

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: ) Investigation Nos.:  
ALUMINUM EXTRUSIONS FROM CHINA ) 701-TA-475 AND 731-TA-1177 (REVIEW)

**REVISED AND CORRECTED**

Pages: 1 - 229  
Place: Washington, D.C.  
Date: Thursday, January 26, 2017



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UNITED STATES OF AMERICA  
BEFORE THE  
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF: ) Investigation Nos.:  
ALUMINUM EXTRUSIONS FROM CHINA ) 701-TA-475 AND 731-TA-1177  
) (REVIEW)

Main Hearing Room (Room 101)  
U.S. International Trade  
Commission  
500 E Street, SW  
Washington, DC  
Thursday, January 26, 2017

The meeting commenced pursuant to notice at 9:30  
a.m., before the Commissioners of the United States  
International Trade Commission, the Honorable David S.  
Johanson, Vice Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Vice Chairman David S. Johanson (Presiding)

5 Commissioner Irving A. Williamson

6 Commissioner Meredith M. Broadbent

7 Commissioner F. Scott Kieff

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10

11 Staff:

12 Bill Bishop, Supervisory Hearings and Information

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17 Jessica Pugliese, International Trade Analyst

18 Dan Matthews, International Trade Analyst

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20 David Boyland, Accountant/Auditor

21 Mary Jane Alves, Attorney-Advisor

22 Douglas Corkran, Supervisory Investigator

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1 Opening Remarks:

2 In Support of Continuation of Orders (Alan H. Price, Wiley  
3 Rein LLP)

4 In Opposition of Continuation of Orders (Alexander H.  
5 Schaefer, Crowell & Moring, LLP; and Richard P. Ferrin,  
6 Drinker Biddle & Reath LLP)

7

8 In Support of the Continuation of Antidumping and  
9 Countervailing Duty Orders:

10 Wiley Rein LLP

11 Washington, DC

12 on behalf of

13 Aluminum Extrusions Fair Trade Committee ("AEFTC")

14 Jeff Henderson, President, AEFTC and Aluminum Extruders  
15 Council

16 Jason Weber, Director of International Market  
17 Intelligence and e-Business, Sapa Extrusions North America,  
18 U.S. Aluminum Extruder and Member of the AEFTC

19 Susan Johnson, President, Futura Industries  
20 Corporation, U.S. Aluminum Extruder and Member of the AEFTC

21 W. Brook Hamilton, President, The William L. Bonnell  
22 Company, U.S. Aluminum Extruder and Member of the AEFTC

23 Bennett McEvoy, Vice President of Sales & Marketing,  
24 Western Extrusions Corporation, U.S. Aluminum Extruder and  
25 Member of the AEFTC

1 Rick Merluzzi, President and Chief Operating Officer,  
2 Metal Exchange Corp. ("MEC"), Parent Company of Pennex  
3 Aluminum Company, LLC

4 Stephanie Hickman Boyse, President and Chief Executive  
5 Officer, Brazeway, Inc.

6 Michael B. Adams, Senior Vice President - Market and  
7 Product Development, Brazeway, Inc.

8 Donald R. Dinan, Partner, Goetz Fitzpatrick LLP,  
9 Counsel to Brazeway, Inc.

10 Jesse E. Gary, Executive Vice President, General  
11 Counsel and Secretary, Century Aluminum

12 Holly Hart, Assistant to the President, Legislative  
13 Director, United Steelworkers (USW)

14 Alan H. Price and Robert E. DeFrancesco - Of Counsel

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

3 Crowell & Moring, LLP

4 Washington, DC

5 on behalf of

6 Electrolux Home Products, Inc.

7 Electrolux Home Care Products, Inc.

8 (collectively "Electrolux")

