Morris,  
22          Manning and Martin.

23                   CHAIRMAN BROADBENT: Welcome Mr. Cameron.

24                   OPENING REMARKS BY DONALD B. CAMERON

25                   MR. CAMERON: Good morning Madam Chairman,

1 members of the Commissioner. Don Cameron. The primary  
2 question before the Commission in cold-rolled is one of  
3 causation. Is there a causal nexus between subject imports  
4 and the condition of the industry now or in the imminent  
5 future? The answer to this question is no, for several  
6 reasons.

7 First, while we agree that the Commission must  
8 focus primarily on conditions in the merchant market, that  
9 focus is not exclusive. The fundamental condition of  
10 competition in cold-rolled is that over 60 percent of  
11 cold-rolled production is captively consumed, up from 48  
12 percent in 2002. This means that the U.S. industry itself  
13 controls over 90 percent of the U.S. market.

14 In addition, as detailed in the briefs, U.S.  
15 producers' merchant market business out-performed their  
16 captive business throughout the POI. Now that's  
17 fascinating. This is not the result that one would expect  
18 if subject imports were injuring domestic producers in the  
19 merchant market.

20 Second, imports increased in 2014 driven by  
21 dislocations associated with the winter of 2014. Imports  
22 peaked in October 2014 and began a sharp decline immediately  
23 thereafter, long before the petition was filed. Even with a  
24 temporary increase in imports, 2014 was the industry's best  
25 year in several years.

1                   Moreover, during the period of increasing  
2 imports, domestic prices were increasing. During this same  
3 period the volume of non-subject imports also increased,  
4 with some of it imported by oh, the domestic producers  
5 themselves. Subject imports continued to decline in 2015,  
6 and domestic producers and others continue to import  
7 non-subject imports.

8                   Supply to the automotive sector is obviously  
9 important to the cold-rolled industry. In its brief, U.S.  
10 Steel suggests that auto production is booming, and that  
11 subject imports have prevented U.S. producers from taking  
12 advantage of this growth. Now that is not even close to  
13 being accurate. Read the purchaser questionnaires of the  
14 auto producers and see if that interpretation even remotely  
15 squares with the facts.

16                   With respect to price, there's no price  
17 depression, there's no price suppression. Prices increased  
18 when import volumes increased. In fact, the second half  
19 of 2014 was by far the industry's most profitable period in  
20 the POI. It came at a time when subject imports were at  
21 their peak. When raw material prices collapsed, they  
22 dragged down cold-rolled prices.

23                   Now the term "raw material prices" does not  
24 appear anywhere in U.S. Steel's brief, and the industry has  
25 consistently denied any relationship between raw material

1 cost and cold-rolled prices. Suffice to say that the record  
2 does not support the industry's position on this either.  
3 Raw material prices collapsed and cold-rolled prices  
4 followed.

5 But domestic prices did not fall by as much as  
6 raw material prices did, evidence that there was no price  
7 suppression. There was also significant intra-industry  
8 price competition, where there was under-selling by domestic  
9 producers of both other domestic producers and subject  
10 imports. We refer the Commission to Exhibits 14 and 15 of  
11 the Korea prehearing brief.

12 So when you combine the fact that the merchant  
13 market outperformed the captive market, which accounts for  
14 the bulk of domestic production, the fact that U.S.  
15 producers themselves are responsible for some of the  
16 non-subject imports, that U.S. producers face little  
17 competition in the auto sector, that declines in raw  
18 material costs led prices down, and the fact that  
19 intra-industry competition is a significant feature of the  
20 market, where the U.S. producers all compete on the same  
21 basis, the causal link to subject imports disappears.

22 There's no threat of injury to domestic  
23 producers either. Domestic producers' billions of dollars  
24 in recent acquisitions and investments belie any claim of  
25 vulnerability. Prices are going up both in the U.S. and

1 globally, and the foreign producers are projecting declines  
2 in both capacity and exports to the U.S. We would note that  
3 exports to the U.S. are not a significant share of foreign  
4 capacity.

5           Finally, a word about black plate. Black plate  
6 is an uncoated tin mill product. It is not cold-rolled  
7 steel. Ohio Coatings Company, a U.S. tin plate  
8 manufacturer, will testify that it's dependent upon imported  
9 black plate for its independence and survival. U.S. Steel  
10 and ArcelorMittal, who compete with Ohio Coatings in the tin  
11 plate market, have included this tin mill product not  
12 because imports of black plate are injuring cold-rolled  
13 products, but to undermine a competitor in the tin plate  
14 market.

15           What is at stake in this issue is not the fate  
16 of the domestic cold-rolled industry, but the fate of the  
17 United States Steelworker jobs in Ohio and West Virginia to  
18 participate in the tin mill market. Thank you very much for  
19 your patience, appreciate it.

20           CHAIRMAN BROADBENT: Thank you, Mr. Cameron.

21           MR. BISHOP: Would the panel in support of the  
22 imposition of anti-dumping and countervailing duty orders  
23 please come forward and be seated? Madam Chairman, all  
24 members of this panel have been sworn in.

25           CHAIRMAN BROADBENT: Thank you, Mr. Secretary.

1 (Pause.)

2 MR. BISHOP: I would remind all witnesses to  
3 please state your name every time you speak to allow the  
4 court reporter to accurately transcribe who is speaking.  
5 There's a lot of witnesses, it's very crowded. He's going  
6 to have difficulty seeing. So please state your name. If  
7 you don't, I will state it for you.

8 CHAIRMAN BROADBENT: I want to welcome the panel  
9 to the ITC and you may begin when you're ready.

10 STATEMENT OF ALAN PRICE

11 MR. PRICE: Good morning Chairman Broadbent and  
12 members of the Commission. I am Alan Price, counsel for  
13 Nucor Corporation. I will now present an overview of  
14 Petitioners' case. There is no doubt that the global steel  
15 industry is in a state of crisis brought about by massive  
16 global excess capacity. Cold-rolled steel is a perfect  
17 example of this phenomena.

18 I will first address some initial legal issues.  
19 You will hear a great deal from Respondents today about how  
20 certain types of cold-rolled steel should be treated as a  
21 separate like product. The Commission has consistently  
22 rejected these claims and you should continue to do so.

23 The Commission should also find that no  
24 countries are negligible, so that imports from all of the  
25 subject countries should be considered in assessing both

1 injury and threat. The staff report makes it clear that all  
2 of the criteria for cumulation are satisfied, so that you  
3 should cumulate all imports as well.

4 Finally, everyone seems to be in agreement that  
5 captive consumption provisions of the statute are satisfied,  
6 so your analysis should focus on the merchant market.  
7 Whether you consider the merchant market alone or the total  
8 market, the evidence establishes that subject imports are a  
9 cause of material injury to the domestic cold-rolled steel  
10 industry.

11 Turning now to conditions of competition, there  
12 is no attenuation of competition. The U.S. producers  
13 compete vigorously with unfair imports in every part of the  
14 cold-rolled steel market. This is equally true of black  
15 plate. I should note that a significant volume of black  
16 plate produced in the United States are not sold to tin mill  
17 producers and are also reflected in the other categories.

18 The Respondents have admitted that they must  
19 undersell to compete in the U.S. market. The staff report  
20 confirms that that price is a critical factor in cold-rolled  
21 sales. While other factors like availability and quality  
22 are important, they are not major differentiators between  
23 the U.S. industry and subject imports.

24 Now starting in the second half of 2013, demand  
25 elsewhere in the world was slowing, and the U.S. market

1 offered attractive prices, so that the subject imports  
2 decided to buy market share by offering low prices and this  
3 actually started in late 2013.

4 Rarely have we seen a more striking proof of the  
5 relationship between import prices and import volumes. As  
6 the subject imports dropped their prices in the latter part  
7 of 2013, guess what? Import volumes rose sharply. Import  
8 volumes in the fourth quarter of 2014 were triple what they  
9 had been in the third quarter of 2013, while import AUVs  
10 were almost \$200 a ton lower.

11 Under-selling was present in a full two-thirds  
12 of the comparisons. If you calculate under-selling by  
13 volume, it was even more prevalent, exceeding 77 percent by  
14 volume. Purchasers stated that in a large majority of  
15 cases, import prices were superior to, i.e., lower than  
16 domestic prices. This was true of all countries including  
17 Japan. We believe that this is the most probative data on  
18 Japanese pricing and under-selling for reasons we will  
19 address later.

20 The effects of the under-selling was clear.  
21 Subject import market share more than doubled, going from  
22 slightly under five percent in 2013 to well over 11 percent  
23 in 2014. Significantly, the subject import market share  
24 remained at its peak levels in 2015, despite the effects of  
25 filing of a petition.

1                    Respondents have argued that imports peaked in  
2                    2014, and were exiting the U.S. market in 2015. This chart  
3                    shows that in fact the market share of subject imports in  
4                    the first half of 2015 was at peak levels, a full 4.5  
5                    percentage points higher than the first half of 2014.

6                    It is true that import market share fell  
7                    somewhat in the second half of 2015, but this was because of  
8                    the filing of the petitions. The increase in dumped and  
9                    subsidized import market share came directly at the expense  
10                   of the domestic producers, and in the face of mounting  
11                   import competition the domestic industry initially tried to  
12                   maintain prices in 2014, only to see commercial shipments  
13                   fall by 335,000 tons. As import volumes increased  
14                   absolutely and relatively. This was a volume effect.

15                   As the domestic industry lost volume and market  
16                   share, imports piled up in inventories. This expanded into  
17                   a price and volume effect in late 2014 and into 2015. The  
18                   domestic industry progressively slashed prices to battle it  
19                   out with imports, in an attempt to maintain production  
20                   volume. This is exactly what one would expect to see when  
21                   imports and domestic producers compete on the basis of  
22                   price.

23                   Critically, underlying demand from 2013 to 2015  
24                   was fairly steady. A big part of the increase in apparent  
25                   domestic consumption in 2014 and the decline in 2015 was

1       attributable to the flood of subject imports.  Simply put,  
2       customers saw a bargain in dumped and subsidized imports and  
3       stocked up in 2014.  The result was the creation of a huge  
4       inventory overhang in late 2014.

5                 Similarly, a substantial portion of the decline  
6       in apparent domestic consumption in 2015 was attributable to  
7       the working down of inventories.  This resulted in  
8       substantially less domestic production in 2015.  The vast  
9       majority of the increase in inventories in 2014 was from the  
10      subject producers.

11                As purchasers stocked up on dumped and  
12      subsidized imports to take advantage of rock bottom unfair  
13      pricing, they reduced purchases from the domestic industry.

14                Now let's look at the import surge and its  
15      impact.  The major indicators of the domestic industry  
16      including merchant market shipment quantity, value and  
17      operating income fell across the POI.  The domestic industry  
18      went from a small net profit on merchant market sales in  
19      2013 to a \$162 million net loss in 2015.

20                Other indicators of performance including  
21      production, capacity utilization and hours worked also fell  
22      between 2013 and 2015.  There were confirmed lost sales and  
23      lost revenues.  Purchasers confirmed that they switched to  
24      imports to take advantage of low prices, and that imports  
25      forced domestic prices down.

1                   Now the previous slide showed the devastating  
2                   impact of dumped and subsidized import prices on the  
3                   domestic industry's financial situation. Despite what  
4                   Respondents claim, the actual data shows that prices fell  
5                   far more than raw material costs and COGS. In assessing  
6                   imports, the Commission must consider whether the filing of  
7                   the petitions itself affected imports. It did.

8                   In sum, this is a classic injury case. Subject  
9                   imports rose dramatically in volume and more than doubled  
10                  their market share. Subject imports undersold the domestic  
11                  production, suppressing and depressing domestic prices. The  
12                  subject imports had negative impacts on the domestic  
13                  industry including the three major facilities producing  
14                  cold-rolled steel either suspended operations during the POI  
15                  or shut down.

16                  The domestic industry is also threatened with  
17                  further material injury. In the interest of brevity, I'll  
18                  just focus on one aspect of that threat. As I noted in the  
19                  beginning my presentation, the global steel industry is in a  
20                  crisis caused by massive global over-capacity. As this  
21                  chart shows, the over-capacity of the subject countries  
22                  dwarfs U.S. demand for cold-rolled steel.

23                  Absent relief, the subject countries have the  
24                  ability to direct huge volumes of cold-rolled steel into the  
25                  United States market in a very short period of time, and

1       they will do so and they will cause even more damage to the  
2       domestic industry.

3                 In case anyone thinks that there's a radical  
4       improvement and happy days are here again, SBB reported just  
5       yesterday that -- and here's the quote from their headline  
6       article, "Chinese Cold-Rolled Coil Export Prices Weaken  
7       Further Amid Poor Demand."

8                 In closing, we have selected one recent  
9       statement from a producer of the subject merchandise in each  
10      country. I urge you to read them when you have time. I  
11      would like to point out the tension between the theories  
12      that you will hear from counsel this afternoon, and what  
13      their clients have actually said in public about global  
14      over-capacity, the need to export, and how imports transmit  
15      injury.

16                Thank you. I would now like to introduce our  
17      first witness, Mr. Mario Longhi, president and CEO of United  
18      States Steel.

19                                 STATEMENT OF MARIO LONGHI

20                MR. LONGHI: Madam Chair, members of the  
21      Commission, good morning. My name is Mario Longhi and I am  
22      President and Chief Executive Officer of United States Steel  
23      Corporation. And since September 2013, it has been my honor  
24      and privilege to lead U.S. Steel and the thousands of men  
25      and women who comprise the U.S. Steel family. And some of

1 these members of our family are with us here today. Thank  
2 you for the opportunity to testify on their behalf.

3 As you heard, the American steel industry is in  
4 crisis. There is simply no other way to describe what  
5 unfairly traded imports of cold-rolled steel and other  
6 products have done and continue to do to our industry.

7 Just last month, Commerce Secretary Pritzker and  
8 U.S. Trade Representative Froman acknowledged this dire  
9 situation and pointed comments that they made about the  
10 global steel overcapacity crisis and the profound harm it  
11 has done to our industry and our workers.

12 Congress has recognized the critical role the  
13 Commission plays in addressing unfair trade like this. It  
14 clarified the law last year to make sure that the Commission  
15 had the tools needed to address the many different forms of  
16 injury that a domestic industry like ours may be facing.

17 As you heard from Senator Portman, these changes  
18 are of critical importance and directly applicable to  
19 assessing the devastating injury this cold-rolled industry  
20 has suffered.

21 The American steel industry has suffered through  
22 wave after wave of injurious and unfair trade. As a result  
23 of unfair trade import crisis of the late 90s and early  
24 2000s, more than half the industry was driven into  
25 bankruptcy. The industry took aggressive and painful steps

1 to restructure and eventually returned to profitability by  
2 the mid-2000s.

3                   Unfortunately, the turnaround was short-lived.  
4 The 2008 global financial crisis dealt our industry a  
5 body-blow from which we're still trying to recover. Demand  
6 in key markets for cold-rolled steel and other flat-rolled  
7 products has gradually improved since the troughs of 2009.  
8 Auto sales and construction are two recent bright spots for  
9 cold-rolled steel demand. By 2014, both reached their  
10 highest levels since the financial crisis.

11                   But were we able to capitalize on this favorable  
12 demand? Absolutely not. Instead, dumped and subsidized  
13 imports of cold-rolled steel from subject countries flooded  
14 into this market in staggering volumes. Those imports  
15 surged by almost one million tons in 2014 alone, and  
16 remained at massive levels in 2015. They took significant  
17 sales and market share away from us and other U.S.  
18 producers. They also drove prices down to levels not seen  
19 since the depths of the financial crisis.

20                   The last two years should have been banner years  
21 for American cold-rolled steel producers. We should have  
22 been able to increase our sales, operate our plants on  
23 maximum capacity utilization levels, hire more workers, make  
24 badly needed profits and re-invest some of those profits  
25 into new technologies and new products.

1                   Instead our company and our industry have  
2                   experienced dramatic declines in production, sales and  
3                   capacity utilization. The effects have been disastrous. In  
4                   cold-rolled steel, the American industry's operating income  
5                   and operating margins have been low and continue to decline.  
6                   In fact, they are nowhere near where they need to be for us  
7                   to invest in our future, to compete at home and abroad and  
8                   to comply with all the environmental and regulatory  
9                   requirements that we face.

10                   The ability to make adequate returns is  
11                   essential for an industry like ours, an industry that is  
12                   vital to this country's national security, infrastructure  
13                   needs and manufacturing base. When demand for cold-rolled  
14                   steel is as solid as it has been for the last two years,  
15                   there is only one explanation for the industry's three  
16                   hundred million dollar decline in operating income and for  
17                   its operating margins falling to .6%. That explanation is  
18                   unfairly traded imports.

19                   These wholly unsustainable results have led our  
20                   companies to make very difficult decisions that impacted  
21                   people's lives. We have been forced to shut down facilities  
22                   and lay off thousands of our hard-working employees. Just  
23                   last month, we announced an additional lay-off of 25% of our  
24                   nonunion workforce. The surge of unfairly traded cold-roll  
25                   steel was a significant factor in these very difficult

1 decisions, including our decision to shut down our  
2 cold-rolled mill and other operations at Fairfield,  
3 Alabama.

4 At our plant in Granite City, Illinois, we've  
5 had to run our cold-rolled facilities at reduced levels and  
6 shut down two blast furnaces, again due to surge in dumped  
7 and subsidized imports. These are just a few examples of  
8 the shutdowns and closures that we've had to endure, but I  
9 could go on and on.

10 There is no question that these shutdowns,  
11 closures and layoffs have inflicted a terrible human toll.  
12 They also have a very real impact on our bottom line that is  
13 vividly illustrated in substantial net loss suffered by the  
14 U.S. industry on cold-rolled steel sales in 2015. Just from  
15 cold-rolled, the industry lost over a hundred and sixty-two  
16 million dollars.

17 As Congress made clear last year, these types of  
18 net losses are a clear indication of material injury. The  
19 fundamental problem we face in this and other cases in  
20 global overcapacity is global overcapacity and the  
21 market-distorting practices that result from it. This  
22 problem, of course, has been the focus of recent hearings,  
23 discussions on Capitol Hill, and international  
24 negotiations.

25 According to one estimate, the seven subject

1 countries that issue here have almost ninety-two million  
2 tons of excess cold-rolled steel capacity. This amount of  
3 excess capacity is greater than the entire quantity of  
4 cold-rolled steel that was consumed in this country in the  
5 last three years combined.

6 Because of overcapacity like this, the U.S.  
7 market is not merely attractive to foreign producers, it is  
8 a lifeline for otherwise untenable foreign operations. They  
9 ship to this market in huge volumes, overwhelm the market  
10 and drive prices down to unsustainable levels, just as they  
11 did in this case.

12 At U.S. Steel, through our Carnegie Way  
13 initiative and with support from our union, we have  
14 undertaken extensive efforts to improve our competitiveness.  
15 We have engaged in a top-to-bottom effort to generate new  
16 efficiencies, create value and reduce costs. But all of the  
17 incredibly fruitful work done by tens of thousands of U.S.  
18 Steel employees, it will mean nothing if our government  
19 does not enforce our trade laws.

20 There is simply no scenario where we, or any  
21 other American producer, can generate sustainable profits  
22 over the long-term in a market defined by dumped and  
23 subsidized imports.

24 I will put the men and women of U.S. Steel up  
25 against any steel producer in there, so long as competition

1 is fair. That is all that we have ever asked from the  
2 Commission and that is all we are asking for again today.

3 I respectfully urge you to fully enforce our  
4 laws, including the strengthening elements recently provided  
5 to you by Congress, and to grant the relief we deserve on  
6 all of the subject imports. Thank you.

7 STATEMENT OF JOHN FERRIOLA

8 MR. FERRIOLA: Good morning. I am John Ferriola,  
9 Chairman and Chief Executive Officer and President of Nucor,  
10 Corporation, the largest steel producer and recycler in  
11 North America. I've been with Nucor for more than  
12 twenty-five years and I have served as CEO since 2013. Here  
13 with me today is Rich Blume, the Vice President and General  
14 Manager of Nucor's commercial group.

15 On behalf of Nucor, and our nearly twenty-four  
16 thousand teammates, we would like to thank the Commission  
17 and its staff for their hard work on this case. And we urge  
18 the Commission to find that the subject imports of  
19 cold-rolled steel have injured our industry and threatened  
20 it with further injury.

21 I had the opportunity to meet many of you a few  
22 weeks ago during your tour of Nucor's steel mill in  
23 Berkeley. Thank you again for taking the time to come and  
24 see our facility and meet our teammates and see them at  
25 work. I hope you could see why we consider ourselves at

1 Nucor to be a market leader in terms of our  
2 state-of-the-art equipment, technology, production processes  
3 and innovative employee relations. As you saw, the ability  
4 to continually re-invest is absolutely essential in the  
5 steel industry. This is especially true right now.

6 Steel-making technology has become more and more  
7 sophisticated and we must constantly make significant  
8 investments in our capabilities to improve our production  
9 processes and maintain our competitive position.

10 Unfortunately, the huge volume of unfairly traded subject  
11 imports that has brought us here today is limiting our  
12 ability to do so.

13 We want to be able to invite you back to our  
14 mill in the future, and show you an even more impressive and  
15 modern facility than the one that you toured in April. To  
16 do that, we must continue to re-invest and improve. But  
17 imports from the seven countries under investigation are  
18 making that really difficult for us to do.

19 Today, Nucor's not investing, consistent with  
20 our rate of depreciation, and has not been able to make  
21 important investments in cold-rolled steel because the  
22 return prospects are inadequate to justify that. And many  
23 U.S. steel producers are in less of a position to do so.

24 Nucor's the only major domestic steel producer  
25 with investment-grade bond ratings. But even our ratings

1 have been cut. This means that analysts are looking at the  
2 U.S. steel industry and having serious concerns about its  
3 long-term prospects. In addition to the drastic effect on  
4 our investment ability, imports of cold-rolled steel have  
5 injured us in many other, even more immediate, ways.

6           Since the Great Recession, U.S. demand of  
7 cold-rolled steel fluctuated, but was relatively healthy.  
8 Nucor was well-positioned to benefit as the underlying  
9 demand drivers for cold-rolled steel, such as automotive and  
10 construction, recovered from their recessionary lows.  
11 Instead, we were plummeted by dump and subsidized imports in  
12 2014, stealing significant sales.

13           As imports surged in 2014, customers stocked up  
14 and built huge inventories that depressed our 2014 and 2015  
15 orders and our pricing. In fact, almost all of the recovery  
16 in U.S. demand was taken by subject imports, which captured  
17 a larger share of the U.S. market at the direct expense of  
18 U.S. producers.

19           Subject imports have been able to increase their  
20 market share so significantly because they are being sold at  
21 extremely low, unfairly traded prices. Price is a very  
22 important factor when deciding whether to purchase imports  
23 or domestic cold-rolled steel. Domestic product is highly  
24 interchangeable with imported product. Simply put, if the  
25 price is lower, U.S. producers will choose imports over

1 domestic product.

2 This is exactly what has been happening.  
3 Subject import pricing caused U.S. market pricing to  
4 collapse in recent years, driving them down to near decade  
5 lows. Unfair imports have been injuring us throughout the  
6 cold-rolled steel market.

7 For example, steel imports are sold in the  
8 United States, both on the spot market and through  
9 contracts, and our volumes and pricing on both spot and  
10 contract sales have been harmed as a result. Subject  
11 imports are also being sold through all channels of  
12 distribution, service centers, distributors and  
13 increasingly, direct end-users.

14 In fact, we have seen more and more of our OEM  
15 and other end-user customers buying cold-rolled steel  
16 directly from foreign producers in the subject countries.  
17 This has opened up yet another avenue through which they are  
18 using to injure U.S. steel producers.

19 Subject producers are increasingly being pushed  
20 out of other export markets by poor demand conditions,  
21 increasing import from China and other countries and growing  
22 trade barriers.

23 Making matters worse, the producers in the  
24 subject countries continue to increase capacity, despite  
25 crushing global overcapacity and weak demand in their home

1 markets. In fact, I testified about three months ago before  
2 the U.S. China Commission regarding China's shipping,  
3 economic realities and the implications for the United  
4 States.

5 I noted that last year, China exported a total  
6 of a hundred and twenty-three million tons of steel. To put  
7 that into perspective, China exported more steel last year  
8 than all three NAFTA countries combined produced. China's  
9 exports included cold-rolled steel products flooding every  
10 market around the world, creating domino effect on trade  
11 flows.

12 When Chinese steel replaces a country's home  
13 market, that country is forced to export its steel as well.  
14 And it often ends up here because we have the most open  
15 market in the world. This is certainly what is happening  
16 with regard to cold-rolled steel. And it has greatly  
17 injured the U.S. industry. Right now, cold-rolled producers  
18 should be performing well.

19 Instead, as a result of unfairly traded imports,  
20 the industry is operating at dangerously low levels of  
21 capacity utilization. Market share, production and sales  
22 are down. In 2015, cold-rolled producers hosted a net loss  
23 of more than one hundred and sixty million dollars. And as  
24 I discussed earlier, subject imports have also prevented us  
25 from making important investments in our cold-rolled steel

1 operations. If orders are not imposed, this harm will  
2 continue and will likely worsen.

3           Despite the injury we suffered, Nucor has not  
4 laid off a single worker, consistent with our long-standing  
5 practice. At Nucor, we think of our entire workforce as a  
6 team. I hope you could see that when you visited our plant  
7 last month.

8           We believe that our people are our company's  
9 greatest asset, and our greatest competitive advantage. But  
10 our workers and their families are suffering every day from  
11 the impacts of unfairly traded imports. Paychecks are tied  
12 directly to the number of prime tons safely produced at our  
13 mills.

14           So when unfairly traded imports capture greater  
15 and greater market share, they are taking money out of our  
16 teammates' pockets. In addition, 10% of our pre-tax profit  
17 is shared with our teammates in a pension-like  
18 profit-sharing plan. So when our profits are depressed and  
19 suppressed because of subject imports, they are also  
20 depriving our teammates of a reasonable retirement.

21           In conclusion, the subject imports hurt our  
22 teammates, our company, our communities and our country. On  
23 behalf of every teammate at Nucor, I urge the Commission to  
24 find that imports of cold-rolled steel from the subject  
25 countries have injured our industry and threaten us with

1 further material injury. Thank you for your time this  
2 morning.

3 STATEMENT OF DANIEL MULL

4 MR. MULL: Good morning, Madam Chairman and  
5 members of the Commission. I am Daniel Mull, Executive Vice  
6 President of Sales and Marketing for ArcelorMittal, USA. I  
7 am joined by my colleague Gordon O'Neill, who is Director of  
8 Product Control for Cold-Rolled Steel Products for  
9 ArcelorMittal, USA. We appear before you today to urge the  
10 Commission to act to address the injury that ArcelorMittal,  
11 USA and its workers are suffering as a result of unfairly  
12 traded cold-rolled steel imports. ArcelorMittal USA  
13 manufacturers a full range of cold-rolled steel products at  
14 six facilities in Indiana, Ohio, West Virginia and Alabama.  
15 We sell these products for use in numerous applications  
16 including to service centers and end users in the appliance,  
17 automotive, container, and construction products markets. A  
18 significant portion of our cold-rolled steel is also used  
19 for further processing into metallic coated steel such as  
20 corrosion-resistant steels and tin mill products.

21 ArcelorMittal USA lost sales volume and  
22 experienced severe price erosion as a result of the unfairly  
23 traded imports in 2014, in 2015 and continued to experience  
24 a lag impact on pricing created by them. Subject imports  
25 jumped by almost a million tons from 2013 to 2014. By lat

1       2014 and into 2015 those imports have absorbed all the  
2       market growth at the expense of the domestic industry by  
3       underselling U.S. producers. The purchasers' unlimited  
4       access to low-priced, unfairly traded imports made for very  
5       challenging market conditions. One of our customer in  
6       Houston essentially told us not to even bother to quote for  
7       his business because he could get all the imports he needed  
8       at much lower prices than we were able to offer.

9               As subject imports surged in 2014 and 2015, our  
10       customers used the low prices of the imports as a direct  
11       means of requiring us to cut our prices to retain the  
12       business. In fact, import pricing pressure became much more  
13       overt with customers referring expressly to foreign fighter  
14       discount requirements for us to obtain sales.

15              One type of cold-rolled steel in which we've  
16       experienced significant import pricing pressure is black  
17       plate. Black plate is nothing more than a thing cold-rolled  
18       steel sheet that has been rolled to meet the mechanical and  
19       surface requirements for coating with tin, chrome, or  
20       chromium oxide. We manufacture black plate in the same  
21       facilities and on the same equipment used to produce other  
22       types of cold-rolled steel.

23              While black plate is often used to make tin mill  
24       products, it has other uses as well and overlaps with other  
25       types of cold-rolled steel in end uses.

1           The merchant market for black plate is very small  
2 but it us very important to ArcelorMittal USA. In fact, we  
3 would like to sell more black plate commercially. As I  
4 detailed in the declaration attached to our pre-hearing  
5 brief we have lost an increasing volume of black-plate sales  
6 to unfairly traded subject imports that undersold us  
7 particularly those from Korea.

8           We were forced to lower our price to match import  
9 prices from Osco to retain any black-plate sales to one  
10 large customer. Yet our black-plate sales continued to  
11 erode there. The loss of volume and the price depression we  
12 have experienced in black plate is purely a function of the  
13 lower import prices available to the customer. The large  
14 and increasing supply of dumped and subsidized cold-rolled  
15 steel at low prices placed significant downward pressure on  
16 U.S. spot prices in 2015. That is apparent from the crash  
17 and spot market pricing from late 2014 through 2015 that you  
18 can see in any of the indices that track cold-rolled steel.

19           ArcelorMittal USA also felt the same pricing  
20 pressure on contract sales which make up a significant  
21 portion of our total cold-rolled steel sales. Our contract  
22 customers, including those in automotive industry, are very  
23 sophisticated and large buyers of cold-rolled steel and it  
24 is their business to track the market prices for this  
25 product. The subject imports drove down spot pricing along

1 with market indices that reflect that pricing. Large  
2 contract buyers expected new contracts to reflect those  
3 declines in market prices.

4 Contract purchasers then use those low spot  
5 prices as both direct and indirect leverage in negotiations.  
6 As pricing indices tumbled in 2015, a number of contract  
7 customers came back to us asking to renegotiate lower prices  
8 for contracts that had been finalized at the higher prices  
9 of late 2014. Demand in 26 has been relative flat compared  
10 to 2015. Fortunately these trade cases have caused the  
11 subject imports to subside which has allowed the inventory  
12 glut of those imports to finally work itself out of the  
13 system. That volume reduction along with provisional duties  
14 to remedy the unfair pricing has finally led to modest  
15 improvement in spot pricing realization in the second  
16 quarter of 2016.

17 Nonetheless, we continue to live with the  
18 impact-driven, low, contract prices we negotiated in 2015.  
19 The return to improved spot pricing is critical to our  
20 financial health particularly with manufacturing costs again  
21 increasing. Without final relief in this case it will not  
22 be sustained. Demand remains soft in the rest of the world  
23 and oversupply remains extremely high. Without orders in  
24 these cases subject foreign producers will again look to the  
25 United States market to fill their order books at the

1 domestic industry's expense.

2 Under those circumstances we can expect to see  
3 quick return to the price erosion we faced in late 2014 and  
4 throughout 2015. We will once again lose sales volume and  
5 market share to dumped and subsidized subject imports. On  
6 behalf of my company and its employees I ask you not to let  
7 that happen.

8 Thank you very much for your time.

9 STATEMENT OF KIRK REICH

10 MR. REICH: Good morning, Madam Chairman and  
11 members of the Commission. My name is Kirk Reich. I am the  
12 President and Chief Operating Officer of AK Steel  
13 Corporation. I am a second-generation AK Steel employee  
14 with 27 years' experience in a variety of manufacturing and  
15 executive positions with the company.

16 AK Steel can produce a broad range of cold-rolled  
17 steel products at our mills in Ohio, Indiana, Kentucky,  
18 Michigan, and Pennsylvania.

19 AK Steel sells multiple products into all  
20 significant end-use markets including appliance, automotive,  
21 containers, and construction.

22 In 2015 cold-rolled steel represented  
23 approximately 20 percent of AK Steel's sales of flat-rolled  
24 steel. Throughout the period of investigation our mills  
25 were capable of producing substantially more cold-rolled

1 steel than they actually produced. Cold-rolled steel is  
2 produced to common industry specifications. All competing  
3 suppliers must be qualified and provide high-quality steel  
4 with timely deliveries. Accordingly sales negotiations for  
5 cold-rolled steel are based primarily on price. Customers  
6 often provide feedback on competing prices and permit  
7 bidders to adjust offers to meet competing pricings.

8 Use of published price indices is standard  
9 practice in sales negotiations. Since at least 2013 subject  
10 imports have clearly been the downward price leaders as spot  
11 market prices fell. None of our cold-rolled steel sales are  
12 insulated from import competition.

13 Of course our spot market sales to distributors  
14 and steel service centers have been adversely impacted  
15 directly and immediately by subject imports. However, our  
16 contract sales also have been harmed by the subject imports.  
17 We sell pursuant to both short-term and long-term contracts  
18 and the expiration of these contracts are staggered  
19 throughout the year.

20 Low spot market prices directly impact contracts  
21 with prices that are indexed to the spot market. In  
22 addition, when spot market prices are falling, contract  
23 prices also tend to fall as new customers are influenced by  
24 the spot market and existing customers seek to renegotiate  
25 their contracts to reflect the current spot market prices.

1 If we do not adjust our prices downward, we lose sales  
2 volume from our contract customers.

3 Even when we are not directly competing against  
4 subject imports, our customers can redirect sourcing to  
5 subject imports if our prices are not in line with the  
6 market.

7 In summary, the dumped and subsidized imports  
8 have negatively affected and impacted all of our sales  
9 negotiations. The increasing supply of unfairly priced  
10 imports has had a severe adverse impact on AK Steel's  
11 selling prices, shipment volumes, capacity utilization and  
12 financial results. Among other things, the unfairly priced  
13 imports have impaired the return on numerous investments we  
14 have made in production facilities, development of new  
15 products, and more efficient production processes.

16 Two manifestations of this injury caused by  
17 subject imports are particularly noteworthy. First, AK  
18 Steel has been unable to obtain the anticipated return on  
19 its \$700 million investment to acquire Dearborn Works from  
20 Severstal in July of 2014. Our internal synergies and  
21 improvements have gone very well. However, due to the  
22 unfairly traded imports we haven't realized the production,  
23 shipment, and profit levels we were expecting.

24 Secondly, in late 2015, AK Steel was forced to  
25 temporarily idle the blast furnace and steel-making

1 operations at Ashland, Kentucky and conduct painful layoffs  
2 of 600 hard-working employees. This difficult action would  
3 not have been taken but for the market distortion caused by  
4 dumped and subsidized imports.

5 Pricing conditions in the U.S. market, while  
6 still not good, have improved with the filing of trade cases  
7 and the imposition of provisional duties earlier this year.  
8 However, to be clear, we are still experiencing injury.  
9 Because a significant portion of our shipment volume is  
10 still locked into low contract prices, negotiated during the  
11 second half of 2015, when U.S. market prices were severely  
12 depressed by subject imports. This is a lag effect that  
13 remains very impactful.

14 It should be noted that these recent price  
15 increases, while nowhere near the  
16 ten-year average price, are not driven by the movement in  
17 raw material prices, as iron ore prices have declined in  
18 recent weeks while cold-rolled prices have increased.

19 Of course, even this movement in market pricing  
20 will be quickly lost if the Commission does not make  
21 affirmative determinations in these investigations. This  
22 situation is very tenuous and our industry desperately needs  
23 this relief.

24 In short, AK Steel has suffered a significant  
25 loss of volume, negative price effects, and adverse impact

1 on its operations and financial condition due to subject  
2 imports of cold-rolled steel. During the Commission's  
3 period of investigation demand was relatively good compared  
4 to prior years and the domestic industry should have been  
5 earning significant profits. Instead, the industry is in  
6 crisis and the reason is unfair imports.

7 On behalf of AK Steel and its dedicated  
8 workforce, I strongly urge the Commission to make  
9 affirmative determinations in these investigations.

10 Thank you.

11 STATEMENT OF DOUGLAS MATTHEWS

12 MR. MATTHEWS: Madam Chair and members of the  
13 Commission, good morning. My name is Douglas Matthews and I  
14 am Senior Vice President of Industrial Service Center and  
15 Mining Solutions for United States Steel Corporation.

16 I would like to emphasize a few key points about  
17 how unfairly traded imports have caused injury to our  
18 company, our workers, and the communities in which we do  
19 business.

20 First, we lost substantial volume -- we lost a  
21 substantial amount of sales of cold-rolled steel in 2014 and  
22 2015 due to unfairly traded imports. And the effects of  
23 those imports have been felt throughout the market. Dumped  
24 and subsidized imports rose dramatically by nearly one  
25 million tons from 2013 to 2014 and continued pouring into

1 this market at incredibly high levels in 2015. Virtually  
2 every ton of that cold-rolled steel could have been supplied  
3 by a domestic producer at a fair price.

4 U.S. Steel alone had significant unused capacity  
5 but imports forced us to lower production by roughly 20  
6 percent from 2013 to 2015 despite favorable underlying  
7 demand.

8 In a business like ours, where companies have  
9 significant fixed costs and need to maximize capacity  
10 utilization, the loss of so much production is extremely  
11 harmful. And it is important to emphasize that imports took  
12 sales from us across the range of cold-rolled steel products  
13 including black plate which is nothing more than a  
14 light-gauge cold-rolled steel and advanced high-strength  
15 steels.

16 Second, the onslaught of unfairly traded imports  
17 from subject countries forced us to cut our prices  
18 drastically. By the end of 2014, even though demand was  
19 strong, the U.S. market for cold-rolled steel was over  
20 supplied as a result of the flood of subject imports that  
21 overwhelmed the market. This increase -- this caused  
22 inventories to build and prices to plummet. Cold-rolled  
23 spot prices fell nearly \$250 a ton from December 2014 to  
24 December of 2015 as a direct consequence of unfair trade.

25 This combination of falling prices and reduced

1 production has been devastating to us and the U.S. industry  
2 as a whole. It is important to keep in mind that these  
3 ridiculously low prices have hurt not only our spot market  
4 sales, but our contract sales as well. Over the last year  
5 and a half, contract after contract has come up for renewal  
6 and our customers have repeatedly used falling prices in the  
7 spot market to pressure us to accept significantly lower  
8 contract prices.

9           Finally, you may hear from foreign producers or  
10 their counsel that things are turning around, that imports  
11 are down and cold-rolled prices have been going up. Please  
12 understand, however, that we have a very, very long way to  
13 go to address the harm we have suffered and the limited  
14 improvements we have seen are only happening because the  
15 trade cases and the affirmative determinations that you and  
16 the Department of Commerce have reached thus far.

17           There is no question in my mind, and let me say  
18 this as clearly as I can, if trade relief is not granted  
19 here, dumped and subsidized imports will continue to surge  
20 into this country, take sales and market share away from  
21 domestic producers, drive prices down, cause significant  
22 additional shutdowns and layoffs throughout our industry.  
23 This situation is simply not sustainable.

24           On behalf of the tens of thousands of American  
25 workers that make up the domestic industry, we ask you to

1 enforce our trade laws to the fullest extent possible.

2 Thank you.

3 STATEMENT OF BARRY SCHNEIDER

4 MR. SCHNEIDER: Good morning, Chairman Broadbent  
5 and members of the Commission. For the record, my name is  
6 Barry Schneider and I am the Senior Vice President of  
7 Flat-Rolled Products for Steel Dynamics. I am accompanied  
8 by Tommy Scruggs, our manager of sales and marketing.

9 Cold-rolled is an important product for Steel  
10 Dynamics with sales of over 400,000 tons a year. Our sales  
11 volumes and prices suffered in 2015 as unfairly traded  
12 imports surged into the market.

13 Our DEX division which primarily galvanizes  
14 cold-rolled sheet at three facilities in the Pittsburgh,  
15 Pennsylvania area are probably one of the largest buyers of  
16 cold-rolled in the United States. We buy almost exclusively  
17 domestic cold-rolled and the vast majority of that is from  
18 U.S. Steel's mills located within miles of the DEX. We buy  
19 on the spot basis and the market plummeted in 2015.

20 As you will hear on Thursday, our DEX division  
21 saw profits fall significantly in 2015 as galvanized sheet  
22 prices fell faster than our costs for cold-rolled and zinc.  
23 So why are we here as a company that buys twice as much  
24 cold-rolled as we sell? First as a domestic steel company  
25 we believe in fair trade in all steel products. Second, the

1 DEX are located where they are because of the proximity to  
2 U.S. Steel's mills.

3 Duties have to be imposed on unfairly traded  
4 imports of cold-rolled so that U.S. Steel can survive and  
5 they can reinvest in those Pittsburgh, Pennsylvania plants  
6 that serve the DEX. In the steel industry if you cannot  
7 reinvest, you quickly become uncompetitive and die.

8 In conclusion, as a major seller and major buyer  
9 of cold-rolled sheet, we ask you to make an affirmative  
10 injury determination.

11 Thank you very much.

12 STATEMENT OF DR. JERRY HAUSMAN

13 DR. HAUSMAN: I'm Jerry Hausman, Professor of  
14 Economic at MIT. I've been involved with the U.S. steel  
15 industry for 50 years. I worked at Weirton Steel in 1966  
16 when I was an undergraduate on the tin line.

17 This first graph is, I call the percentage gap  
18 for AUVs between subject imports and non-subject imports.  
19 So non-subject imports are used as controls and here you can  
20 see what happened to subject imports. At the beginning they  
21 were just about equal, but over time the non-subject imports  
22 stayed about the same or fell a bit, but subject imports  
23 fell more and more. So in 2015, the gap opened up to 25  
24 percent.

25 In terms of imports in tons, you can see that the

1 subject imports, the blue line went up. The non-subject  
2 import went up a little bit, but the subject imports went up  
3 much more. So both this price effect and the quantity  
4 effect that I've shown in the last two graphs led directly  
5 to the injury in cold-rolled that the industry faced.

6 So subject imports increased by 137 percent.  
7 There was significant underselling in about two-thirds of  
8 the cases and even if you account for changes in import  
9 costs, there's no other significant -- no other explanation  
10 for such a significant decline in cold-rolled steel prices  
11 in the U.S.

12 Surging imports has reduced the industry sales,  
13 production, profits, no matter how you measure them whether  
14 you use gross profits or operating profits or net profits  
15 and the head count. And in particular the industry's  
16 profitability is lower than one would expect, particularly  
17 given the strength of the automotive market which is doing  
18 the best it has in 15 years or perhaps ever, depending on  
19 how you want to measure things.

20 Sales of domestic autos increased by 21 percent  
21 from 2012 to 2015. GDP growth has done okay at 2.2 percent  
22 a year. And growth in automobile sales was 7.2 percent. So  
23 in terms of this strong demand, steel makers -- this should  
24 be the good times where they earn the rates of return in  
25 order to be able to pay for investments that they need to

1 make over the entire cycle.

2 If you look at CRU prices, you can see a similar  
3 effect from in 2015 the price fell to approximately \$820  
4 down to about \$550.

5 Now, CRU prices are very important. This  
6 decrease of 32 percent because CRU affects both the spot  
7 prices and contract prices. There are many contracts that  
8 use the CRU or some closely-associated index. And so when  
9 these contracts are renewed, the CRU price turns out to be  
10 very important.

11 As I point out here, in the next to last bullet,  
12 the correlation between the base price and contracts and the  
13 CRU price is 88, 0.88 which is highly statistically  
14 significant. And I'll give the data in the post-hearing  
15 brief.

16 Similarly lagged effects of changes in import  
17 prices in the last six months affect cold-rolled prices.  
18 And, again, I'll show this.

19 There's threat of future industry growth of  
20 China's GDP as decreased from 10.5 percent to 6.7 percent  
21 and it's going to go nowhere but down. It's going to  
22 decrease even more. This has led to a decrease in the  
23 growth of Chinese construction and spending with Chinese  
24 steel demand at its peak, capacity continues to increase in  
25 China. And despite government efforts to decrease the

1 capacity, they have been unsuccessful.

2 Other export markets in the EU and throughout  
3 Asia also remained weak. And although U.S. cold-rolled  
4 prices have been depressed, it is important to note they're  
5 still higher than cold-rolled prices in subject producers'  
6 home market so an economic incentive continues to exist to  
7 export to the United States.

8 So U.S. has lost significant volume, led to  
9 decreased prices, let to lower U.S. industry profits. The  
10 staff has confirmed that volume has shifted and price  
11 decreases were the result of subject imports.

12 Cold-rolled spot prices decrease more on a  
13 short-ton basis in raw material costs and now we have seen  
14 what are called foreign fighter requirements appear in  
15 contracts in which the U.S. producers have to basically  
16 match the price to keep the business.

17 So in conclusion, in my mind as an economist, the  
18 U.S. industry has been severely damaged by unfair imports.  
19 And if the Commission does not continue restrictions on  
20 imports, I think the imports will come back up as they were  
21 before and continue to create harm to the U.S. industry.

22 STATEMENT OF LEO GERARD

23 MR. GERARD: Madam Chairman and members of the  
24 Commission, my name is Leo Gerard and I am the President of  
25 the Steelworkers Union.

1           And some of our members have traveled to be with  
2           us today and I would like them to stand and be acknowledged  
3           that it's their jobs that are at stake. And they're here  
4           because they care not just about themselves, but about their  
5           families and their communities. And I always want you to  
6           see in the eyes of the people who your decisions will  
7           affect. And in this case it's important that they're here.  
8           It's important that they have a seat in this room. Because  
9           as I said, the unfairly traded imports have a direct effect  
10          on them and their families.

11           My work here today is to make sure that I implore  
12          you to make the right decision because of the lives of  
13          people that are at stake. Not only are these unfairly  
14          traded imports exporting raw material or steel to our  
15          community, they're exporting unemployment. And as some of  
16          the speakers have mentioned, over 13,000 steel workers  
17          directly are unemployed as a result of these decisions so  
18          far. But I can tell you, as a union that has a lot of our  
19          members that service the steel industry, we're close to  
20          20,000, if I remember, that are unemployed now because of  
21          what's going on in the steel industry.

22           Just last month I was speaking before the U.S.  
23          Trade Representative at the Department of Commerce in the  
24          Congressional Steel Caucus on the enormous challenges that  
25          the steel industry is facing. What I told them and I want

1 to tell you, this is the most productive steel industry in  
2 the world. This is the most efficient steel industry in the  
3 world. This is the most environmentally advanced steel  
4 industry in the world and in fact, most of the steel  
5 industry in America had met the Kyoto standards almost 15  
6 years ago when they first came out, maybe ten years ago.  
7 Time flies by. But they've met those standards.

8 Now the industry is threatened by a tsunami, an  
9 overwhelming glut of steel that is subsidized and dumped  
10 into this country. Sadly, I've seen this movie before.  
11 Predatory international trade practices decimated the steel  
12 industry in 1980s, 1990s, where almost 300,000 steel workers  
13 lost their jobs as dozens of mills closed. The Commission  
14 witnessed the damage and then gave relief in '85 and '93  
15 against dumped and subsidized cold-rolled steel imports from  
16 many different countries.

17 The steel workers were again hit with a flood of  
18 dumped foreign steel in the 1990s and 2000s. And in fact as  
19 one of the speakers has said, we went through 40  
20 bankruptcies. Hundreds of thousands of our members lost  
21 their health care, lost their pension, got reduced pensions.  
22 We helped the steel industry to consolidate so they could  
23 respond to this unfairly-traded steel.

24 Not only did we do that, but we encouraged them  
25 and we negotiated agreements where there would be capital

1 expenditure, put money into those mills. And the companies  
2 that we represent have put not hundreds of millions, but  
3 billions into those mills to become the most efficient mills  
4 on the planet.

5           And what's going on now is putting the future of  
6 our industry at risk as one of the first speakers said from  
7 the -- politicians said -- this is also a national security  
8 issue. And it's tremendously important that you recognize  
9 that several of the countries of the subject imports have no  
10 interest and do anything unilaterally. In fact, they were  
11 at the OECD China was just a few weeks ago, 30 countries, 29  
12 of them agreed to sign a letter talking about reducing  
13 global overcapacity, the Chinese said no. As they were  
14 saying no, BO Steel announced that they were going to  
15 increase their production by 20 percent. This is like  
16 getting slapped in the face with a dead fish for our members  
17 who are trying to make sure that this is the most productive  
18 industry on the planet and can compete against -- they can  
19 compete against any company. They can't just compete  
20 against a country or a company that is pretending to be a  
21 country. And so it's very important to us -- it's very  
22 important to us that you make the right decision for our  
23 industry and for our members.

24           Mr. Ferriola talked about the compensation  
25 structure they have at Nucor. We have similar compensation

1 structures in our industry. And in fact, we've tried to  
2 take care together of the retirees by creating VEBA's,  
3 voluntary employment benefit associations, and we negotiate  
4 with U.S. Steel with ArcelorMittal and others that money  
5 from their profits will go into those VEBA's, that we divert  
6 money from wages to go into those VEBA's so that we can  
7 provide retiree health care for our retirees. We can make  
8 sure there's something for them at the end.

9           When our industry is not making money, nothing is  
10 going into those VEBA's. When they're not making enough  
11 money, not enough money is going into those VEBA's. So this  
12 isn't just about the members that I'm so proud that they  
13 traveled here to be here, it's about the retirees that can't  
14 be here. It's about the future of the industry. When you  
15 invest billions of dollars to become the most sophisticated,  
16 environmentally sound industry on the planet, and you can't  
17 compete, there's something wrong. The only recourse we have  
18 is through you. And if you don't give the right decision,  
19 these people back here, and the people that came before them  
20 are going to suffer. Communities are going to die.

21           As I say to lots of my friends, if you think it  
22 doesn't matter, go to Cleveland and see what it was like  
23 before ArcelorMittal became the most productive plant or  
24 facility on the planet. Go to Lorraine now after U.S. Steel  
25 invested hundreds of millions in making sure that was the

1 most sophisticated plant and they can't sell anything that  
2 comes out of the damned mill.

3           You heard from Mr. Ferriola about what would  
4 happen -- and Congressman Clyburn, what would happen in  
5 South Carolina. These are issues that aren't just charts  
6 and graphs, although I love to see them put up, these are  
7 issues that affect real lives and real communities and the  
8 real future of an industry that's badly needed in America  
9 and workers who need those family-supporting jobs. Workers  
10 who are sacrificing now so they'll have pensions at the end  
11 of the time by diverting their wages, diverting a  
12 profit-sharing arrangement into those VEBA's. We are the  
13 workers that are doing the right thing. These are the  
14 companies that are doing the right thing. And we implore  
15 you to do the right thing.

16           Thank you very much on behalf of our members.

17           MR. PRICE: Thank you. That now concludes our  
18 direct presentation and the Domestic Industry reserves the  
19 remainder of its time.

20           CHAIRMAN BROADBENT: Mr. Secretary, is Senator  
21 Wyden here?

22           MR. BISHOP: He has not yet arrived, Madam  
23 Chairman. I am advised that he is on his way and should be  
24 here within two or three minutes.

25           CHAIRMAN BROADBENT: Okay. Thank you very much.

1 I want to thank the testimony of the witnesses today, or the  
2 witnesses for their testimony.

3 A couple of years ago we were able to visit the  
4 Arcelor Mittal facility in Cleveland, and I remember growing  
5 up there and sort of seeing it on the horizon, and it was  
6 amazing to sort of get inside and kind of see the iconic  
7 nature of the infrastructure there. It was really  
8 eye-opening. I know they produce a lot of flat steel  
9 products. And the Commission just recently went to  
10 Berkeley County, South Carolina and I understand that was  
11 equally impressive. So we appreciate the opportunities to  
12 visit these places. It is important to our consideration.

13 This morning we will begin our questioning with  
14 Commissioner Schmidtlein.

15 COMMISSIONER SCHMIDTLEIN: All right, thank you,  
16 Chairman Broadbent. I would also like to join my colleagues  
17 in welcoming all the witnesses here today. We really do  
18 appreciate your testimony.

19 And also I would like to thank Mr. Ferriola for  
20 your hospitality in Berkeley. I was one of the three  
21 Commissioners who was there just a couple of months ago, I  
22 think it was. And indeed it is a very impressive process to  
23 see steel being made. So I very much enjoyed that tour.

24 So I would like to start with the question that  
25 it seems like on the topic that everyone's been discussing

1 this morning, which is: How did the price of raw materials  
2 affect the price of cold-rolled steel? And in particular,  
3 Mr. Price, I don't know if you want to decide who should  
4 answer this question, but I'm looking at your slide number  
5 16 where you had put up the domestic AUVs in the merchant  
6 market, and you compared that to the per-unit clause in the  
7 raw material cost.

8 And then I'm looking at page 52 of Korea's brief  
9 where they dispute this. And they say that in both, and I'm  
10 quoting, "In both their merchant market business and their  
11 total business, U.S. producers' net sales AUVs decreased by  
12 less than their unit raw material cost, and still profits  
13 fell."

14 So could you walk me through--I guess what is  
15 your response to that, and what is the difference between  
16 what they're saying and what you're showing on your slide  
17 number 16?

18 MR. PRICE: Absolutely. There are several  
19 different things. First of all--

20 MR. BISHOP: State your name, please.

21 MR. PRICE: Alan Price, counsel to Nucor  
22 Corporation. We'll let some industry folks talk about how  
23 the market actually functions. One of the critical things  
24 is actually Respondents tend to have this backwards, but we  
25 will come at that in a few minutes.

1           What I'll say is Respondents--and I'm going to  
2           say this charitably--have been less than truthful with the  
3           way they--inaccurate in the way they have presented the  
4           data. This is the data straight from your staff report.  
5           And it shows that in fact the merchant market AUVs declined  
6           far more, and more than raw material costs, and more than  
7           total costs. This is what your report shows.

8           The way they engineer their numbers, they have to  
9           torture it through a bunch of statistics by changing  
10          everything to percentages, and manipulating it, and doing  
11          something else to try to come up with a different answer.  
12          Okay? It's just not truthful, just like their attenuation  
13          of competition charts are, honestly, not accurate, and a  
14          number of their other presentations where they select a fact  
15          here, and a fact there, and they mix them up.

16          But here is what your data is. It is pretty  
17          straightforward. Prices declined more than raw material.

18          Now in terms of the commercial--in terms of the  
19          actual commercial way this happens in the marketplace, I  
20          would like folks in the industry to answer that, since  
21          they're the ones who actually live it. Perhaps Mr. Blume.

22          MR. BLUME: Rick Blume, Nucor. What we saw during  
23          that period was, first of all, the surge of imports that  
24          came in at low prices--

25          CHAIRMAN BROADBENT: Mr. Blume, I know you have an

1 explanation here, and I want to get the full--Senator Wyden  
2 would like to come and testify, and then we will resume  
3 right back to your statement. Thank you.

4 MR. BISHOP: Madam Chairman, we have a  
5 Congressional Witness, The Honorable Ron Wyden, United  
6 States Senator, Oregon.

7 CHAIRMAN BROADBENT: Welcome, Senator Wyden. We  
8 know you are busy and we are glad you could make it here  
9 today.

10 STATEMENT OF SENATOR RON WYDEN

11 SENATOR WYDEN: Madam Chair, Members of the  
12 Commission, thank you very much for having me once again. I  
13 am in fact here yet on another morning to speak on behalf of  
14 American workers and American employers who face a crisis of  
15 unfair trade from China and other nations, a crisis that has  
16 cost our country good-paying American jobs.

17 You often feel in this kind of time like a broken  
18 record. It was just last month that I testified about the  
19 harms to U.S. workers of China's destructive trade practices  
20 at a USTR hearing that was on the global steel market.

21 Today I want to talk specifically about  
22 flat-rolled steel, the injury suffered by American workers  
23 as a result of unfairly traded steel, and how U.S. laws need  
24 to be applied more vigorously to deal with this challenge.

25 As the Ranking Democrat on the Senate Finance

1 Committee, the committee with jurisdiction over  
2 international trade issues, my top priority is to stand up  
3 for American workers through tough trade enforcement.

4 It is my obligation to fight to make sure our  
5 trade policies create better opportunities for all American  
6 workers. Producers of steel products employ thousands of  
7 workers and support tens of thousands of additional jobs  
8 through the supply chain.

9 And so when I see American mills or factories  
10 close because they are being undermined by Chinese, or  
11 Brazilian, or other producers that dump product around the  
12 world, you don't just feel heartbroken, you feel infuriated.

13 In the case of steel products, this is what has  
14 happened in my home state of Oregon and all across the  
15 country. That is why I put a special focus on enforcing our  
16 existing trade laws and adding new tools to our country's  
17 trade enforcement toolbox.

18 My friend, Leo Gerard, who is here this morning,  
19 has spoken eloquently of the challenges of getting relief  
20 through trade cases before the clock runs out for workers  
21 and companies facing unfair trade practices.

22 Some people believe that to bring a successful  
23 case workers first have to lose their jobs, companies have  
24 to go out of business, and communities just have to be  
25 flattened. Obviously that just defies common sense.

1           This Commission was not established to preside at  
2 wakes. Rather, it is here to determine whether material  
3 injury exists such that a U.S. industry can get relief  
4 before it is too late. Last year I am proud to say that  
5 Congress made a number of significant improvements on trade  
6 enforcement that were included as part of the Trade  
7 Preferences Extension Act of 2015. This is a bill that I  
8 pushed hard to pass. I now urge the Commission to pay close  
9 attention to two provisions in that Act.

10           First, we heard from companies and workers that  
11 worried about bringing a trade case when demand was rising  
12 because they thought this Commission would not be able to  
13 see through that single indicator to the injury suffered  
14 from unfair trade.

15           So we included a new provision to make clear what  
16 was, in my opinion, already present in the law: Workers and  
17 companies do not have to wait until they are losing money to  
18 seek and obtain trade relief.

19           Second, sometimes unfair trade may hurt a  
20 company's performance even when an operating income remains  
21 stable. This Commission should be sensitive to the effects  
22 of unfair trade, however it is manifested, and Congress  
23 wanted to clarify the intent of the law on that point.

24           Our legislation says the Commission should  
25 consider key economic data about the domestic industry,

1 including the industry's net profits, its ability to service  
2 debt, and its return on assets.

3 So let me, in wrapping up, Madam Chair, and  
4 Commissioner Members, I urge you to pay close attention to  
5 the recent clarification, the recent Congressional  
6 clarification to the Injury Standard, and ensure that our  
7 laws are strictly enforced.

8 Thank you again for all that you are doing to  
9 ensure that our trade rules are enforced as intended. And I  
10 just want to say that I hope that we can get this addressed  
11 now. You have had Members of the Senate come before you  
12 again and again and again, and I think it is time for  
13 action.

14 Thank you, again.

15 CHAIRMAN BROADBENT: Thank you, Senator Wyden.

16 MR. BISHOP: Madam Chairman, that concludes  
17 Congressional testimony for today's hearing. I would note  
18 that as we resume with Commissioner Schmidtlein's questions  
19 that are six minutes remaining, and we will time it out at  
20 six minutes.

21 CHAIRMAN BROADBENT: Thank you.

22 And, Mr. Blume, you were speaking before I  
23 interrupted you, and I apologize for that.

24 MR. BLUME: No problem. Rick Blume, Nucor, to  
25 talk about what the impact of unfairly traded imports, how

1 it played out in the marketplace.

2 First of all, we saw that the volume came in  
3 during that period. And again the pricing was under  
4 tremendous pressure because of the dumped pricing. So the  
5 volume came in and not only took away the recovery that we  
6 were expecting and badly needed, but in fact the surge went  
7 into inventories. The volume went into inventories which  
8 further delayed that volume impact.

9 So what happens when you lose volume on a mill?  
10 Your utilization drops. Okay? And ultimately as the  
11 commercial leader, we had a very difficult decision to make  
12 in terms of dropped utilization.

13 Mr. Ferriola talked about the fact that our team  
14 mates are paid on a pay-for-performance based on  
15 utilization, based on safety tons that are produced. It was  
16 a very challenging environment, and to get to the question:  
17 The difficulty of the decision was the fact that with dumped  
18 prices we had to make a decision in order to get volume then  
19 to reduce our pricing.

20 COMMISSIONER SCHMIDTLEIN: Do you think you could  
21 speak to how did the price of raw materials affect you? I  
22 mean maybe you're coming to that--

23 MR. BLUME: Actually, I was --

24 COMMISSIONER SCHMIDTLEIN: Okay, okay.

25 MR. BLUME: -- And so what made the decision so

1 difficult was the fact that raw materials were not moving.  
2 In fact, the decision to lower price would mean lower  
3 margins, a compression of margins during that period.

4 So again, a very difficult decision of do we get  
5 volume for utilization for our team mates to have work? Do  
6 we compress volume because raw materials were not  
7 dropping--.

8 COMMISSIONER SCHMIDTLEIN: This is the second half  
9 of 2014?

10 MR. BLUME: They ultimately did drop. But if you  
11 look at the record, they did not drop--pricing fell first,  
12 and it really illustrates I think the point that it was the  
13 unfair priced imports that really were the causation of the  
14 drop in pricing.

15 COMMISSIONER SCHMIDTLEIN: Okay. I appreciate  
16 that Mr. Blume--go ahead, Mr. Ferriola.

17 MR. FERRIOLA: John Ferriola. Can I add just a  
18 very quick point to that? At Nucor, as part of the Nucor  
19 family, we also have a company, D.J. Joseph Scrap, a  
20 brokering company. They broker over 20 million tons of  
21 scrap and scrap substitute products, 20 million tons.

22 And as a steel company we produce a couple  
23 million tons and sell cold-rolled. It's my job to  
24 understand what's happening with pricing on scrap as part of  
25 the D.J. Joseph and Cold-Rolled. I can tell you, without a

1 doubt, cold-rolled pricing fell first. It fell first. It  
2 fell fastest. And it fell further than scrap prices.

3 MR. MATTHEWS: This is Doug Matthews, U.S. Steel.  
4 If you don't mind, if I could just add to my colleagues'  
5 remarks, if you just look strictly at the margin compression  
6 that's been realized across our external financial segments,  
7 you can see evidence that the revenue and proceeds dropped  
8 at a much faster rate than our cost-of-goods sold.

9 The impact of raw material reductions was lagging  
10 the pricing declines that occurred throughout 2014 and  
11 throughout 2015..

12 COMMISSIONER SCHMIDTLEIN: Okay--

13 MR. HAUSMAN: You can actually see--oh, Jerry  
14 Hausman, MIT. You can actually see this. On my slide 5 I  
15 point out that from 2014 to 2015 that CRU spot prices  
16 decreased by \$175 per ton, while U.S. producers' raw  
17 materials' costs decreased by \$86 per ton..

18 COMMISSIONER SCHMIDTLEIN: You got that from the  
19 staff report?

20 MR. HAUSMAN: Yes. And to answer your question,  
21 if you look at percentages you can get a different answer.  
22 And the reason you get a different answer, it takes not only  
23 raw materials but it takes labor, and energy, and return to  
24 capital.

25 So the actual raw material costs can decrease

1 more--or, excuse me, less than the price, but the  
2 percentages go the other way because you're still paying the  
3 same in wages. You're still paying the same in energy and  
4 all.

5 So it's just going--what I tell my students, not  
6 to do cruel and unnatural things with numbers when you start  
7 using percentages. You should actually be looking at the  
8 absolute changes, because that's what affects the  
9 profitability of the industry. Not changes in percentages.

10 I mean, they can't drop the wages by the same  
11 percent that scrap prices drop. You know, they have  
12 contracts with their employees through the union. So that's  
13 why you're getting different things. One side is using  
14 percentages, ignoring wages, ignoring energy, ignoring  
15 capital costs, while the other side, the steel side, is  
16 actually looking at changes in scrap prices and changes in  
17 steel prices.

18 MR. GERARD: From a human--.

19 COMMISSIONER SCHMIDTLEIN: Okay, let me  
20 just--

21 MR. GERARD: From a human perspective, the mills  
22 go down first and our layoffs come in the mills first, and  
23 then comes the reduction in layoffs in the mines. So it's  
24 pretty clear when you just look at what happens to human  
25 beings--

1                   COMMISSIONER SCHMIDTLEIN: Let me just, before my  
2 time runs out--

3                   MR. VAUGHN:     I'm sorry, Commissioner  
4 Schmidtlein?.

5                   COMMISSIONER SCHMIDTLEIN: Yes?

6                   MR. VAUGHN: I apologize, but I just wanted to  
7 follow up--

8                   MR. BISHOP: Could you state your name, please?

9                   MR. VAUGHN: This is Stephen Vaughn for AK Steel.  
10 Just following up on what Professor Hausman said, and I  
11 think going directly to your question as quickly as I can,  
12 he referred to the difference between absolute prices and  
13 percentages. And that is exactly what happened here.

14                   If you look at page 52 of the Korean brief, which  
15 is where you are, they cite to their Table 10. And if you  
16 look at their Table 10, which is on page 39 of their brief,  
17 you will see that they show the exact same decline in raw  
18 material costs and commercial sales that is on Mr. Price's  
19 chart.

20                   You can see the \$97 a ton from '14 to '15 on the  
21 commercial sales, and you can see the \$86 a ton that's on  
22 the raw materials. As Mr. Price said, he took those numbers  
23 directly from the staff report and there's no disagreement  
24 on those numbers.

25                   But then what they did is exactly what Professor

1 Hausman said. They are trying to claim a percentage change  
2 and not get you to look at the actual absolute change. And  
3 that is the answer to your question.

4 COMMISSIONER SCHMIDTLEIN: Okay. Alright, my time  
5 is up. Thank you. We'll wait until the next round.

6 CHAIRMAN BROADBENT: Okay. Let's see. I had a  
7 question for Mr. Price.

8 On page 43 of the Korean Respondent's prehearing  
9 brief, they argue that price declines are attributable to  
10 intra-industry competition. To what extent do your clients  
11 and those other folks on the panel compete against each  
12 other?

13 MR. PRICE: Well, I don't think anyone has  
14 repealed the antitrust laws in the United States. And while  
15 the industry comes before this organization as an industry,  
16 obviously the industry competes. And the producers  
17 obviously compete.

18 But what's changed here? The domestic industry  
19 didn't change in its composition during this period. The  
20 domestic industry was the same. What really changed was the  
21 surge of a million tons of subject imports.

22 Going to some of Respondents' arguments, just to  
23 put it in perspective, in virtually every period for every  
24 product there was one or more subject import suppliers that  
25 undersold the U.S. EAF industry and other U.S. producers.

1           And in the majority of subject--and the majority  
2 of subject imports undersold U.S. EAF producers in the rest  
3 of the domestic industry, whether it's measured by number of  
4 observations and volumes.

5           And I'll say there is some issues with one of the  
6 pricing products in the data that we will talk about, that  
7 the data we think is actually--got a whole bunch of issues  
8 with it, and we'll address that in our post-conference brief  
9 because it's confidential with regard to one of the import  
10 suppliers. There's a problem with the reporting. We don't  
11 think the data should be included in the analysis.

12           But regardless, intra-industry competition is not  
13 responsible for the changes of what happened. What changed  
14 is the million tons of dumped and subsidized imports in the  
15 surge at incredibly low pricing.

16           MR. MATTHEWS: Madam Chair, my name is Douglas  
17 Matthews from U.S. Steel. I would just like to continue  
18 with the comment around--you know, we operate in an open  
19 market where we compete every day and earn our customer  
20 orders. And we compete against domestic competition. We  
21 compete against subject imports and nonsubject imports.

22           If you refer to slide 10 of the presentation, you  
23 can see that during the Investigation Period--I'm sorry,  
24 actually it's slide 10, it shows the market share change,  
25 the up and down chart. This one. There you go. Thank you.

1           Okay, slide 11. So if you look at this during  
2 the Period of Investigation, the subject imports actually  
3 gained market share against the domestic industry. So if  
4 this was just the domestic industry battling it out to earn  
5 orders and causing price declines, we would have not lost  
6 market share like is evidenced in this particular chart.

7           CHAIRMAN BROADBENT: Yes? Could you say your name  
8 for the record?

9           MR. REICH: This is Kirk Reich with AK Steel. In  
10 addition to what Mr. Matthews said, I couldn't agree more.  
11 We are certainly competitors. We are fierce competitors  
12 with one another. We have been for decades. We are proud  
13 of that competition, and I think each of us do a very good  
14 job with that.

15           The difference is, though, in that fair  
16 competition we can kind of reasonably assume what the other  
17 party might do. In this case, it is a nonmarket-type of  
18 driven economy and nonmarket pricing that is being done  
19 because the steel imports are being dumped illegally.

20           When that happens, you can't be reasonably--you  
21 can't be assured of what they're going to do because it is  
22 not reasonable. And therefore it is far from the  
23 competitive landscape that we have with one another.

24           We have been doing that for decades, and we can  
25 do that very competitively. We can do that with imports as

1 well. So it is absolutely not the fact that we cause that  
2 ourselves. It is because of the import pricing that was  
3 nonmarket-driven.

4 MR. ROSENTHAL: Commissioner Broadbent--Chairman  
5 Broadbent, also take a look at the charts by Professor  
6 Hausman. This is Paul Rosenthal on behalf of Arcelor  
7 Mittal. If you take a look at the pricing of the nonsubject  
8 imports versus the subject imports, you can see that the  
9 subject imports were priced well below nonsubject. And that  
10 is why the subject imports came in and took away the market  
11 share to the extent that they did.

12 Not every single ton, but virtually every ton  
13 that was captured by subject imports were at the expense of  
14 the domestic industry.

15 CHAIRMAN BROADBENT: Okay. Mr. Rosenthal, I  
16 wanted to switch to the subject of global overcapacity in  
17 this product. This case has been filed against a number of  
18 responding countries, or country respondents.

19 To what extent is the problem of global  
20 overcapacity caused by the countries that are represented in  
21 this case? I mean is it one country that is more at fault  
22 than other countries? Or how would you characterize who is  
23 contributing to the global overcapacity?

24 MR. ROSENTHAL: Did you direct that to me?

25 CHAIRMAN BROADBENT: I did.

1                   MR. ROSENTHAL: I will be glad to answer. Paul  
2 Rosenthal. China is clearly the biggest offender when it  
3 comes to overcapacity. I don't think anyone would dispute  
4 that. But China is not alone in having excess capacity that  
5 is uneconomic capacity as well.

6                   Part of the problem of course that has been  
7 referenced in the other testimonies and the slides, and the  
8 quotes from the slides, is that the Chinese overcapacity has  
9 spilled out into other markets both in Asia and in Europe,  
10 which has caused a great deal of dislocation, and has caused  
11 the capacity that had been used in Asia and in Europe, to  
12 and then be directed to other places--namely, the United  
13 States, which is the largest unrestrained market.

14                   But there's plenty of overcapacity in these other  
15 countries that has been directed our way, too. So while  
16 China is the worst offender, they are not the only offender  
17 when it comes to uneconomic excess capacity.

18                   MR. PRICE: Alan Price, Wiley Rein. The global  
19 overcapacity problem is significant, while in many respects  
20 China is the uniter and unifier of the world as 50 percent  
21 of the global capacity. It affects everyone and everything,  
22 and I think, as Mr. Rosenthal properly explained, Chinese  
23 capacity basically overwhelms the Korean market. So the  
24 Korean producers come here. The same can be said for the  
25 Japanese market. The Koreans I would say have

1       overcapacity, and we can discuss, you know, whether, you  
2       know, how they deploy their capacity through exports. It's  
3       how they try to avoid recognizing and shutting down some of  
4       their capacity. You could say the same for every producers.  
5       The Indians have massive capacity. The Russians do. The UK  
6       does.

7                   What is really at question in many respects is  
8       with the imposition of these duties capacity adjustments,  
9       which are going to happen around the world sooner or later,  
10      and whether it happens in China I think is pretty dubious at  
11      least in the short term, but it's a real issue of survival  
12      and where that capacity happens, and whether that capacity  
13      is on the backs of market-based producers in the United  
14      States, or is it because of dumping and subsidies?

15                   MS. CANNON: Chairman Broadbent, if I --- this is  
16      Kathy Cannon from Kelley Drye. If I could add one other  
17      thing. In our prehearing brief for Arcelor Mittal USA we  
18      address in Section 3, subsection ), the foreign producer  
19      capacity and overcapacity by subject country. And you will  
20      see by subject country the degree of overcapacity that  
21      exists, which is not limited to China, even though China is  
22      obviously a major cause of that oversupply.

23                   And I would highlight in particular the statement  
24      in our brief--it's confidential, so I cannot read it all  
25      here--but it appears on page 19 where we state that even if

1 you look simply at the questionnaire data of the companies  
2 that responded, which in itself is incomplete because not  
3 everybody responded, and you exclude China, take a look at  
4 that number as compared to U.S. consumption and you will see  
5 how very large everyone else is as well.

6 CHAIRMAN BROADBENT: Okay. There is someone --

7 MR. ROSENTHAL: One more point, I just have to  
8 emphasize this. Mr. Gerard and others testified to the  
9 painful layoffs and reductions in capacity in the United  
10 States in the last several years, and this has been going on  
11 for a long time. What is particularly galling or  
12 particularly unfair about what's happening is that the U.S.  
13 has done a lot to reduce its capacity, to make itself more  
14 efficient, and has gone through a lot of pain to do so.

15 We are now the dumping ground for everybody else  
16 who hasn't been willing to take those painful steps  
17 themselves. That's why it is particularly hard to listen to  
18 the Respondents' arguments about how their million tons of  
19 imports coming to the United States had no impact on the  
20 domestic industry's performance or on their workers.

21 MR. GERARD: As I've said in my comments, that  
22 I've seen this movie before. When I was here when we were  
23 doing the 2001 cases, the 201 cases after 40 bankruptcies,  
24 the U.S. steel industry has since that time reduced its  
25 capacity from about 150 million tons to about 85 million

1 tons.

2                   If you take that amount, what happened in China  
3 during that same amount of time, they went from roughly 125  
4 million tons to a little over a billion tons, in roughly a  
5 ten year period. I may not be the sharpest pencil in the  
6 box, but I don't know how you do that following traditional  
7 business models.

8                   CHAIRMAN BROADBENT: Okay. I noticed there's a  
9 witness in the last row that wanted to say something.

10                  MR. KOPF: Yes very briefly. Rob Kopf with U.S.  
11 Steel. Just a couple of facts I think that are worth noting  
12 in this. I mean you talk about other countries. Russia,  
13 when the suspension agreement on hot-rolled was terminated,  
14 Russia immediately started diverting massive amounts to  
15 cold-rolled shipments to the United States, especially once  
16 Severstal departed the country here.

17                  India very braggadociosly talks about how  
18 they're increasing their capacity and is going to make that  
19 export-oriented capacity. Brazil talks about the need, that  
20 their economy is getting worse and they're going to have to  
21 export their way out of the problem, and Korea makes a habit  
22 of exporting every product they can to all parts of the  
23 world. So this is much more than just a China problem.

24                  CHAIRMAN BROADBENT: Okay.

25                  MR. GERRISH: Chairman Broadbent, okay. Just a

1 quick point. This is Jeff Gerrish of Skadden Arps on behalf  
2 of U.S. Steel. We too have addressed the massive  
3 over-capacity in all the subject countries in our brief in  
4 section eight, and have shown how that continues to increase  
5 and has increased in recent years. So I would refer you  
6 there as well.

7 CHAIRMAN BROADBENT: Vice Chairman Pinkert,  
8 please.

9 VICE CHAIRMAN PINKERT: Thank you Madam  
10 Chairman, and I thank all of you for being here today,  
11 including the workers in the back. I want to begin with a  
12 question about the performance in the merchant market  
13 relative to the performance on captive production.

14 Now you heard the testimony earlier that the  
15 merchant market performance was actually better than the  
16 captive production performance, and that that tells us  
17 something about the impact of the subject imports. I want  
18 to give you a chance to respond to that.

19 MR. VAUGHN: Commissioner Pinkert, I'd like to  
20 start with that. This is Stephen Vaughn for AK Steel. I  
21 think part of what's -- I mean part of the thing of it is  
22 what he's trying to sort of argue is that if you look at  
23 the one versus the other, that that can tell you something  
24 about the causation issue, and I just don't think that's  
25 true at all.

1                   There are many reasons, for example, why the  
2 absolute trends would be different for the one versus the  
3 other. For example, if one company tends to sell more into  
4 the merchant market, whereas another company tends to sell  
5 more in the captive or downstream markets, then what's going  
6 to happen when you combine those companies together and you  
7 get a single industry number, the relative weights of those  
8 different companies are going to be different.

9                   So there's no reason why in the abstract you  
10 would have, you know, the exact same numbers in the total  
11 market as opposed to the merchant market. The other thing  
12 is that as Congress has recognized, and this is why they  
13 tell you to focus on the captive market, is that the  
14 direct competition between the imports and the domestic  
15 production takes place in the merchant market, and that's  
16 obviously where you can see what's happening with market  
17 share and things of that nature.

18                   Having said that, if you look at the total  
19 market, the trends are very similar. You see the same --  
20 you see market share being taken away. You see sales being  
21 lost, you know, and the total market, for example, you see a  
22 huge loss, net loss, the total industry as a whole shows a  
23 net loss of over, almost \$600 million.

24                   So whether you look at either one of these  
25 industries you're going to find, I believe, that the

1 domestic industry was harmed by reason of imports.  
2 Obviously, your focus should be on the merchant market, but  
3 both sets of data show harm by reason of subject imports.

4 MR. PRICE: Alan Price, Wiley Rein. I'll just  
5 add one quick note here. First of all I agree with Mr.  
6 Vaughn. One of the issues that Mr. Cameron makes a lot  
7 about is the financial performance and the relative  
8 financial performances. When a company transfers its  
9 cold-rolled to its captive operations, it's transferring  
10 that cost.

11 That's what the companies do in their actual  
12 accounting records. In your questionnaires, we have to  
13 value that. So for my client, what we did is we valued it  
14 at what large purchasers were buying at. So it reflects the  
15 transmission of the impact of import pricing on those  
16 values. It may be higher or lower than  
17 what the actual average data is for the overall company, in  
18 this case it's probably lower because we're using a large  
19 company -- we're using a similar large customer. So it  
20 reflects the injury. It may not line up exactly, but to the  
21 extent Mr. Cameron is trying to make some argument about  
22 there are slight differences in the profit levels, he's  
23 probably reflecting the methodology -- it's probably  
24 reflecting the methodology we are using to follow the  
25 instructions of the Commission questionnaire.

1                   MR. LAUSCHKE: This is Scott Lauschke, Vice  
2                   President of Sales for AK Steel. I would just add this  
3                   issue of merchant versus total including captive production.  
4                   No matter how you look at the numbers, they're pretty lousy.

5                   If you look at the domestic industry as a whole  
6                   last year, for merchant market sales, I believe the  
7                   statistic is that the industry as a whole had a positive  
8                   margin of 0.6 percent, and then if you look at the captive  
9                   market which includes, you know, obviously that's consumed  
10                  internally, it becomes a negative 0.8 percent.

11                  Statistically those aren't too different. I  
12                  mean they're within one half of a percent and they're both  
13                  really lousy numbers. If those are the numbers that you're  
14                  going to see year after year, that's not sustainable for an  
15                  industry.

16                  But when you look at the captive statistics,  
17                  that includes that cold-rolled that's used for downstream  
18                  processing which is essentially coated products, and I would  
19                  say that the coated products are under the exact same  
20                  influences. The whole market is distorted by the subject  
21                  imports, just as the way cold-rolled is.

22                  So in both cases we're dealing with whether you  
23                  look at just cold-rolled merchant market or whether you look  
24                  at the CORE products, which we now call that captive  
25                  cold-rolled. Either way, both markets are being clobbered.

1 Both markets are being hurt and harmed and continue to be  
2 harmed, and the situation's the same. So it's not  
3 sustainable for the industry as a whole.

4 VICE CHAIRMAN PINKERT: Thank you. Now there  
5 was some testimony on this panel about black plate, and I  
6 want to follow up on that testimony. My first question is  
7 is there a real merchant market in the United States for  
8 black plate. I understand that there's a desire to sell,  
9 but is there a real merchant market?

10 MR. MULL: Dan Mull, ArcelorMittal. Yes, there  
11 is a market. There's applications where it overlaps on  
12 cold-roll. You know, there's the cable sheeting market.  
13 There's certainly the seal and grid market. There's some  
14 light applications in office furniture that people consume  
15 this light gauge cold-rolled, whether we call it black plate  
16 or cold-rolled.

17 So there is a marketplace. It's highly  
18 competitive as all of our markets. So yes, and you know, we  
19 have tried to concentrate and a lot of it does go through  
20 service centers. So we need to work with them to move that.  
21 But certainly there is a market for tin plate or light gauge  
22 cold-roll, however you want to classify it.

23 MR. MATTHEWS: This is Doug Matthews, U.S.  
24 Steel. If I can just add to Mr. Mull's remarks. We also  
25 make black plate and tin products. The whole definition of

1       what is black plate, it is light-gauged fully processed cold  
2       roll. It's produced on tandem mills that produce sheet  
3       products on the same process.

4                       So that the connotation of black plate is an old  
5       industry term that designates an end use application for tin  
6       coatings, whereas we see an increasing demand for light  
7       gauge cold roll fully processed, as well as light gauge  
8       might go downstream into the construction industry through a  
9       coating process. But there is an increasing market for  
10      light gauge cold roll product.

11                      VICE CHAIRMAN PINKERT: Steel Dynamics, yes.

12                      MR. SCHNEIDER: Commissioner, Barry Schneider  
13      from Steel Dynamics. At our Nextech Company in the  
14      Pittsburgh area, we actually purchase quite a bit of  
15      light-gauged cold roll, also known as black plate. We  
16      purchase it to galvanize it and it goes into primarily into  
17      the appliance industry. But it is also something that we do  
18      not produce ourselves, even though we produce quite a bit of  
19      cold roll. It does require specialized machines that we  
20      currently do not operate.