9 Jeremiah Dorris, Senior Manager, Trade Compliance North  
10 America, Electrolux

11 Hernando Hicks, Commodity Manager, Stainless Steel,  
12 Electrolux

13 Erik Mata, Commodity Manager, Compressors & Cooling  
14 Systems Electrolux

15 Alexander H. Schaefer and Benjamin Caryl - Of Counsel

16

17 Drinker Biddle & Reath LLP

18 Washington, DC

19 on behalf of

20 Adams Thermal Systems, Inc.

21 Rick Johnson, Senior International Trade Analyst,

22 Drinker Biddle & Reath LLP

23 Douglas J. Heffner and Richard P. Ferrin - Of Counsel

24

25

1 Rebuttal/Closing Remarks:

2 In Support of Continuation of Orders (Alan H. Price, Wiley  
3 Rein LLP)

4 In Opposition of Continuation of Orders (Alexander H.  
5 Schaefer, Crowell & Moring, LLP; and Richard P. Ferrin,  
6 Drinker Biddle & Reath LLP)

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P R O C E E D I N G S

9:30 a.m.

VICE CHAIRMAN JOHANSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation Nos. 701-TA-475 and 731-TA-1177 (Review) involving Aluminum Extrusions from China.

The purpose of these investigations is to determine whether revocation of the countervailing duty and anti-dumping duty orders on aluminum extrusions from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. Schedules setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary. Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information.

Please speak clearly into the microphone and state your name for the record for the benefit of the court

1 reporter. If you will be submitting documents that contain  
2 information you wish classified as Business Confidential,  
3 your request should comply with Commission Rule 201.6. Mr.  
4 Secretary, are there any preliminary matters?

5 MR. BISHOP: Mr. Chairman, I would note that all  
6 witnesses for today's hearing have been sworn in. There are  
7 no other preliminary matters.

8 VICE CHAIRMAN JOHANSON: Very well. Let's begin  
9 with the opening remarks.

10 MR. BISHOP: Opening remarks on behalf of those  
11 in support of continuation of the orders will be given by  
12 Alan H. Price of Wiley Rein.

13 OPENING STATEMENT OF ALAN H. PRICE

14 MR. PRICE: Good morning Chairman Schmidtlein,  
15 Vice Chairman Johanson and members of the Commission. I am  
16 Alan Price, counsel for Petitioner the Aluminum Extrusion  
17 Fair Trade Committee. The domestic aluminum extrusion  
18 industry is here today to ask you to maintain the critical  
19 anti-dumping and countervailing duty orders on aluminum  
20 extrusions from China.

21 In the original investigation, the Commission  
22 found that there were sharp increases in subject imports and  
23 subject import market share. The subject imports' undersold  
24 the domestic industry in nearly three-quarters of the  
25 comparisons, and as a result the domestic industry's

1 performance indicators demonstrated material injury.

2           The Commission made affirmative determinations  
3 and the orders were imposed. Since the orders were put in  
4 place in 2011, the U.S. industry has been recovering from  
5 the material injury inflicted upon it by Chinese aluminum  
6 extrusions. The industry has recaptured the market share it  
7 lost to unfairly traded Chinese imports. It has been able  
8 to reinvest and expand production and employment to meet  
9 demand, and has been able to earn a better rate of return on  
10 its investments.

11           This is exactly how trade remedy relief is  
12 supposed to work. But if the orders are lifted, this  
13 fragile recovery will rapidly disappear. A renewed surge of  
14 unfairly traded Chinese aluminum extrusions will quickly  
15 re-enter the U.S. market, once again underselling U.S.  
16 producers by substantial margins, collapsing U.S. prices and  
17 taking significant market share from the U.S. industry.

18           In fact, the situation would likely be even more  
19 severe than it was during the original investigation. Over  
20 the last five years, the Chinese government has pumped  
21 subsidies into its domestic industry, allowing both Chinese  
22 primary aluminum and aluminum extrusion producers to expand  
23 exponentially.