21                      MR. KOPF: Rob Kopf with U.S. Steel. If I could  
22      just add one comment to that though, despite the fact that  
23      SDI comments that they don't make it. There is sufficient  
24      capacity in this industry in the United States to satisfy  
25      well above the demand for black plate products, whether you

1 call them black plate or light-gauged cold rolled.

2 So I don't want -- and there is an ample  
3 appetite from those of us that make black plate or  
4 light-gauge cold roll to sell to those who consume it. So  
5 there should not be an issue in terms of the ability to buy  
6 that product domestically.

7 MR. SCHAGRIN: Vice Chairman Pinkert, this is  
8 Roger Schagrin on behalf of SDI. I'd like to debunk the  
9 myth that Mr. Cameron and Ohio Coatings are trying to sell  
10 this Commission. Their concept is that Ohio Coatings  
11 shouldn't have to buy black plate from a tin mill  
12 competitor, because there's just something wrong with that.

13 Well SDI, you already heard in their testimony,  
14 they buy cold-rolled every day from U.S. Steel, and then  
15 they turn around and compete every day in galvanized sheet  
16 market with U.S. Steel. I represented welded OCTG producers  
17 before this Commission for 35 years, and U.S. Steel, just  
18 given the alignment of their steel mills, has always been  
19 the biggest supplier of hot-rolled coil to the U.S. welded  
20 OCTG industry and at the same time U.S. Steel has always  
21 been the largest welded OCTG producer in the United States.

22 So this idea that U.S. Steel producers of any  
23 product don't want to buy at spot market prices, supplies  
24 from a competitor of the finished product is just not true  
25 in the steel industry. The situation here is Ohio Coatings

1 is owned by a Korean mill. Like most Koreans, they want to  
2 buy from the Koreans. They don't want to buy from domestic  
3 producers. It doesn't matter who their competitors are.

4 So you're really being sold a pig in the poke.  
5 Mr. Gerard's union represents the workers at Ohio Coatings.  
6 I'm sure Leo doesn't want to put those people out of  
7 business. But he'd still rather that steel workers at  
8 Weirton Steel's operation that's part of ArcelorMittal now  
9 make that black plate, or that they make it in Cleveland  
10 where they have a lot of black plate capacity.

11 We used to make it at Sparrows Point here.  
12 Those people are all out of work. So the idea that we have  
13 to import raw materials just because no U.S. producer of a  
14 product should buy from a competitor of the finished  
15 product, they're really trying to sell you a pig in the  
16 poke.

17 VICE CHAIRMAN PINKERT: Mr. Rosenthal, very  
18 briefly.

19 MR. ROSENTHAL: I just would like to clarify one  
20 thing. We really want to sell more of this product. We  
21 have the opportunity to. We met a price we were told that  
22 we were supposed to continue to hold our business, and we  
23 lost volume anyway, just as I testified. So I want to make  
24 sure everybody understands. This is all like almost all  
25 imports. This is all about price.

1 VICE CHAIRMAN PINKERT: Thank you.

2 CHAIRMAN BROADBENT: Okay, Commissioner  
3 Williamson.

4 COMMISSIONER WILLIAMSON: Thank you. I want to  
5 express my appreciation to all the witnesses for coming  
6 today. I also want to express my appreciation to Mr.  
7 Ferriola for the very thorough and excellent tour that we  
8 had at the Berkeley facility, and I started to mention this  
9 one Representative Clyburn when he was here.

10 I happened to notice on my pedometer I think we  
11 walked about five miles during the tour of the facility, and  
12 so when he was talking about the food in Charleston, I want  
13 to say for that reason or more we really enjoyed it, and we  
14 were unashamed about enjoying it. So thank you.

15 I want to start off with Mr. Gerard, and I was  
16 just -- I mean there's been a lot of talk about, you know,  
17 declining employment and all that. But I wanted to know  
18 whether or not the phenomena may be a little bit different  
19 in this case, only because I was just looking at the number  
20 of production workers, and noticed that it didn't go down as  
21 much as production.

22 I mean I think hours worked went down more than  
23 the number of employees. But I was just wondering whether  
24 or not on this particular issue has any -- so often in a  
25 steel case we'll see that when you talk about injury, you

1 can see it first in the workers. But I just didn't quite  
2 see that in the numbers here, so I wasn't sure if we were  
3 missing something.

4 MR. GERARD: Here, we went through a -- we just  
5 finished quite frankly a very difficult set of negotiations,  
6 and through that period of time, the first thing that  
7 happened was there was a substantial reduction in hours. We  
8 have a lot of people who are working continuous hours of up  
9 to 50 and 60 hours a week.

10 The first thing that happened is that those  
11 hours got reduced. The next thing that happened is that our  
12 mills started getting cut back. The next thing that  
13 happened is our mines started getting cut back, so that  
14 continuously over the last two years, there's been a  
15 continuous reduction in the amount of total hours worked and  
16 in fact, as you know, the steel industry, if you've got a  
17 blast furnace, it's pretty hard to run it three days a week.  
18 You've got to run it full tilt or shut it down.

19 So that we've had a lot of that kind of  
20 activity, where the total hours have been diminished, but  
21 the first chunk of hours that got diminished was the  
22 overtime hours. So if you follow the pattern, it would go  
23 from overtime hours to reduction in hours to layoffs. Then  
24 we'd see the same happen in the mines, because they didn't  
25 need the iron ore.

1                   MR. REICH: And Commissioner, I think part of  
2 the issue is --

3                   MR. BISHOP: Could you state your name?

4                   MR. REICH: This is Kirk Reich with AK Steel. I  
5 think part of the issue is just one of timing, and the data  
6 that was given was 2013 compared to 2015. In 2015, speaking  
7 personally for AK Steel, our reductions at our Ashland  
8 Works, our temporary idling of that facility wasn't done  
9 until December, the middle of December of that year.

10                   So as the calendar year, just as to timing, it  
11 doesn't look like as big of an impact as it certainly has  
12 been. I think that's the case for some of the other people  
13 as well.

14                   MR. BLUME: Rick Blume, Nucor. As you've heard,  
15 heard testified to, hopefully you understood as you toured  
16 our facility, you know, Nucor has a no layoff practice. But  
17 that doesn't mean that there's not damage, there's not  
18 injury to families, you know, and our team mates. As was  
19 mentioned before, we have a pay for performance bonus  
20 system. So the financial impact to our families is  
21 significant.

22                   So simply looking at number of employees  
23 working, yes our employees continued to work and there was  
24 some personal benefit to that in terms of health care  
25 benefits, etcetera. They suffered tremendously at the hands

1 of unfairly-priced imports.

2 MR. MATTHEWS: This is Doug Matthews, U.S.  
3 Steel. If you don't mind, just to add to Mr. Gerard's  
4 comments, so we have a collective agreement and it defines a  
5 protocol for which we have to follow in order to -- when we  
6 have utilization reductions and how we handle our crewing.

7 So the first step is to reduce the overtime.  
8 Then we move into layoff minimization protocols, where we  
9 start to -^^ there's some contractors in our facilities that  
10 do miscellaneous work around the facilities. We would take  
11 those contractors out first. We would displace them and put  
12 our own workers into those jobs.

13 We ultimately would go into a next step, where  
14 we would go to a reduced work week. So that might be going  
15 from a base schedule of 40 hours down to say 32 hours for a  
16 defined period of time. So that whole process, you would  
17 see that dramatic change in utilization occur, but it could  
18 be two to three months of lagging process before you might  
19 actually see layoffs occur.

20 MR. FERRIOLA: John Ferriola from Nucor. If I  
21 could just add one more point please. We're looking only at  
22 direct jobs. When you're looking at those numbers, bear in  
23 mind that there's seven indirect jobs for every direct job.  
24 So when you look at that reduction, multiply it by seven and  
25 you see the true impact across all Americans, not just those

1 working in the steel industry.

2 COMMISSIONER WILLIAMSON: Okay. Thank you for  
3 those answers. That puts it into a broader context,  
4 helpful. I want to turn briefly to the question of raw  
5 material cost and cost. Mr. Price, on page 16 you point out  
6 that domestic AUVs in the merchant market fell more than raw  
7 material cost during 2014-2015. I was wondering though if  
8 we compare the domestic AUVs to raw material cost over the  
9 entire period of the POI, we see raw material prices  
10 falling by \$88 per ton, while domestic AUVs fell by only \$56  
11 per ton.

12 Since the largest increase in subject imports  
13 occurred during the first half of the POI, shouldn't we  
14 really be looking at the trends over the entire POI?

15 MR. PRICE: So I think you have to look at each  
16 period separately here, and actually I wouldn't mind if  
17 folks talk about what happens in the industry on an  
18 individual basis. As imports came in, you have to remember  
19 '14 was pretty -- was an up year in demand, at least  
20 somewhat. The imports exaggerated that, I think, and really  
21 drove it.

22 Industry actually had one set of experiences.  
23 What was going on though is that there's this argument that  
24 there's this slavish tie to raw materials one way or the  
25 other, and that's just not the case. You see variation,

1 which tells you, the fact there is variation over time says  
2 it's not just a raw material issue, and folks in the  
3 industry should talk about how supply and demand affect the  
4 marketplace and pricing.

5 MR. FERRIOLA: Ferriola with Nucor. Maybe I'll  
6 jump in very briefly. You know, at the end of the day, I'm  
7 an engineer not an economist, but I did take Economics 101  
8 and it's all about supply and demand. You can hear all of  
9 the noise around raw material costs and everything else.  
10 But at the end of the day, Economics 101 applies, okay,  
11 supply and demand.

12 When you have a tsunami of unfairly-traded  
13 products coming in, it has a direct impact on the price and  
14 therefore the profitability of the domestic companies.

15 COMMISSIONER WILLIAMSON: And you would say that  
16 overwhelms the change in the raw material costs?

17 MR. FERRIOLA: Absolutely.

18 COMMISSIONER WILLIAMSON: Mr. Vaughn.

19 MR. VAUGHN: Yeah, Stephen Vaughn, AK Steel. I  
20 just wanted to go -- on the numbers, I think if you look at  
21 again on page 39 of the Korea brief, he has these numbers.  
22 You'll see first of all what actually was happening is is  
23 that from '13 to '14, they, the domestic industry tried to  
24 raise pricing in order to take care of, take advantage of  
25 stronger demand.

1                   And they were -- they were not as successful as  
2 they would have liked to have been. Given the surge of  
3 imports, their prices were suppressed during '14. But you  
4 do see that increase in their commercial sales. Now what's  
5 interesting is the raw materials cost didn't change very  
6 much from '13 to '14.

7                   So that shows there's not this kind of one to  
8 one correlation between the raw materials costs and the  
9 commercial sales. What was actually happening was is that  
10 you had this temporary increase in '14, a huge amount of  
11 lost volume during '14, a million tons of lost sales because  
12 of the surge of imports.

13                   So in '14, the injury consisted of the lost  
14 sales and the suppression on price. Now by the time you get  
15 to the end of '14, you remember the inventory numbers, the  
16 market's over-supplied. Everything starts to go down. Now  
17 you have the falling prices, people trying to save their  
18 volumes, and of course you still have the lost volume,  
19 because the subject imports held on to that market share  
20 that they had grabbed in '14.

21                   So that's what's really going on here, and when  
22 you see that whole picture, you see that there was injury in  
23 both years and that this is not just tracking raw materials  
24 at all. One final point, which is that really, the way  
25 these guys I think would tell you they look at it is, you

1 should be looking at sort of all their costs and not just  
2 the raw material cost, because that's what goes to their  
3 bottom line. Thank you very much.

4 COMMISSIONER WILLIAMSON: Okay, thank you. Mr.  
5 Kopf.

6 MR. KOPF: Yes Commissioner Williamson, Rob Kopf  
7 with U.S. Steel. One final thought I'd like to make here.  
8 This is a diversionary argument the other side is making.  
9 The simple fact of the matter is that if this was all about  
10 raw material prices going down, we'd all be sitting here  
11 making money.

12 The fact of the matter is we all went from  
13 making a modest profit to the industry losing over \$162  
14 million on cold-rolled products last year. It's a function  
15 of the supply of illegally sold imports into this country  
16 cratering the price on this product. Thank you.

17 MR. PRICE: And I'll just close on --

18 COMMISSIONER WILLIAMSON: Okay good, yes.

19 VICE CHAIRMAN PINKERT: --one last comment. One  
20 of the interesting comments from one of POSCO investor  
21 statements, we actually didn't include this one in our  
22 stuff. We'll include it in our post-hearing brief, but when  
23 they talk about how they set their contract prices, yeah raw  
24 materials are one factor. Supply is another factor. Demand  
25 is another factor.

1                   Somehow or other in Mr. Cameron's world, somehow  
2                   or other supply seems to have -- import supply seems to have  
3                   not functioned, even though the Koreans themselves point to  
4                   import supply and Chinese import supply as having huge  
5                   negative impacts on their whole prices and their contracts.  
6                   So again, great diversionary tactic. I agree with Mr. Kopf.  
7                   This is all diversion from an inadequate argumentation.

8                   COMMISSIONER WILLIAMSON: Okay. Thank you for  
9                   all of those answers.

10                  CHAIRMAN BROADBENT: Commissioner Johanson.

11                  COMMISSIONER JOHANSON: Thank you Chairman  
12                  Broadbent, and I would like to thank all of the witnesses  
13                  for appearing here today. I'd like to note that I learned  
14                  much from my visit to the Berkeley plant several weeks ago.  
15                  I reviewed my notes from that tour just this morning. So I  
16                  indeed got something out of it. I would like to thank Mr.  
17                  Ferriola and others at Nucor for arranging that plant visit.

18                  Respondents have mentioned added capacity of  
19                  U.S. industry during the Period of Investigation. To what  
20                  extent has the U.S. industry added production capacity  
21                  during the POI, and why has it added capacity given  
22                  consumption trends during the Period of Investigation?

23                  MR. REICH: So this is Kirk Reich with AK Steel.  
24                  I'll start that. We added capacity, AK Steel did simply  
25                  during that period, simply because we purchased the Dearborn

1 Works facility. So that was an increase for us as a  
2 company, a net real no change for the industry. The reason  
3 we did that is quite honestly we expected that we would be  
4 able to improve the operations there, and then we expected  
5 to be able to sell the material into a fairer market.

6 That simply did not happen, and so as a result  
7 of that, we have seen a lack of being able to make the  
8 profits that we expected to from that. It showed really our  
9 confidence in the industry and really all the demand trends  
10 were exactly what we expected, and all of our internal  
11 synergies were what we expected when we scoped that project  
12 out.

13 We expected everything to continue to improve.  
14 Indeed it had, other than were it not for the  
15 unfairly-traded imports. So that's our portion of it.

16 MR. BLUME: Rick Blume, Nucor. From Nucor's  
17 perspective, any kind of CapEx that we've considered and  
18 implemented really is based around the importance of meeting  
19 a customer need whether it's advanced high-strength steels,  
20 etcetera. So, in terms of capacity at -- frankly that's  
21 something that we wouldn't pursue at this point -- I would  
22 say also, in terms of the aggregate number, in fact the  
23 industry I think has taken capacity down. The net, loss of  
24 blast furnaces, we track that internally, significant  
25 losses, so I think in aggregate the net loss was actually

1 greater.

2 MR. SCHAGRIN: Commissioner Johanson, this is  
3 Roger Schagrin. I think, really, respondents are talking  
4 about two things in their brief. If you look at your tables  
5 on domestic capacity, the Commission's reported aggregated  
6 increase in capacity over the POI is a whopping .5%.

7 I mean those are just minor productivity  
8 improvements that these companies would make over time.  
9 There's no cold-rolling mills coming on during your POI and  
10 just prior to this, you add about six million tons of  
11 capacity come out of the U.S. market when R.G. Steel shut  
12 down mills and Sparrows Point, formally Wheeling-Pitt and  
13 Warren Consolidated.

14 So you have a reaction in the industry to  
15 replace that. But then they really bally-hoo in all their  
16 briefs about the new investment in Big River Steel, which is  
17 a new greenfield mini-mill in Arkansas and representing, you  
18 know, Steel Dynamics since their inception some twenty-one  
19 odd years ago, you know, the last time Steel Dynamics bought  
20 during this POI, no change of capacity, the previous, newest  
21 mill in the United States, which was built ten years ago.

22 So this is going to be the first new flat-rolled  
23 mill built in the great country of the United States of  
24 America and which we have, as Mr. Gerard pointed out  
25 previously, we shot about thirty million tons at the

1 beginning of the last decade. We shut down six million tons  
2 just three or four years ago when R.G. Steel went bankrupt.

3 And I'll guarantee, because I know some of those  
4 mini-mill executives who are part of Big River Steel. They  
5 all have Nucor SDI backgrounds. They want to make money on  
6 their investment, based on fair market conditions. So the  
7 idea that somehow, as respondents say, that if some  
8 entrepreneurs want to invest in a new facility in this  
9 country, for the first time in a decade, you can't find  
10 injury, because that's a massive amount of confidence,  
11 regardless of enforcement of trade laws, I just don't think  
12 that makes any kind of common sense. So I don't think you  
13 have really a vote of confidence in big capacity additions  
14 in the cold-rolled sheet market in the United States.

15 MR. MATTHEWS: Doug Matthews, U.S. Steel. If  
16 you don't mind, so at the very early period, just prior to  
17 the period of investigation 2012, we made a very significant  
18 investment to construct a new, continuous anneal line. And  
19 the focus of that line is listening intently to what our  
20 customers are doing and their needs with regard to  
21 light-weighting and being able to get access to advanced  
22 high-strength steels.

23 So we built one of the most modern  
24 state-of-the-art, highly productive low-cost continuous  
25 anneal lines and started it up in 2012. And 2013, 2014,

1 started to ramp the production up at that facility. So what  
2 we did is we made an investment in creating a value-added  
3 product that would be delivered to our customers  
4 specifically trying to solve the challenges around  
5 light-weighting. And that's AHSS would be in scope as part  
6 of the core we're hearing today.

7 COMMISSIONER JOHANSON: Either for Mr. Matthews  
8 or Mr. Longhi, there's been a fair written in the record  
9 regarding the U.S. Steel plant in Fairfield, Alabama. Could  
10 you all discuss the status of that? And I'm a little  
11 reluctant to even talk about it, because I know a fair  
12 amount of data is proprietary, but if you could just talk  
13 generally about what is happening there? And I'm bringing  
14 this up due to the whole issue of capacity.

15 MR. MATTHEWS: As we sat before the preliminary  
16 hearings the last summer, we had just moved to make an  
17 abrupt decision to announce the permanent idle of the  
18 Fairfield facility which included blast furnaces, down  
19 through tandem mill operations. Prior to that, a year  
20 earlier, we had made an announcement to construct an  
21 electric arc furnace facility that was intended to  
22 predominantly support our two brown production and our  
23 seamless facility located in Fairfield, Alabama. And that  
24 we would be limiting our ability to produce sheet products  
25 in Alabama, but we would be supporting our customers from

1 one of our other sheet locations.

2 That decision was intended to actually take  
3 place in the third quarter of this year. However, given the  
4 glut of imports that came in, cold-rolled, coated and  
5 hot-roll, all three combined, we had to make an abrupt  
6 decision to shut it down a year and a half earlier.

7 MR. GERRISH: Commissioner Johanson, just to  
8 follow up on that. Jeff Gerrish on behalf of U.S. Steel. I  
9 think it's critical also to point out that U.S. Steel would  
10 still be making cold-rolled steel at the Fairfield facility  
11 today had it not been for unfairly traded dumped and  
12 subsidized imports. So that facility would continue in  
13 operation today, had it not been for the subject imports  
14 here.

15 COMMISSIONER JOHANSON: Okay, so that's been  
16 shut down permanently? That's the --

17 MR. MATTHEWS: We actually -- I believe it was  
18 last July --

19 COMMISSIONER JOHANSON: Okay. I've read  
20 different things in the record, so I'm a little confused by  
21 it.

22 MR. MATTHEWS: Yes, so the sheet operations has  
23 been shuttered permanently. There is continued coating  
24 operations that are on property and continue to operate.

25 COMMISSIONER JOHANSON: All right. Thanks for

1 your responses. And I'm going to move into a different  
2 area. Something which was raised earlier by Commissioner  
3 Pinkert, but I'd like to dig a bit deeper into it. Did the  
4 domestic industry's merchant market business outperform its  
5 business overall? As respondents contend? And if that is  
6 indeed the case, what does that tell us about the impact of  
7 subject import competition on the domestic industry. Yes,  
8 Mr. Vaughn?

9 MR. VAUGHN: I'll start with that. Stephen  
10 Vaughn, AK Steel. So let's go through the record. I mean,  
11 first of all, the -- you've seen a lot of the evidence in  
12 terms of the merchant market, so let's look at what happened  
13 with the total market. With the total market, we had an  
14 actual -- we had an increase in consumption of around half a  
15 million tons from 2013 to 2015.

16 In fact, what you see when you look at the  
17 industry's production from 2013 to 2015 in the total market,  
18 it was down. The industry's U.S. shipments to the total  
19 market, they were down. The industry's net income was down  
20 by two hundred and thirty million dollars.

21 So the performance of the domestic industry  
22 in the total market was not good. It was grim, whether you  
23 look at total market or the merchant market. So this notion  
24 that -- you know, going back to his point, then he tries to  
25 say, well given that they did worse in the one than the

1 other, then that says something about subject imports. The  
2 truth of the matter is that you're in a situation where all  
3 of these markets, downstream market, as well as the  
4 cold-rolled market, are being hit by subject imports.

5 So you've got injury occurring in both  
6 industries. We're literally going to be here in two days to  
7 talk about the problems facing the corrosion-resistant  
8 industry. So the idea that you're supposed to derive  
9 something from causation out of all this just doesn't make  
10 any sense.

11 What you're supposed to do is, you're supposed  
12 to look at the subject imports and see what was their effect  
13 on the merchant market. That's what the captive production  
14 provision requires you to focus on. Here the evidence of  
15 that is just clear. There's no question they took market  
16 share. They took a million tons of sales in 2014. That's  
17 hundreds of millions of dollars' worth of revenue. They  
18 kept that share in '15 and they drove down prices in '15.  
19 So there's injury in the merchant market.

20 Now, as a matter of law, you may also look at  
21 the total market and if you look at that, you see there's  
22 injury there as well. So they're injured in both these  
23 markets and to the extent you're trying to compare the one  
24 to the other, it could be because of problems in the  
25 corrosion-resistant market, which is also unfair trade.

1                   The trends could look different in the two  
2                   markets because certain companies might count for more in  
3                   the total market than they do in the merchant market because  
4                   of how they happen to align in terms of their shipping.

5                   So once you start trying to make those  
6                   comparisons, that's not going to be really meaningful.  
7                   What's meaningful and what you're supposed to look at as a  
8                   matter of law is, did the subject imports cause material  
9                   injury to the people who make cold-rolled steel?

10                  If you focus on the merchant market, the answer  
11                  is yes. If you look at the total market, the answer is yes.  
12                  And that's the way the Commission should analyze that  
13                  question.

14                  MR. GERARD: I just wanted to add to what Mr.  
15                  Matthews said when you asked about Fairfield. And I began  
16                  thinking about the importance of your decisions as the  
17                  impact on human beings. The fact that they closed the  
18                  facility down a year and a half earlier than had been  
19                  planned, and we went through this in very difficult  
20                  negotiations that we completed successfully.

21                  That's over eight hundred families that got a  
22                  year and a half less of employment than they would have  
23                  otherwise got as U.S. Steel transitioned from its  
24                  traditional steel-making to electronic furnace. And whether  
25                  that electric furnace gets built or not is still up in the

1 air.

2 COMMISSIONER JOHANSON: Thank you for your  
3 response, Mr. Gerard, and others.

4 CHAIRMAN BROADBENT: Commissioner Kieff.

5 COMMISSIONER KIEFF: Thank you very much. I  
6 join my colleagues in thanking the counsel and the witnesses  
7 for all coming and preparing and presenting and following up  
8 as well. And although I didn't happen to make the most  
9 recent visit to the mills, as having formally gone to a tech  
10 school, I have greatly enjoyed visiting steel mills in the  
11 past, and especially appreciate the opportunity to see up  
12 close the technology, the business and the human worker  
13 element and appreciate very much hearing from the workers as  
14 well. And of course, Dr. Hausman, as a Course 14 alum, I  
15 look forward to my 25th anniversary next week. That'll be  
16 fun.

17 But I benefit greatly from the questions my  
18 colleagues have each asked the witnesses, and so batting  
19 cleanup, let me just dive right in with the lawyers, if I  
20 may, and ask the lawyers to focus either now or later, as  
21 convenient for you, and I ask your counterparties, as well,  
22 to please consider this question and please provide  
23 feedback, either during your panel or in your post hearing,  
24 but I just want to focus in on a legal/technical question,  
25 and ask the lawyers to please discuss this case only from

1 the perspective of injury and threat focusing on the United  
2 Kingdom and India.

3 And I wonder whether it's possible that part of  
4 what you're saying -- this is not to disregard the other  
5 things everyone is saying, but part of what you seem to be  
6 saying is that at least for this panel, the case may be  
7 sufficient for an affirmative on both the United Kingdom and  
8 India on either present injury or threat without having to  
9 address some of the more legally complicated doctrines, like  
10 cumulation and negligibility, etcetera, etcetera.

11 And so I wonder whether you can talk a little  
12 bit about that, either now, as you wish, or in your post  
13 hearing because if it turned out that were the case, then  
14 some of the tension between, say, this side and the other,  
15 would not be material to an outcome. I mean it would be  
16 interesting and you might all have good reasons why you  
17 would care about it for other cases, but it wouldn't be  
18 material to the outcome in this case.

19 MS. CANNON: Commissioner Kieff, Kathy Cannon  
20 from Kelley Drye. So I think, as I understand your  
21 question, you're asking if we can segregate Indian and the  
22 UK in some way from the other countries? Is that basically  
23 --

24 COMMISSIONER KIEFF: I'm asking whether you can  
25 win your case with just that focus, with respect to those

1 countries, and if so, you wouldn't need to -- well, I'll  
2 just leave that question now.

3 MS. CANNON: Understood. So I -- the answer to  
4 your question is that, under the statute, I don't believe  
5 that's a permissible approach, given the facts that we have  
6 here. The statute instructs the Commission, when you begin  
7 your analysis, to start by asking the cumulation question.

8 COMMISSIONER KIEFF: Yes, I'm sorry. I -- time  
9 is very limited and I do understand really my mission. I  
10 guess what I'm asking is -- if we could pair off --

11 MS. CANNON: If the case should be made for  
12 those individually? That's basically your question?

13 COMMISSIONER KIEFF: Just as a thought  
14 experiment.

15 MS. CANNON: We certainly could address the  
16 issue of whether the UK alone or India alone were to be  
17 causing injury and that's, in fact, something the Commission  
18 has done in the past when cumulation wasn't mandatory. But  
19 under the law, as I read along, we can address this in our  
20 brief.

21 COMMISSIONER KIEFF: I do get that. Let me  
22 just, if I could, turn to Mr. Vaughn, because it looked like  
23 you were going to answer the question.

24 MR. VAUGHN: I think, Commissioner Kieff, one  
25 way for you to think about this -- and I understand some of

1 the issues that you're trying to deal with. And I think one  
2 thing that you should think about is this. If you have a  
3 situation, for example, where you decide -- let's say that  
4 we don't agree with this obviously, but let's say you were  
5 to look at these countries separately.

6 COMMISSIONER KIEFF: Yes.

7 MR. VAUGHN: Let's say that you look at the  
8 other countries and you decide that on the basis of the  
9 record that you have before you, this is an industry that  
10 has suffered material injury by reason of imports. Okay.

11 Then I believe you could, in addition to that,  
12 say this is an industry that has lost money. This is an  
13 industry that has people out of work. This is an industry  
14 that has been deprived of the advantage of taking -- taking  
15 advantage of a good period of demand in 2014. It's an  
16 extremely vulnerable industry.

17 Under these circumstances, and given some of the  
18 problems that the UK faces, some of the problems that India  
19 faces, some or the strong incentives that they will have to  
20 ship on top of that, that they are also threatened with  
21 injury by these countries. And I think that is a way that  
22 you could look at that. I'm not saying that's the only way  
23 you could look at it, but that's one potential way to look  
24 at it.

25 COMMISSIONER KIEFF: And certainly, if I

1 understand what you're saying then, as I asked the witness  
2 from the Indian Embassy, even if we were to, in effect, take  
3 all of the facts he was asserting as true, we might still be  
4 compelled to decide in your favor for the reasons you just  
5 articulated.

6 MR. VAUGHN: Absolutely. I believe that, in  
7 fact, would be a correct decision.

8 MR. PRICE: Alan Price, Wiley Rein. Just for  
9 the sake of brevity, I think the lawyers will collectively  
10 answer this after this brief repartee in the post hearing  
11 briefs.

12 COMMISSIONER KIEFF: And again, I really do  
13 appreciate the focus that Ms. Cannon was emphasizing. It is  
14 appropriate focus. I just recognize, as well, that we often  
15 have to try to figure out whether, in effect, we have  
16 differences of views about what counts as significant and  
17 differences of views about, if you will, the facts. And  
18 sometimes both sides can be telling the truth, while one  
19 side still wins under the law.

20 And sometimes these, shall we say, more  
21 analytical thought experiments can help reveal what is  
22 necessary to an outcome in a case. All right. I'll just  
23 leave it there and welcome more feedback whenever anyone  
24 would like and I also am aware that we're already halfway  
25 through our day and still on our first panel. So I'll

1 surrender the rest of my time. Thank you.

2 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

3 COMMISSIONER SCHMIDTLEIN: Okay. So I'd like to  
4 go back to raw material prices. Let's start with that  
5 first. I'm not sure whether this -- if you have the  
6 exhibits to the Korean brief and I'm looking at Exhibit 11  
7 in particular, which is four different graphs showing the  
8 price and this is based on, I guess, a publication plats,  
9 SBV plats for different raw materials.

10 And while you're accessing that, maybe you could  
11 just talk a little bit, one of the industry witnesses, about  
12 do U.S. prices -- do they track raw material prices? Do  
13 they trend in the same direction? Is there a lag time  
14 between a drop or an increase in raw materials that shows up  
15 in the price of cold-rolled?

16 MR. SCHNEIDER: Commissioner? Barry Schneider  
17 from Steel Dynamics. We also own a large scrap company,  
18 primarily located in the Midwest. I would like to expand  
19 further on Mr. Ferriola's comment. The scrap is generated  
20 due to the consumption of steel. So in many cases, even  
21 though the cold-rolled is less from the parties in the room,  
22 steel is being consumed and therefore scrap is generated by  
23 those companies that are processing the steel.

24 So on a regular basis, the steel consumers are  
25 generating a scrap flow that needs to be handled. And one

1 of the things Steel Dynamics does through our OmniSource  
2 Corporation, we actually process that scrap. We collect it  
3 at their plants, and we bring it to the marketplace where  
4 it's bid on.

5 So the consumption of steel and the production  
6 therefore of scrap are related to the actual demand level.  
7 So in a market where we're continuing to make widgets, if  
8 you will, out of steel, there is a scrap stream is being  
9 generated. Unfortunately, as that scrap is generated, if  
10 there's less orders then the supply of scrap becomes much  
11 larger than the demand.

12 So that will also drive the pricing down of  
13 scrap and actually, kind of the opposite effect, so when  
14 there is less demand, the pricing will fall commiserate with  
15 that.

16 COMMISSIONER SCHMIDTLEIN: And then maybe one of  
17 the steel -- when does that show up in the price of  
18 cold-rolled? You know, if the price of scrap is dropping,  
19 is  
20 it -- how soon will that show up? Or does it show up? Are  
21 you -- is there a --

22 MR. SCHNEIDER: I would suggest it may be the  
23 other way around, and as the cold-rolled prices fell trying  
24 to find markets, it was kind of, the chicken before the egg  
25 in that case, where there were no orders, but the scrap

1 generation is still happening, so it's driving further and  
2 further losses.

3 And it's unfortunate at a time when the raw  
4 materials are cheap, you don't have a reason to purchase  
5 them. So it expands on the problem even further and  
6 something we saw this year as a correction is scrap was  
7 actually, the flow of scrap was very slow because the  
8 pricing was so low. So it isn't they are involved markets,  
9 but in this case, we believe the cold-rolled orders trying  
10 to find orders drove those prices down, down, down, and then  
11 as result, the scrap just fell even further and there was  
12 essentially no bottom to the scrap market.

13 MR. MULL: Dan Mull, ArcelorMittal --

14 MR. FERRIOLA: -- from Nucor.

15 COMMISSIONER SCHMIDTLEIN: Oh, Okay.

16 MR. FERRIOLA: If I could just add to -- just to  
17 kind of confuse it a little bit more.

18 COMMISSIONER SCHMIDTLEIN: Right.

19 MR. FERRIOLA: You also have to think about the  
20 fact that seasonality plays into scrap and scrap pricing  
21 because of the availability of scrap. For example, in  
22 winter months it's more difficult to harvest scrap, so  
23 depending on where scrap pricing is will determine whether  
24 or not you want to go out in the middle of January and get  
25 it.

1                   So it's clearly the facts that we talked about  
2                   with demand for the cold-rolled product driving the demand  
3                   for steel, demand driving the pricing for scrap through  
4                   demand is a primary factor. But sometimes the data can get  
5                   a little bit fuzzy because of other factors such as weather  
6                   or seasonality.

7                   COMMISSIONER SCHMIDTLEIN: Okay. I don't know  
8                   -- do you have -- have you had a chance to pull out those  
9                   exhibits. They're not bracketed, so I don't think they're  
10                  confidential.

11                  MR. REICH: One more, if I may -- Kirk Reich  
12                  with AK Steel. Just a couple of other points. They're  
13                  trying to point out in this exhibit that all these closely  
14                  track, but it's not that easy to discern, because, for  
15                  instance, they're trying to argue that the drop in steel pricing  
16                  completely follows the drop in iron ore price.

17                  That's actually not the case and that's not how  
18                  the iron ore contracts work. Our iron ore contracts, for  
19                  example, are mostly on a Vale model basis, which means  
20                  basically it's a four-month lag from the iron ore price  
21                  before it actually impacts our price with which we pay. And  
22                  the obviously there's inventory on top of that.

23                  And so they are disconnected so any kind of  
24                  correlation that they may show on these charts doesn't take  
25                  any of that into account. It's far more complicated than

1 they're giving it credence for. It doesn't mean that raw  
2 materials didn't have some impact on pricing. That's  
3 absolutely not the case, but the correlations they're trying  
4 to draw here, that those are directly correlated, are just  
5 simply not true.

6 MR. MATTHEWS: Doug Matthews, U.S. Steel. If  
7 you don't mind, could you put Dr. Hausman's Slide 2 up?  
8 Where it says the percentage gap in the AUVs? This is  
9 nothing more than an intentional smoke screen by POSCO to  
10 misrepresent how pricing works in the U.S. market.

11 If you just look at this graph alone, it says  
12 that in the latter part of 2013, subject imports chose a  
13 pricing strategy to capture market share. They  
14 intentionally and aggressively reduced their prices so that  
15 they could win volume, and that was successful through the  
16 course of 2014, and then it started to impact the prices in  
17 the end of the Third Quarter, start of the Fourth Quarter,  
18 and then saw a precipitous drop in U.S. prices beginning in  
19 the First Quarter of 2015. Anything that they're  
20 representing there is clouding the view of, I think, a  
21 pretty straightforward case.

22 COMMISSIONER SCHMIDTLEIN: Okay. I guess that's  
23 what I'm trying to get at is exactly what is affecting U.S.  
24 prices? And this -- I wanted to start with these because if  
25 you look at these and I will ask them later this afternoon,

1       although their title is Raw Material Prices Drive U.S.  
2       Producers' Prices, and then they have four different  
3       examples. When you look at the trends in those lines, they  
4       don't really line up, and so I'm wondering, like -- that's  
5       why I'm asking the industry -- how do raw material prices  
6       get reflected? Mr. Rosenthal --

7                   MR. MULL: Dan Mull, ArcelorMittal. Let me try  
8       to explain some of the dynamics everybody's trying -- I  
9       think when you think about raw materials, it is a pull  
10      factor from a pricing standpoint. From manufacturing. As  
11      these steel company's demand gets stronger, there's no doubt  
12      raw materials go up. I mean we pull scrap -- scrap goes  
13      because the Nucor's raw materials will -- when we're need  
14      more iron ore, our prices go up and integrated.

15                   But the issue is, and Mr. Ferriola pointed this  
16      out, supply and demand. So our demand starts to go up, raw  
17      materials follow that. So when you get a surge of imports  
18      that puts you in an oversupply situation. That will drive  
19      pricing down. And that's what occurred in this timeframe.

20                   COMMISSIONER SCHMDTLEIN: Let me ask you more  
21      specifically. So if you also pull out their Exhibit 10,  
22      POSCO's Exhibit 10, which is bracketed actually -- I guess  
23      one of the lawyers could look at this. This is U.S.  
24      producers' prices compared to subject imports from census  
25      statistics.

1                   And here, rather than looking at AUVs, they've  
2 taken products 1, 2 and 3 and plotted them and the pricing  
3 products. And so you see pricing products 1, 2 and 3 sort  
4 of bopping along. They're not really going down, goes up a  
5 little bit for Product 1, still bopping along, and meanwhile  
6 subject imports are steadily climbing.

7                   Why isn't that having an effect on those pricing  
8 products? Should we not be looking at those pricing  
9 products for this type of comparison? Mr. Rosenthal.

10                   MR. ROSENTHAL: Paul Rosenthal. One of the  
11 things that the respondents really failed to mention or  
12 discuss much at all is the lag of the imports and pricing.  
13 And you heard Mr. Vaughn and some of the industry witnesses  
14 talk about how, during the course of the second part of  
15 2014, how demand is increasing, the domestic industry tried  
16 to maintain its sales volumes, and resisted dropping their  
17 price to meet the imports.

18                   It wasn't until inventory started to build,  
19 customers stopped buying at the quantity they wanted, that  
20 the domestic industry prices began to react to the prices of  
21 the imports. If there's one thing, and one thing only, that  
22 the Commission must take away from this hearing is  
23 understanding the lag of how the pricing of imports, the  
24 pricing of raw materials, and then pricing of the domestic  
25 industry happened in this marketplace.

1                   One of the frustrations of listening to Mr.  
2 Cameron earlier today and reading their briefs is that they  
3 present 2014 and 2015 as snapshots, as opposed to the movies  
4 that Mr. Gerard has described. Throughout the course of the  
5 year the dynamics change and pricing changed, scrap pricing  
6 changed, and the import pricing changed. And you need to  
7 understand how that all happened in 2014 in a movie, in a  
8 real-time, and how the dynamics happened in 2015. And you  
9 look at this chart.

10                   If raw materials were driving prices the way the  
11 respondents suggest, why would nonsubject import pricing be  
12 higher and why would the gap of 25% develop between subject  
13 and nonsubject imports. Makes no sense if all pricing is  
14 driven by raw materials.

15                   MR. KOPF: Rob Kopf with U.S. Steel. I'd like  
16 to just add to the contract discussion a little bit here and  
17 the lag effect very briefly.

18                   We have seen raw material prices actually go up  
19 slightly over the last few months, and I cannot recall a  
20 single cold-rolled customer where we have negotiated a  
21 higher price in a new contract with them over this time  
22 period, because we've simply been overwhelmed by the dumped  
23 and subsidized cold rolled imports coming into this country.

24                   They were almost double last year what they were  
25 in 2013, and that's the reason why we have to continually

1       reduce our prices. There is no correlation between contract  
2       prices that we negotiate with customers and the raw material  
3       prices. They get the supply and demand of the imports far  
4       exceeds any relationship that could have.

5                   MR. VAUGHN: Commissioner Schmidtlein, I just  
6       want to follow up on --

7                   COMMISSIONER SCHMIDTLEIN: Could you state your  
8       name please?

9

10                   MR. VAUGHN: Stephen Vaughn, AK Steel. He  
11       presents this as though it's some sort of a paradox, that in  
12       '14, you know, as they were coming in prices were remaining  
13       steady. But of course it makes perfect sense. If you're  
14       going to -- volume and price are related to each other. If  
15       the domestic industry chooses to hold its price, it's going  
16       to lose volume, and that's what was happening in 2014.

17                   If the domestic industry tries to hold on to  
18       volume, then prices are going to fall. That's what happened  
19       in 2015, you know. That's the record. There's no way he  
20       can kind of get around that. Either they're taking sales  
21       from us and they took a lot of sales from us, or they're  
22       driving down prices and that's what happened.

23                   By the end of the period, they had done both.  
24       First, they took the sales then they kept that market share,  
25       because their market share doesn't go down in '15. But they

1 also drove down pricing by forcing these companies to cave  
2 in on price in order to prevent them taking even more market  
3 share.

4                   Once you look at it in that way, you can sort of  
5 see that all of his chronology and everything is very easily  
6 explained.

7                   MR. HAUSMAN: Commissioner, if you look at the  
8 last --

9                   COMMISSIONER SCHMIDTLEIN: Could you state your  
10 name please?

11

12                   MR. HAUSMAN: Oh yes, Gerard Hausman, LAT. If  
13 you look at the last point on my Slide No. 7, I state, I  
14 estimate lagged effects of changes in import prices for six  
15 months in terms of overall prices. So I'm explaining, since  
16 you have contracts, imports come in and they change the base  
17 price. But the contract don't expire all at once. They  
18 expire over time. So to answer your question specifically,  
19 that's why you get this lagged effect.

20                   COMMISSIONER SCHMIDTLEIN: Okay. All right,  
21 thank you. I'm sorry.

22                   MR. GERRISH: Jeff Gerrish on behalf of U.S.  
23 Steel. If I could must make one additional point?

24                   COMMISSIONER SCHMIDTLEIN: Okay.

25                   MR. GERRISH: You know, I think it's pretty

1 revealing if you look at what the purchasers have said. You  
2 know, we've had a number of purchasers come in and say they  
3 shifted purchases over from domestic sources to import  
4 sources, and the primary reason for that was the lower price  
5 of the imports.

6 So yeah, the purchasers have no real incentive  
7 to come in and support the domestic industry. In fact, they  
8 want -- I think their interest is to have access to imports,  
9 and you have a selective group coming in. So you don't have  
10 a lot of purchasers coming in. But the purchasers that did  
11 come in indicated that they shifted purchases over to  
12 imports as a result of the lower prices, and the volume  
13 involved there, this is right here in your staff report,  
14 it's over 270,000 tons that were shifted to imports because  
15 of the lower prices.

16  
17 Now when we're facing a crisis like we are, we can't afford  
18 to lose a single ton, let alone 270,000 tons.

19 MR. BLUME: Rick Blume, Nucor.

20 COMMISSIONER SCHMIDTLEIN: Well, I think I'm  
21 going to have to like yield. I'm sorry. My colleagues will  
22 mutiny. Do you have a shorter point here?

23 MR. BLUME: Yeah, a shorter point. I guess I  
24 want to add to the conversation. For a practical matter,  
25 both scrap and coal will have different supply and demand

1 dynamics that set the price. To me, it's very practical,  
2 very clear. The other final point I would make, I've never  
3 had a customer that's called me in and has offered to pay me  
4 more money for steel because scrap pricing has gone up.

5 Prices do not move synchronously and the one  
6 factor, the one determining factor when the customer does  
7 call me in, is you must meet a competitive price and in many  
8 cases, in most cases during this period, you must meet the  
9 foreign, unfair dumped price. That's the challenge we face.

10 CHAIRMAN BROADBENT: Okay, thank you very much.  
11 Okay. This is for Nucor. Page 35 of your prehearing brief,  
12 you said that contracted spot prices are highly correlated.  
13 The graph provided shows a widening gap between spot and  
14 contract prices into late 2014 and into 2015. Why is that  
15 for Nucor?

16  
17 MR. PRICE: Actually, I'm not sure I can explain  
18 the reason why. I think they're just, you know, they are  
19 highly correlated to the idea that the contract market is  
20 insulated. It is artificial. I think you do see the  
21 effects of the unfair imports have the sharpest and greatest  
22 impact on the spot market.

23 So there are -- the effects on the contract  
24 market do take place, but they take place with over time,  
25 with some lags in it and given how sharp the imports pulled

1 the pricing down on the spot market, I think it probably  
2 goes down faster and sharper.

3 And then as you heard one of the industry  
4 witnesses say, then they get locked in into contracts going  
5 forward. So they continue to have substantial negative  
6 effects into the future.

7 MR. FERRIOLA: A simple way to look at it is a  
8 lot of contract pricing is tied to some index, an industry  
9 index, whether that be CIU or Platt's or some other index.  
10 Obviously, that has to be a defined time lag in there, so  
11 that it has a chance for the index to catch up with the spot  
12 pricing.

13 Typically, that could be as much as sometimes  
14 six months, sometimes a quarter. So there is a natural lag  
15 that you see both when it's going up and going down, because  
16 the contract pricing is usually tied to some form of index.  
17

18 MR. HAUSMAN: Commissioner, this is Jerry  
19 Hausman at MIT. If you look at the slide that's already up  
20 there, it's the next to last point, it says the comparison  
21 of CRU prices with base prices in contracts is 0.88. So  
22 it's just about 90 percent. This is for another company, a  
23 large integrated company, not Nucor. But it's a very, very  
24 high correlation.

25 MR. REICH: Commissioner, this is Kirk Reich

1 with AK Steel. What Mr. Ferriola said really goes for the  
2 rest of us that have contract pricing as well, or at least  
3 for AK Steel it does. Those are all lag effect type of  
4 operations. That's what I referenced earlier. The prices  
5 may seem to be higher. We're still a year in arrears in  
6 some of our contracts.

7 Some contracts are fixed for an entire year;  
8 some contracts adjust on a monthly or quarterly basis. So  
9 there's a variety of lag mechanisms that are not going to  
10 have those stay in lockstep. But they will absolutely feel  
11 the same penalty and same pain that you do as a result of  
12 the CRU kind of spot price effect.

13 MR. PRICE: So just to close on it real quickly,  
14 as we said in our brief, our point was that the idea that  
15 there is a separate, insulated contract market that the  
16 Respondents have claimed for years and years and years and  
17 years, over and over and over in case after case, just is  
18 demonstrably disproven now.

19  
20 MR. MATTHEWS: Doug Matthews, U.S. Steel. If I  
21 can just comment on one additional point, and we're  
22 remembering back to the time period, the Q4 of 2014. That's  
23 a very active period. A lot of the contracts are based on  
24 an annual basis, calendar year basis.

25 So we're engaged with customers in multiple

1 markets negotiating those contracts, and during this period  
2 of time I distinctly recall the indexes sliding to the point  
3 where customers that we would have almost a handshake  
4 agreement on base price that was going to go into the  
5 contract for the start of 2015, that with the next week's  
6 publishing of the indices going down, would want to open up  
7 that price conversation again. So it delayed actually  
8 settling base contracts for 2015 as well.

9 MR. KOPF: Rob Kopf with U.S. Steel. May I add  
10 one more thing on contracts and insulation? Even a firm  
11 price contract or fixed price contracts does not insulate  
12 this industry from the damage that these imports can cause.

13 We had multiple customers in multiple industries  
14 contact us last year and say that they wanted to renegotiate  
15 the agreement that we had negotiated just months earlier,  
16 and if we didn't, they were going to threaten to take volume  
17 away from us, either right then and there or during the next  
18 negotiation we'd be put in the penalty box.

19  
20 So it's very important, no matter what kind of  
21 contract you have with a customer, if they feel like they  
22 can get a better deal from overseas, they're going to take  
23 advantage of it and either force you to meet the low price  
24 or take the volume away from you.

25 CHAIRMAN BROADBENT: Okay, I'm interrupting

1 here. I wanted to talk a little bit about what's going on  
2 with the imports from Canada. I don't know who can tell me  
3 about this, but if you've got excess capacity, why are we  
4 importing from Canada and who's doing it?

5 MR. MULL: Dan Mull, ArcelorMittal. We actually  
6 have an operation in Canada. We did acquire that. They had  
7 a position in North America. We run our operations as a  
8 North American outfit and we certainly try to monitor and we  
9 coordinate how we sell that, and that's part of our  
10 operation, and we ship in both directions.

11 MR. MATTHEWS: Doug Matthews.

12 MR. MULL: And it's priced at the same way that  
13 we price our products.

14 MR. MATTHEWS: Doug Matthews, U.S. Steel.  
15 During the Period of Investigation, we did have an operation  
16 that was a part of our organization called U.S. Steel  
17 Canada. Since then, that's been deconsolidated and being  
18 managed by -- through the CCAA process under court  
19 supervision in Canada. But I'll just echo Mr. Mull's  
20 remarks around.

21

22 When we look at loading facilities with orders,  
23 we look at optimizing our footprint, if you will. So we  
24 take multiple plants in view and will say which facilities  
25 are best capable to produce certain types of products, and

1 then we support customers that make logical sense for us.

2 In all cases, they were at pricing that was  
3 consistent with U.S.-based pricing. So I would argue that  
4 it was very fair pricing.

5 MR. ROSENTHAL: Commissioner Broadbent, just to  
6 amplify what Mr. Mull said on behalf of ArcelorMittal, this  
7 is Paul Rosenthal. It's fair to say that in addition to the  
8 historic relationship that the acquisition inherited  
9 basically, and the fact that the pricing from Canada is the  
10 same and fairly priced, and as you can tell from the graph  
11 before right there about the subject versus non-subject,  
12 another element you asked about capacity utilization.

13 There wasn't any cannibalization, if you will,  
14 of domestic production because of the imports from Canada.  
15 There was no imports being brought in to displace U.S.  
16 production. These are historical relationships, as Mr. Mull  
17 testified to.

18 CHAIRMAN BROADBENT: Okay.

19 MR. PRICE: Alan Price, Wiley Rein. I just want  
20 to go back to the inventory chart by source or between  
21 subject and non-subject for a second. So you have to  
22 remember there is an enormous amount of inventory that was  
23 -- that developed because of the stocking up of the subject  
24 imports. Go to the next one actually, and it was the  
25 subject imports, based upon the low prices, that came in,

1       overhung the marketplace.

2

3                   The non-subject imports, there was essentially a  
4       modest or no inventory build going on. So what's going on  
5       here, this is all about the subject imports coming in on low  
6       prices, under-selling the U.S. market and overwhelming the  
7       marketplace.

8                   CHAIRMAN BROADBENT: Okay. I have another  
9       question here. This is on price leadership, some  
10      information in our staff report. Page 5-9 of the staff  
11      report there's a discussion about price leadership in the  
12      market. The firms listed most frequently are Nucor,  
13      ArcelorMittal, U.S. Steel and AK Steel. What does this  
14      indicate about whether it is U.S. producers or subject  
15      imports that drive prices in the market for cold-rolled  
16      steel?

17                  MS. CANNON: This is Kathy Cannon, Kelley Drye.  
18      I think what it most indicates is the manner in which the  
19      question is asked or the question is asked is a price  
20      leadership defined to be a person that leads prices up or  
21      down, and as you see, the purchasers that mentioned the U.S.  
22      price, the U.S. producers being the price leaders indicated  
23      that was with regard to the price increases. They were not  
24      really citing them with regard to the price decreases.

25

1                   So I think it reflects the fact that the U.S.  
2                   producers are large. They tend to go out with an  
3                   announcement. Price increase announcements as the witnesses  
4                   can attest, do not necessarily lead to actual price  
5                   increases in the market. But more importantly, the data in  
6                   your records show that where there price declines, they were  
7                   being driven by the under-selling by the imports,  
8                   irrespective of who is being named as a price leader in  
9                   response to that question.

10                   CHAIRMAN BROADBENT: Okay. How should the --  
11                   this is on the Japan respondent's brief. How should the  
12                   Commission view the lack of overlap of pricing products  
13                   between Japanese and domestic product? Is it appropriate,  
14                   is this an appropriate use of price data collection?

15                   MR. LUBERDA: This is Alan Luberda from Kelley  
16                   Drye for ArcelorMittal. The pricing products, first of all  
17                   for the two automotives, the six and seven, there was a huge  
18                   -- one in column 6 encompasses a huge number of products. I  
19                   think we put on the record over a dozen products that it  
20                   encompasses, and seven was one specific individual product.

21                   So there wasn't a -- for whatever reason, the  
22                   Japanese aren't reporting -- it's not a huge part of the  
23                   overall market. But the automotive products there, you  
24                   don't get a good comparison between prices for the U.S. and  
25                   the Japanese there, based on just what the folks reported in

1 each part of it.

2 CHAIRMAN BROADBENT: Okay, alrightee. Vice  
3 Chairman Pinkert.

4

5 VICE CHAIRMAN PINKERT: Thank you. Dr. Hausman,  
6 is it fair to look at prices of other steel products besides  
7 cold-rolled steel and compare price declines for those  
8 products with the price declines in cold-rolled steel, to  
9 see whether subject imports are causing injury to the  
10 domestic industry?

11 I'm thinking in particular about the argument  
12 made at page 15 of the Chinese brief.

13 MR. HAUSMAN: No, that would be incorrect as a  
14 matter of economics, because each type of steel is going to  
15 have its own supply and demand conditions and particular  
16 demand conditions. So for instance, if somebody sells a  
17 high proportion to the auto industry, which is done very  
18 well, compared to another type of steel which sells less,  
19 you can see that you're going to get very different results.

20 So at least in my view, you need to specifically  
21 look at the supply and demand conditions for each type of  
22 steel, and take into account the effect that imports has on  
23 the price.

24 MR. PRICE: Just as a legal matter, I think the  
25 -- Alan Price, Wiley Rein. As a legal matter, I think that

1 type of analysis is actually inappropriate under the  
2 statute. The question under the statute is whether dumped  
3 and subsidized imports of the like product are having an  
4 impact on the domestic industry.

5  
6 There can be a lot of different things going on  
7 in these other products. I don't agree with the claim, by  
8 the way, that those long products, which is mostly what  
9 those things were, were necessarily fairly traded. But the  
10 long products market is incredibly different, and the  
11 question is what is the impact of these imports on this  
12 marketplace, and I don't think there's any relevance as a  
13 legal matter.

14 DR. HAUSMAN: Just to -- this is Jerry Hausman  
15 again. You know, comparing rebar to Caldwell Steel or Corp,  
16 I can't think of anything sillier, because rebar is  
17 essentially used in bridges and construction, and that has  
18 completely different demand conditions by and large than  
19 automobiles. I've been around the steel industry for 50  
20 years and I can't remember that ever any rebar went into an  
21 automobile. Maybe I'm just missing something, but I bet you  
22 it shows how silly the whole exercise is.

23 VICE CHAIRMAN PINKERT: You haven't seen my car.

24 MR. FERRIOLA: Not as a legal matter but as a  
25 practical matter, what's really being said is that you have

1 to look at the industries and the markets that the products  
2 go into. That's what determines what's going on. It's not  
3 really relationship other than that.

4 VICE CHAIRMAN PINKERT: Thank you very much.  
5 Now as many of you know, there's an argument that we've been  
6 presented with, that because of domestic industry  
7 consolidation, the domestic auto industry requires access to  
8 subject imports in order to ensure supply, and I was  
9 wondering whether that concern is well-founded.

10

11 MR. LONGHI: I happen to be carrying a purchase  
12 order with me right now. If there's an automotive company  
13 that needs some steel, just give me their name and we'll  
14 make sure that we take care of them. So there's no concern  
15 with that.

16 MR. FERRIOLA: I will echo that in full, and  
17 John will compete for that order in full.

18 MR. LONGHI: We will fairly compete, right?

19 MR. SCHAGRIN: Vice Chairman Pinkert, this is  
20 Roger Schagrin. I also think that only one auto company  
21 filed a brief here and is participating as a party, and it's  
22 kind of amazing that that particular producer had all-time  
23 record profits.

24 I mean I think it's the first auto company in  
25 the United States, and last year 2015 was literally in that

1 company's history their most profitable year ever, and to  
2 start saying that, you know, people in the steel industry  
3 don't deserve to make any profits, and they ought to have  
4 the right to be able to use in negotiations against their  
5 steel producers unfairly traded prices, I think it's a  
6 beggar thy neighbor attitude that could only be put forth by  
7 people in a particular law firm that tries to run this  
8 town.

9

10 And I don't think it's reflective of that  
11 company and certainly not of their founder who, you know,  
12 believed in paying people a wage that allowed them to pay,  
13 buy the company's automobiles. So I don't think you should  
14 take a lot of stock in their arguments.

15 VICE CHAIRMAN PINKERT: Mr. Mull.

16 MR. MULL: Dan Mull from ArcelorMittal. We have  
17 capacity to take on additional automotive grades at this  
18 time, and we are able to provide that we believe that the  
19 customers are demanding at this time, and in addition to  
20 that, the only reason I can believe that an auto company  
21 would state that is they would like to use that for leverage  
22 in negotiations.

23 MR. GERARD: Leo Gerard from the Steelworkers.  
24 I'll remind you again we've got 13,500 workers who would  
25 love to be going back to work and making steel, and sell

1 that to the auto companies.

2 MR. FERRIOLA: You know, I would suggest that  
3 any company that looks strictly at pricing from an import to  
4 get a higher profit is looking at a situation in a very  
5 short time. If you feel, follow that logic out, ultimately  
6 dumped steel, unfairly traded steel continues to come in  
7 unabated. You say that there's a benefit from the companies  
8 that are using that steel. It's very short-lived.

9

10 What do you think happens after those  
11 unfairly-traded product put all of the steel companies out  
12 of business? Will those same importers take into account  
13 the profitability of their customers, or will they recognize  
14 that now that they have a monopoly in the situation or  
15 monopoly on the marketplace, would they then begin to  
16 increase their price?

17 I suspect that you would see pricing increase  
18 very radically if, as a result of unfairly-traded products,  
19 the steel company or steel industry in the United States was  
20 significantly reduced.

21 VICE CHAIRMAN PINKERT: Thank you. I'm just  
22 wondering whether anybody on the panel, either a lawyer or  
23 an economist, wants to comment on whether this consolidation  
24 argument is relevant under our law and under the economics  
25 of our law?

1                   MR. VAUGHN: Yeah, this is Stephen Vaughn. I'll  
2 start and then other people can comment as they want. Yeah,  
3 I mean I think the idea that -- obviously this whole idea that  
4 -- I remember when they used to come in and argue that the  
5 industry was hurting itself, because there was not  
6 sufficient concentration in the industry, and so the  
7 domestic industry was hurting itself by the way they were  
8 all competing with each other.

9

10                   Now, we have this argument that the industry is  
11 so consolidated that they can never hurt each other, they  
12 can never be hurt by imports. I think the truth of the  
13 matter is that your record contains extensive evidence, and  
14 these people have given you extensive testimony of subject  
15 imports in the market. Within the last two years, they have  
16 taken sales, millions of tons' worth of sales. They have  
17 been the object of -- in negotiations, people have used  
18 these prices to get lower prices.

19                   They have forced people to shutter plants and  
20 lay people off. All of this is unopposed testimony.  
21 There's no, you know, the other side has to concede the  
22 tonnage that's been lost, and they have no answer to these  
23 statements by people who are having direct contact with  
24 buyers, and who are having to make concessions on price as a  
25 result of the imports.

1                   So the record simply does not support this  
2 theory at all, and I would also point out, this is not a  
3 situation where the industry has been coming back and asking  
4 for trade relief. The industry has been -- has not asked  
5 for trade relief on this product for 15 years. So what has  
6 happened is that a lot of the stuff that they're talking  
7 about is stuff that's been true and has been true in this  
8 industry for a long time.

9                   So what has happened that's different? Why are  
10 they here now and what's changed is you had a million tons  
11 of extra imports that came into this country in 2014, and  
12 that continued to come in in '15, keeping the same market  
13 share. So that's what really happened here, and the  
14 consolidation is just another red herring.

15                   VICE CHAIRMAN PINKERT: Mr. Rosenthal.

16

17                   MR. ROSENTHAL: Thank you, Vice Chairman  
18 Pinkert. Your question about relevance is a good one.  
19 There's nothing in the statute or in Commission precedent  
20 that requires the domestic industry to be able to supply the  
21 entire market. Indeed, if you go back before automobiles to  
22 all-terrain vehicles a long time ago, the Commission made it  
23 very clear that the domestic producers don't have to be able  
24 to supply the market entirely or every product in the market  
25 in order to be entitled to relief.

1                   What always mystifies me is the parade of  
2 importers who come in and say I can't purchase X or I can't  
3 purchase Y, and therefore you should deny relief. That is  
4 not a basis for a negative determination, and in many  
5 instances, because of the reductions to capacity caused by  
6 imports, the domestic industry can't supply the entire  
7 market.

8                   As I said, that doesn't matter as a matter of  
9 law. And by the way, there are plenty of other  
10 fairly-traded imports that can supply the market, and  
11 there's no bar to purchasers from buying from those  
12 fairly-traded imports. We're here to fight unfair imports.

13                  MR. PRICE: Right. This is Alan Price. Let me  
14 just close real quickly, I see the light is blinking. So  
15 listen, the dumping and subsidy orders don't block imports.  
16 They just say they have to be fairly priced. So in October  
17 of this year, Ohio Coatings, for example, signed a three  
18 year, 300,000 ton supply agreement and Ohio Coatings is  
19 really a Korean joint venture with POSCO, to supply product.

20  
21                  They're not -- don't seem to have concern, and  
22 it's 300,000 tons over three years, that they're going to be  
23 blocked out of the market. Their concern is do we have to  
24 pay a fair price? That's what this is about, okay, and  
25 whether it's fair pricing from the subject imports or fair

1 pricing from non-subject imports. This industry will  
2 compete at the end of the day with fair pricing. There's  
3 plenty of access to supply.

4 VICE CHAIRMAN PINKERT: Thank you.

5 CHAIRMAN BROADBENT: Commissioner Williamson.

6 COMMISSIONER WILLIAMSON: Thank you. We haven't  
7 talked much about demand today, so I was wondering if you're  
8 willing to make some big picture comments about demand in  
9 2014 and 2015, what was driving it and maybe forecast in the  
10 near future.

11 MR. BLUME: Rick Blume, Nucor. From a demand  
12 perspective, we were seeing some modest improvement,  
13 primarily due to automotive construction has gotten better.  
14 So we have seen some I would describe it as modest  
15 improvement, and probably expect that going forward. Again,  
16 I think what's most concerning though is that improvement  
17 has been captured, stolen by unfair imports.

18

19 At a time when the industry was recovering,  
20 needed the results, needed the profitability to reinvest in  
21 our businesses and frankly pay appropriate bonuses to our  
22 team mates, we were not afforded that opportunity because of  
23 the unfair imports. So again, specifically to your  
24 question, demand has been okay.

25 MR. LAUSCHKE: Yeah. This is Scott Lauschke

1 from AK Steel. I would echo what Mr. Blume said,  
2 particularly about automotive. If you look at AK Steel's  
3 sales into the cold-rolled market, by far the largest market  
4 is automotive. That is the brightest, shiniest star that we  
5 have in our portfolio of markets that we serve.

6 Last year, 2015, was the best year for auto  
7 production in the history of the industry. 2016 is  
8 predicted to be just as good if not a hair better, so that's  
9 certainly boding well. The second largest market, which  
10 would be construction and new housing, it's pretty anemic.  
11 1.1 million in new homes built last year. It was predicted  
12 to go to about 1.2 to 1.25 million this year.

13 That's very modest growth, but very low compared  
14 to historical standards when we've had years north of two  
15 million new houses. So the construction market is still  
16 pretty anemic, although modest growth there. Along with  
17 housing comes things like appliances, refrigerators, stoves,  
18 ovens and those are kind of -- are showing a little bit of  
19 modest gain.

20  
21 But I think the key point is, particularly for  
22 automotive, at AK Steel we are more than 60 percent of our  
23 business is in automotive. This 2014, '15 and now '16,  
24 these are supposed to be the good years, for which we've  
25 been waiting post-recession. We've been waiting for a time

1 when our business could finally earn some money, that we  
2 could then reinvest in the business and invest in our  
3 future.

4 I've been in the steel industry 23 years. I've  
5 seen a number of cycles and I've learned that maybe one of  
6 out every six years, maybe it's two out of seven on average,  
7 that's when the steel businesses do well, and then they kind  
8 of hunker down for the other five years and ride out  
9 downturns.

10 From my perspective, we just experienced in 2015  
11 and now this year, we are at the peak of the cycle from an  
12 automotive standpoint, and yet we're not making money.  
13 We're not making money because these auto companies and  
14 other folks have looked at, pointed directly to import  
15 prices and said this is what I need you to match, and if  
16 you're not going to match it I'm going to take business  
17 away.

18 I've now locked myself into contracts for 2016  
19 that were negotiated in Q4 of '15, which was the lowest point in  
20 the market cycle, and it kicked me while I'm down and I'm  
21 now locked into those prices and that injury is going to  
22 continue to occur. So we desperately need the relief that  
23 we've seen in the last couple of months.

24

25 We're starting to see prices move up a little

1 bit, and the ironic thing about that, finally spot prices  
2 are starting to move up and AK Steel can't take advantage of  
3 that because we were forced in December to idle a furnace or  
4 idle an operation and now we have no spot tons to sell.

5 So the injury just keeps on continuing. If this  
6 Commission finds in favor and provides us with relief, we  
7 have some potential to come back, to bring that operation  
8 back up and actually start performing the way we should.  
9 Shy of any kind of relief, I think we and others in our  
10 industry are going to be doomed.

11 MR. LONGHI: Mario Longhi from U.S. Steel. Just  
12 briefly to add to what my colleagues have stated. If you  
13 look forward, though, the threat remains real. There are  
14 plenty of traders that are already architecting their next  
15 move in case the Commission does not support the cases that  
16 we've presented.

17 And you have to please remember, there are still  
18 92 million tons of overcapacity sitting there trying to find  
19 a home in a world that does not present itself as a growth  
20 platform. The United States still remains the somewhat open  
21 environment for them.

22 COMMISSIONER WILLIAMSON: Would they be targeting  
23 the automotive sector, in particular, do you think?

24 MR. LONGHI: They already are. They're something  
25 that probably goes under the radar screen. The OEMs, they

1 deal with suppliers in the tier one, tier two frames. And  
2 the tier one/tier two frames which are then tied to service  
3 centers are the ones that bring the material in.

4 So when you talk to an OEM and they're saying we  
5 are buying American, you have to look underneath the reality  
6 of what they're saying.

7 COMMISSIONER WILLIAMSON: We're buying from an  
8 American service center. Thank you. Mr. Kopf?

9 MR. KOPF: Yes, Rob Kopf, U.S. Steel. I would  
10 like to just add a couple of comments with regards to  
11 demand. I would agree that demand has improved in the  
12 appliance, the auto, the construction industry. We should  
13 be seeing things improving. You're going to hear--we heard  
14 it in Mr. Cameron's testimony this morning. You're going to  
15 hear it again this afternoon, that the domestic industry is  
16 fine. Prices are going up.

17 I would like to point out that, I mean you've  
18 seen our financial results over the last several years.  
19 They've not been stellar. And this year, 2016, with all of  
20 these massively huge price increases that they're going to  
21 talk about, the cold-rolled price is \$113 a ton less than  
22 the 10-year average that has been published by CRU.

23 So I don't think that we're in a position here  
24 that we've recovered. We have been injured, badly injured,  
25 and if these imports are allowed to come back in we're going

1 to see prices go back down to the 2003 lows that we just  
2 experienced once again, and they will continue to injure  
3 this industry and put some of us out of business.

4 COMMISSIONER WILLIAMSON: Okay. Thank you. Talk  
5 about autos. Has the switch to aluminum by some car makers  
6 impacted the market? And do you expect this to change in  
7 the near terms?

8 MR. REICH: This is Kirk Reich with AK Steel. It  
9 has certainly impacted a portion of it, but not  
10 significantly. Our job as steel makers is to continue to  
11 invest to make sure that it doesn't impact us significantly.  
12 And the way we do that is we've announced in our Dearborn  
13 Works we're making a modest investment that will allow us to  
14 make the next generation of advanced high-strength steels.

15 We're announcing--

16 COMMISSIONER WILLIAMSON: What kind of steels?

17 MR. REICH: Next generation advanced high-strength  
18 steels.

19 COMMISSIONER WILLIAMSON: Okay.

20 MR. REICH: And third-generation advanced  
21 high-strength steels. So we're all about competing for  
22 those markets, and to expand our production in those areas.  
23 So that's what we're doing to try to counteract the impact  
24 of aluminum. And we think there's a study out called "The  
25 Ducker Study" that shows that the impact that aluminum will

1 have, year over year, continues to get a bit less.

2 And that's really because we're all bringing the  
3 products that those automotive companies are going to need  
4 to meet the CAF standards and to lightweight their  
5 products.

6 COMMISSIONER WILLIAMSON: Thank you.

7 MR. BLUME: Rick Blume, Nucor. Related to  
8 aluminum and the threat of aluminum, it's certainly a  
9 threat. It's a threat that the industry has been engaged  
10 in, and we're prepared to compete fiercely with aluminum.

11 I will refer to the study my colleague just  
12 mentioned, and the fact of the matter is aluminum in terms  
13 of its being used in automotive is not being adopted at the  
14 rate that was anticipated, as he stated.

15 The other side of that is that advanced  
16 high-strength steel has been adopted at a much greater rate.  
17 Again, the key point though is you have to have the  
18 capability to make next-gen, third-generation steel.

19 In order to make those investments, we have to  
20 earn profits. And so I think the key is, yes, aluminum is a  
21 threat. It's a fight that we're fighting, you know, front  
22 on. But we need to be able to have the equipment and the  
23 investment required.

24 If we can't return the cost of capital on these  
25 projects, we can't make those investments and we fall

1 behind.

2 COMMISSIONER WILLIAMSON: Okay. Mr. Longhi?

3 MR. LONGHI: Mario Longhi, U.S. Steel. I would  
4 just very quickly offer a retrospective look at what one of  
5 our customers came out a couple of years ago and they  
6 promoted what they called then "the all-aluminum truck,"  
7 which was obviously a mistake on their part because, you  
8 know, 70 percent of the truck was still steel.

9 Then they came after that and they announced that  
10 they were providing the best of both worlds. And  
11 high-strength steel was the first comment.

12 And I will add that no other OEM has come forth  
13 and declared that they're going to move to aluminum. As a  
14 matter of fact, probably in the next three- to four years we  
15 are going to be substituting our own products with the  
16 latest generation of products that will more than be  
17 necessary for them to meet their standards.

18 MR. MATTHEWS: Doug Matthews, U.S. Steel. If I  
19 could just add to Mr. Longhi's comments. So looking  
20 forward, we're working very hard with our customers to solve  
21 their light-weighting challenges through an advanced  
22 high-strength steel solution and be competitive with  
23 aluminum alternatives. But I can surely state that during  
24 the Period of Investigation aluminum was not a factor.

25 MR. PRICE: Let me just close on that one point.

1 You see all of the inset, apparent domestic consumption  
2 trends go up and down in this case. That has nothing to do  
3 with aluminum. That has to do with imports overwhelming the  
4 marketplace, taking all the volume. The domestic industry  
5 volume going down. A lot of the imports, and a lot more  
6 than is actually shown here because you have gaps in your  
7 records and you don't have complete OEM inventories, you  
8 don't have--well, for right now, intransigent inventories,  
9 but the amount of subject product going into inventory,  
10 overwhelming the market, was huge and it caused this  
11 up-and-down cycle.

12 Aluminum has nothing to do with this. And it is  
13 just one of the Respondents' attempts to try to misrepresent  
14 and kind of throw things out there and hope something  
15 sticks.

16 COMMISSIONER WILLIAMSON: Okay. Thank you for  
17 those answers.

18 CHAIRMAN BROADBENT: Commissioner Johanson.

19 COMMISSIONER JOHANSON: Thank you, Chairman  
20 Broadbent.

21 Could you all respond--and this might best be  
22 done during post-hearing due to proprietary concerns--could  
23 you all please respond to--talk to UK's contention that  
24 performance declines on this record do not reflect an  
25 industry decline, but rather are the function of the

1 operations of an individual U.S. company and are unrelated  
2 to U.S. imports?

3 MR. LONGHI: Are you referring to the 337 case?

4 COMMISSIONER JOHANSON: Not necessarily, no.

5 MR. GERRISH: Commissioner Johanson, Jeff Gerrish  
6 of U.S. Steel. No. The declines in the industry are due to  
7 the effects of all the subject imports that have had an  
8 impact on the entire U.S. industry.

9 And I think, you know, we would certainly be  
10 happy to address that in our post-hearing brief.

11 COMMISSIONER JOHANSON: Yes, if you could do that  
12 I would appreciate it. Tata wrote on this quite  
13 extensively, and I believe another Respondent might have, as  
14 well. Thank you.

15 And getting to an issue raised by the Korean  
16 Respondents, they say--was inventory overhang during the  
17 Period of Investigation caused by domestic producers  
18 themselves?

19 MR. PRICE: Well --

20 COMMISSIONER JOHANSON: Okay. I see your chart.

21 MR. PRICE: I think you see the chart. And let me  
22 just say, technically it's the build in inventory. You  
23 could have actually put the domestic product into inventory,  
24 because the subject imports. So it's actually the chart  
25 before the actual damage. You know, the 285,000 tons of

1 inventory built that you would say is the overshipment of  
2 the impact. And then it's on top of that, because there are  
3 inventories that are just squirreled away throughout this  
4 marketplace.

5 A lot of this roller coaster in consumption that  
6 we're seeing here is just massive overshipment. You know,  
7 the domestic industry tried to maintain volumes as much as  
8 possible, tried to maintain prices as much as possible; gave  
9 up volume in 2014; trying to maintain as long as possible.  
10 Then it cuts pricing in order to try to keep its plants  
11 going against this massive inventory build.

12 And you see the market share of the imports out  
13 there that were substantial. And they just fought it out on  
14 price. And the imports actually never went away until after  
15 the case was filed.

16 MR. VAUGHN: Commissioner Johanson, I just want to  
17 jump in--

18 MR. BISHOP: Please state your name.

19 MR. VAUGHN: I'm sorry. Stephen Vaughn, AK Steel.  
20 I agree with what Mr. Price said. But if you look at the  
21 chart they cite to on page II-15 of the staff report,  
22 basically their point is that most of the product that  
23 purchasers are reporting as being in inventory were products  
24 made by the domestic producers.

25 But if you think about it, that makes sense

1 because most of the product in the market is made by  
2 domestic producers. What is really relevant--and this is  
3 what I think Mr. Price has done a good job with, and what  
4 you can really see in your record--is what's happening to  
5 the market share of what's in those inventories.

6 From 2013 to 2015, the amount of U.S.-produced  
7 material in inventory fell from 733,000 tons to 650,000  
8 tons. At the same time, the amount of subject imports in  
9 the inventory rose from 35,000 tons to 117,000 tons.

10 So just like they were taking market share in the  
11 merchant market data, they're also taking up a bigger and  
12 bigger portion of the inventories. And that is totally  
13 consistent with the idea that they are contributing to the  
14 oversupply and they are causing the problem.

15 MR. FERROLA: John Ferriola with Nucor. Please  
16 remember that during this time when you saw imports  
17 increasing, the capacity utilization of the domestic mills  
18 in the industry overall was going down.

19 So during this period we're operating at about 70  
20 to 72 percent capacity utilization. At those levels,  
21 there's no way that we would be causing the inventory  
22 overhang.

23 MR. SCHAGRIN: And, Commissioner Johanson--this is  
24 Roger Schagrin--the story on inventory is also inconsistent  
25 with your purchaser responses in the staff report where you

1 had a significant number of purchasers admit in their  
2 purchaser responses that they were shifting their purchases  
3 from the domestic to import because of price.

4 And so the story with a lot of these big service  
5 centers if, when they get an offer from one of the subject  
6 producers at prices 10 or 20 percent below the market  
7 levels, they buy that figuring I can put it in inventory. I  
8 have very little downside risk because the subject import  
9 dumped and subsidized price is so low.

10 And then they build their inventories with the  
11 subject imports, and they cut back on their regular domestic  
12 purchases. And that is why you saw the volume effects on  
13 the domestic inventory.

14 Eventually, when domestic prices plummet because  
15 these producers with their high fixed costs say I've got to  
16 get some volume. I've got to start getting closer to the  
17 import prices. Then you see the purchasers are saying, wow,  
18 as prices are going down of domestic as well, I don't want  
19 to buy anything for more inventory. And you see overall  
20 inventories going down, which is what you see in the data as  
21 we get towards the end of 2015.

22 COMMISSIONER JOHANSON: Thanks for your responses  
23 on that. I would like to move on to a totally different  
24 subject, and that is the weather.

25 Congressman Nolan this morning spoke at some

1 length about the Great Lakes and St. Lawrence Freeway and  
2 how he, according to what he stated, something like 14  
3 percent of U.S. production goes through the Great Lakes.

4 What impact did the cold winter in 2014 have on  
5 Great Lakes shipping and transit times, as well as the  
6 demand for cold-rolled steel? And did the U.S. industry  
7 fail to meet any deadlines or have to reschedule deliveries  
8 due to weather incidents during that time? Yes?

9 MR. KOPF: Rob Kopf, U.S. Steel.

10 First of all, there are numerous facilities that  
11 are not located on the Great Lakes that were certainly  
12 capable of satisfying plenty of demand that customers might  
13 have had. But I am truly fascinated by the argument of the  
14 weather.

15 And I'm also fascinated by several of their  
16 arguments. They just throw a hundred pieces of gum at the  
17 wall and hope that a few of them are going to stick. So I  
18 would like to talk about the weather a little bit.

19 So they claimed in January and February of 2014  
20 the weather got so bad that they had to surge their imports  
21 in here to 129.3 percent higher than the previous second  
22 quarter of the year. So they were very nimble at getting  
23 within two or three months' time a surge of imports in here  
24 because of a bad winter. However, they're also going to  
25 blame this market falling and our predicament on probably

1 oil and gas industry. I'm waiting to hear that one.

2 We're going to hear them talk about the fact that  
3 the oil and gas industry fell here starting in July of '14,  
4 and they did not have the ability to slow down their imports  
5 here by the time the first quarter of '15 rolled around. In  
6 fact, they increased their imports here by 38.3 percent in  
7 the first quarter of '15 versus the first quarter of '14.

8 So this is a complete diversionary argument that  
9 the weather caused us as an industry to not fulfill customer  
10 orders, and for them to have to bring imports in to the tune  
11 of 129.3 percent higher than the previous year.

12

13 MR. BLUME: Rick Blume, Nucor. I would also add  
14 to that point. Again, as Mr. Ferriola just testified to,  
15 the fact that the industry itself and Nucor, we were running  
16 probably around 70 percent--I don't have the exact number.  
17 We had plenty of capacity to respond to that. There was no  
18 need for dumped imports.

19 COMMISSIONER JOHANSON: But isn't it a fair point  
20 for them to make that--did it have some impact on production  
21 in the Great Lakes--or on sales in the Great Lakes region,  
22 or at least on shipping? Because from what I recall, the  
23 economy did indeed slow down and maybe even dip during that  
24 period, and there was--I'm talking about the economy  
25 overall.

1           MR. REICH: This is Kirk Reich with AK Steel. I  
2 think that's right--it did have an effect on the economy  
3 overall. It wasn't just because we couldn't get enough iron  
4 ore supply. It was more an entire impact. But it wasn't  
5 because there wasn't enough steel available, or they  
6 couldn't buy it anywhere else. Certainly the cold weather  
7 did impact our ability to get iron ore. It made all those  
8 inventories tight. But that doesn't mean that we didn't  
9 still have enough to meet all the customers' needs.

10           MR. MULL: Dan Mull, Arcelor Mittal. We actually  
11 had some production problems. But the other side of that  
12 was, we had product ready where our customers couldn't take  
13 it because of the weather, also. So once again, it's a  
14 supply/demand situation, and it was balancing it out.

15           We had facilities elsewhere that could certainly  
16 produce it. And interesting enough, one of the things that  
17 make this surge of imports different than some others I've  
18 experienced in my 40-year career is that the surge came in  
19 so much, the product of the imports got tied up on the docks  
20 and wasn't able to get out and service when customers really  
21 needed it. So then they had to push it. And we still had  
22 more imports coming.

23           So it actually impacted the marketplace even more  
24 drastically as a result of the logistics problems at the  
25 docks.

1                   MR. MATTHEWS: Doug Matthews, U.S. Steel. So we  
2                   have a couple of locations located on the Great Lakes, and  
3                   we did get tight. But we were able to move product to other  
4                   service facilities to be able to produce for our customers.

5                   We did see customers delay receipt of coils that  
6                   were ready in the warehouse because they were largely  
7                   affected by similar winter conditions, as well. And we  
8                   seemed to work through that in a very efficient time period,  
9                   you know, within about a month or two.

10                  And I guess the one thing I don't understand  
11                  about the Respondents' argument here is, if there was a  
12                  tightening of supply why wasn't there an escalation of price  
13                  during that time? And why didn't we see the prices move up?

14                  In the market that we participate in, that is  
15                  typically what we would see in a situation like that. So I  
16                  think that again it's just a smokescreen.

17                  MR. FERRIOLA: I want to build on that point for  
18                  just a minute because we don't depend on iron ore. We are a  
19                  scrap-based company. We're not on the Great Lakes. We  
20                  could have shipped during that time.

21                  At that same time, we were operating at about 70-  
22                  to 75 percent capacity utilization. So at the end of the  
23                  day, we had team mates who had reduced paychecks. And this  
24                  argument just actually angers me. It makes me very mad when  
25                  I have to sit here and listen to that. When we're operating

1 at 75 percent capacity, we were more than able to fill any  
2 need, any shortcoming that was a result of the weather. And  
3 it just didn't happen.

4 MR. PRICE: Alan Price. Actually the import surge  
5 actually starts in 2013 fourth quarter. That's when they  
6 start going up. And they do it by lowering price. I mean,  
7 this is classic.