24           Earlier this month, the United States Trade  
25 Representative filed a complaint with the World Trade

1 Organization, alleging that China's subsidies to its  
2 aluminum industry are causing serious prejudice to U.S.  
3 aluminum producers. The massive excess Chinese aluminum  
4 supply is funneled into a variety of products including the  
5 extrusion industry, which continued to expand and keep pace  
6 with the primary aluminum production as it is the offtake  
7 for that, and that expansion is far beyond what is needed in  
8 its home market.

9           The world market is now awash in Chinese  
10 extrusions. As a result, U.S. producers are threatened by  
11 a Chinese aluminum extrusion industry that is even larger  
12 and more disruptive than it was in the original  
13 investigation. China now has 3.8 million tons of excess  
14 aluminum extrusion production, which is nearly 2.5 times  
15 larger than total U.S. demand.

16           Clearly, China has significant excess extrusion  
17 capacity, and it is targeted at export markets. If the  
18 orders were lifted, there is no doubt that the U.S. would  
19 once again be one of those primary targets. Massive volumes  
20 of unfairly priced Chinese aluminum extrusions would surge  
21 right back into the United States. This would cause the  
22 U.S. producers' financial performance to quickly  
23 deteriorate, just as it did during the original  
24 investigation.

25           Production facilities would likely be shuttered,

1 workers would lose their jobs and the continued viability of  
2 the aluminum extrusion industry would be in jeopardy.  
3 Recognizing these facts, the Chinese industry did not show  
4 up here today, and did not even participate in the  
5 initiation. What the Commission is left with in the final  
6 phase is effectively two like product issues.

7 This is nothing more than an attempt to  
8 relitigate scope proceedings on engine fittings and fin  
9 evaporator coils that the Department of Commerce has already  
10 decided. Commerce properly found that both of these  
11 products are within the scope of the orders, and the  
12 Commission should continue to define one like product  
13 co-extensive with the scope.

14 The Commission concluded in the original  
15 investigation that the semi-finished analysis did not apply,  
16 that all extrusions exist on a broad continuum under its  
17 traditional six part like product test. Some are more  
18 fabricated, some are less fabricated. Some have more parts,  
19 some have fewer parts. Some are basic, some are assembled.

20 In the original investigation, the Commission  
21 correctly recognized that the product in these  
22 investigations appears to be one where the models of  
23 different alloys and finishes in many different shapes and  
24 sizes constitute a continuum without a clear breaking point.  
25 Nothing has changed since this finding.

1                   Accepting the unduly narrow application of the  
2                   like product factors argued by the Respondents could result  
3                   in frankly separate like product findings for thousands of  
4                   aluminum extrusion products produced by the domestic  
5                   industry. This is inappropriate and should be rejected.  
6                   Continuing to carve up the scope in the domestic like  
7                   product only serves to weaken the relief provided by the  
8                   orders. Both engine fittings and fin evaporator coils are  
9                   produced by the domestic industry.

10                   And if the orders are lifted on engine fittings  
11                   and fin evaporator coils, there is little question that  
12                   production of these products will shift from U.S. producers  
13                   to China. In conclusion, the Commission should render an  
14                   affirmative determination for a single like product  
15                   encompassing all in scope aluminum extrusions in this  
16                   review. Thank you.

17                   MR. BISHOP: Opening remarks on those in  
18                   opposition to continuation of the orders will be given by  
19                   Alexander H. Schaefer of Crowell and Moring, and Richard P.  
20                   Ferrin of Drinker, Biddle and Reath.

21                   OPENING STATEMENT OF ALEXANDER H. SCHAEFER

22                   MR. SCHAEFER: There we go. Good morning Madam  
23                   Chairman, Mr. Vice Chair and Commissioners. My name is Alex  
24                   Schaefer from Crowell and Moring on behalf of Electrolux.  
25                   When the Commission investigated aluminum extrusion from

1 China six or so years ago, the scope contained or covered 15  
2 HTS classifications and two HTS chapters. After only five  
3 years in this first sunset review of these orders, the scope  
4 now covers over 100 HTS classifications from ten different  
5 tariff chapters, as a result of an unprecedented number of  
6 scope requests and rulings.