8 COMMISSIONER JOHANSON: Alright. Thank you for  
9 your responses. My time has expired.

10 CHAIRMAN BROADBENT: Commissioner Kieff.

11 COMMISSIONER KIEFF: Thank you. As tempting as it  
12 is at a trade hearing to offer my time for auction, I am  
13 also very aware of margins and so look forward to the other  
14 side having an opportunity to present as well. And thank  
15 you, very much.

16 CHAIRMAN BROADBENT: Commissioner Schmidtlein.

17 COMMISSIONER SCHMIDTLEIN: I just have a few  
18 follow-up questions. And in the interests of time and the  
19 late lunch hour, I will just ask that you respond to these  
20 in the post-hearing.

21 So my first question is for Professor Hausman.  
22 Professor Hausman, you mentioned--and it's in your slides--  
23 that you estimated the lag effects of changes in import  
24 prices for six months in terms of overall prices. So I  
25 assume that that sentence means you estimated that there is

1 a six-month lag?

2 MR. HAUSMAN: Yes.

3 COMMISSIONER SCHMIDTLEIN: Okay. Can you in the  
4 post-hearing explain what the basis for that estimate was,  
5 how you came to that number?

6 MR. HAUSMAN: (No microphone).

7 COMMISSIONER SCHMIDTLEIN: Your mike.

8 MR. HAUSMAN: There's an econometric model, and it  
9 will be contained in the post-hearing brief.

10 COMMISSIONER SCHMIDTLEIN: Okay. Thank you.

11 Switching gears, I think this would be best  
12 answered by one of the lawyers, but again you can respond in  
13 the post-hearing. Could you please respond to the argument  
14 that the Commission should consider conditions of  
15 competition, in addition to an overlap of competition, when  
16 deciding whether to cumulate for material injury? This is  
17 an argument made by Japan.

18 MR. PRICE: We'll do that in the--

19 COMMISSIONER SCHMIDTLEIN: In the post-hearing.  
20 Thank you.

21 And in connection with that, how should the  
22 Commission consider the data in the staff report at page  
23 II-35 that 13 of 23 U.S. purchasers responded that  
24 cold-rolled steel from Japan was only sometimes or never  
25 interchangeable with U.S. like product.

1           Same question with regard to data at page II-38  
2           that 10 of 21 purchasers responded that differences other  
3           than price were always or frequently significant in their  
4           purchases of cold-rolled steel from Japan.

5           MR. PRICE: We will address that.

6           COMMISSIONER SCHMIDTLEIN: Thank you. That's all  
7           I have. Thank you, very much.

8           CHAIRMAN BROADBENT: Okay, this could be for Mr.  
9           Vaughn or Mr. Rosenthal. On page 2--and it is on the  
10          question of supply disruptions, page 2 of 11 of the staff  
11          report indicates that there were some short-term supply  
12          disruptions in 2013 and 2014 reported by producers.

13          And then if you turn to page 2-12, you see that  
14          12 purchasers have indicated that there were supply  
15          constraints, many of which involved U.S. producers.

16          Are the supply issues correlated with the  
17          increase in subject imports in 2014?

18          MR. ROSENTHAL: This is Paul Rosenthal. The  
19          answer is, no. The supply constraints that are discussed  
20          were not correlated to the surge in imports.

21          First of all, whatever supply constraints existed  
22          were temporary, very short-lived, and as you may have heard  
23          some of the supply constraints reported were made up for by  
24          other mills being able to supply the customers.

25          So there was not any need for additional imports

1 during that time. The other point about this is that the  
2 import surge began before the alleged supply constraints  
3 took place, as Mr. Price mentions in his previous chart, and  
4 it continued well beyond any temporary time in which the  
5 supply constraints allegedly existed.

6 So there really isn't any relationship between  
7 that very short period of time that the weather-related  
8 supply constraints allegedly took place and the surge in  
9 imports that we have talked about this morning.

10 MR. REICH: This is Kirk Reich with AK Steel.  
11 Some of those would be other short-term operational issues.  
12 A blast furnace problem, for example. And we've all, as  
13 much as we try to prevent those, had those in our time. And  
14 that's been an ongoing issue, and it's something that's very  
15 quickly resolved by others in the industry being able to  
16 take up for that capacity. And, by that capacity coming  
17 back online.

18 So that is not the case, that it would lead to  
19 imports, either.

20 CHAIRMAN BROADBENT: Okay--

21 MR. SCHAGRIN: And, Chairman Broadbent--this is  
22 Roger Schagrin--I think the Commission has to be very  
23 careful not to conflate the idea that a producer in an  
24 industry of a dozen producers can have a temporary  
25 production constraint with an industry having a supply

1 constraint.

2 So "a" customer can say my mill was late on a  
3 delivery because they had a production problem, and you've  
4 seen the machinery in this industry, whether it's blast  
5 furnaces or mini mills, this is the kind of industry where  
6 production problems occur for several days, you know, if,  
7 God forbid, there is an accident, or there's a breakdown in  
8 machinery.

9 But this is an industry that, throughout this POI  
10 was never above 75 percent capacity utilization. So an  
11 industry with a dozen members, the idea that there was ever  
12 during this POI an industry supply constraint is simply not  
13 true on this record.

14 CHAIRMAN BROADBENT: Okay. And I just had one  
15 final question that I'll throw out there on the correlation  
16 between cold-rolled and hot-rolled prices.

17 Figure 5-2 on page 5-2 of the staff report shows  
18 a strong correlation between the prices of cold-rolled coil  
19 and hot-rolled coil. Can you explain how prices for  
20 hot-rolled steel and cold-rolled steel are linked?

21 MR. ROSENTHAL: Paul Rosenthal. I think this is  
22 best for the post-hearing brief.

23 CHAIRMAN BROADBENT: Terrific. Okay, I appreciate  
24 it. No more Commissioner questions--oh, excuse me. Vice  
25 Chairman Pinkert.

1                   VICE CHAIRMAN PINKERT: Just a couple of questions  
2 for post-hearing. And these both relate to threat.

3                   The first question is: Was the industry equally  
4 vulnerable to material injury at the beginning of the period  
5 and at the end of the period?

6                   And my second question is: If you're wrong about  
7 the Japan pricing data, should Japan be decumulated for  
8 purposes of the threat analysis?

9                   VICE CHAIRMAN PINKERT: Thank you.

10                  CHAIRMAN BROADBENT: Does the staff have any  
11 questions for this panel? Mr. Corkran?

12                  MR. CORKRAN: Douglas Corkran, Office of  
13 Investigations. Thank you, Madam Chairman. Staff has no  
14 additional questions.

15                  CHAIRMAN BROADBENT: Okay. And then do  
16 Respondents have any questions for this panel?

17                  MR. CAMERON: No.

18                  CHAIRMAN BROADBENT: Thank you, Mr. Cameron.

19                  Alright, in that case it is time for a lunch  
20 break. We will return back here at three o'clock. The  
21 hearing room is not secure, so please do not leave  
22 confidential business information out.

23                  And I want to thank all the witnesses for coming  
24 today.

25                  (Whereupon, the hearing was recessed, to

1 reconvene at 3:00 p.m., this same day.)

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1 volume and a decline in prices and industry performance.  
2 But they have failed to establish a causal link between the  
3 two. I will demonstrate that these trends are not related,  
4 and that subject imports did not cause material injury to  
5 the domestic industry.

6 First, to establish some context, even at  
7 subject imports' peak market share, U.S. producers still  
8 controlled 80 percent of the merchant market and 90 percent  
9 of the total market. Petitioners make repeated reference to  
10 the million tons of subject imports, but in a market of 30  
11 million tons that volume cannot reasonably be said to be  
12 having a material impact on the market overall.

13 Second with respect to the price, U.S.  
14 producers' prices were increasing at precisely the same time  
15 that subject import volume was rising, and U.S. producers'  
16 prices did not decline until after subject import volumes  
17 had already peaked and were declining.

18 Even then, industry prices declined concurrently  
19 with the prices of key raw material inputs. Finally with  
20 respect to impact, U.S. producers' merchant market business  
21 out-performed their total business, which is the opposite of  
22 what one would expect to see if subject imports had  
23 adversely impacted the domestic industry, and the industry  
24 actually had its best performance when subject import  
25 volumes were at their highest.

1           To begin, there were no adverse volume effects  
2 by reason of subject imports. Petitioners have made several  
3 statements about volume in their briefs that are  
4 contradicted by the record evidence.

5           First, they claim that the filing of the  
6 petition caused the decline in subject imports. As shown  
7 at Slide 1 and has been known since the preliminary phase  
8 of this case, the increase in subject imports in 2014 was  
9 temporary, driven by the effects of severe winter weather  
10 and domestic industry supply constraints.

11           After a peak in October 2014, subject import  
12 volume declined by over 30 percent in the next eight to nine  
13 months before the petition was filed. So next Slide 2, even  
14 in 2014 when subject imports were at their highest level,  
15 the sum total of subject imports was 1.5  
16 million tons, meaning that U.S. producers' total shipments  
17 were 18 times greater than subject imports.

18           As shown in Slide 3, in the merchant market too  
19 U.S. producers dominated, controlling over 80 percent of  
20 the market. We know also that the green bar representing  
21 non-subject imports increased over the POI as well. A  
22 portion of non-subject imports were controlled by the  
23 petitioners themselves.

24           In petitioner's briefs, they claim that the  
25 entire volume of subject imports during the POI can be

1 considered lost to U.S. producers, and that they can easily  
2 meet demand across all cold-rolled steel product lines if  
3 not for subject imports. In light of these statements, the  
4 increasing volume of non-subject imports and that U.S.  
5 producers are in part responsible for them is incongruous.

6 Petitioners' second argument about volume that  
7 is unsupported by the record involves inventories. In the  
8 preliminary phase and now again in the final, Petitioners  
9 claim that the increases in subject import volume caused an  
10 inventory overhang that negatively impacted market prices,  
11 and caused an apparent decline in demand as the inventories  
12 in 2014 were worked off in early 2015.

13 The questionnaire data received in this final  
14 phase do not bear this out and in fact confirm respondent's  
15 argument at the prelim that any inventory overhang was  
16 caused by the U.S. producers themselves. As shown at Slide  
17 4, this chart includes U.S. producers inventories,  
18 importers' inventories and purchasers' inventories.

19 Labels have been removed to withhold any  
20 confidential data, but as you can see in any year,  
21 inventories of U.S. produced cold-rolled were far, far  
22 greater than inventories of subject imports. This remains  
23 the case throughout the POI, even though inventories of  
24 subject imports increased from 2013 to 2014.

25 To that point specifically, Petitioners,

1 especially this morning, have pivoted to the significance of  
2 the increase in inventories. But this next slide makes it  
3 clear that these increases too were insignificant in the  
4 context of the market as a whole. On Slide 5, the purple  
5 bars represent merchant market consumption and the small,  
6 barely visible red bars represent inventories of subject  
7 imports. It is simply not credible for Petitioners to  
8 assert that inventories of subject imports that amount to  
9 around two percent of merchant market consumption, could  
10 weigh heavily on the market.

11 It follows that the imports entering the market  
12 during 2014 were overwhelmingly consumed in 2014, not added  
13 to inventories. This is significant because, as I will  
14 discuss later, the domestic industry had its best  
15 performance in 2014, specifically in the second half.

16 Turning to price, there was no price depression  
17 by reason of subject imports. In fact, U.S. producers'  
18 prices were actually increasing at the very same time  
19 subject import volume was rising, as shown at Slide 6. And  
20 again removing any labels that would reveal confidential  
21 information, U.S. producers' prices rose along with the  
22 volume of subject imports from late 2013 all the way  
23 through the second half of 2014, and only started to decline  
24 after subject import volumes had already peaked and begun to  
25 decline.

1                   Petitioners claim that domestic producers  
2 maintained prices as long as they could in 2014, and then  
3 slashed them in 2015 to maintain market share. We note  
4 again that second half 2014 was by far the industry's most  
5 profitable period of the POI. It earned income in those six  
6 months -- sorry, it earned more income in those six months  
7 than in the previous 18 months, when subject imports were  
8 less of a factor in the market, if a factor at all.

9                   This performance does not square with an  
10 industry struggling to maintain its price levels and market  
11 share, and it does not square with a situation in which  
12 industry prices fell first before raw material costs. Also,  
13 as my colleague Bruce Malashevich will demonstrate, the  
14 price trends for cold-rolled are indistinguishable from  
15 trends of other carbon steel products not currently under  
16 investigation.

17                   Petitioners have claimed that prices collapsed  
18 as a result of subject imports, and that the only reason for  
19 price declines is subject imports. In their statements to  
20 the Commission, the domestic industry has been strangely  
21 reluctant to concede even the most basic reality that  
22 changes in raw material costs, which account for roughly 60  
23 percent of their cost of production, could possibly be  
24 related to changes in price.

25                   Slide 7, the four charts on this slide show U.S.

1 producers' prices followed trends in the prices of key raw  
2 materials, hot-rolled coil, iron ore, scrap and coal. This  
3 is unsurprising given statements that these producers  
4 themselves have made to audiences other than the Commission.

5 As you can see on Slide 8, both Nucor and AK  
6 Steel have stated explicitly and publicly that their  
7 contracts allow price adjustments based on the prices of raw  
8 materials. What's more, the purchaser questionnaire  
9 responses the Commission now has on the record also support  
10 the basic reality of this story.

11 30 of 42 responding purchasers reported that  
12 changes in raw material costs affected price negotiations  
13 with their cold-rolled steel suppliers. The Commission  
14 should discredit the domestic industry's arguments that fail  
15 to acknowledge this basic point. There was no price  
16 suppression by reason of subject imports.

17 I'm going to put up the same slide as before,  
18 only now the charts will include a thick black line that  
19 shows the spread between U.S. producers' prices and key raw  
20 material inputs increased over the POI, and particularly  
21 between 2014 and 2015, which is when Petitioners claim  
22 subject imports had adverse price effects on the industry.

23 Again, we see this is the case with hot-rolled  
24 coil, iron ore, scrap and coal. Subject imports were not  
25 preventing price increases that otherwise would have

1 occurred, and this is shown in the industry's financial  
2 data, wherein raw material prices fell faster than net sales  
3 prices.

4 Respondents submit further that the  
5 under-selling on the record is not significant, given that a  
6 significant number of purchasers expressed a willingness to  
7 pay more for domestic merchandise, and the confidential  
8 record shows that the frequency of under-selling declined  
9 from 2014 to 2015. Additionally, we believe that the  
10 Commission should closely examine the effects of  
11 intra-industry competition, which is explained in detail in  
12 Korean respondents' confidential prehearing brief.

13 There was no adverse impact by reason of subject  
14 imports. As shown at Slide 10, the domestic industry's  
15 merchant market business out-performed its total business,  
16 and therefore by definition its captive business in every  
17 year of the POI. This implies that notwithstanding any  
18 import competition that may exist, U.S. producers have  
19 sufficient pricing power to command higher prices and earn  
20 higher margins in the merchant market than on their captive  
21 consumption, which does not face import competition.

22 Furthermore, as shown on Slide 11, the domestic  
23 industry performed best precisely when imports were at their  
24 peak in the second half of 2014. In fact, as shown at Slide  
25 12, the domestic industry earned more profit in the merchant

1 market during the last six months of 2014 than in the  
2 previous 18 months combined.

3 This is the fundamental flaw in Petitioners'  
4 case. They performed best when subject imports' presence in  
5 the market, as measured by volume, market share,  
6 under-selling, etcetera, was greatest. This simply does not  
7 add up. At the prelim, Petitioners argued that the 2014  
8 increase in imports went into inventories, which carried  
9 over and injured them in 2015.

10 But the more complete record on inventories in  
11 the final phase do not support this assertion. They show,  
12 as I discussed previously, that the overwhelming majority of  
13 imports entering in 2014 were consumed in 2014. Yet it was  
14 precisely then that the domestic industry had its best  
15 performance of the POI.

16 Now I will address threat on a cumulated basis  
17 for all subject countries combined. In short, none of the  
18 record evidence points to the likelihood of substantially  
19 increased imports and the imminent future, nor does it point  
20 to the likelihood of adverse price effects in the imminent  
21 future. As I mentioned earlier, subject import volume and  
22 market share has been declining since the second half of  
23 2014, and foreign producers expect it to decline further in  
24 2016 and 2017.

25 The fact is the United States is just not a

1 significant market for these producers. Petitioners' claim  
2 that producers in the subject countries are export-oriented  
3 and looking for every opportunity to export as much  
4 cold-rolled steel as possible. This characterization is not  
5 supported by the record.

6 On Slide 13, the dark blue bar is home market  
7 internal consumption and transfers. The light blue bar is  
8 home market commercial shipments. The purple bar is exports  
9 to markets other than the United States, and finally the  
10 tiny green bar at the top, if you can even make it out,  
11 represents exports to the United States. It's roughly one  
12 percent of foreign producers' total shipments.

13 This is a stark contrast to many other cases the  
14 Commission is used to seeing, where the U.S. market is the  
15 major or even primary focus of subject country exporters.  
16 In this case, it's not even close. In large part, the  
17 market concentrations are a result of the nature of  
18 cold-rolled itself. Its primary use is as a raw material  
19 for downstream production, and the next important market is  
20 the home market.

21 While there was a small increase in subject  
22 producers' capacity, it was absorbed by these producers'  
23 other markets, chiefly as you can see from the slide their  
24 home markets. This capacity is projected to decline in 2016  
25 and 2017.

1                   But in any case, given the insignificance of the  
2 U.S. market relative to these producers' other markets shown  
3 in the slide, it would be absurd to suggest that subject  
4 producers have added or would add capacity to serve the U.S.  
5 market.

6                   Foreign producers' inventories as a percent of  
7 total shipments were small and steady at about three percent  
8 over the POI, and importers' and purchasers' inventories of  
9 subject imports, which as I mentioned earlier, are  
10 microscopic relative to consumption, actually declined in  
11 2015 relative to 2014.

12                   Finally, as shown at Slide 14, prices for  
13 cold-rolled steel have increased significantly in 2016,  
14 after reaching a trough in December 2015. Notably, these  
15 increases are happening worldwide.

16                   So the increases in the U.S. market cannot be  
17 attributed to defects of this case. Thus, any data on the  
18 record -- data on the record do not provide an indication of  
19 imminent threat. I'll be happy to answer any questions you  
20 may have, thank you.

21                   STATEMENT OF CHARLES CHUNG

22                   MR. CHUNG: Good afternoon. My name is Charles  
23 Chung, manager for POSCO America. I am accompanied by Jung  
24 Sik Kim, also from POSCO America. Virtually all of POSCO's  
25 exports of cold-rolled steel consist of advanced high

1 strength steel for automobile use and tin mill black plate  
2 used to produce tin mill products.

3 Before discussing POSCO, let me say something  
4 about the Korean steel industry. As recently as 2002, there  
5 were four major producers in Korea: POSCO, Dongbu, Union  
6 and Hyundai Steel. While Union now Dongkuk steel mill and  
7 Dongbu still produce small amounts of cold-rolled, they  
8 generally produce for internal consumption to produce  
9 corrosion-resistant steel.

10 As a result, POSCO and Hyundai are now virtually  
11 the only Korean exporters of cold-rolled for export to the  
12 United States. This consolidation of the cold-rolled  
13 industry has important implications for the Korean industry  
14 and for the United States market. It means less internal  
15 competition between Korean producers for export sales. In  
16 fact, there is very little if any competition for U.S.  
17 customers.

18 Secondly, both Hyundai Steel and POSCO have  
19 concentrated their exports primarily on the automotive  
20 sector, and in the case of POSCO, tin mill black plate for  
21 Ohio Coatings. Imports of these cold-rolled steel products  
22 are not injuring U.S. producers of cold-rolled steel. The  
23 witnesses from Ohio Coatings will discuss POSCO's imports of  
24 black plate, and their importance to OCC and the U.S. tin  
25 plate industry.



1 the cold-rolled steel exported by Hyundai Steel to the  
2 United States, and 100 percent of Hyundai Steel America's  
3 cold-rolled imports are for use by Hyundai Motor and Kia  
4 Motor. Hyundai Motor established Hyundai Steel America and  
5 Kia Motor America to produce automobiles in the United  
6 States.

7 Hyundai Motor and Kia Motor estimate that they  
8 have invested over \$3 billion in these facilities. They  
9 directly or indirectly employ approximately 10,000 workers  
10 in Georgia and Alabama. For automakers like Kia and  
11 Hyundai, by far the most important factors in purchasing  
12 cold-rolled steel are product quality and product  
13 uniformity.

14 Different auto parts require specific qualities,  
15 but flatness and no wave and low reject rates are always  
16 important. Price is a consideration, but quality and  
17 uniformity of cold-rolled steel trump all other factors.  
18 Auto producers require a long approval process because they  
19 want to obtain a product that is specifically suited to  
20 their particular production and the longer their experience  
21 with their supplier, the more confidence the auto producer  
22 has in its supplier.

23 As noted in our questionnaire responses, even  
24 though automotive production has increased in the United  
25 States, consumption of cold-rolled has declined. The

1 primary reason is that galvanized steel increasingly has  
2 been substituted for cold-rolled. So even as car production  
3 has increased, cold-rolled used for autos has declined.

4 In addition, high tensile steel has been replaced by  
5 low tensile steel in many cold-rolled applications, and  
6 there has been a significant drop in purchases of low  
7 tensile cold-rolled. A large part of strategy of Hyundai  
8 Motor and Kia Motor in establishing auto production in the  
9 United States was to use domestically produced steel where  
10 possible.

11 Hyundai and Kia have been continuously working  
12 to increase their sourcing of steel, including cold-rolled  
13 steel from domestic producers. In general, all U.S.  
14 automotive producers prefer to source steel locally from  
15 domestic steel producers because of the logistical advantage  
16 of local supply.

17 Local supply reduces lead times and proximity  
18 makes it easier to resolve sourcing and quality issues when  
19 they arise. One limitation on local sourcing is that  
20 Hyundai's R&D Center for Automotives is located in Korea.  
21 This means that when developing new auto models, Hyundai has  
22 tended to partner initially with Japanese and Korean  
23 suppliers, while U.S. suppliers are qualified at the  
24 manufacturing stage.

25 Once a commitment is made is to purchase steel

1 for any particular part for any given model, that contract  
2 generally continues throughout the life of that part, which  
3 is typically several years. When we are in the process of  
4 qualifying U.S. steel for a high strength low alloy grade,  
5 purchase anticipated to begin in July. We have also  
6 discussed purchases with AK Steel after they begin  
7 production of high strength low alloy in 2017.

8 STATEMENT OF LORI CLARK

9 MS. CLARK: Good afternoon. My name is Lori  
10 Clark, general manager of Marketing and Quality Control for  
11 Ohio Coatings Company or OCC. I am accompanied here today  
12 by Mr. Ken Kinyo and Mr. Y.S. Bin. OCC is a U.S. producer  
13 of tin plate steel located in Yorkville, Ohio.

14 Tin plate is a type of specialty coated steel.  
15 It is produced by applying a tin coating to a steel  
16 substrate using an electrolytic coating process. Tin-plated  
17 products are used in food and beverage cans, paint cans,  
18 aerosol cans and similar products.

19 OCC produces both single reduced and double  
20 reduced tin plate. The steel substrate used in the  
21 production of tin plate is known as tin mill black plate,  
22 normally referred to simply as black plate. Black plate is  
23 a specialty steel that was developed and designed for the  
24 production of tin plate. It has no other significant uses.

25 Besides OCC, there are three other domestic

1 producers of tin plate products in the United States,  
2 ArcelorMittal, U.S. Steel and USS POSCO Industries or UPI.  
3 OCC operates a world class 130,000 square foot electrolytic  
4 tin plate manufacturing facility, with a capacity to produce  
5 250,000 tons per year of the highest quality tin plate  
6 available anywhere.

7           When our plant opened in 1997, it was the first  
8 tin plating mill to have been constructed in North America  
9 in over 30 years. OCC employs 66 workers, including 44  
10 members of the United Steelworkers Union, who live in Ohio  
11 and West Virginia. Those jobs and the very survival of OCC  
12 as a U.S. tin plate manufacturer are threatened because our  
13 tin mill competitors want to eliminate our ability to  
14 compete with them in the tin plate market.

15           Unlike our three competitors in the tin plate  
16 market, OCC does not have its own captive supply of black  
17 plate. Rather, OCC is dependent upon purchasing black plate  
18 in the merchant market. The only domestic producers of  
19 black plate, however, are also our competitors in the tin  
20 plate market, primarily ArcelorMittal and U.S. Steel. As I  
21 will discuss in a moment, sourcing 100 percent of our black  
22 plate requirements from our competitors is not a viable  
23 option for OCC.

24           Unless we are able to continue to purchase high  
25 quality black plate from Korea and Japan, OCC may have to

1 close its doors. From a commercial standpoint, black plate  
2 is not cold-rolled steel. ArcelorMittal, U.S. Steel and UPI  
3 all market black plate as a type of tin mill product rather  
4 than as cold-rolled steel.

5 Most cold-rolled steel manufacturers do not  
6 produce black plate and could not do so without making  
7 investments of hundreds of millions of dollars. Black plate  
8 is produced to thinner gauges and tighter tolerances than  
9 cold-rolled steel. To produce black plate, you need a  
10 special light-gauged tandem mill, and to produce  
11 double-reduced black plate efficiently, you need a  
12 double-reducing temper mill.

13 In 2012, RG Steel, our former parent company and  
14 source of OCC's black plate, went through bankruptcy and was  
15 liquidated. Since then, OCC has obtained its black plate  
16 from ArcelorMittal, POSCO and from some Japanese suppliers.  
17 The only viable domestic supplier at this point is  
18 ArcelorMittal.

19 UPI is located in California, and it is not  
20 economical to ship black plate coils from California to  
21 Ohio. U.S. Steel has never shown any serious interest in  
22 supplying us. At the preliminary staff conference,  
23 representatives of U.S. Steel testified that they would like  
24 to supply OCC. So we asked them for a quote.

25 After several follow-up requests, they finally

1 gave us a quote in which they offered to sell us black plate  
2 at a price that was higher than the current market price for  
3 finished tin plate. That was not a serious offer. OCC  
4 cannot survive with ArcelorMittal as our only supplier.

5 First, no producer can afford to have a single  
6 source of any essential raw material. ArcelorMittal  
7 produces black plate at the old Weirton Steel facility in  
8 West Virginia. If we sourced all of our black plate from  
9 ArcelorMittal and that plant would have any kind of shutdown  
10 like a fire or a strike, we would also be shut down.

11 Second, ArcelorMittal is our direct competitor  
12 in the tin plate market, and the majority of the black plate  
13 they produce is consumed internally to feed their tin plate  
14 production. That means they will always prioritize  
15 supplying their own operations first.

16 Third, our tin plate customers face the same  
17 issues. They buy from us because of the quality of our tin  
18 plate products and also to have another supplier besides  
19 ArcelorMittal. But if they knew that we were reliant on  
20 ArcelorMittal for our black plate, they would no longer view  
21 us as a separate supplier from ArcelorMittal.

22 In fact, we have customers that specify in their  
23 contracts with us that the black plate must not be sourced  
24 from ArcelorMittal. Without an independent supply of black  
25 plate, OCC would lose that business.

1                   Fourth and finally, the quality of  
2                   ArcelorMittal's black plate is not as good as that of POSCO  
3                   and our Japanese suppliers. ArcelorMittal's Weirton  
4                   facility was constructed many decades ago, and much of their  
5                   equipment is no longer state of the art.

6                   As a result, our rejection rate with  
7                   ArcelorMittal is substantially higher than with POSCO or the  
8                   Japanese suppliers. These rejections cause serious delays  
9                   that adversely affect our customers.

10                  Despite these issues with ArcelorMittal, we  
11                  expect to continue to purchase significant volumes from them  
12                  for the foreseeable future. There are obvious advantages to  
13                  having a local source of supply, and we do have products and  
14                  contracts for which we are able to use their black plate.  
15                  But we cannot afford to be reliant on ArcelorMittal as our  
16                  only source of supply.

17                  The U.S. merchant market for black plate is very  
18                  small. It consists of OCC and a few niche consumers. The  
19                  domestic black plate producers all produce black plate for  
20                  their own tin plate production, and that is where the vast  
21                  majority of U.S. production is consumed.

22                  Whatever the domestic industry's issues may be  
23                  with imported cold-rolled steel, they over-reach when they  
24                  attempt to include tin mill black plate in this case.  
25                  Import restrictions on black plate would only serve one

1 purpose, to undermine OCC as a competitor in the tin plate  
2 market. At OCC, we have always understood that import  
3 relief is about protecting domestic producers and U.S. jobs  
4 from unfair foreign competition.

5 It should not be used to empower large domestic  
6 producers to gain an advantage over their U.S. competitors  
7 in downstream markets. On behalf of OCC's 66 employees, I  
8 urge you to issue a negative determination with respect to  
9 imports of black plate, which is a separate like product  
10 from cold-rolled steel. Thank you.

11 STATEMENT OF RICHARD WEINER

12 MR. WEINER: Good afternoon. I'm Richard Weiner  
13 of Sidley Austin, appearing on behalf of the Japanese  
14 producers and affiliated importers. I would like to  
15 underscore three themes. First, cold-rolled steel imports  
16 from Japan satisfy demand in the U.S. market for specialized  
17 products that U.S. producers are unable or are persistently  
18 unwilling to satisfy, particularly for ultra-high tensile  
19 products used in auto manufacturing, tin mill black plate  
20 and porcelain enameling sheet.

21 As such, Japanese and U.S. or other subject  
22 cold-rolled products do not compete against one another in  
23 the U.S. market, and in these circumstances the Commission  
24 should decumulate Japan in its injury analysis. Once  
25 decumulated, it is evident that Japanese subject imports

1 have not been the cause of material injury to the U.S.  
2 industry, because imports from Japan over the POI have been  
3 virtually flat and have not undersold U.S. like products.

4 Second, Japan poses no threat of material injury  
5 to the U.S. industry. The Japanese industry is operating at  
6 high capacity utilization and is focused on supplying  
7 cold-rolled steel in its home market and other Asian  
8 markets. Japan supplies only those specialized products  
9 that U.S. customers cannot obtain from domestic steel  
10 producers and ships only in response to orders.

11 Suggestions of missing data are unfounded. The  
12 Commission has complete data from the only four mills  
13 exporting from Japan. Finally, there is no basis for a  
14 finding of critical circumstances for Japan. The volume of  
15 Japanese subject imports actually decreased, and the  
16 inventories of Japanese subject imports increased but only  
17 modestly following the filing of the petition. I turn now  
18 to Mr. Yamaguchi.

19 STATEMENT OF TADAAKI YAMAGUCHI

20 MR. YAMAGUCHI: My name is Tadaaki Yamaguchi. I  
21 am President of JFE Steel America, a subsidiary of JFE Steel  
22 Corporation. I have been in the steel industry since 1990.

23 I speak today on behalf of all of the Japanese  
24 mills and will focus on three reasons that make Japan unique  
25 in these investigations. First, Japan supplies distinct

1 goods to the U.S. market that are unavailable from the U.S.  
2 industry. This includes extra bright finish tin mill black  
3 plate, high quality porcelain enameling sheet, PES, and  
4 ultra high tensile automotive steel.

5 TMBP is an ultra thin product with very good  
6 formability. Japanese mills produce it in a range of  
7 precisely controlled surface finishes, including extra  
8 bright. Some U.S. mill produce TMBP, but they are  
9 vertically integrated and produce for their own tin mill  
10 products. They have no incentive to sell their substrate  
11 to another U.S. manufacturer that will compete with them in  
12 the downstream market.

13 Also importantly, no U.S. mill produces TMBP with  
14 extra bright finish. But Japanese mills do, and we are  
15 proud that for decades we have been essential partners in  
16 the U.S. manufacturing operations of companies like  
17 American Nickeloid and American Trim and their customers who  
18 manufacture electronics, appliances  
19 and other housewares in the U.S.

20 The supply of such black plate from  
21 Japan is critical to our U.S. customers.

22 In addition to TMBP, Japanese PES is sought by  
23 U.S. manufacturers because U.S. supply of this product is  
24 inadequate. PES is used to produce items such as burners  
25 and white boards. PES is a cold-rolled sheet that can be

1       subjected to an enameling process. It must be high quality  
2       to ensure good adhesion between the enamel coating and the  
3       steel surface.

4                 A substantial proportion of cold-rolled steel  
5       exports from Japan to the U.S. are ultra high tensile steel  
6       supplied to auto makers in the U.S. They prefer to buy  
7       steel from local suppliers. That is why the Japanese Mills  
8       have invested in joint-venture partnerships with U.S. mills  
9       since the late 1980s. But certain ultra high tensile  
10      products are not available from U.S. suppliers. For such  
11      products, auto makers in the U.S. turn to the Japanese  
12      Mills.

13                Second, Japanese Mills ship to the U.S. in  
14      response to specific demand, producing to order. Japanese  
15      Mills have very long-standing relationships with our  
16      customers, as much as 35 years or more. Our customers  
17      come to us for quality and reliability, not for low prices.  
18      Indeed, given that Japanese Mills are supplying products to  
19      the U.S. market that U.S. mills are unable to supply, the  
20      Japanese mills are competing with each other, not with U.S.  
21      mills or the mills from other countries.

22                Third, the top priorities of the Japanese Mills  
23      are the home market and the Asian markets. Throughout the  
24      period of investigation, the U.S. has accounted for a  
25      miniscule share of the sales of the Japanese mills.

1                   These three reasons demonstrate that the  
2                   Commission should decumulate Japan, and find that subject  
3                   imports from Japan do not injure or threaten injury to the  
4                   U.S. industry.

5                   Thank you.

6                   [PAUSE]

7                   STATEMENT OF SCOTT DAVIDSON

8                   MR. DAVIDSON: I'm Scott Davidson, Vice President  
9                   and General Manager of Nippon Steel and Sumikin Bussan  
10                  Americas, Inc., an importer of steel from Nippon Steel and  
11                  Sumitomo Metal Corporation of Japan.

12                  I am also on the board of directors of Ohio  
13                  Coatings Company.

14                  From 1999 until preliminary dumping duties were  
15                  imposed last year on Japanese cold-rolled steel, NSSMC has  
16                  been supplying tin mill black plate or TMBP to OCC for  
17                  several reasons. First, OCC does not produce TMBP itself.  
18                  To produce tin plate OCC has to purchase TMBP from third  
19                  parties.

20                  Second, after the shutdown of two of OCC's  
21                  long-time suppliers, there were only two U.S. producers --  
22                  producers of TMBP located near OCC's Ohio facility, U.S.  
23                  Steel and ArcelorMittal Weirton. Both of those domestic  
24                  mills use the TMBP they produce to manufacture tin plate so  
25                  they lack incentive to sell to OCC.

1           Third, OCC advises that it buys our TMBBP because  
2           the quality from NSSMC is consistently higher than that of  
3           TMBP from Weirton.

4           Finally, OCC's customers who are the U.S.  
5           manufacturers of cans are already buying tinplate directly  
6           from U.S. Steel in Weirton. They prefer to buy tinplate  
7           that uses black plate from U.S. Steel or Weirton in order to  
8           diversify their supply chains. They prefer not to, I should say.

9           With so few domestic producers of black plate and  
10          tin plate available in the U.S., these customers face a  
11          significant risk to maintaining their continuity of their  
12          own operations if something happens to one of their  
13          suppliers.

14          The ArcelorMittal Weirton mill is old, so the can  
15          makers have doubts about its reliability and continued  
16          viability. Shutdowns are a real possibility.

17          NSBA has won OCC's business for the quality and  
18          reliability that we provide, notwithstanding the four-month  
19          lead times for imports from Asia. Dumping duties on TMBP  
20          from Japan will only compromise the viability of our  
21          business and NSBA jobs that serve the tin plate market as  
22          well as the business of OCC and its customers.

23          Thank you.

24                                 STATEMENT OF DONALD T. CASSIDAY

25                 MR. CASSIDAY: I am Tim Cassidy, Purchasing

1       Manager for the American Nickeloid Company. We plate,  
2       polish, coat and laminate continuous coil products for U.S.  
3       manufacturers of auto parts, electronics, appliances, and  
4       housewares. We have been in business since 1898 and today  
5       we are the only decorative continuous coil plater in the  
6       U.S. We have two lines dedicated to plating. One in Peru,  
7       Illinois and the other in Walnut Port, Pennsylvania.

8               Our employees on those lines are members of the  
9       United States -- excuse me -- United Steel Workers Union.  
10       We and the customers we serve have a tremendous stake in  
11       what the Commission decides on these investigations.

12               To produce the plated, highly decorative products  
13       American Nickeloid's customers manufacture, two substrates  
14       are needed. One is ultra bright, single reduced black plate  
15       for plating, the other is ultra bright cold-rolled steel for  
16       plating. In both cases we also need a very smooth surface.  
17       The surface roughness cannot be greater than 12 RMS. We  
18       cannot get black plate or cold-rolled steel meeting those  
19       specifications from any U.S. mill. Both products are  
20       available exclusively from Japan.

21               Frankly, if American Nickeloid could get these  
22       products from U.S. mills, we would. We buy commercial  
23       quality cold-rolled steel from the petitioners but not one  
24       of the five petitioners has ever been able to provide a  
25       quote for the bright finish products essential to the

1 decorative product business. We have no choice but to  
2 source these specialized products from Japan. The  
3 imposition of dumping duties on our Japanese supply is  
4 seriously threatening the viability of our two plating  
5 lines.

6 In my confidential statement in Japan's  
7 prehearing brief I identified how many of our jobs are at  
8 risk if a final order is issued against the Japanese  
9 imports.

10 It is perplexing that despite the acknowledgement  
11 by the U.S. mills that they cannot produce these specialty  
12 substrates, they have included these products in this case,  
13 implying that they are somehow injuring U.S. industry.  
14 Imports from Japan are not competing with the U.S. mills, so  
15 could not injure them.

16 American Nickeloid employees face the end of  
17 their jobs and our U.S. customers risk the prospect that  
18 their business will move overseas if dumping duties are  
19 imposed.

20 Thank you.

21 STATEMENT OF DICK CUNNINGHAM

22 MR. CUNNINGHAM: Dick Cunningham for Tata Steel  
23 UK. We're going to hear from Bruce Malashevich, President  
24 of ECS and from Chris McCarthy, President of Tata Steel  
25 International Americas. But first I want to direct your

1 attention to three charts and one table that will tell you  
2 all you need to know about this case.

3 Exhibit 1 you've seen before. It's from Mr.  
4 Dugan. It's the chart of monthly trend of imports during  
5 the period of investigation. Up sharply in 2014 during a  
6 short period of about seven months, but no injury to the  
7 U.S. industry during that period.

8 The only claim they can make of any injury would  
9 have to relate to a decline in their operating results in  
10 2015, but that could not have been caused by these imports  
11 which have begun a sharp decline way back in November 2014  
12 and have since fallen dramatically.

13 What happened, of course, was that U.S.  
14 consumption declined in 2015 and did so by a substantially  
15 greater amount than U.S. mills production or shipments and  
16 we'll talk at some point about the effect of inventories on  
17 that which is really a red herring that they've thrown at  
18 you.

19 Exhibit 2 shows that adverse results of 2015 may  
20 not have been industry wide, but may rather have been  
21 experienced by a single company. Now, of course, if imports  
22 were the cause they would have affected the industry  
23 generally in similar ways, but the fact that this chart  
24 shows differently suggests that the harm came from something  
25 else specific to that one company.

1                   Exhibit 3 shows the relationship between  
2                   cold-rolled prices and the prices of raw materials. Now,  
3                   you've just dealt with this phenomenon. You saw it in  
4                   pneumatic tires from China and you found that there was  
5                   neither price depression nor price suppression in this  
6                   circumstance. This is not a present injury case. So let me  
7                   say two things about threat. First, back to Exhibit 1, I  
8                   cannot recall this Commission ever finding threat where  
9                   imports have fallen over 80 percent beginning eight months  
10                  before the case was filed.

11                  Second, you really need to decumulate if you are  
12                  going to assess threat.

13                  Exhibit 4 shows the remarkably different patterns  
14                  of these various countries' imports. Our prehearing brief  
15                  discusses it as the 25 to 28.

16                  Finally, one more look at Exhibit 1. Why did the  
17                  imports increase during that short period in 2014? There  
18                  was a lot of information on this presented in the  
19                  preliminary investigation. It related to U.S. producers  
20                  supply disruptions, not just in January and February 2014,  
21                  but in a winter that was exceptionally long as well as  
22                  exceptionally cold. This together with U.S. mill outages  
23                  and closures lead to a scramble for supply by U.S.  
24                  purchasers, and then later the inventory build up of steel  
25                  from U.S. mills in anticipation of possible supply

1        disruptions again in the 2014 to '15 winter. We'll talk  
2        about this more in our post-hearing brief.

3                    Mr. Malashevich.

4                    STATEMENT OF BRUCE MALASHEVICH

5                    MR. MALASHEVICH: Good afternoon, members of the  
6        Commission, Bruce Malashevich with ECS. I must say that I  
7        was struck by the way that petitioners manipulate in some  
8        cases and ignore in other aspects the relationship between  
9        their merchant market and total operations. For example,  
10       take Commissioner Pinkert's very first question of the  
11       morning panel, direct, simple. "Explain why commercial  
12       operations competing with subject imports are performing  
13       better than the much larger segment of the industry of  
14       captive operations that do not compete at all with subject  
15       imports?"