7           There are already more scope rulings in  
8 proceedings in aluminum extrusions than there were in the  
9 wax candles and bearings cases combined. There's a whole  
10 separate web page just to index them. I'd add that in the  
11 first several administrative reviews of Commerce, the  
12 largest exporters from China were companies that hadn't been  
13 listed in the petitions in producers and hadn't received ITC  
14 questionnaires during the investigation.

15           How can that be? Were the Petitioners who  
16 presumably spent months assembling and refining their  
17 petition unaware of the identities of their Chinese  
18 competitors? Surely not. So it had to be one of two  
19 things. Either the scope language inadvertently covered  
20 more products than Petitioners had in fact intended, or the  
21 Petitioners intentionally allowed the Commission to  
22 investigate only a fraction of the relevant industry, and to  
23 be clear I believe it was inadvertence as opposed to  
24 nefariousness.

25           Retracting awning mechanisms, geodesic

1 structures, boat and dock ladders, fittings for engine  
2 cooling systems, kitchen appliance door handles and fin  
3 evaporator coil systems. These products by and large are  
4 not domestically produced, and thus couldn't have been the  
5 causes of injury.

6 So here we find ourselves millions of dollars in  
7 duties later arguing about products that for the most part  
8 the domestic industry doesn't make and never did, and with  
9 the Commerce Department hopelessly entangled in this Gordian  
10 Knot of scope language and irreconcilable rulings. It's  
11 time for the Commission to exercise some adult supervision  
12 here.

13 The Commission has to accept the Commerce  
14 Department's scope, even when as broad as that in this case.  
15 But the Commission is able and in fact obliged to identify  
16 discrete like products and analyze the extent to which  
17 revocation of orders with respect to those products would be  
18 likely to cause injury.

19 Doing so here is the only way to rationalize the  
20 orders and align them with the industry for which the  
21 petition sought protection, and that the Commission actually  
22 examined. Thank you.

23 STATEMENT OF RICHARD P. FERRIN

24 MR. FERRIN: Thank you Vice Chairman Johanson.

25 My name is Richard Ferrin and we represent Adams Thermal

1 Systems, which supports several types of aluminum fittings  
2 to manufacture engine cooling systems. Today, we are here  
3 to explain why aluminum fittings for engine cooling systems  
4 are a separate like product distinct from aluminum  
5 extrusions.

6 Petitioners argue that the scope of the orders  
7 include every product that was born of an aluminum  
8 extrusion, unless the product fits within the finished  
9 merchandiser or finished good kit exceptions. The task before  
10 the Commission here is not to question whether the scope of  
11 the orders is as broad as Petitioners claim. Instead, the  
12 task for you is to determine whether this vast array of  
13 products constitutes a single like product produced by a  
14 single domestic industry.

15 Adams Thermal believes that ordinary aluminum  
16 extrusion profiles and fittings for engine cooling systems  
17 have distinctly different physical characteristics and uses,  
18 have different manufacturing facilities and production  
19 employees, are not interchangeable, are perceived  
20 differently by customers and producers, and have distinctly  
21 different prices. Rick Johnson will discuss this in some  
22 detail.

23 Petitioners argue that fabrication into a  
24 downstream part does not remove fittings for engine cooling  
25 systems from the domestic like product because all

1 extrusions become parts of a downstream product. But  
2 Petitioners' argument proves too much. A steel slab always  
3 becomes a part for a downstream product, but the Commission  
4 has always recognized that a steel slab is a separate like  
5 product from a hot-rolled coil, which is a separate like  
6 product from a cold-rolled coil, which is a separate like  
7 product from a galvanized coil.