16                   He never got a coherent response from  
17       petitioners.

18                   Indeed, this Commission has always considered the  
19       significance of total operations in cold-rolled cases as  
20       well as the merchant market in certain circumstances.

21                   What petitioners are avoiding are three points.  
22       Based upon my 40 years of practice before this Commission, I  
23       cannot recall any case where in the final phase the  
24       Commission found affirmatively on a current injury theory  
25       when cumulated subject imports had a market share of less

1 than 5 percent of apparent consumption. There isn't one.  
2 The commercial market cannot be the only focus because it  
3 represents a distinct minority of U.S. operations.

4 The commercial operations must be analyzed in  
5 comparison to the industry's other operations. This is what  
6 petitioners are trying to avoid. Because the prehearing  
7 report at tables VI-1 and VI-2 demonstrates that the  
8 domestic industry performed better when in commercial  
9 competition with imports than they did in the larger  
10 portion of their business without such competition. There  
11 was no answer this morning.

12 U.S. Steel's brief devotes many pages and  
13 exhibits to its claim that the domestic industry was injured  
14 by the loss of volume and market share to imports. It  
15 asserts at page 42 that the 2014 growth in subject imports  
16 deprived domestic mills of critical volume on a ton for ton  
17 basis and that retention of this volume would have raised  
18 capacity utilization and so increase profits.

19 Well, I suggest the Commission test the  
20 significance of that claim by applying its often-used income  
21 statement model. The Chinese brief does this at Exhibit 4  
22 attached behind you now, to assess the effect on industry  
23 operating income. If the industry had captured all of the  
24 net growth by Chinese imports over the POI, assuming price  
25 cost relationships reported for 2015. Those imports

1 accounted for the vast majority of the net annual growth in  
2 total subject imports over the POI. The model shows that  
3 the improvement that the domestic industry might have gotten  
4 was not material.

5 Finally, the U.S. Steel brief seems to show  
6 adverse price effects by looking to the quite mixed selling  
7 results on a clearly unrepresented sample of domestic  
8 pricing data. My much simpler and direct approach ignores  
9 the weeds of the questionnaire price data and illuminates  
10 the forest.

11 Attached to this testimony as a confidential  
12 exhibit now before you is a chart found at attachment 3 of  
13 the U.K. prehearing brief. It compares the movements of  
14 cold-rolled prices allegedly depressed by subject imports to  
15 movements in seven other carbon steel products as to which  
16 there is no U.S. unfair import investigation under way. So  
17 they must presume to be fairly traded.

18 If petitioners were correct, the cold-rolled  
19 trend would be sharply downward. But in fact the trends are  
20 so indistinguishable that I call this my where is Waldo  
21 chart? You simply can't readily find Waldo, the cold-rolled  
22 price blind because it's buried amid the almost identical  
23 movements of all other carbon steel mill products surveyed.

24 And when you finally found Waldo, it turns out  
25 that cold-rolled prices actually fell less sharply than

1 almost all of the other steel products that did not face  
2 dumped or subsidized imports.

3 That closes my testimony. Thank you.

4 STATEMENT OF CHRIS McCARTHY

5 MR. McCARTHY: My name is Chris McCarthy. I'm  
6 the President and Director of Tata Steel International  
7 Americas. I've been in the global steel business for over  
8 25 years including positions with American producers. I'm  
9 here today to argue that U.S. producers do not have  
10 problems. What I'm here to say is that imports from the  
11 United Kingdom have absolutely nothing to do with those  
12 problems. Our U.S. volume and share of the U.S. market are  
13 truly tiny. We serve a niche within a niche in the U.S.  
14 market. Tata Steel United Kingdom only makes continuous  
15 annealed steel which is needed in a number of applications  
16 and was not adequately supplied by the only domestic  
17 producer, ArcelorMittal, and ProTech who is in the process  
18 of gaining technical approval and homologation during the  
19 period 2013-15. As my colleague from U.S. Steel said  
20 earlier in his testimony this morning, beginning to ramp up  
21 in 2013-14. I can answer any questions you have about why  
22 continuous annealed steel is different and is superior in  
23 many applications.

24 We are more specialized than that. We supply  
25 steel carefully tailored to the needs of specific end users

1 and we're able to do so in small lots. The U.S. mills are  
2 not interested in supply.

3 And that brings me to another important  
4 difference. A difference in our channel of distribution.  
5 We only sell to order. Unlike the U.S. mills, Tata Steel  
6 United Kingdom works with independent U.S. processors on a  
7 see-through program to OEMS and automotive tiers who perform  
8 two functions. We work with Tata Steel United Kingdom to  
9 custom design the steel to fit the specialized needs of the  
10 end user and also these processors usually perform  
11 significant operations on the steel.

12 And I'll be happy to discuss the role further in  
13 answer to your questions.

14 In summary, this case is not about the United  
15 Kingdom. We play far too small a role to injure or threaten  
16 anyone. We fill a need for continuously annealed steel that  
17 is custom tailored to the specific needs of the OEMs and  
18 tiers. We supply smaller lots that our competitors are  
19 willing to supply and we sell in a different channel of  
20 distribution to processors who work with us to custom tailor  
21 the steel and perform significant processing functions.

22 Thank you, and I await your questions.

23 STATEMENT OF SANDY SIERCK

24 MR. SIERCK: Good afternoon. I am Sandy Sierck,  
25 counsel for Liberty Performance Steels of the U.K.

1 Liberty in its prehearing brief has provided  
2 detailed documentary evidence that it's three, small volume,  
3 custom-produced blade steel products are each separate and  
4 distinct like products.

5 A very important point here, during the last 40  
6 years U.S. producers have never offered comparable products.

7 Finally, if Liberty were to ship other U.K.  
8 origin CRS flat products, they would be subject to any CRS  
9 order in this case that might apply to the U.K.

10 Thank you.

11 STATEMENT OF JEFF NEELY

12 MR. NEELY: Good afternoon, I'm Jeff Neely from  
13 Hush Blackwell. I do appear today along with my colleague,  
14 Cortney Morgan on behalf of the Chinese producers of  
15 cold-rolled.

16 Given the late hour, I will just refer the  
17 Commission to our prehearing brief and the testimony of Mr.  
18 Dougan regarding our analysis of the lack of causation  
19 between the imports and the condition of the U.S. industry  
20 on present injury.

21 Simply put, we see from Mr. Dougan's testimony  
22 that even on a cumulated basis the U.S. industry case fails.  
23 If it fails on a cumulated basis, then it also fails when  
24 examining China alone. Rather than to repeat any arguments  
25 on this lack of causation, I'd like to spend my time

1 discussing the only thing that the domestic industry has  
2 come up with regarding China which is over capacity.

3           Fortunately, and this Commission knows quite  
4 well, its task today is not to solve the world's problems  
5 regarding capacity in steel. Instead it is given the more  
6 limited task of examining the issue of threat of material  
7 injury for cold-rolled and in doing so to examine the role  
8 that excess capacity may play in that determination.

9           Yes, there's excess capacity of cold-rolled in  
10 China. But the over capacity for cold-rolled in China is  
11 not out of line with the over capacity in other countries.

12           We point out in our prehearing brief that  
13 capacity in China is shown by an independent source, World  
14 Steel Dynamics, is more in line with domestic demand than is  
15 the case in some other countries such as the United States.

16           Unlike what has been portrayed, this is not some  
17 out of control building of capacity of cold rolled in China  
18 with no relationship whatsoever to demand.

19           What's the basis of my statements about the  
20 capacity in China for cold-rolled? It's based fundamentally  
21 on two sources. One source is the foreign producers'  
22 questionnaires of my clients. The other source is the  
23 publication World Steel Dynamics that I've referred to  
24 before.

25           As we show in our brief and without getting into

1 confidential information, the capacity utilization figures  
2 are very comparable between those two sources as are the  
3 percentage of the shipments to the domestic market in China  
4 compared to exports.

5 In fact, we think the overall capacity figures in  
6 World Steel Dynamics are overstated. But we're willing to  
7 accept them for the purpose of this proceeding because they  
8 are based on an independent source of information and they  
9 give the domestic industry its best case.

10 So the notion that the Chinese industry is  
11 exported oriented is also relied on the record of this case.  
12 The notion that the capacity in China is being used to flood  
13 the U.S. market with cold-rolled has no basis of reality in  
14 the record and additionally the capacity plainly has been  
15 built to serve the Chinese internal market.

16 Finally, what we really see here is that the  
17 record evidence is something that needs to be addressed  
18 rather than simply rank speculation on the part of the U.S.  
19 industry.

20 Even if we allow for some speculation that the  
21 imports from China would return to 2014 levels, we see from  
22 the data that Mr. Dougan discussed that there was no causal  
23 link between the subject imports and injury from any source  
24 in 2014.

25 So to summarize, the case against China on threat

1 is based on several levels of speculation starting with the  
2 factually incorrect notion that the Chinese industry is  
3 export oriented, that rely on the speculation that there's  
4 going to be some huge surge of imports from China in the  
5 absence of a dumping order when in fact exports from China  
6 had begun to fall even before this case was filed.

7 Then the U.S. industry moves on to further  
8 speculation that such a surge would be injurious to the U.S.  
9 industry which controls the overwhelming amount of the U.S.  
10 market and something different would happen then in that  
11 2014 when there was no injury.

12 Simply in a word, there's no -- in a few words,  
13 there's no basis for any kind of affirmative determination  
14 in this case.

15 Thank you.

16 STATEMENT OF JIM DOUGAN

17 MR. DOUGAN: Good afternoon, Jim Dougan of ECS,  
18 this time appearing on behalf of JSW Steel Limited. On the  
19 basis of Census Bureau Data summarized in the prehearing  
20 report, India's import volume is clearly negligible. The  
21 report finds the Indian import share to be between 3.5 and  
22 3.7 percent. Since India is designated as a developing  
23 country for purposes of considering negligibility in CVD  
24 investigations the Commission is required to terminate the  
25 CVD investigation against India under the statute because

1 its import share is less than 4 percent.

2 We also believe that imports from India should be  
3 considered negligible for purposes of the AD investigation.  
4 As described in JSW's prehearing brief, the Commission has  
5 high coverage of Indian-producer questionnaire responses and  
6 the import data in those responses are more specific and  
7 accurate than the Customs data summarized in the report.

8 These confidential data place India's import  
9 share well below the 3 percent threshold applying to the  
10 antidumping investigation and therefore the AD investigation  
11 against India should also be terminated.

12 Thank you.

13 STATEMENT OF DANIEL CANNISTRA

14 MR. CANNISTRA: Good afternoon, my name is Daniel  
15 Cannistra of Crowell & Moring. I'm here before the  
16 Commission today on behalf of Severstal, a Russian producer  
17 of cold-rolled steel.

18 An important factual issue before the Commission  
19 is negligibility. Imports from a subject country are  
20 negligible if they account for less than 3 percent of total  
21 imports of a like product. At issue is the scope of the  
22 term "like product" which becomes the denominator in the  
23 negligibility test. After this petition was filed, there  
24 were numerous changes in the definition of subject imports.

25

1           First steel processed in third countries was  
2 specifically included within the scope of the petition.  
3           Second, the exclusion for non-rectangular shapes was  
4 removed. Third, an additional 23 HDF categories were added  
5 including categories that encompass bars, rods and wires.

6           A scope request filed in this case before the  
7 Department of Commerce highlights the significance of these  
8 changes. Electrolux went before the Department of Commerce  
9 seeking an exclusion confirmation regarding a stamped piece  
10 of metal that sits underneath a vacuum cleaner. After the  
11 scope was modified Electrolux required this clarification in  
12 order to confirm that the non-rectangular shape exclusion  
13 that had been removed didn't suddenly incorporate virtually  
14 any stamped piece of metal.

15           The response from petitioners was clear. In a  
16 response to Electrolux's request petitioners stated that the  
17 products identified including that requested by Electrolux  
18 are without question covered by the written scope of the  
19 investigation. Each of these exclusion requests including  
20 Electrolux's stamped vacuum cleaner part should be included.  
21 All of these products for which the scope exclusion had been  
22 requested are squarely within the plain language of the  
23 scope of these investigations and there is no ambiguity  
24 regarding the coverage of these products.

25           So we now in fact have a case where not only

1 coils and sheets are included in this case, but also the  
2 hundreds if not thousands of different products that are  
3 made from coils and sheets and stamped.

4 Why does this matter?

5 Well, the negligibility test is based on a  
6 percentage of total imports and in order to define total  
7 imports we need to turn to the scope. The petitioners have  
8 offered no argument that the scope at the Department of  
9 Commerce is not coterminous with a like product before the  
10 Commission. Therefore, the denominator for the  
11 negligibility test by the Commission must reflect the  
12 expanded scope of this investigation.

13 Unfortunately, the import data is currently  
14 incomplete. Thus far the import data is missing at least 23  
15 and as many as 52 HDS categories. We also believe that  
16 there's an enormous number of importers that we listed in  
17 our prehearing brief and total more than 1,000 are missing  
18 from importer questionnaire responses. It is, thankfully  
19 though, not too late in this case to correct and to  
20 complete the record of investigation. The vote with respect  
21 to Russia is nearly three and a half months away and there's  
22 plenty of time for the Commission to modify its record and  
23 complete its investigation and collect the data necessary to  
24 complete a meaningful negligibility test in this case.

25 MS. MENDOZA: Julie Mendoza on behalf of CSN. I

1 think our time is almost expired, but I would just like to  
2 make one comment, which is to compare the level of U.S.  
3 producers' imports to the level of Brazil's imports. Now,  
4 we know Brazil's imports in 2015 were about two hundred and  
5 forty thousand tons. I can't give the quantity for the U.S.  
6 industry's imports, but let's just say it's very much more  
7 significant than that.

8 U.S. producers said it was about optimizing  
9 production. Maybe it was about optimizing profits at the  
10 corporate level, but the reality is that it did nothing to  
11 increase the capacity utilization rate of those producers,  
12 nor did it help Nucor's employees get their bonus.

13 And I would suggest that in fact there is a  
14 different explanation for why U.S. producers imported and  
15 the reason for that is because of supply disruptions. I  
16 mean the one thing that we understand now about these  
17 complex industries is that U.S. producers not only have to  
18 have steel, i.e., capacity, they have to have the right  
19 steel at the right time at the right place. And that's what  
20 the problem was, and that's why imports had to come in and  
21 supply those markets. Thank you.

22 MR. CAMERON: Thank you for your patience and we  
23 are finished and ready for questions. Thanks.

24 VICE-CHAIRMAN PINKERT: Thank you. And I want  
25 to thank all of the witnesses for coming today and taking

1 the time to help illuminate this record and this  
2 investigation.

3 I'm going to begin the questioning this  
4 afternoon and my first question is sort of an economics  
5 question, but anybody can take it. In 2014, apparent U.S.  
6 consumption in the merchant market increased, but the  
7 quantity of U.S. shipments and sales decreased. Why do you  
8 think that happened?

9 MR. DOUGAN: The first aspect of that, I would  
10 respond and I would invite others to say the same, is that,  
11 you know, we have documented these supply constraints and  
12 issues that certain producers had over the time period. And  
13 the purchaser questionnaires as are summarized in the staff  
14 report, they did mention that they turned to import sources  
15 to meet that demand. So I think that would be the first  
16 order of answer, and if people have more specific responses,  
17 they should --

18 MR. CAMERON: I would just -- Don Cameron -- I  
19 would just add, you know, we were accused this morning of  
20 misrepresentation of the record with respect to supply  
21 disruptions. I mean I guess that's normal for petitioners  
22 to accuse respondents of misrepresenting record. I mean I  
23 kind of get it, but our statement with respect to supply  
24 disruptions is based upon well-documented newspaper  
25 articles, where petitioners themselves are quoted as talking

1 about the supply problems that they were having.

2 The problems that were then going to create  
3 consequences for their purchasers, and finally the purchaser  
4 questionnaires, I mean, I'm sorry. Those purchaser  
5 questionnaires substantiate and support everything that we  
6 said in that brief.

7 VICE-CHAIRMAN PINKERT: Any other comments on  
8 that issue? [no answer] All right. I want to turn to OCC  
9 for a few minutes and, as you know, we received some  
10 testimony this morning about the desire of segments of the  
11 U.S. industry to sell black plate into the merchant market.  
12 And I'm trying to understand whether we have a disagreement  
13 of fact, a disagreement of the interpretation of fact -- do  
14 you maintain that the domestic industry would not like to  
15 sell black plate into the merchant market in the United  
16 States?

17 MS. CLARK: My name is Lori Clark. I would say,  
18 in the case of U.S. Steel, because of the quotations that we  
19 did receive from them to supply to us, that it was not  
20 serious. What they were willing to sell back plate to us  
21 for, if we would have taken that to market, we would have  
22 been way noncompetitive. Their black plate prices to us  
23 were already more than we could market the tin plate for.

24 So using that was out of the question. We would  
25 love to buy more from ArcelorMittal. We have a very good

1 relationship with ArcelorMittal, I think, and we try daily  
2 to purchase more black plate from them and even more  
3 cold-rolled, as a heavier gauge item.

4 But the fact remains that a lot of our  
5 customers, a lot of our big customers want to see us  
6 diversify away from ArcelorMittal. They're not comfortable  
7 with the viability of ArcelorMittal. They already buy some  
8 material from them. They want to see us have another  
9 supply. We would be like an extension of them, if we were  
10 buying all of our substrate from ArcelorMittal.

11 MR. KINYO: Hi, Ken Kinyo. I've got a perfect  
12 example for this. Up until 2012, we were owned by a parent  
13 company that sources us with our own black plate. We did  
14 not go out on the merchant market. When that company  
15 liquidated, we were forced to go out onto the merchant  
16 market.

17 So in 2013, we went to our customers and told  
18 them that our source of supply would be majorly supplied by  
19 ArcelorMittal. So in 2013 and in 2014, with that situation  
20 in place, our utilization and our facility dropped to  
21 historically low levels that were not even anywhere near  
22 anything that we've experienced in the previous fifteen to  
23 seventeen years.

24 So I think our customers -- you know, we listen  
25 to our customers. They basically said, if you were going to

1 use ArcelorMittal material than we are basically going to  
2 buy their tin plate from ArcelorMittal.

3 VICE-CHAIRMAN PINKERT: I'm not quite  
4 understanding the logic of that. If -- what difference does  
5 it make to them whether they buy from you a product that is  
6 manufactured using ArcelorMittal inputs versus buying it  
7 directly from them?

8 MR. KINYO: Well, let's say, for instance,  
9 Customer X was going to purchase thirty thousand tons. And  
10 they're already purchasing thirty thousand tons from  
11 ArcelorMittal. And they have other tons that they have out  
12 on the market that can be used. But they're only  
13 comfortable with thirty thousand of their total tons going  
14 into ArcelorMittal supply basket.

15 So they've already giving those orders to  
16 ArcelorMittal. So if they give us orders, then basically  
17 that is more supply that is coming from ArcelorMittal's  
18 black plate. That is where our customers have issues. And  
19 that's why they're asking us for diversity of supply.

20 MR. CAMERON: I think the confusion that you're  
21 having is you're saying, okay, so they don't have a problem  
22 with ArcelorMittal per se, right? And the answer is, yes,  
23 they don't have a problem with ArcelorMittal per se. But  
24 the customers themselves have a limit as to how much they  
25 want to rely on ArcelorMittal because there are questions

1 about long-term viability and there are questions of  
2 diversity of supply in that industry and in the can  
3 industry.

4           So what they're say is, if I'm buying thirty  
5 thousand tons from ArcelorMittal and you're telling me that  
6 you're buying all of your tons from ArcelorMittal, then I'm  
7 not diversifying any supply here. I haven't really moved  
8 the ball. So how am I going to do that? How I'm going to  
9 do that is either you are sourcing from somebody else, so  
10 that I know that you are actually a separate -- you are  
11 another producer of tin plate, right? Or if you're going to  
12 be relying on ArcelorMittal, that's fine.

13           But then I'm treating you as part of the  
14 ArcelorMittal slug that I buy, and that slug isn't moving.  
15 So that's the problem that they face. That was the reason  
16 that they had historic lows in production when they were  
17 telling the customers they were relying solely on  
18 ArcelorMittal.

19           Now, the other thing is, as is clear in our  
20 brief, it's interesting to hear these guys talk about black  
21 plate and cold-rolled when each one of them -- each one of  
22 them, without exception -- is marketing black plate as tin  
23 mill product. I mean, this isn't a big mystery here. They  
24 know that it's tin mill product. They market it as tin mill  
25 product.

1                   Okay, that's fine. Except that it's cold-rolled  
2                   now. Why is it cold-rolled? You look at the merchant  
3                   market. That merchant market isn't all that big, all right?  
4                   This isn't about black plate. This is about taking out a  
5                   competitor in tin mill. That's what this is about.

6                   VICE-CHAIRMAN PINKERT: So, back to OCC. What  
7                   percentage of your sales of tin mill products would be  
8                   covered by this purchaser restriction that they don't want  
9                   the inputs to come from ArcelorMittal?

10                  MS. CLARK: There are two major can makers who  
11                  have restricted where we can buy our black plate and we can  
12                  give that to you in our post hearing brief.

13                  VICE-CHAIRMAN PINKERT: That would be great.  
14                  And another question for you, Ms. Clark, and I'm not trying  
15                  to put words in your mouth. I'm just trying to understand  
16                  what you're saying.

17                  Are you saying that ArcelorMittal was trying to  
18                  charge you a higher price for the black plate than their  
19                  normal price for their product? In other words, you said it  
20                  was a high price, and I'm wondering, were they  
21                  discriminating against your company in the sense of what  
22                  their price was going to be?

23                  MR. CLARK: No, sir. We were talking about U.S.  
24                  Steel, the quotation we received from U.S. Steel, for black  
25                  plate supply. We gave them a list of items that we wanted

1       them to quote us black plate for. We took those prices and  
2       we were already noncompetitive without putting any tin on  
3       that. You know, we could never have taken those prices to  
4       our customers and been competitive in the marketplace.

5                   VICE-CHAIRMAN PINKERT: But you're not saying  
6       that that was above their normal price for the black plate?

7                   MR. CLARK: I don't know what their normal price  
8       was for black plate, but --

9                   MR. PLANERT: I don't think there is a normal  
10      price for black plate, because up until now, they're  
11      consuming it all internally as best as we know. So the real  
12      point here is because you can hardly hear, you know,  
13      petitioners' counsel saying, ah-ha, so this is all about  
14      price. Well, but it's about what the price is for tin  
15      plate, and that's what's important here is that this  
16      segment of the industry really is subject to different  
17      conditions of competition.

18                   The relevant question is, what's the price I can  
19      sell tin plate for and they've got to be able to buy black  
20      plate at something less than that. So when U.S. Steel comes  
21      in and says, sure. We'll be happy to quote you. Of course,  
22      you're going to pay us more for the black plate than you can  
23      sell the tin plate for, that's not a serious quotation in  
24      their view.

25                   MR. CAMERON: And the market for tin plate is

1 not a condition of competition for other cold-rolled steel.  
2 It's only a condition of competition in the case of black  
3 plate.

4 VICE-CHAIRMAN PINKERT: For the post hearing,  
5 what I'd like you to do, if you would, is take a look at  
6 that price that was quoted to OCC and compare it with  
7 whatever you think the normal price is, given the data that  
8 we have on the record from that company. Do you understand  
9 what I'm asking?

10 MS. CLARK: Yes

11 VICE-CHAIRMAN PINKERT: Okay. Thank you.

12 MR. CUNNINGHAM: Commissioner Pinkert, I've been  
13 sitting here trying to figure out how I can give an answer  
14 to your first question, but on a non-confidential basis --

15 MR. BISHOP: Could you state your name, please?

16 MR. CUNNINGHAM: -- I'm sorry. Dick Cunningham.  
17 Perhaps when we go to your next round, you and I would  
18 remember, could we talk a little bit about your first  
19 question again? I have something to say about it.

20 VICE-CHAIRMAN PINKERT: Certainly. Thank you  
21 very much. And, with that, we turn to Commissioner  
22 Johanson.

23 COMMISSIONER JOHANSON: Thank you, Vice-Chairman  
24 Pinkert. And I would also like to thank all of you for  
25 appearing here today. I know it's been a very long day and

1       there are a lot of you here, so we appreciate your  
2       participation.

3                       How do y'all respond to petitioners' volume  
4       argument, that subject imports took market share directly  
5       from the domestic industry during the period of  
6       investigation. An example of this argument is found in  
7       Nucor's brief at Pages 39 to 41. Was market share not taken  
8       from the domestic industry? Or is it your position that  
9       this market share did not cause an injury?

10                      MR. DOUGAN: Commissioner, Jim Dougan. The  
11       petitioners' standpoint on this seems to be that every ton  
12       of imports that are sold represents a ton lost to the  
13       domestic industry and we challenge that assertion and we  
14       have several reasons why we believe that's not the case.

15                      One of which is, as we mentioned, supply  
16       disruptions and they mentioned, yes, well, you could get it  
17       from this other mill in another part of the country. But in  
18       the moment for a particular customer, they may have had --  
19       they may not have been able to do so.

20                      Finally, there's issues with respect to the  
21       types of products or the quality of products that the  
22       customers can get from the domestic industry. So with those  
23       things in mind, given the temporal disconnects and the  
24       supply constraints and differences in availability of  
25       certain products and qualities, it's certainly not true that

1 every ton of imports is displacing a ton of domestic  
2 product.

3 MR. CAMERON: To give you an example of what  
4 you're talking about. The imports from Korea are virtually  
5 all either a) tin plate, black plate or tin plate or they're  
6 b) automotive. What I said this morning still stands, which  
7 is -- we've heard about the automotive sector and the fact  
8 that, well there was growth there, but subject imports are  
9 responsible.

10 Well, let's look at the purchaser questionnaires  
11 and see whether indeed that is true. That doesn't stand up.  
12 In fact, the growth of imports from Korea between 2014 and  
13 2015 is all made up of imports, increased imports of black  
14 plate, so that OCC could produce tin plate. They're still  
15 not at capacity, but that was what that was for.

16 So again, is that taking cold-rolled demand away  
17 from U.S. producers and I think that the answer is no.  
18 That's one reason that it's important to break this down.  
19 The U.S. industry has treated every ton as a fungible ton of  
20 steel, everything is the same.

21 Well, everything isn't the same. Advanced  
22 high-strength steel is a very high-grade of automotive  
23 steel. Black plate is a very different grade of steel.  
24 It's not even, as we said, it's not even cold-rolled. And  
25 there are various types of steel that are going into the

1 market. How many U.S. producers produce black plate?

2 Now, aside from UPI which is in California, not  
3 participating in the market out here, there are two. There  
4 are two mills out of nineteen U.S. producers with any number  
5 of facilities, but there's only two facilities out in the --  
6 east of the Mississippi that produce black plate. Why is  
7 that? Because it's only a tin mill product. So this is part  
8 of the answer to your question is that every ton of steel is  
9 not a ton of consumption taken from somebody.

10 MR. DOUGAN: If I could just add on something.  
11 I think my colleague, Mr. Malashevich, talked about  
12 something in a meeting yesterday. It'll be in response to  
13 your second part of that question, which is, you know,  
14 whatever volume that may have been taken by subject imports,  
15 was it material, did it cause any injury. I know, Bruce,  
16 you had some thoughts on that.

17 MR. MALASHEVICH: Bruce Malashevich. That's  
18 exactly what I was going to point out. I agree totally with  
19 the testimony just presented in response to your question,  
20 Commissioner. I would only say that part of the power of  
21 the income statement model now before you that I testified  
22 to, is that it accepts arguendo that there was ton for ton  
23 displacement by the increase in Chinese imports, which  
24 accounted for nearly all total increase in subject imports  
25 during the POI.

1                   And even under that extreme assumption, I think  
2 most reasonable people would look at the results of the  
3 calculations we performed and regard that as immaterial.

4                   COMMISSIONER JOHANSON: Thank you, Mr.  
5 Malashevich. Mr. Cunningham?

6                   MR. CUNNINGHAM: Actually, now I've got a way to  
7 give in response to your question, a lot of what I had to  
8 say in response to Vice-Chairman Pinkert's question. I  
9 think you have to be a little careful about how you look in  
10 market share and also how you look at U.S. industry gain or  
11 loss of consumption in three respects.

12                   One is that the -- we've heard a lot of  
13 testimony from the U.S. industry today concerning the  
14 relationship between it and its Canadian affiliates and they  
15 told you that they supply from Canada sometimes and from the  
16 U.S. at other times and indeed, they told you that the price  
17 which they supply from Canadian would be the same as the  
18 price in which they supply in the U.S., from U.S.  
19 production.

20                   So I would suggest that in looking at the shifts  
21 in market share, you ought to take into account subject  
22 imports, especially those from Canada, which -- and that's  
23 the biggest focus of nonsubject imports, which fit into that  
24 category of controlled by the U.S. and are in a lot of ways  
25 functionally equivalent of U.S. industry market share.

1                   Second thing, you should look at -- this is the  
2                   thing I was wrestling with how I say it nonconfidentially.  
3                   You should look at total shipments including shipments for  
4                   captive consumption and to affiliates. Because if you found  
5                   that what was essentially a shift of the U.S. industry of  
6                   production from merchant shipments to other markets, you  
7                   know, captive consumption shipments, you would have a  
8                   different view as to shift in shares. That is still the  
9                   question that you just asked.

10                   And finally, I would bring your attention to the  
11                   exhibit that I gave that I blanked out, which goes to Page  
12                   15 of our brief, and that is that in this regard, and in a  
13                   lot of other regards, if you look at -- I'll call it Company  
14                   X -- and then look at the rest of the industry, you may find  
15                   that what you're looking at here is a Company X issue and  
16                   not an industry-wide issue and I suggest you look at that.  
17                   We'll do it more in the post hearing brief where I can talk  
18                   candidly, but I suggest you keep that in mind.

19                   COMMISSIONER JOHANSON: All right, thank you.  
20                   Yes, Mr. Ellis.

21                   MR. ELLIS: Yes, thank you. It's Neil Ellis.  
22                   On behalf of the Japanese companies, we just want to point  
23                   out that going back to your question about the volume. The  
24                   Japanese volume has been tiny, consistently tiny throughout  
25                   the investigation period, the POI. And also the increase

1 has been trivial. So the numbers are in our brief, but the  
2 point is that there's no way that the volume coming from  
3 Japan can be -- is legally relevant or can be causing injury  
4 to the U.S. industry. Thank you.

5 COMMISSIONER JOHANSON: Thanks for all of your  
6 responses. And Ms. Clark you mentioned difficulties you all  
7 were having in obtaining black plate. Have any other  
8 companies here had problems obtaining cold-rolled steel?

9 MR. CASSIDAY: Tim Cassiday with American  
10 Nickeloid Company. Yes, I --

11 COMMISSIONER JOHANSON: From U.S. producers?

12 MR. CASSIDAY: I'm sorry?

13 COMMISSIONER JOHANSON: From U.S. producers.

14 MR. CASSIDAY: I have had trouble getting the  
15 extra bright finish, yes. For both cold-rolled and tin mill  
16 black plate.

17 COMMISSIONER JOHANSON: All right. And if any  
18 other groups out there have had problems obtaining it and  
19 you want to include that in the post hearing, that would be  
20 great. Yes?

21 MR. CASSIDAY: I'm sorry. Tim Cassiday again.  
22 Not problems obtaining. I cannot get it at all. They will  
23 not produce the finish that is necessary for my products.  
24 Thank you.

25 COMMISSIONER JOHANSON: Thank you. Anyone else?

1                   MR. MCCARTHY: Chris McCarthy, Tata Steel.  
2                   There definitely was an issue in the latter part of 2014  
3                   with weather and production issues, particularly integrated  
4                   mills on the Great Lakes. And finding certain qualities of  
5                   steel. And we were having customers, particularly  
6                   automotive that was asking us to make the quality of steel  
7                   that the main mills could not make, and in some cases,  
8                   asking us fly it in.

9                   COMMISSIONER JOHANSON: Okay. Thank you for  
10                  your responses. I'm actually going to end like twenty  
11                  seconds early, which will be an odd occurrence for today's  
12                  hearing. But I look forward to second round. Thank you.

13                  VICE-CHAIRMAN PINKERT: All right then. We'll  
14                  proceed to Commissioner Williamson.

15                  COMMISSIONER WILLIAMSON: Thank you. I do want  
16                  to express my appreciation to all the witnesses for coming  
17                  today and presenting their testimony. There are a lot of  
18                  witnesses today. Ms. Clark, just to finish up on one thing,  
19                  I think on Page 3 of your testimony, you talked about, I  
20                  guess, or made reference to earlier, about the UPIs located  
21                  in California not an economical source for black plate coil?

22                  MS. CLARK: Yes, sir.

23                  COMMISSIONER WILLIAMSON: Isn't that close to  
24                  most of the imported sources?

25                  MS. CLARK: Lori Clark. And yes, mile-wise, it

1 probably is. But it has to come a different route. We  
2 can't barge it from California to Ohio, so we did do two  
3 small trial orders with UPI. They had to come by rail. And  
4 I don't know if you know anything about rail --

5 COMMISSIONER WILLIAMSON: Okay, no, we've heard  
6 about rail before many times.

7 MS. CLARK: -- but it's very, very expensive.  
8 Right? Very expensive. And there's a lot of room for  
9 damage, when it's coming that far by rail. Because it's not  
10 just a direct route. It's come through, it's changing rail  
11 carriers. It's been humped, it's -- it was not a good  
12 experience. So we did try, went out to visit them --

13 COMMISSIONER WILLIAMSON: Okay.

14 MS. CLARK: -- wonderful plant, but we can't  
15 make it work.

16 COMMISSIONER WILLIAMSON: Okay. I just was  
17 curious about that, so thank you. This morning I had asked  
18 the producers, and I wanted to hear from this panel, many  
19 forecasts are comments on demand in the U.S. going forward  
20 and how do you see it?

21 MR. CAMERON: Just to start it off -- Don  
22 Cameron -- the demand as we look at it -- again, automobiles  
23 is looking strong. The issue with automobiles is not the  
24 strength of that market and the issue was also not subject  
25 imports with that market as I think the purchase

1 questionnaire make quite clear. The issue with automobiles  
2 and cold-rolled is the issue of substitution.

3 And it's not the question that you asked this  
4 morning, with respect to aluminum. The major substitution  
5 problem has been galvanized. And that was observed by the  
6 Commission about -- in the last investigation and it's in  
7 our -- we note that in our brief and it was further noted in  
8 a number of questionnaires this time, too.

9 So the increase in automobiles is a good thing.  
10 It is a strength of this industry, there's no doubt. Also,  
11 they have high-strength -- they're developing additional  
12 high-strength steel and that will help them remain  
13 competitive in the auto sector and possibly stem any  
14 bleeding from substitution of other materials, so that's a  
15 positive.

16 The construction industry is also improving and  
17 that looks positive, too. And if you look at prices right  
18 now, prices have skyrocketed. Prices have skyrocketed, not  
19 only in the United States, because the implication is, sure,  
20 prices went up, because we put on the preliminary duties,  
21 prices went up, etcetera.

22 Well, prices have gone up not just in the United  
23 States, they've gone up globally as we pointed out. And  
24 that's an important factor, because, to the extent that  
25 prices are going up globally, that means that the U.S. is

1 not a magnet.

2 MR. DOUGAN: Excuse me, Commissioner. Jim  
3 Dougan with ECS. I agree with Mr. Cameron has said. And  
4 there's a section 68 through 70 of the Korean respondents'  
5 prehearing brief where we talked about indicators that show  
6 that demand is increasing in the imminent future -- largely  
7 keying off of automotive demand and demand in the  
8 construction sector.

9 There seems to -- so that's, I think, helpful in  
10 terms of the demand outlook. I think there's been some  
11 discussion and some confusion even within the petitioners  
12 and their briefs and how they spoke about it this morning as  
13 to what demand actually did during the POI.

14 And, you know, sometimes it was going up by a  
15 lot, or should have been, but for subject import inventories  
16 and you're not seeing things in there, or we should have  
17 gotten this increase in demand, that you should have seen  
18 from the automotive sector and so on.

19 Mr. Cameron has already mentioned that the  
20 transition to alternate substitute products has something to  
21 do with that. But even in your staff report, you can see  
22 that the responses from purchases and from, based on demand  
23 for purchasers' final products, the split in responses  
24 between whether demand was increasing or didn't change and  
25 decreasing and fluctuating is much more mixed. It's about

1 50-50 between those responding purchasers and importers who  
2 thought the demand was increasing or didn't change, versus  
3 those who thought it was decreasing and fluctuated.

4 So I think, depending on who the supplier is,  
5 who their end-use market is, you got a mixed picture. But  
6 what that does tell me, looking at it, is that the apparent  
7 consumption information that you have on the record is  
8 probably accurate in terms of what the overall trends were  
9 and they weren't distorted by things happening with  
10 inventory.

11 COMMISSIONER WILLIAMSON: Okay. Well, I guess  
12 the question then, how significant is this galvanization, or  
13 I guess I should have asked. How significant is the  
14 aluminum issue? In terms of -- if you don't have it now,  
15 you can give it post hearing.

16 MR. CAMERON: Could you repeat the question?

17 COMMISSIONER WILLIAMSON: The question I'm  
18 trying to get at is, how significant a factor in future  
19 demand is the trend towards galvanization, and I guess I  
20 really should have asked in terms of aluminum. Is this  
21 really something just on the margins, is it significant?

22 MR. CAMERON: To be honest with you, I mean when  
23 I heard the testimony with respect to aluminum, I thought  
24 that what they said resonated. I think that basically what  
25 they said is, we're holding our own against aluminum and I

1 didn't see any reason to doubt that, although that kind of  
2 depends on who the purchaser is. The galvanized issue is  
3 one that I believe is explored in the staff report and we  
4 will be glad to give you additional views.

5 I mean it's an issue, but clearly the auto  
6 segment of cold-rolled is very significant. We are not  
7 saying that it isn't, and not only is it significant, it's  
8 profitable, and not only is it profitable, it's the domestic  
9 industry's. Subject imports do not play extensively on that  
10 playground.

11 MR. MCCARTHY: Chris McCarthy, Tata Steel.  
12 There really is a trend towards advanced high-strength  
13 steels, as been mentioned earlier, to lightweight cars,  
14 particularly above the beltline, and not have coated  
15 products. Its only available, you know, which is rare in  
16 this country. It can only be made with continuous anneal  
17 line that you're going to be hot-dip galvanizing. So above  
18 the beltline.

19 COMMISSIONER WILLIAMSON: The beltline being the  
20 beltline on the car?

21 MR. MCCARTHY: The door, yeah.

22 COMMISSIONER WILLIAMSON: Okay, thanks. Okay,  
23 thank you. The domestic industry's profitability appears  
24 anemic at best. Do you agree that this is not a sign of a  
25 healthy industry? You might want to comment on that.

1                   MR. DOUGAN: Jim Dougan, ECS. As compared to  
2 what, I guess, would be my question to that characterization  
3 because the issue is, we understand it is what is the impact  
4 of the subject imports, their volume, their pricing,  
5 etcetera during the POI on the profitability and performance  
6 of the industry during the POI.

7                   And clearly, in our view, particularly based on  
8 the different trends in merchant market versus captive  
9 consumption performance, we believe that there is not  
10 adverse impact coming from subject imports. It's no  
11 surprise, that given that sixty-something percent of the  
12 domestic producers' production is captively consumed, that  
13 that would have a very strong influence on their overall  
14 profitability.

15                   The fact that that performs worse than the  
16 merchant market is clearly due to factors unrelated to  
17 subject imports of the subject merchandise.

18                   COMMISSIONER WILLIAMSON: Let me address the  
19 arguments that they gave this morning as to why they  
20 disagreed with you about this difference.

21                   MR. CAMERON: Excuse me, Commissioner--Don  
22 Cameron--they didn't give any arguments as to why they  
23 didn't--the merchant and the captive were different. In  
24 fact, they gave you nothing.

25                   And the interesting thing is that the Commission

1 has a breakdown company by company in Tab F of your staff  
2 report that breaks down performance by, by, you know, by raw  
3 materials, by factory overhead, by labor, for each company,  
4 including net profits. You have total, and you have  
5 merchant market.

6 So we are more than happy to go through that.  
7 But I think that the answer is, they didn't have an answer  
8 for you. And we think that it does pose a significant  
9 question. And we do not agree that it is because, well,  
10 it's distorted because of the proportional volume that is  
11 merchant market versus proportional volume by company in the  
12 other.

13

14 So we will be glad to take a look at it again,  
15 but I don't think they gave you an answer.

16 COMMISSIONER WILLIAMSON: Okay. Well thank you  
17 for that, since my time is up. Unless, Mr. Dougan, did you  
18 want to finish it right quick?

19 MR. DOUGAN: Commissioner Williamson, we will  
20 address that in post-hearing. I had some ideas, but your  
21 time is up and we can move on.

22 COMMISSIONER WILLIAMSON: Okay. Thank you.

23 VICE CHAIRMAN PINKERT: Commissioner Kieff?

24 COMMISSIONER KIEFF: Thank you, Vice Chairman  
25 Pinkert, and thank you to the panel for preparing,

1 traveling, presenting, and following up. And just to jump  
2 in and build on some of the prior questions, including the  
3 exchange with Commissioner Johanson, I want to see if I can  
4 drill down a little bit and see if I could also follow up on  
5 some of the questions I asked this morning of the  
6 representative from the Embassy of India and from your  
7 counterparts on the other panel.

8           You know, those questions, to the extent you can  
9 provide feedback on them, now or later, that would be  
10 welcome. Those questions were not just for them.

11           Similarly, I am going to ask you some questions  
12 that are not just for you. And I hope that the others will  
13 provide input as well.

14           So let me see if I am in effect getting the gist,  
15 without putting words into anyone's mouth, but getting the  
16 gist of the exchange that was occurring with Commissioner  
17 Johanson. And in the debate that you seem to be--or  
18 argument you seem to be having with your counterparties.

19           In effect, you I guess seem to be saying that,  
20 look, at least with respect to some of these particular  
21 types of product, and maybe as shipped from particular  
22 countries--for example, Japan, Korea, UK, and India, but  
23 maybe also Brazil, I'm not sure, maybe also Russia--at least  
24 with respect to some of these particulars, in effect there  
25 is not head-to-head competition with what's happening with

1 the U.S. industry.

2 So that if the U.S. industry is hoping to earn  
3 more money, they wouldn't be earning it from customers who  
4 are instead buying these products from these sources.

5 Okay, if I am getting the gist of that argument  
6 right, then at least the trial lawyer in me would like to  
7 ask, for example, the morning's panel, the following  
8 question:

9 Can you give me examples of particular customers  
10 who you say you have lost to these imports? And if they  
11 could, then it seems to me that ought to at least strengthen  
12 their case and maybe even drive the outcome entirely their  
13 way.

14 And so let me ask you: What direct evidence, not  
15 inferential evidence but direct evidence to the extent you  
16 could imagine it, could you provide and would you be willing  
17 to provide later in the post-hearing of the view that I  
18 think you're asking us to follow, which is that when  
19 customers in the U.S. buy from imports they wouldn't  
20 otherwise have been buying from domestics?

21 MR. CAMERON: Commissioner, I'm sure other people  
22 would like to, will chime in --- Don Cameron --- but with  
23 all due respect I do think that there is going to be a  
24 disagreement between us and the Petitioners with respect to  
25 what do you mean "lost to us"?

1 COMMISSIONER KIEFF: Okay -- .

2 MR. CAMERON: -- Well, I mean let's take the  
3 example of OCC, because I think it's the best example,  
4 sitting here right now. All right, so the U.S. industry  
5 says: Hey, wait a second. They need black plate? They buy  
6 black plate? I make black plate. What's the problem? Every  
7 time that they buy from Korea or Japan is a ton lost to me.

8 COMMISSIONER KIEFF: Time out. I think the "every  
9 time" clause that you and some of your colleagues on this  
10 panel have mentioned might be playing a bit of a straw man.  
11 What if their view is not every time, just enough to  
12 materially injure them?

13 MR. CAMERON: Well, Commissioner, I don't believe--  
14 -actually, I don't believe that's their testimony. Their  
15 testimony has been--

16 COMMISSIONER KIEFF: Okay, but what if I don't  
17 believe their testimony but I still--

18 MR. CAMERON: Fair enough.

19 COMMISSIONER KIEFF: --I still find more than  
20 zero? Wouldn't that be "material"?

21 MR. CAMERON: Well, I think that our answer to  
22 that, in the last exchange, was no. And that was the  
23 example that Mr. Malashevich was giving. But again, just  
24 taking the example of OCC, from their perspective it is not  
25 a lost sale to the domestic industry. They are still buying

1 from the domestic industry.

2 As a matter of fact, from their perspective  
3 they're buying as much as they can from the domestic  
4 industry. There are, there are logistical advantages. I  
5 mean it's what, 10 miles away? So that isn't the problem  
6 for them.

7 The problem for them is, if their customer base  
8 is saying, look, I buy tin plate, I have to diversify  
9 sources of tin plate for very good reasons. We may or may  
10 not agree, but those are the reasons. And if you are going  
11 to supply us, we have to have assurances that your supply is  
12 not simply my supply, too, because then we're doubling up.

13 COMMISSIONER KIEFF: I do follow the logic of what  
14 you're saying, but I'm--I just want to make sure I am trying  
15 to figure out what impact it has for the legal issue we  
16 have--

17 MR. CAMERON: Well it has a significant--

18 COMMISSIONER KIEFF: Bear with me for one sec. So  
19 what if it turns out that they can show that there is some  
20 actual substituting, that whatever the OCC customer's  
21 appetite is for diversifying its input chain, that appetite  
22 can be satisfied with some greater domestic buying than is  
23 currently occurring, or at least in the Period of  
24 Investigation. And then wouldn't the question then become:  
25 Is that added quantity material?

1           If it turns out to be material, wouldn't we have  
2           to still find an affirmative, even though the logic you've  
3           described is sound? And even though the facts you've  
4           described are accurate?

5           MS. CLARK: Lori Clark. I just want to offer one  
6           thing. I am only speaking from Ohio Coatings. We have the  
7           capacity to produce 250,000 tons a year. If we were truly  
8           going to our customers and using these imports and  
9           undercutting the market, you would think that our order book  
10          would be full-plus, when in reality we are operating at half  
11          of our capacity, and have been for the last two or three  
12          years.

13          So I find it hard to believe that we are injuring  
14          our U.S. competitors, you know, by the way that we're  
15          operating. If we are, it's certainly not showing on our  
16          bottom line, because we haven't been at capacity for years.  
17          And are less than half capacity.

18          MR. DOUGAN: Commissioner, Jim Dougan from ECS. I  
19          can't get into the data because at least portions of this  
20          are confidential, but Petitioners this morning pointed  
21          towards lost sales that they say from purchasers'  
22          questionnaires were on the basis of price.

23          But those need to be placed in context, which I  
24          can't do in public--

25          COMMISSIONER KIEFF: No, and you can do that post.

1 That's fine.

2 MR. DOUGAN: We can do that post-hearing. But  
3 there were also a significant number of purchasers who  
4 responded that they shifted to subject import sources for  
5 reasons other than price.

6 Now the questionnaires didn't gather that tonnage  
7 in the same fashion that they did for the price shift, so  
8 it's a little tough--

9 COMMISSIONER KIEFF: Alright, but--

10 MR. DOUGAN: --so I can talk about that a little  
11 bit post-hearing.

12 COMMISSIONER KIEFF: And again, I think maybe this  
13 is having spent too many years as a mediator in complex  
14 commercial cases, but, you know, sometimes everybody's story  
15 is actually pretty accurate and different, but that doesn't  
16 actually help the legal analysis.

17 So I don't mean to suggest that either you are,  
18 you know, making stuff up, or that they are, or your  
19 business is bad because it's your fault, or theirs is bad  
20 because it's their fault, but--so let me, if I could, ask  
21 just the lawyer--well, let me ask Mr. Cameron.

22 If they came forward with evidence, and maybe  
23 they haven't, and maybe they can't, but if it turned out  
24 they showed up with sworn statements of former customers of  
25 theirs who said, yeah, boy, we swapped because of price.

1       Would that be outcome determinative for us? Or am I kind of  
2       misunderstanding the legal charge we have?

3               MR. CAMERON: Well I think the question is whether  
4       there is material. I mean, you take--

5               COMMISSIONER KIEFF: Okay, so if the number were a  
6       number--

7               MR. CAMERON: There is, yes--

8               COMMISSIONER KIEFF: --that shows up on their 10Q,  
9       by some standard it is--

10              MR. CAMERON: Yes, if you're asking me is it  
11       possible to get to that point, and is it possible to have  
12       material injury, the answer is, yes. I don't disagree.  
13       Yes. Is it conceivable that there are imports that cause  
14       injury? Yes. Is it here? No.

15              COMMISSIONER KIEFF: So what's the best traction  
16       for us to suss this out? Where do we look to figure out  
17       whether it is happening?

18              Mr. Cunningham? Please.

19              MR. CUNNINGHAM: Dick Cunningham. I will note  
20       that the Commission has already trod this ground with the  
21       U.S. producers. They have asked them for lost-sale  
22       allegations. They've asked them for lost-revenue  
23       allegations. I will turn on my biggest smile and tell you  
24       that if you will look at pages E-3 and Tables E-1 and E-2 in  
25       the staff report, you are going to search long and hard and

1 you won't find anything alleged about the UK.

2 I have some concern about going back to the U.S.  
3 industry over and over again saying try again. Try to find  
4 some more of something like that. But as of right now, the  
5 record stands. They ain't got us.

6 COMMISSIONER KIEFF: And I apologize, Mr. Weiner.  
7 You were demonstrating. Please.

8 MR. WEINER: Thank you. Richard Weiner for the  
9 Japanese Mill. Allow me to respond to your channel of your  
10 inner trial lawyer just for a minute.

11 With respect to Japan, the predicate of your  
12 question is not correct. There are no lost-sale allegations  
13 with respect to Japan. And with respect to price, Japan is  
14 the only subject country for which the record shows a lack  
15 of under-selling. In fact, there's overwhelming  
16 over-selling with respect to Japan.

17 COMMISSIONER KIEFF: Okay. Thank you. And I'm  
18 sorry for going over.

19 VICE CHAIRMAN PINKERT: Commissioner Schmidtlein.

20 COMMISSIONER SCHMIDTLEIN: Okay. I guess I want  
21 to continue with this line of questions about market share  
22 and under-selling. We spent a lot of time this morning  
23 talking about what affects the price in the context of  
24 potential price depression--at least in my mind that's why  
25 we were talking about it.

1           But I do want to understand your argument with  
2 regard to under-selling and market share. And in particular  
3 when I look at the Prelim Decision, and in that decision the  
4 Commission found that there was significant under-selling,  
5 and the Commission found that the volume was significant in  
6 absolute terms and relative terms, and the record in the  
7 Final, I would not say it's different from the numbers that  
8 the Commission relied on in that Prelim.

9           And so what I want to understand is: What is your  
10 argument for why the Commission should not go affirmative  
11 based on the fact that there is significant volume of  
12 subject import, there's significant under-selling, and from  
13 that you could conclude, as the Commission did at page 52 of  
14 the Prelim, that pervasive subject import under-selling led  
15 to lower production, shipment, sales, revenue, and market  
16 share for the domestic industry than levels that they would  
17 otherwise have reached.

18           So what's the argument for why the Commission  
19 can't do that?

20           MR. CUNNINGHAM: Can I take a crack at that?

21           COMMISSIONER SCHMIDTLEIN: Or shouldn't do that, I  
22 should say.

23           MR. CUNNINGHAM: Dick Cunningham. A couple of  
24 things I would say about this. And that is, and putting  
25 aside the representativeness of the stuff you've got there,

1 you have nothing from the auto sector and things like that,  
2 put that aside for the moment. Two or three points.

3 First, there is a real concern about  
4 intra-industry pricing that a deeper analysis of your raw  
5 data in your under-selling analysis may get--may provide you  
6 some insights. And we've done that and we've found that  
7 there are certain U.S. producers that seem to be  
8 under-selling everybody, including imports and other U.S.  
9 producers.

10 In this regard, I would also direct your  
11 attention to the fact that there is a reason to believe that  
12 you would naturally have, or at least there is a propensity,  
13 a likelihood that certain parts of the U.S. industry would  
14 under-sell other parts of the U.S. industry at times when  
15 they have a cost advantage.

16 This is an industry that has some companies that  
17 are integrated producers, that use iron ore as their raw  
18 material. There are others that use scrap and are  
19 mini-mills. If you would look at Figure V-1 at page V-2,  
20 which is the cost--the price of various raw materials, and  
21 one of the things that jumps out at you from that--my  
22 fingers aren't working well for me right now, hold on--  
23 Figure V-1, one of the things that jumps out at you from  
24 that is you have two lines there representing the  
25 substrates, one on iron ore and one on iron and steel scrap.

1 Put aside the coal for a moment.

2 Beginning in 2014--this is a nonconfidential  
3 chart--a dramatic, a dramatic difference in the cost  
4 relationships. And one would look at that and say, you  
5 know, it wouldn't surprise me to find that those parts of  
6 the U.S. industry that use steel scrap as their substrata,  
7 as their input, are having an increasing cost advantage over  
8 the others, it wouldn't surprise me to find them  
9 under-selling them.

10 Now I'm not going to say what the under-selling  
11 figures show. I would ask you to look at the under-selling  
12 figures there.

13 And you should basically--and you heard testimony  
14 today that there's vigorous price competition among the U.S.  
15 producers.

16 COMMISSIONER SCHMIDTLEIN: But how does that  
17 explain that the 6.8 percent market share that the subjects  
18 gained came at the expense of the domestic industry? I  
19 mean, nonsubject went up, right?

20 MR. CUNNINGHAM: Nonsubjects went up.

21 COMMISSIONER SCHMIDTLEIN: Subjects went up.

22 MR. CUNNINGHAM: Subjects went up.

23 COMMISSIONER SCHMIDTLEIN: So they gained--they  
24 didn't take it from the nonsubjects, they took it from the--

25

1 MR. CUNNINGHAM: No, although remember--

2 COMMISSIONER SCHMIDTLEIN: --the domestic  
3 industry. So--

4 MR. CUNNINGHAM: There's a blurring of distinction  
5 between nonsubjects and U.S. producers.

6 COMMISSIONER SCHMIDTLEIN: If there's shifting of  
7 customers between the domestics, that still doesn't explain  
8 the 6.8 percent that went to the subject--

9 MR. CUNNINGHAM: Right. But we have discussed,  
10 there were problems that the U.S. industry had that gave  
11 rise to that market share change. And let me come--

12 COMMISSIONER SCHMIDTLEIN: So it's supply  
13 constraints? That's the argument? That the loss of market  
14 share wasn't due to the under-selling, that it was due to  
15 supply constraints on the side of the domestic--

16 MR. CUNNINGHAM: Yeah, and let me give you one  
17 fact that I think is really important for you to look at.  
18 Chairman Broadbent, when she started this hearing, said we  
19 have three big flat-roll cases coming one after the other  
20 here. They are interlocked products, and they are  
21 interlocked industries. That is, most of the--the great  
22 majority of the companies are the same, the U.S. producers  
23 are the same in each industry.

24 And that Figure 1 I had, the one that shows the  
25 monthly imports, the monthly trend of imports, you're going

1 to get that same thing for each of these industries, that  
2 same trend. Those charts are going to look, in each case,  
3 almost exactly the same. They will start from early 2014,  
4 rise up to the fall of 2014--one of them may peak in  
5 November, one of them may peak in October--and they're going  
6 to fall down again.

7 Now what would you say about that? Do you think  
8 that--doesn't that suggest to you that because there are--  
9 and there are different foreign countries involved in these  
10 cases. And most strikingly, there's no China in the  
11 hot-rolled case, yet that whole curve looks exactly the  
12 same.

13 That would suggest to me that it is something in  
14 the U.S. market that is producing this trend, this shape of  
15 the curve of imports. It's not as these people say, gosh,  
16 it's over-capacity out there so they're coming into the  
17 U.S., the big Chinese over-capacity leads the Chinese. The  
18 Chinese are 80 percent of the increase in imports in this  
19 case. They sure aren't 80 percent of the imports in the  
20 hot-rolled case. They're zero percent of the imports in the  
21 hot-rolled case.

22 So that would suggest to me that you really do  
23 need to look at domestic supply constraints reasons.

24 COMMISSIONER SCHMIDTLEIN: So how can you suggest  
25 how we would figure out what portion of that loss of market

1 share is attributable to supply constraints? I mean, I've  
2 heard this discussion about the weather in the Great Lakes  
3 region. Was that the only--

4 MR. CUNNINGHAM: There were plant outages, which  
5 the U.S. industry talked about here today. And, by the way,  
6 remember, the supply constraints from the weather and the  
7 closure of the northern waterways, including the Great  
8 Lakes, was not a January-February thing. It lasted into the  
9 early Spring.

10 Moreover, when you look at the timing of when  
11 imports would come in, if U.S. producers were scrambling to  
12 get supply and couldn't get it from domestic producers,  
13 would have a lead time function to it. And so you would see  
14 just what you see here, which is the imports would start in  
15 the late--in the Spring to surge, or increase--"surge"  
16 doesn't seem like a good word in this context--and then that  
17 increase would continue because of the lead times.

18 Our lead times, we have 77 days, we tell people,  
19 something like that, and we have a--we are renowned, Tata is  
20 renowned for its logistical superiority, and we're probably  
21 half or less of the lead time of other foreign suppliers.

22 COMMISSIONER SCHMIDTLEIN: Well, is it--

23 MR. CUNNINGHAM: So that explains all of this.

24 COMMISSIONER SCHMIDTLEIN: Well before my time  
25 runs out, is it--so is it Respondents' position that the

1 entire loss of market share by the Petitioners is due to  
2 supply constraints?

3 MR. CAMERON: No, it is not.

4 COMMISSIONER SCHMIDTLEIN: Okay, so what do you  
5 want to--so at what point is it? And besides supply  
6 constraints, what else is responsible for that?

7 MR. DOUGAN: Well the one thing that I wanted to  
8 point out, and this is I think, hopefully, responsive to  
9 your question. We can also investigate it more later in  
10 post-hearing. But what I found to be very interesting is  
11 that the increase in subject import volume when it occurred,  
12 and the changeover in market--the change in market shares  
13 when it occurred in the second half of 2014 primarily, was  
14 coincident with not only the greatest performance by the  
15 domestics in terms of percent margin, but in terms of actual  
16 dollars earned in the merchant market. Which means that  
17 they were--that's total dollars, including all the shipments  
18 they were making, as well as their profitability as a  
19 percent of the total shipments, which suggests to me that  
20 there wasn't a lot of harm occurring from this disconnect,  
21 this shift in market share. Which suggests, again, that it  
22 arose as a result of constraints, as opposed to things that  
23 were lost.

24 MR. CAMERON: And you also have to get in market  
25 you know, the difference in products because there are

1 differences in products. I mean black plate is a big issue.  
2 It is a separate like product but that is you talk about a  
3 shift in market share that was the increase in Korea from  
4 2014 to 2015.

5 COMMISSIONER SCHMIDTLEIN: So I'm not quite sure  
6 that I follow you so black plate -- are you saying the U.S.  
7 lost sales of black plate to Korea?

8 MR. CAMERON: No.

9 COMMISSIONER SCHMIDTLEIN: So black plate has  
10 nothing to --

11 MR. CAMERON: You're talking about total market  
12 share and total import. When you are talking about market  
13 share you are talking about total import of cold-rolled  
14 versus domestic cold-rolled in total market right? So any  
15 ton regardless of what product it is an increase in imports  
16 meant an increase in market share. Were you supplying that?  
17 -- No, I wasn't but it is still an increase in market share  
18 that is showing in the statistics, that's all I am trying to  
19 say.

20 COMMISSIONER SCHMIDTLEIN: I see, okay.

21 MR. CAMERON: Sorry I apologize if I was  
22 confusing you.

23 COMMISSIONER SCHMIDTLEIN: Alright well my time  
24 is up we will come back to this.

25 VICE CHAIRMAN PINKERT: I want to stay with this

1 issue of supply constraints because Mr. Cunningham I know  
2 that you had wanted to say something earlier and then got a  
3 chance before I came back to my questions to start to answer  
4 but the concern I have is that you directed my attention to  
5 not just the merchant market but also to the shifts in  
6 market share in the total market.

7           And when I look at the two charts I see  
8 differences but the trends are very similar on the two  
9 charts in terms of shifts in market share and the shift in  
10 market share that occurs in the middle of the period  
11 persists until the end of the period. So my question for  
12 you is -- are you saying that those supply constraints that  
13 you have talked about persisted to the end of the period?

14           MR. CUNNINGHAM: No I wouldn't say that. I think  
15 that the volume of imports surged only for about 7 months --  
16 April until October and a great deal of that and I confess I  
17 can't answer Commissioner Schmidtlein's question about how  
18 much of it because I don't think we are ever going to get to  
19 quantify that.

20           But a great deal of that came from the -- from  
21 the inability of the U.S. industry not because it didn't  
22 have capacity but because it had disruptions that prevented  
23 it from utilizing that capacity either because they couldn't  
24 get the iron ore to the producer or because they couldn't  
25 deliver the stuff to the consumer.

1           Plus plant outages and some other -- there's some  
2 other transport difficulties that are in our pre-hearing --  
3 our preliminary brief, we will get all of that to you in the  
4 post-hearing brief. But when you have an industry that has  
5 recorded a substantially more profitable year in 2014 than  
6 2013 and where the only thing that you can really point to  
7 is that their market share declined even though the results  
8 got better.

9           It seems to me you have to look at materiality  
10 from that standpoint and they did pretty much gang busters  
11 in 2014 and they've said it was the best year in the decade.  
12 Now what you have then -- and my view of market share always  
13 has been that a U.S. industry that is doing well but the  
14 imports did a little bit better is a harder case to make of  
15 material injury caused by imports than a U.S. industry that  
16 in the period when the imports increased really suffered.

17           And so I think you have got to balance and you  
18 have got to draw there -- I don't think you can draw a broad  
19 line here but you are dealing with materiality here and you  
20 are dealing with an industry that has done well and you are  
21 dealing with a situation where there are quite persuasive  
22 factual arguments to say that a significant part of the  
23 cause of the shift of market share was due to supply  
24 constraints and you have also as Don and the others have  
25 been telling you, it's not so much an issue for us, it is a

1 little bit for us -- that some of this was a situation in  
2 which the U.S. industry wasn't adequately supplying --  
3 wasn't interested in supplying as in the OCC as into the  
4 small lots of custom made products that we supply.

5 The increased imports that came into the market  
6 so I think you have to look at that. I wish I could say to  
7 you, "Alright here's my computer, you punch this button, you  
8 punch this button and the numbers you get say material or  
9 not material." If I can come up with that I will get it in  
10 a post-hearing brief but don't hold your breath.

11 VICE CHAIRMAN PINKERT: Thank you Jim please go  
12 ahead.

13 MR. DOUGAN: Yes I would like to --

14 VICE CHAIRMAN PINKERT: And let me just ask my  
15 question a little more crisply and then go ahead and say  
16 what you need to say. If the loss in market share -- just  
17 the loss in market share, whether you are talking about the  
18 merchant market or you are talking about the total market --  
19 if it is due in large part to supply disruptions why does it  
20 persist through 2015?

21 MR. DOUGAN: Okay let me address that. Could you  
22 put up slide number 1? So what you see if you look at 2014  
23 total import market share and 2015 import market share in  
24 the merchant market they are roughly equivalent right. They  
25 are in the neighborhood of 11 % I think based on the staff

1 report.

2 But the trends that you see that compose that are  
3 quite different. The first half in 2014 the market share --  
4 the import volume is comparatively low. The second half of  
5 2015 import volume is lower and declining from the peak  
6 right in that fourth quarter of 2014.

7 The run up in 2014 was driven by the supply  
8 constraints. People couldn't get the tonnage -- they had to  
9 bring it in from somewhere else. There's also the factor of  
10 having experienced these supply constraints which included a  
11 force majeure and you know other types of things that are  
12 well documented. There was not only the winter weather but  
13 going into another winter if you are a customer, you are a  
14 supplier you have to be thinking I don't want to get caught  
15 out in the same way again so I am going to want to continue  
16 to find an alternative source.

17 But that turned around when it became clear that  
18 it wasn't going to be the same situation again. The import  
19 volume was still high relative to the first half of 2014  
20 which is what you see in some of the Petitioner's graphs.  
21 But it was on a declining trend so while you see an  
22 equivalent market share between the two years, the trends  
23 and what generated that were actually quite different and  
24 the behavior of the subject imports over that time were  
25 actually quite different.

1           So the idea that supply constraints that happened  
2           in the first half of 2014 couldn't affect behavior at any  
3           point thereafter just isn't true if you think about it from  
4           the perspective of a customer who is kind of game-theorying  
5           this out about what am I going to do if something is going  
6           to happen.

7           But you can see that they at some point  
8           determined again well before the filing of the Petition that  
9           okay you know what I am not going to get caught out in the  
10          same way again and I am going to cut back on the amount that  
11          I am getting from import sources.

12          MR. CUNNINGHAM: This is Dick Cunningham again.  
13          Remember to keep lead times in mind. Because if you have a  
14          three to four month lead time that you are looking at for  
15          subject imports then the decision in the early fall of 2014  
16          that I have got to protect myself against the possibility of  
17          the same sort of winter fiasco in 2014-15 means you are  
18          ordering imports that are going to be coming in later. You  
19          are doing it to a lesser extent than you did in the  
20          previous year and you realized that you have overdone it  
21          probably but you need to take all of this into the equation.

22          We will try and figure all of this out for you  
23          and give you a little more numerical analysis of this which  
24          is I think what you are really looking for here. I would  
25          just question I have always thought that if you get a case

1 where everything is going great for the U.S. industry except  
2 they are losing market share -- I find that a hard case to  
3 go affirmative in.

4 This is not that case because late in 2015 there  
5 are declines in U.S. industry shipments and there are  
6 declines in profits and all of that sort of stuff but there  
7 is a lack of causal connection at that point.

8 MR. MALASHEVICH: Bruce Malashevich, two further  
9 small points. I think adding on to what Jim and others have  
10 testified to I have two suggestions to the Commission and I  
11 felt like this -- when I first read the Petition. If you  
12 look at the traditional annual periods and in the vast  
13 majority of cases there is nothing wrong with that  
14 whatsoever.

15 But this is the kind of case you have to be blind  
16 to the calendar year and look at is it shorter increments of  
17 time of measuring months to get the real truth of what  
18 happened to the evolution of market share over the POI and  
19 just be blind to December 31st. Then I think you get a full  
20 explanation and the other suggestion we do this in the topic  
21 brief at one point -- when you look at the market power of  
22 U.S. producers and you talk about this share in this case  
23 the imports from Canada are part of the U.S. market share.

24 You heard the testimony it is their stuff and it  
25 is sold at the same price as in the United States and they

1 are not an alternative source of injury, they are in  
2 addition to what is sold under the U.S. brand, even though  
3 it happens to be produced in Canada.

4 So I suggest step out of the calendar year box  
5 and think of Canada as part of the U.S. industry for  
6 purposes of measuring their true market power and I think  
7 the answer will come to you. We will try our best to help  
8 you do that.

9 VICE CHAIRMAN PINKERT: In the post-hearing if  
10 you want to try to represent the market share trends based  
11 on your assumption that the non-subjects from Canada are  
12 connected to the U.S. industry in an intimate sort of way  
13 please do that and show us what those numbers would look  
14 like.

15 MR. MALASHEVICH: We'll do that but also we will  
16 consider the whole schmeer on a monthly basis. It's more  
17 important than adding in imports from Canada to understand  
18 the temporal development of the market during a very dynamic  
19 period.

20 MR. CUNNINGHAM: And let me add one point on that  
21 because I think again I think it's important for this case  
22 but also for future cases. Your staff did a great thing in  
23 this case in doing a monthly import analysis which you don't  
24 always do. And one of the things is we don't have a monthly  
25 U.S. shipments analysis, we don't have a monthly ABC

1 analysis and so it's a little hard to do some of these time  
2 shares. We can do some of them comparing halves because we  
3 can take the preliminary determinations two halves and  
4 figure out what the half by half analysis is.

5 But it is hard to do it quite the way you would  
6 really like to do it in a case like this that shows that  
7 within the annual periods there were substantial changes in  
8 trends.

9 VICE CHAIRMAN PINKERT: Thank you I am going to  
10 shift over now to Commissioner Johanson.

11 COMMISSIONER JOHANSON: Thank you Vice Chairman  
12 Pinkert. And I would like to address this question to Mr.  
13 Neeley and to Miss Morgan who represent the Chinese  
14 Respondents. I would like to hear a bit more about what is  
15 happening with capacity in China. As you know that's been a  
16 major issue not only at this hearing but in the press and  
17 general and there was a hearing not too long ago held by  
18 the U.S. trade representative and the Secretary of Commerce  
19 regarding capacity which of course included China.

20 How do you all respond to the Petitioner's  
21 arguments that the Chinese entry has massively and rapidly  
22 increasing cold-rolled steel capacity? I know you touched on  
23 this a minute ago but if you could talk a bit further  
24 please.

25 MR. NEELEY: Sure. I think it's important to

1 distinguish two things. One is discussions of overall steel  
2 capacity which is pretty much what we have heard from the  
3 U.S. industry with regard to China and which frankly is  
4 beyond my pay grade in some ways. Those negotiations are  
5 going on and we have really focused on this case and not  
6 those particular negotiations.

7           And what's going on here in the case that is  
8 before you on cold-rolled. With regard to the cold-rolled  
9 case this I think you have two sources of really information  
10 that are quite consistent. One is information from my  
11 clients, the other is information from World Skilled  
12 Dynamics both of which show you know capacity going along at  
13 pretty level amounts and which show yes some degree of  
14 excess capacity certainly.

15           But not incredibly excessive and certainly not an  
16 industry that is hell bent on building more capacity to you  
17 know take over export markets or the U.S. market in any way,  
18 shape or form.

19           COMMISSIONER JOHANSON: Yes Mr. Malashevich?

20           MR. MALASHEVICH: Yes Commissioner thank you. I  
21 would just like to add to what Jeff has said. Let's assume  
22 that all of this excess capacity is true and effects  
23 cold-rolled output in China. There still have to be --  
24 whatever that excess capacity turns out to be fact there  
25 still has to be some indication of the likelihood that it

1 will come here in the event that this case goes in the  
2 negative direction.

3 And I go back to my original remark about the  
4 cumulative share of subject imports in this case being less  
5 than 5% of consumption. The question I ask is this issue --  
6 I turn it around on Petitioners really if there is so much  
7 excess capacity and there has been excess capacity in China  
8 for several years, why are the subject imports so small in  
9 this case?

10 There are numerous cases where the market share  
11 of the subject imports would not have been considered  
12 significant so if China is only sending 1% of their total  
13 output to the United States, even under their circumstances  
14 and imports from China were declining for 8 months before  
15 this case was filed how could there be a connection between  
16 excess capacity and propensity to export to the United  
17 States? I just don't see it.

18 MR. NEELEY: Yes if I can just agree with Bruce.

19 MR. BISHOP: Can you identify yourself please?

20 MR. NEELEY: Jeff Neeley -- that if we look at  
21 the world steel dynamics data which is a time series the  
22 capacity really doesn't change radically -- the excess  
23 capacity doesn't really change radically and we really don't  
24 see much change in terms of China's behavior it hasn't  
25 changed radically.

1 I mean obviously things happened in 2014 that we  
2 discussed here today but there is no radical change.

3 COMMISSIONER JOHANSON: And Mr. Neeley and Ms.  
4 Morgan I ought to just stick with you just for one other  
5 question. The Chinese Respondents have argued that imports  
6 from China during the report period of investigation were  
7 driven largely by shortages of supply in the United States.  
8 Could you all please explain what you all describe as short  
9 as a supply shortfall?

10 MR. NEELEY: Yes it is very much what Mr. Dugan  
11 has been discussing.

12 COMMISSIONER JOHANSON: Alright thanks. And  
13 something struck me when I was preparing for this for the  
14 hearing and that is -- is there really any dispute that the  
15 size of the merchant market including as compared to the  
16 size of the total U.S. cold-rolled steel market which was  
17 40.5% in 2015 is significant?

18 That's still a significant number.

19 MR. CAMERON: The merchant market?

20 COMMISSIONER JOHANSON: Yes.

21 MR. CAMERON: There's no dispute that the  
22 merchant market is significant no, and there is no dispute  
23 that the captive consumption -- the captive production  
24 provision applies. What we are suggesting though is that if  
25 you for instance compare the 2002 investigation which I

1 believe is the last one that was done and we were asked to  
2 do this at the preliminary.

3           With the current state of the industry in 2002 it  
4 was remarked that the major characteristic of the  
5 cold-rolled industry was the amount of captive production  
6 which at that time was 42% okay. Transition to today -- now  
7 we have the same industry in which again we have the  
8 significance of captive production is significantly higher  
9 than the 42%, it's now over 60% therefore that is a  
10 significant condition of competition so this is not to say  
11 that the merchant market is not significant.

12           We are not saying that. We agree that it is  
13 significant. It is not to say that you shouldn't be looking  
14 at the merchant market of course you should. The statute  
15 commands you to do so but what we are saying is that the  
16 statute does not say that you should look at the merchant  
17 market exclusively. It says you should focus primarily on  
18 the merchant market and captive consumption and the factors  
19 of the way this industry is formed has always historically  
20 when this Commission has looked at it, formed a major part  
21 of the analysis and that's also why when Jim put up the  
22 chart about the configuration of export right -- and the  
23 configuration of foreign exports at the very end with that  
24 little green line you couldn't see it right.

25           Okay and again this configuration of foreign

1 exports is not all that different although the amount of  
2 consumption looks like it is probably less than it is for  
3 the U.S. but this is the nature of the cold-rolled industry.  
4 In other words it is primarily dedicated to captive  
5 production. Then you have whole market sales and then you  
6 have exports.

7 So yes I think that the merchant market is  
8 significant but it has to be put into the context of the  
9 total industry, that's all.

10 COMMISSIONER JOHANSON: Alright thanks for your  
11 response Mr. Cameron. I would like to now get into the  
12 issue of under-selling. Respondents have noted that the  
13 under-selling data on this record are mixed but when  
14 quarterly comparisons show 123 instances of under-selling  
15 versus 63 instances of over-selling is that not significant?  
16 You don't have any comments on that?

17 MR. DOUGAN: Alright Jim Doughan, ECS. A large  
18 part of the reason that we argue that the under-selling is  
19 not significant is the pattern over time and that the I  
20 guess comparison or the portion of instances that are  
21 under-sold versus over-sold is at its highest in 2014 and  
22 that also represents the time period when -- I'm trying to  
23 be careful but BPI information here but it's a similar  
24 pattern for volume let's just say that.

25 And then that turns around in 2015. But 2014 was

1 when the industry performed its best and so in our view you  
2 know there is a certain amount of under-selling that is to  
3 be expected in the market. A significant number of  
4 purchasers say that they are willing to pay a premium for  
5 domestic merchandise so the fact that imports are priced at  
6 a lower level is not a surprise because customers value,  
7 many customers value you know the availability and the  
8 logistics associated with the domestic product in addition  
9 to the long customer relationships that they have with some  
10 of these mills.

11 So when you put that together with the -- and you  
12 compare that overall and you look at the shifts over time  
13 that's why we argue that it is not significant.

14 COMMISSIONER JOHANSON: Yes Mr. Cameron?

15 MR. CAMERON: Excuse me Commissioner Don Cameron  
16 -- the other thing that we would point out and this is why  
17 the issue of intra-industry competition that we pointed out  
18 actually is significant. If you look at the tonnages that  
19 are involved in the intra-industry competition versus the  
20 imports -- subject import, frankly intra-industry  
21 competition dwarfs it.

22 Secondly intra-industry competition competes in  
23 the same conditions of competition on the same basis not  
24 with a lead time of four months or eight months or whatever  
25 that you have with subject imports.

1           So it is something that actually does become  
2 relevant when you are looking at this so we think that it is  
3 something that you should look at. It is significant.

4           MR. DOUGAN: Just to add on to that, I know your  
5 time is eclipsing. When you are looking at what is driving  
6 pricing levels and when you look at the composition of the  
7 patterns of intra-industry under-selling and the volumes  
8 involved it becomes apparent in what's really driving those  
9 trends.

10           COMMISSIONER JOHANSON: Thank you, I better close  
11 this Mr. Weiner if you could answer in post-hearing I noted  
12 last time I went under my time this time I have gone over  
13 but I would look forward to seeing whatever you want to  
14 state in the post-hearing, thank you.

15           CHAIRMAN BROADBENT: Commissioner Williamson?

16           COMMISSIONER WILLIAMSON: Thank you. When you  
17 address the question of the impact of supply constraints  
18 post-hearing we already had a number of questions on that  
19 but could you also sort of explain the argument further in  
20 providing documentation to sort of give some indication of  
21 how large was this supply constraint?

22           And I think of this in particularly in light of  
23 given the size of the volume of the imports that came in  
24 compared to the changes in domestic demand -- the size of  
25 that. I also look at the capacity utilization numbers of

1 the domestic industry and also given the under-selling of  
2 the imports if you know there are really supply constraints  
3 that were driving it why would there be under-selling.

4 So when you are addressing that question can you  
5 address the arguments that others have asked you to address  
6 on that -- will you take those factors into account because  
7 they are perplexing.

8 MR. CAMERON: Don Cameron, Commission we will be  
9 glad to do that. I would note that this morning one of the  
10 witnesses for the Petitioners said, "Wow we had these supply  
11 disruptions well why didn't prices increase?" Well actually  
12 the answer to that question is prices did increase at the  
13 time of the supply disruption so we will look at your  
14 question.

15 MR. DOUGAN: And just go add we will get into  
16 this more as you request but you know the idea is if there  
17 are supply constraints, why is there under-selling and I  
18 think you know we have touched on that a little bit in terms  
19 of just overall purchasers preference for domestic  
20 merchandise and their willingness to pay more for it.

21 So that there is under-selling as such is not  
22 surprising so we will look at it in the context of the  
23 increases in supply constraints as well.

24 COMMISSIONER WILLIAMSON: There is someone in the  
25 back there can you identify yourself?

1                   MR. DAVIDSON: Yes this is Scott Davidson I'm  
2 with NSBA and we are a trading company that imports black  
3 plate from Japan primarily for Ohio Coatings. In addition  
4 to that we also sell a portion of their product mostly to  
5 major can manufacturers. I would just like to back up what  
6 Lori Clark had mentioned earlier that a number of the major  
7 can producers in the United States are food can producers so  
8 they have to diversify their supply source.

9                   And one of the things that happened in 2014 we  
10 received a call from one of the major can manufacturers  
11 saying that their largest domestic tin mill producer had run  
12 out of iron ore and wanted to know how much tin plate we had  
13 at OCC to sell them. It was a limited amount but the result  
14 of that was that they felt even more so that they needed to  
15 diversify their supply source.

16                   And our price didn't change because that pricing  
17 is fixed for a year but it put a fear in them that they had  
18 to diversify. They didn't want to diversify with tin mill  
19 producers from outside of the United States. They preferred  
20 to have additional supply from Ohio Coatings but they also  
21 made it clear that they wanted the black plate supply to  
22 come from other than two major producers that they were  
23 already buying tin plate from.

24                   And I think what Lori has said is that the  
25 pricing that they received from some of the domestic

1 producers is unrealistically high because Ohio Coatings is  
2 probably the lowest cost tin plater in the country -- their  
3 line is only 20 years old and it has a very lean staffing  
4 arrangement with it.

5 So even with that they were not able to buy  
6 domestically black plate because it was unrealistically high  
7 priced to allow them to sell in the domestic market to  
8 finish tin mill customers.

9 COMMISSIONER WILLIAMSON: Okay thank you for that  
10 information but I still -- that's not the supply disruption  
11 that is relevant to the earlier discussion.

12 MR. DAVIDSON: Part of it is the supply  
13 disruption.

14 COMMISSIONER WILLIAMSON: Excuse me?

15 MR. DAVIDSON: Part of it was the supply  
16 disruption from when major tin mill producer ran out of iron  
17 ore because the Great Lakes were frozen.

18 COMMISSIONER WILLIAMSON: Okay thank you. Let me  
19 turn to another line of questioning. I'll ask the  
20 Respondents from India, how should the Commission take into  
21 account the failure of the cold-rolled steel industry in  
22 India to complete the timely data and how should this impact  
23 the SS from where the imports from India would imminently  
24 exceed their negligibility threshold?

25 MR. DOUGAN: Commissioner I am appearing at least

1 nominally on behalf of JSW Steel today so I will be in  
2 contact with counsel and answer that in the post-hearing  
3 brief.

4 COMMISSIONER WILLIAMSON: Okay and you can also  
5 add the question about the negligibility threshold for  
6 purposes of the 3% is argued by Petitioners at 4% so you  
7 could -- add that to the response you will be given.

8 MR. DOUGAN: I'm sorry can you repeat the  
9 question please?

10 COMMISSIONER WILLIAMSON: Should the  
11 negligibility threshold for the purposes of the threat be 3%  
12 as argued by the Petitioners or 4%?

13 MR. DOUGAN: I'm guess that the answer will be 4  
14 but that --

15 COMMISSIONER WILLIAMSON: That surprises me.

16 MR. DOUGAN: But they will address that more and  
17 we will address that more in post-hearing.

18 COMMISSIONER WILLIAMSON: Okay thanks. How if at  
19 all should the Commission take into account separate ADCBD  
20 investigations upstream and downstream steel sheet products,  
21 specifically hot-rolled and corrosion resistant steel? Does  
22 anybody have any views on that? You are looking puzzled.

23 MR. CAMERON: Yes, Don Cameron, I am puzzled but  
24 I am often puzzled as you know for which I apologize.

25 COMMISSIONER WILLIAMSON: I have never known that

1 to stop you.

2 MR. CAMERON: That's my personal failing. But I  
3 think that it is -- it is an interesting question but I  
4 think that the answer to that question and that goes to one  
5 of the explanations this morning about captive production.  
6 Well the extent that there are difficulties in captive  
7 production that really is related to conditions in the  
8 corrosion-resistant market, not to cold-rolled to which I  
9 guess our answer would be well to the extent that the  
10 difficulties incurred by the domestic industry are due to  
11 imports of corrosion resistant, that's not imports by reason  
12 of imports of cold -- subject cold-rolled.

13 So the reality is you have three separate like  
14 product. Yes there are relationships and you are going to  
15 be analyzing those relationships through these cases there  
16 is no question about that but in the end I believe that  
17 statutorily the Commission is going to have to look at  
18 imports -- subject imports, condition of the industry but to  
19 the extent that they find for instance the real problem with  
20 the domestic producers of cold-rolled is that their captive  
21 production had difficulties because of for instance imports  
22 of corrosion and the answer to that is that that is not  
23 injury by reason of subject imports of cold-rolled steel, I  
24 mean that is just a fact so that would be the way I look at  
25 it.

1 COMMISSIONER WILLIAMSON: Okay thank you.

2 COMMISSIONER WILLIAMSON: Thank you Miss Mendoza  
3 and then Mr. Malashevich.

4 MS. MENDOZA: Julie Mendoza. I think that it's  
5 extremely important here -- that question because I think  
6 what Petitioners tried to do at least in their briefs was to  
7 suggest that the Commission should take into account these  
8 overriding things, the political theme, the over-capacity  
9 theme, all of these things.

10 But you know the reality is that in each of these  
11 three cases and we as a law firm are involved in all three  
12 present really very different fact patterns and respond --  
13 each industry responds very differently to the demand  
14 situation. So while it is true that things like supply  
15 disruptions may be true generally against all of the -- in  
16 all of the different flat-rolled products they can take on  
17 very different dimensions based on the product that is under  
18 review.

19 So I think it's very important that the  
20 Commission be very careful not to attribute from one product  
21 to another the conditions of competition or the behavior of  
22 the pricing or anything else because obviously the U.S.  
23 industry would like to do that and kind of cross up things  
24 but I think our position is that you can't and the record of  
25 each individual investigation is very different, thank you.

1                   COMMISSIONER WILLIAMSON: Thank you so we see you  
2 on Thursday, Mr. Malashevich?

3                   MR. MALASHEVICH: Commissioner actually -- Bruce  
4 Malashevich I thought quite a lot about your question which  
5 is an excellent one because I too am involved in all three  
6 investigations plus PPL plate although that's a different  
7 time frame.

8 And I think it has to begin with the realization that to the  
9 best of my knowledge and I have queried my legal colleagues  
10 and they have the same conclusion.

11                   No one can identify a point in time when the  
12 Commission was investigating at a near simultaneous schedule  
13 three products that are derived from each other but which  
14 have been defined on numerous occasions as separate like  
15 products and I think from the point of view of assessing the  
16 industry's condition my suggestion would be as follows:

17                   I think the questionnaire already says that  
18 producers should report their transfer prices as they do in  
19 the normal course of business, fine. Staff verifies that  
20 and makes inquiries. And I think the upstream costs let's  
21 say in this case the price of hot-rolled -- the transfer  
22 price of hot-rolled in theory from the point of view of the  
23 economics of the industry represents all of the stuff that's  
24 happening upstream in the cold-rolled operations.

25                   So by then going to non-recurring expenses that

1 include closure of an iron mine or a shutdown of a blast  
2 furnace or idling -- assigning those to the downstream  
3 operations just makes no sense because in effect you are  
4 double counting. Now I know you have to consider net income  
5 but you don't have to consider it with any particular  
6 weight. You can use your own judgment.

7 So I would recognize that all of those upstream  
8 costs pertain to some other like product and don't properly  
9 belong in your analysis of the domestic industry's  
10 condition.

11 COMMISSIONER WILLIAMSON: Okay thank you for  
12 those answers.

13 CHAIRMAN BROADBENT: Commissioner Kieff?

14 COMMISSIONER KIEFF: Well thank you if my  
15 reference to the morning panel that my desire to auction my  
16 time was not in accordance with the rules when the magnitude  
17 was great and value was positive I suspect it is even worse  
18 if the magnitude is great and the value is negative as it  
19 often is at the lateness of an hour.

20 So instead let me just say that I have greatly  
21 enjoyed and appreciate everybody's testimony and look  
22 forward to post-hearing submissions and I also will have to  
23 leave likely before you are done but I look forward to the  
24 transcript as well, thank you very much no further  
25 questions.

1                   CHAIRMAN BROADBENT: Commissioner Schmidtlein?

2                   COMMISSIONER SCHMIDTLEIN: Alright thank you. I  
3                   wanted to shift gears to Japan and cumulation and Japan  
4                   makes the argument that we should consider conditions of  
5                   competition in addition to a reasonable overlap of  
6                   competition in determining whether to cumulate Japan for  
7                   present material injury purposes.

8                   And I guess my question is and I think the  
9                   argument is made in the brief that we have to do this under  
10                  the WTO agreements am I correct about that?

11                  MR. PAL: Raj Pal from Sidley for Japanese Mills.  
12                  Well yeah I think the argument presented in the brief is  
13                  that Article 3 of the AD agreement permits cumulation in the  
14                  circumstance where it is appropriate in light of conditions  
15                  of competition between subject imports and domestic products,  
16                  sorry, between imports from the country at issue and other  
17                  subject Imports and domestic products.

18                  So that's what the agreement says. The statute  
19                  -- we understand that the statute requires the Commission to  
20                  cumulate if they find that imports, in accordance with the  
21                  statute, imports compete with each other and with the  
22                  domestic-like products in the U.S. market and it's the  
23                  Commission's role to determine whether the imports compete  
24                  with U.S. products and for that purpose the Commission has  
25                  developed a framework under which it considers whether there

1 is a reasonable overlap of competition and in that  
2 framework it has delineated four factors -- fungibility,  
3 channels of distribution, and the overlap of timing and  
4 geographic presence.

5 We would -- I guess importantly for this case, it  
6 also explained that those four factors are not exclusive  
7 of determining whether there is a reasonable overlap  
8 of competition. In that context other conditions of  
9 competition such as volume, price and market focus are  
10 highly relevant in determining whether there is a reasonable  
11 overlap of competition even within the context of the  
12 fungibility element of the analysis and as our brief lays  
13 out. Japan -- and I have brought this point up before --  
14 Japanese import volumes over the course of the POI were  
15 flat.

16 I think the market share from Japan increased by  
17 .1% so they in no way explained or take away any volume from  
18 the U.S. producers. On price the data -- the record data  
19 show extensive over-selling and the over-selling is in the  
20 pricing product 6 which is an automotive product. You know,  
21 the Petitioners point out that that data may be meaningless  
22 because of the variety of products in that category.

23 However I would submit that the data is very  
24 meaningful in showing that the Japanese products were  
25 selling in a different end of the automotive market. So

1 those other conditions of competition are within the  
2 Commission's framework of a reasonable overlap of  
3 competition.

4 COMMISSIONER SCHMIDTLEIN: So how do those volume  
5 and price trends reflect a condition of competition? I know  
6 in the Sunset Review we have a lot of discretion -- the  
7 Commission has wide discretion whether to decumulate and we  
8 look at the conditions of competition and for me I have  
9 always looked at it in terms of well if there is a  
10 difference, a distinct difference in a volume of price trend  
11 that's reflective of some condition of the market in the  
12 United States or at least that's what I'm looking for but  
13 just to say that a different volume or a different price  
14 trend is in of itself a condition of competition like how is  
15 it --

16 And if we did say that wouldn't we be  
17 decumulating all the time then? I mean where would you draw  
18 the line in terms of when it is a sufficiently different  
19 price trend or volume trend to constitute a different  
20 condition of competition?

21 MR. PAL: Sure Raj Pal, Sidley Austin for  
22 Japanese Mills. What we would say is that the volume and  
23 price trends in this case are reflective of the conditions  
24 of competition whereby Japanese Mills are selling distinct  
25 products in the U.S. market and they are selling as we have

1 said -- they are selling to order, they are not making spot  
2 sales in the U.S. market and taking market share.

3 You see laid out in our brief that the volume  
4 trends from Japan were entirely opposite to the volume  
5 trends from other subject countries and other non-subject  
6 countries as well. So what that goes to show -- this goes  
7 to reinforce the point that the Japanese Mills are in the  
8 U.S. market supplying our long-term customers and  
9 supplying the orders of those customers for particular  
10 products that those customers demand that are not available  
11 from U.S. producers.

12 COMMISSIONER SCHMIDTLEIN: But you are not saying  
13 these are long-term contracts?

14 MR. PAL: Sorry?

15 COMMISSIONER SCHMIDTLEIN: Are you saying that  
16 these are long-term contracts that they are selling to or  
17 just that these are long-time customers?

18 MR. PAL: It's not the point that they are  
19 long-term contracts but these are supply relationships that  
20 have been in existence for as much as 35 years or longer and  
21 then long before this POI, so the notion that the Japanese  
22 producers are you know, shipping product to the U.S. and  
23 making spot sales to encroach business with the U.S.  
24 producers is simply not true.

25 COMMISSIONER SCHMIDTLEIN: And is there anything

1 in the record that shows or can you put anything in the  
2 record that shows how much of this product that's at this  
3 upper end of the automotive end use Japan sends? In other  
4 words, I know you make the argument that this is this high  
5 tin mill strength product that the U.S. doesn't produce but  
6 because that category in product 6 is so broad it is not  
7 clear?

8 I think what you are saying is we can infer it  
9 from the over-selling but are you saying all of that product  
10 and product 6 is of a particular strength?

11 MR. PAL: I don't think we say this is all. We can supply  
12 that data confidentially in the post-hearing brief, but I  
13 think it is reflected in the pricing product data that there  
14 is definitely you know that there are distinctions in the  
15 products, the markets the U.S. producers and Japanese  
16 producers are selling and you know as we laid out in the  
17 brief it is not just automotive products.

18 There are automotive products, there are tin-mill  
19 plate products, there's porcelain enameling steel and even with  
20 respect to other products if you go product by product the  
21 types of products that the Japanese are supplying are not  
22 you know, they are not available at all as Tim has explained  
23 or they are not you know, available in the quantities or  
24 qualities that are required by the U.S. customers.

25 COMMISSIONER SCHMIDTLEIN: Okay it would be

1 helpful for me if you could put in the record what  
2 quantities are we talking about here over the period of  
3 investigation in terms of these high-end products that Japan  
4 is sending. Okay I have one other question having to do  
5 with the price variance discussion in the staff report which  
6 appears on page VI-11 and this is not bracketed.

7 I'm wondering if you could help me understand how  
8 we should consider what the staff report includes with  
9 regard to the variances and again if you look at VI-11 where  
10 it says, "The analysis on Table 6-3 market operation  
11 indicates that operating income and net income fell from  
12 2013 to '15 due to an unfavorable price variance. Unit  
13 prices fell that was greater than a favorable net cost  
14 expense variance, unit cost and expenses declined."

15 The data in that table also indicate that the  
16 fall in both operating and net income was greatest between  
17 '14 and '15 because an unfavorable price variance  
18 overwhelmed a favorable net cost expense variance.

19 Does this undermine your argument that the raw  
20 material cost is what was driving down the industry results?

21 In other words help me understand when I read  
22 this I tend to want to conclude that so prices fell more  
23 than the favorable variance from cost, is that consistent  
24 with your argument?

25 MR. DOUGAN: Well Commissioner Schmidtlein a

1 couple of things. One -- this cost includes something -- it  
2 costs in addition to raw materials okay so there are other  
3 things involved in there -- internal costs, other factory  
4 costs, labor costs and some are including non-recurring  
5 items.

6 COMMISSIONER SCHMIDTLEIN: But it actually went  
7 up on this record right? Those costs actually increased raw  
8 material costs went down?

9 MR. DOUGAN: Right. We will take a look at this  
10 and address it at greater length in post-hearing. Our  
11 overall argument with regard to the raw materials was that  
12 the trends -- the prices in this market for this product  
13 move in similar trends to raw materials -- the key raw  
14 materials and that there was sort of a bizarre denial that  
15 they were related at all by the domestic industry.

16 Everything had to do with supply and demand in  
17 the marketplace. And if you see that you look at the  
18 purchaser responses you look at the data, that's simply not  
19 true. We can unpack their argument versus our argument and  
20 we will do it at length in post-hearing. We will look at  
21 this in conjunction with the variance analysis which of  
22 course includes things other than raw materials as I have  
23 mentioned.

24 But you know from our perspective -- by the way  
25 contrary to what petitioner's claimed this morning there was

1 no torturing of the data on our part. In fact the percent  
2 changes in the unit costs and unit prices appear in your  
3 staff report so you know that's just one way of looking at  
4 it and that's perspective.

5 Now we think the way we presented that analysis  
6 is more persuasive and we hope that you will agree with it.  
7 But I think that you know they present things on the unit  
8 cost basis, we are looking at changes. And what that tells  
9 me is if you can get a different answer from coming at this  
10 from different perspectives there's certainly not evidence  
11 that conclusively supports their view of how these things  
12 are inter-related.

13 And certainly whether -- if there is this -- even  
14 if you accept their argument it is not clear, it is far from  
15 clear especially given the other information on the record  
16 that it is subject imports that are driving that  
17 particularly given what we identify as a very high degree of  
18 intra-industry competition and significant volumes that has  
19 more effect of driving the price than the subject imports.

20 So that's just to address the general discussion  
21 from this morning but we will get into what you specifically  
22 requested.

23 MR. CUNNINGHAM: If I may add, this is Dick  
24 Cunningham one very short significant thing here and that is  
25 when you are looking at the effect of raw material prices on

1 prices for the end product it is not just a question of  
2 whether the producers cost goes down and therefore he moves  
3 his price consistently -- the cost the measure is done,  
4 produced their price unless there is market pressure on them  
5 to reduce that price to make more profits they prefer to.

6 What happens and your staff report is very clear  
7 on this the great majority of purchasers say that declines  
8 in raw material prices which are visible in the marketplace  
9 for all sorts of indices that are available to purchasers  
10 lead purchasers to bargain for lower costs, the lower prices  
11 of the end product.

12 And in that regard that is fully consistent with  
13 the variance analysis that you have up here.

14 MR. MALASHEVICH: This is Bruce Malashevich I  
15 concur with Jim Dougan's approach to pricing raw material  
16 variants excuse me issue -- but I call your attention to  
17 footnote 11 on page VI-11 of staff's summary of what the  
18 variance analysis shows.

19 In view of our extended discussion of volume  
20 effects and significance of market share changes within the  
21 market I note that staff concludes with respect to volume  
22 "The overall volume component of the variance analysis is  
23 generally small," which is entirely consistent with my  
24 income statement model and other testimony here today.

25 COMMISSIONER SCHMIDTLEIN: Okay, alright thank

1       you I look forward to that post-hearing.

2                   CHAIRMAN BROADBENT:   Okay I have a few questions  
3       here.   Mr. Cunningham what consideration should the  
4       Commission give to the recent announcements of a  
5       consolidation in the European steel industry in Tata?  It's  
6       reporting that it is planning to sell its British operations  
7       due to losses.

8                   MR. CUNNINGHAM:   Everyone in this room from Tata  
9       U.K. would love your choice of the word consolidation.  The  
10      word that should be used is divestiture and what has  
11      happened is that Tata Steel's parent in India has said we  
12      are getting out of the U.K. steel business.  Sell it -- if  
13      you can't sell it we are shutting it down.

14                   Nobody knows what's going to happen with that and  
15      I shall note in the written statement -- the longer written  
16      statement from Mr. McCarthy he is unable to make real  
17      statements about that.  What I will tell you on this is and  
18      I think everyone would agree with this is that the current  
19      uncertainty and confusion as to what will happen with future  
20      U.K. production of cold-rolled steel because Tata's -- the  
21      great majority of the U.K. cold-rolled steel production.

22                   But the current uncertainty about that makes it  
23      impossible to forecast if there are going to be significant  
24      increases in steel from the U.K. and to this market.  It's  
25      impossible for them to do marketing plans.  It's impossible

1 for them to do anything other than take orders from  
2 customers as they come and hope they can supply them.

3 And so it is a very difficult and agonizing  
4 situation for Tata U.K. and not one that I am able to tell  
5 you is going to end well.

6 CHAIRMAN BROADBENT: I understand there are  
7 several U.S. companies that are bidding potentially?

8 MR. CUNNINGHAM: I don't think we are in a  
9 position to state it -- we will give you what we can in a  
10 confidential submission on that.

11 CHAIRMAN BROADBENT: Okay.

12 MR. CUNNINGHAM: There are some companies that  
13 have expressed interest. Bidding may not be an appropriate  
14 characterization of what is going on although Tata Italy has  
15 said that they want this process to move fast -- we'll see.

16 CHAIRMAN BROADBENT: Okay this is for Mr. Dougan  
17 and Mr. Cunningham. You have each referenced -- referred to  
18 iron ore prices, price trends over the POI with Mr. Dougan  
19 referencing declines in his page 7 chart and Mr. Cunningham  
20 referring to our figure V-1 why are these iron ore indexes  
21 so different?

22 MR. DOUGAN: Jim Dougan do you mean the  
23 differences between the tables or the differences between  
24 those trends and the other raw materials?

25 CHAIRMAN BROADBENT: The tables.

1           MR. DOUGAN: Okay we will have to look at that  
2 more closely. I know that ours is for purposes of  
3 presentation I think we may have relied on subscription data  
4 so we indexed it so we will assess that out in post-hearing.

5           CHAIRMAN BROADBENT: Okay good. Mr. Cameron  
6 there's a lot of talk about the outrageous winters in the  
7 Great Lakes and I am guessing that winters are pretty  
8 aggressive up there most years, was this year particularly  
9 unusual?

10          MR. CAMERON: Don Cameron, my understanding is  
11 that yes it was. There were numerous articles we attached a  
12 number of them in our brief. This winter phenomenon is I'm  
13 surprised that this is a discussion point. Yes, I agree  
14 with Nucor that that didn't affect their production in South  
15 Carolina. That's the reason people like to live in South  
16 Carolina. I have a daughter living in South Carolina, loves  
17 it that's great.

18           But if you are living in Cleveland and you are  
19 getting your iron ore through the Great Lakes as testified  
20 to by the Congressman there is a problem if the Great Lakes  
21 freeze more than normal. I mean you know spoiler alert  
22 maybe there is something known as climate change.

23           But it was a very real phenomenon. It did impact  
24 the trade. It might have impacted the economy as well but  
25 it certainly impacted the trade. Go ahead you can say

1 something about that go ahead.

2 MR. KINYO: Well from Ohio Coatings' standpoint  
3 when that all occurred I'm sorry, Ken Kinyo -- when that all  
4 occurred you know tin plate there's only at the time  
5 basically three major producers and all of a sudden our  
6 phone started ringing off the hook because we had can  
7 manufacturers that were not able to get tin plate from some  
8 of these domestic metals of the Petitioners. So from our  
9 standpoint we definitely saw the impacts from the Great  
10 Lakes, just from possible business potential that we had.

11 CHAIRMAN BROADBENT: Right.

12 MR. MCCARTHY: Chris McCarthy, Tata Steel. It  
13 was an unusual year 2014 and I think for particularly around  
14 the Great Lakes you know in addition to that some of the  
15 integrated mills had production issues besides not being  
16 able to get iron ore. U.S. Steel Great Lakes actually had  
17 its basic furnace roof cave in and automotive, particularly  
18 around the Great Lakes was calling us because of our  
19 logistics capabilities and our abilities to make the  
20 quality steel for automotive coal you know for us to supply  
21 them.

22 CHAIRMAN BROADBENT: Okay.

23 MR. MCCARTHY: Commissioner what he was just  
24 referring to is in the record in some of the responses and  
25 again this phenomenon -- this occurrence is not something

1 that people don't know about. It was very real and it  
2 caused severe supply disruptions for U.S. Steel.

3 CHAIRMAN BROADBENT: Okay alright. Mr. Cameron  
4 or any other Respondent the domestic industry's operating  
5 and net ratios were either negative or anemically positive.  
6 Do you agree that this is a sign of an unhealthy industry?

7 MR. CAMERON: Commissioner again as Mr. Dougan  
8 pointed out it depends on context. Actually 2014 when the  
9 industry made something like 3% I think in the merchant  
10 market less in the total in the captive market, but  
11 historically 2014 was a good year for the cold-rolled  
12 industry.

13 So the question is whether or not the subject  
14 imports are causing that when in fact in '13 they had much  
15 lower profits than they had in 2014 so what happened in  
16 2014? Oh that's right imports increased and prices were  
17 increasing with increased imports. There were supply  
18 outages and yet the U.S. industry as a whole looked at in  
19 terms of operating profits performed much better than they  
20 did in 2013.

21 MR. CUNNINGHAM: Could I -- this is Dick  
22 Cunningham -- using my idyllic memory running through the  
23 statute and didn't find the term unhealthy. But there are  
24 two terms and it seems to me that it is important to keep  
25 these two in mind. One is does what imports did to an

1 industry constitute material injury? That's one concept.

2 The other is vulnerability. Both of those are  
3 things that are common in the Commission's analysis here. I  
4 think we all have the view here and we have tried to argue  
5 to you that the first one can't apply here because nothing  
6 that the imports did to the U.S. industry constitutes  
7 material injury.

8 A question more worth debating is whether there  
9 was any time during 2015 when you could say this was injury  
10 that was vulnerable. We would say maybe so it looks like it  
11 has improved a lot as 2016 has begun. But if you took a  
12 snapshot at the sort of nadir industry's operating results  
13 in 2015 I'd probably have to say that's vulnerable.

14 I don't think there's evidence that there will be  
15 a new surge of imports but vulnerability is certainly  
16 something that you could use as a characterization for what  
17 the industry was suffering in 2015.

18 MR. DOUGAN: Commissioner Broadbent I said  
19 something like this in response to a previous question but I  
20 will try to summarize it again which is -- what we are  
21 looking at here is the impact that the imports had on the  
22 industry and its performance and when you see the  
23 significant improvement in its performance concurrent with  
24 the increase in import volume and market share and even  
25 indicators like under-selling and things like that -- that

1 causal link is broken.

2 And so in our view it is not what the  
3 profitability might be as compared to other industries or  
4 even -- but in the merchant market where they are competing  
5 with these imports and their performance improved  
6 significantly along with that that to me breaks any causal  
7 link between the two.

8 CHAIRMAN BROADBENT: Okay just kind of my last  
9 big picture question. The Respondents as I hear you were  
10 arguing at various points that the lack of correlation  
11 between subject import volume and the industry's price and  
12 financial performance given that the best financial and  
13 price year for the industry was 2014 the same year that  
14 subject imports were at their highest but there is no  
15 correlation there.

16 And the Petitioners are rebutting this by saying  
17 the industry lost market share in 2014 while maintaining a  
18 reasonable price point and then basically got tired of  
19 losing the market share and lowered their prices in 2015 to  
20 staunch the bleeding of the lost market share.

21 How do you give us advice on how we should weigh  
22 these two arguments and where it should tip us in one way or  
23 the other.

24 MR. CAMERON: Don Cameron. I think that again it  
25 is not a simple picture we agree with you but that is the

1 reason that the issue of entire industry this competition is  
2 quite relevant to this discussion especially when you are  
3 looking at under-selling and then if you are looking at the  
4 volumes of the entire industry competition compared to say I  
5 don't know subject imports -- and then look at the identity  
6 of those and look at their performance. Yes, I believe that  
7 becomes a relevant consideration in all of this.

8           So it is a complicated situation. It's not a  
9 simple thing -- the thing is you have to look at the  
10 differences in products. Again is this one fungible product  
11 which is what the industry said over and over again at the  
12 preliminary -- a ton of cold-rolled is a ton of cold-rolled  
13 we have been hearing a little bit of that today.

14           A million tons is a million tons, we could have  
15 supplied every bit of it, that's an interesting concept. If  
16 you could have supplied every bit of it why is it we were  
17 importing non-subject imports from Canada? Oh well because  
18 those were pre-established, long-established relationships  
19 that we had that our Canadian suppliers had with the  
20 customers.

21           That is a rather bizarre defense of why you are  
22 importing from Canada and supplying your customers from  
23 Canadian mills if indeed you are complaining about the lack  
24 of capacity utilization here. So I think that it is a  
25 complicated analysis.

1                   MR. CUNNINGHAM:    Could I beg to differ from  
2                   that?  I am a simple fellow, myself--this is Dick  
3                   Cunningham.  I don't think that from the standpoint of the  
4                   question you asked it's that difficult a question, or  
5                   complicated.

6                   Yes, the U.S. industry had declining volume in  
7                   2015.  And, yes, they say they cut their prices in order to  
8                   try to maintain volume.  And let me talk about volume, and  
9                   we can get to market share if you want to turn it that way.  
10                  But certainly if what they wanted to do was reduce imports'  
11                  presence in the marketplace, they certainly did that.

12                  Look at the chart.  Import volume is falling like  
13                  a stone.  All the U.S. industry's volume problems came from  
14                  a lack--from a decline in apparent domestic consumption,  
15                  which was substantially greater than the U.S. industry's  
16                  decline in production and shipments.

17                  And that brings me to one point that I've been  
18                  wanting to make throughout this.  We have had all this stuff  
19                  about inventory overhang, and there really wasn't any  
20                  decline in apparent domestic consumption--the numbers  
21                  actually don't bear this out--but even if you take it on  
22                  their word, it was the releasing into the market of  
23                  previously built up inventories.

24                  We got to this--we got to that issue because at  
25                  the preliminary we pulled out the chart of the declining

1 imports in the U.S. market throughout 2015. Industry  
2 clearly hadn't anticipated that. They had nothing about  
3 inventory overhang beating back into the market at that  
4 point. But they're quick thinkers and they came up with the  
5 idea, oh, wait a minute. Hold on. It was really the  
6 inventory feeding into the marketplace that was the problem  
7 there.

8 The problem with that is, when you understand why  
9 they made that argument, which was to try to explain away  
10 the decline in apparent domestic consumption, it is an  
11 irrelevant argument. Because what matters to the U.S.  
12 industry is: Were there purchases available to be had in the  
13 marketplace sufficient to maintain their volume?

14 And the answer to that is: No. Because the  
15 purchases available to be made in the marketplace were  
16 declining. And whether they were declining because of  
17 inventories being fed back into the marketplace, or whether  
18 they were declining because final demand was declining,  
19 isn't relevant to the effect on the U.S. industry's  
20 operating results in 2015.

21 MR. DOUGAN: Commissioner, if I can add? I know  
22 your time is more than up. The idea--I think the--looking  
23 at the price and the volume trends in 2014, and the  
24 profitability of the domestic industry, particularly in the  
25 second half, I think as I said in my testimony the idea that

1 they were struggling in late 2014, and eventually got tired  
2 of losing market share and had to slash their prices in  
3 response to the subject imports, doesn't really comport with  
4 how they actually performed.

5 And it makes a lot more sense to say, and it's  
6 demonstrated by the record, that the prices declined at the  
7 end of 2014 and into 2015 in response to changes in raw  
8 material costs, among other things.

9 CHAIRMAN BROADBENT: Okay. Commissioner  
10 Williamson? No more questions? Oh, you do. Okay.

11 COMMISSIONER WILLIAMSON: Actually for  
12 post-hearing. Mr. Pal, if you could address the argument  
13 you made about the cumulation, if you could point to any  
14 precedent in Commission decisions where we've done that,  
15 that would be helpful.

16 Thank you.

17 CHAIRMAN BROADBENT: Okay, if there are no more  
18 Commissioner questions, does the staff have any questions  
19 for the panel, Mr. Corkran?

20 MR. CORKRAN: Douglas Corkran, Office of  
21 Investigations. Thank you, Madam Chairman. Staff has no  
22 additional questions.

23 CHAIRMAN BROADBENT: Do Petitioners have any  
24 questions for the panel?

25 (No response.)

1                   CHAIRMAN BROADBENT: Okay, thank you.

2                   In that case, I want to thank the panel for their  
3 testimony. I will dismiss you now.

4                   We come to closing statements. Petitioners have  
5 one minute from direct and five for closing, for a total of  
6 six minutes.

7                   Respondents have one minute from direct and five  
8 for closing, for a total of six minutes.

9                   As is our custom, we will combine both of those.  
10 You don't have to take all the time.

11                   MR. BISHOP: Thank you, Ms. Cannon. We can begin  
12 when you're ready.

13                   CLOSING REMARKS OF KATHLEEN W. CANNON

14                   MS. CANNON: Thank you, I wanted to start by  
15 simply expressing my appreciation for your attention. I  
16 know it has been a long day, and I know that many of us will  
17 be back again on Thursday to go through another long  
18 hearing. But it is a very important issue to this industry,  
19 so we very much appreciate your attention.

20                   I would like to mention just three issues on  
21 rebuttal today. The first is the black plate issue.  
22 Respondents claim that black plate is really a type of a tin  
23 mill product. That's not true. You have looked at cases  
24 that involve tin mill, and in none of those cases was black  
25 mill part of the scope or the like product.

1           `You have also looked at other cases that  
2           involved cold-rolled steel, and in those cases black plate  
3           was consistently part of the like product definition. So it  
4           isn't true that black plate has been treated in the past  
5           ever by the Commission as a tin mill product. Black plate  
6           is simply a like gauge cold-rolled product, and we've  
7           provided information and will submit further details in our  
8           brief as to why the like product factors are met here.

9           I would note, though, as an aside that the  
10          Respondents had a chance to address this issue when they  
11          submitted questionnaire comments on the drafts. And while  
12          they said it was a separate like product, all they urged you  
13          to do was to collect a couple of pricing products. They  
14          didn't ask for a separate breakout of trade and financial  
15          data of the type that would have been necessary to really  
16          treat it that way.

17          So they all along have treated this product as  
18          part of the cold-rolled steel product grouping, as it should  
19          be treated. The only aside I would say there, as well, is  
20          that the products that they have tried to identify, products  
21          4 and 5, the black plate products, are really niche  
22          products. They are not representative of the black plate  
23          that is sold in the U.S. market. So we will provide more  
24          specifics on that, as well.

25          But you have heard principally commercial

1 arguments on black plate from OCC that they really just  
2 can't get the product in the U.S. commercially. That is not  
3 true. You heard Mr. Mull testify from Arcelor Mittal that  
4 they sell the product. Not only do they sell it, they sell  
5 it to OCC, as you heard Respondents admit. They said there  
6 weren't quality problems with it. They simply wanted other  
7 sources. Why? Because they want lower prices. They have  
8 told Arcelor Mittal this. They have cut down the volumes  
9 the buy, and they've forced them to reduce prices. That's  
10 the issue, just as it is on all the other cold-rolled  
11 products.

12 The second issue, cumulation, the statutory  
13 factors are met here. We've gone through those in our  
14 brief. Attempts by Respondents to have you expand the types  
15 of factors that you should look at in mandatory cumulation  
16 are unfounded because the statute and the Commission's  
17 practice historically is to look at a reasonable overlap of  
18 competition. And you should continue to do that here.

19 Specifically, the argument that the Japanese  
20 presented that you should be looking at factors like volume  
21 and price and impact, which they call conditions of  
22 competition, they're not only not conditions of competition,  
23 they're the ultimate statutory inquiry you have to  
24 undertake.

25 So effectively what they're asking is: Do an

1 individual assessment of Japan and see whether we've proved  
2 injury alone. That would be putting the cart before the  
3 horse. That defeats the entire purpose of cumulation.

4 You can't approach the analysis that way,  
5 consistent with the statute. Nor are their arguments on  
6 cumulation in the threat context founded. The Commission  
7 has consistently looked at trends. And while they've tried  
8 to make different types of arguments, look at the trends  
9 here.

10 Every single one of the subject countries'  
11 volumes has increased over the Period of Investigation, and  
12 everyone has a price decline.

13 And finally, finally on causal nexus, I just  
14 wanted to point out that while they say there is no  
15 connection with these import volume and price declines,  
16 their own chart--this is Exhibit 1 that Mr. Cunningham  
17 talked about--look at this chart. This chart shows a huge  
18 volume surge that's over 100,000 tons that started before  
19 the weather conditions they talked about, and that didn't  
20 end--watch where this peak, look very closely at where it  
21 starts going down, this is August of 2015. That is when it  
22 goes down.

23 Guess when we filed this petition? July of 2015.  
24 All of that volume was going on right before we filed the  
25 case, and until we filed the case. And if you look back at

1 the chart that Mr. Price put up here, the highest market  
2 share they ever got in this period of almost 15 percent was  
3 in the first half of 2015 when we were doing the worst.  
4 There's a very strong correlation and causal nexus here.

5 Thank you.

6 CLOSING REMARKS OF PAUL C. ROSENTHAL

7 MR. ROSENTHAL: Real quickly I want to pick up on  
8 that in their chart. If you notice, there are two arguments  
9 for why their imports surged. And by the way, Mr.  
10 Cunningham could not resist using the word "surge" about  
11 three times. It was one of the few times I could agree with  
12 him.

13 Their claims were it's weather related, and  
14 because they're supplying a niche product that aren't  
15 produced by the domestic industry.

16 Well the weather did not continue to be bad for  
17 15 months. We know that. And the second issue is that  
18 niche products? They shipped in a million tons. And all of  
19 a sudden the market wasn't being supplied by the domestic  
20 industry for these niche products and they were needed to  
21 supply it? And what happened in August of 2015, when they  
22 disappeared because of the cases being filed? Who is  
23 supplying the market now for those so-called niche products?  
24 The tooth fairy? They have totally no credibility when it  
25 comes to why the imports increased.

1           By the way, you have a lot of information in the  
2 record that was asked about by all the Commissioners.  
3 There's under-selling. If the domestic industry can't  
4 supply the product, why bother under-selling?

5           Commissioner Kieff asked about direct information  
6 on lost sales. That is in your record. You've got  
7 purchasers saying we bought from foreign producers because  
8 of price, 270,000 tons that Mr. Gerrish recited to you from  
9 your staff report. That is direct evidence of injury caused  
10 by imports.

11           I don't have enough time to go through all the  
12 other indicia of injury, but you've got volume increase,  
13 price under-cutting, price decline not caused by raw  
14 materials because the overall prices went down faster than  
15 the raw materials or cost of goods sold, and you've got  
16 crappy profits. I'm sorry, I had to use that word. One of  
17 the industry people said that's the best way to describe it.  
18 But they're saying profits in 2014 were good? And they had  
19 nothing to do with it?

20           That is ridiculous. This industry cannot live  
21 with those kinds of profits. This industry will--if those  
22 are the profits the industry can look forward to over the  
23 years, it will not be around. You should make an  
24 affirmative determination in this case.

25           Thank you, very much.

1                   CHAIRMAN BROADBENT: Oh, that's who he is.

2                   MR. CAMERON: My apologies. Logistic issues. Don  
3 Cameron. I will make this short.

4                   With respect to black plate, the issue is not  
5 whether this Commission has ever treated black plate as a  
6 separate like product, or as cold-rolled. The issue is  
7 whether black plate is a different like product, and is on a  
8 different continuum.

9                   And one of the significant things about the--I  
10 mean, when you go to the Commerce Department you can define  
11 the scope any way you want to. That is what has led to as  
12 many problems as we've had at the court in aluminum  
13 extrusion scope determinations.

14                   So there's no magic to defining the scope of a  
15 product, and normally when it comes to the Commission it is  
16 true the like product is the scope. In this case, we are  
17 looking at black plate, and we are looking at it for a very  
18 specific reason.                   Taking out UPI, there are three  
19 producers of tin mill products in this country, of which OCC  
20 is one, and the other two are Arcelor and U.S. Steel.  
21 Black plate is sold by all three--I mean, black plate is  
22 produced only by Arcelor Mittal and U.S. Steel as far as  
23 this goes. And black plate is considered by all of them.  
24 Every tin mill producer is considered to be a tin mill  
25 product.

1           So that's not really all that controversial.  
2           That actually is one of the statutory things that you're  
3           supposed to look at, what are the product characteristics  
4           and uses? And that was the reason that we put that forward.

5           Another is this issue about, well, I mean  
6           everybody produces all of these cold-rolled products. Well,  
7           again there are only two facilities. I'm not talking about  
8           two companies; I'm talking about two facilities within two  
9           companies, aside from UPI, that produce black plate.

10           Why is that? Because it's only produced for tin  
11           mill and it's only produced on their tin plate mill. And  
12           with respect to product four, it is representative. It is  
13           the product that OCC purchases, which is the reason that the  
14           pricing was asked for it. The reality is, there is no real  
15           merchant market for black plate. Everybody knows that.

16           This is not an effort to deal with the merchant  
17           market of black plate. This is not about cold-rolled. This  
18           is about tin mill, which is exactly the reason that this  
19           Commission should look at it as a separate like product.

20           Thank you.

21           CLOSING REMARKS OF NEIL ELLIS

22           MR. ELLIS: Hi, good evening. Neil Ellis. As  
23           Polonius said, brevity is the soul of wit. And after one  
24           follows Don Cameron, that is especially true. So I will be  
25           brief.

1           In focusing on Japan, market conditions, the  
2 products imported from Japan are both technically and  
3 qualitatively different from cold-rolled products produced  
4 in the United States. The great majority are specialized  
5 products we've discussed today.

6           They are supplied to a small number of long-term  
7 customers, some of which have literally been for decades,  
8 and who have specific demands that the U.S. mills have shown  
9 no interest or capability of satisfying.

10           You have to bear in mind we have submitted a lot  
11 of evidence, emails, traffic back and forth between the U.S.  
12 suppliers and customers seeking specific products, and  
13 repeatedly the U.S. companies' mills say they cannot provide  
14 it.

15           That real-life, real-time evidence should be more  
16 persuasive than what they come here and tell you today.

17           In addition, these factors--that is, the  
18 technical and qualitative difference of the product and the  
19 way the Japanese product inhabit a separate space in the  
20 industry -- are relevant for the decumulation analysis to be  
21 performed by the Commission.

22           As to volume, the volume of imports from Japan  
23 has remained small and steady. The market share in the  
24 United States is tiny, just above one percent of U.S.  
25 apparent consumption, and has increased by an even more

1 infinitesimal amount.

2 They are not a sort of producer or supplier that  
3 should be swept into a large case.

4 Price. There's no price suppression or  
5 depression in this case for the reasons described by other  
6 counsel.

7 In addition, there were no--I mean no--  
8 allegations of lost sales or lost revenues involving Japan.  
9 Moreover, almost all the purchasers from whom you obtained  
10 data reported that the U.S. mills, not imports, were the  
11 price leaders.

12 Finally, on price, further the record shows  
13 virtually 100 percent over-selling by Japanese imports in  
14 those limited circumstances where there was any overlap at  
15 all.

16 Petitioners argue that the over-selling is not  
17 illuminating because the specific product category was too  
18 broad. But if the data are not indicative of over-selling,  
19 then they are indicative of something even more significant:  
20 Namely, that there's a unique niche within the U.S. market  
21 that is supplied by the Japanese imports.

22 So fundamentally you have a tiny and steady  
23 import volume combined with an absence of lost sales, and an  
24 absence of under-selling. Combined, they simply cannot  
25 support an affirmative injury determination.

1           And finally as to threat. I would note there's  
2 no evidence that there will be a change in the situation in  
3 the foreseeable future such that imports from Japan would  
4 threaten or cause material injury.

5           The U.S. is and has been for many years an  
6 insignificant market for the U.S. mills. The great majority  
7 of their production is used for internal consumption or sold  
8 in their home market. As to the portion that is exported,  
9 the Japanese mills have established joint ventures in the  
10 ASEAN countries to which they direct the huge bulk of their  
11 export sales.

12           Any suggestion that these conditions would change  
13 so dramatically as to create a threat would be pure  
14 conjecture and speculation, which the statute expressly  
15 notes may not serve as a basis for an affirmative threat  
16 determination.

17           Thank you.

18           CHAIRMAN BROADBENT: Thank you. Again I want to  
19 express our appreciation to everyone that participated  
20 today. Your closing statement, post-hearing briefs,  
21 statements responsive to questions and requests of the  
22 Commission, and corrections to the transcript, must be filed  
23 by June 1st, 2016.

24           Closing of the record and final release of data  
25 to the parties will be on June 15th, 2016. Final comments

1 are due on June 17th, 2016.

2 With that, this hearing is adjourned and we will  
3 see a lot of you on Thursday.

4 (Whereupon, the hearing was adjourned at 6:20  
5 p.m.)

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## CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, Korea, Russia, and the United Kingdom

INVESTIGATION NOS.: 701-TA-540-544 and 731-TA-1283-1287, 1289-1290

HEARING DATE: 5-24-16

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 5-24-16

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: Gregory Johnson  
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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.

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