8 All of these products are used to make a myriad  
9 of downstream products and applications. Moreover, many of  
10 these processing steps for steel, from slab casting to  
11 galvanizing, are produced in the same steel mills. But  
12 nevertheless, the Commission considers the products to be  
13 distinct like products produced by different industries.

14 The same is true for aluminum extrusions. Adams  
15 Thermal takes no position on other parts that are fabricated  
16 from aluminum extrusions. Nevertheless, the dividing line  
17 between an aluminum extrusion and a fitting for an engine  
18 cooling system is clear based on the Commission's six  
19 factored test.

20 After Mr. Johnson addresses the like product  
21 issue, Doug Heffner will discuss likely volume pricing  
22 impact of subject imports of fittings, to demonstrate that  
23 revocation of the orders with respect to the fittings will  
24 not be likely to lead to continuation or recurrence of  
25 injury to the domestic industry. Thank you.

1                   MR. BISHOP: Would the panel in support of the  
2 continuation of the anti-dumping and countervailing duty  
3 orders please come forward and be seated?

4                   (Pause.)

5                   MR. DeFRANCESCO: Commissioners, thank you.  
6 Robert DeFrancesco on behalf of Petitioners AEFTC. Our  
7 first witness today will be Mr. Jeff Henderson, president of  
8 the AEFTC and president of AEC.

9                   STATEMENT OF JEFF HENDERSON

10                  MR. HENDERSON: Staff, it is -- thank you. It  
11 is good to be with you again today. My name is Jeff  
12 Henderson, and I am the president of the Aluminum Extruders  
13 Fair Trade Commission or the AEFTC, and the Aluminum  
14 Extruders Council. Several of our members are also here to  
15 speak with you today regarding the likely effects on the  
16 domestic industry if the anti-dumping and countervailing  
17 duty orders on aluminum extrusions from China were revoked.

18                  Before I turn it over to them, I would like to  
19 briefly share with you how critical the orders have been for  
20 the U.S. industry, and why it is absolutely necessary that  
21 these orders remain in place. The U.S. aluminum extrusion  
22 industry is composed of more than 100 individual producers.  
23 These producers are of varying sizes and are spread  
24 throughout the country in communities large and small.

25                  Prior to the imposition of duties, all of these

1 producers were suffering from unfairly traded imports from  
2 China. Many producers simply could not compete with the  
3 unfairly low Chinese prices and were forced to shut down.  
4 Over 20 facilities had closed. Others lost significant  
5 sales and production to the unfair competition. Truly, the  
6 industry was on the brink.

7           Thanks to the orders, Chinese producers have for  
8 the most part been forced to fairly price their products and  
9 market pricing has stabilized. This has allowed the U.S.  
10 industry to begin to recover from the effects of China's  
11 unfair trade. Without the unfairly priced Chinese  
12 extrusions in the market, U.S. producers have been able to  
13 take part in the recovery in demand over this period of  
14 time. U.S. producers have been able to increase sales and  
15 production, and invest in equipment, facilities and most  
16 importantly employees to meet the recovery in demand.

17           While the orders have been effective, there is a  
18 global overcapacity crisis in aluminum. As you are aware,  
19 the U.S. Trade Representative has recently filed a request  
20 for consultations at the WTO to address the global  
21 overcapacity in primary aluminum. The overcapacity,  
22 however, is not only related to primary aluminum. The  
23 policies that irrationally expanded primary aluminum  
24 capacity are also at work in the Chinese extrusion industry.

25           Chinese extrusion capacity over this time

1 increased right along with primary capacity, to offtake the  
2 excess primary aluminum. This excess aluminum is exported  
3 from China in the form of semi-fabricated products such as  
4 extrusions. As a result, Chinese extrusions are flooding  
5 the global market. The orders in this case are the only  
6 thing standing between the U.S. industry, a renewed surge in  
7 unfairly priced Chinese extrusions, and a continuation and  
8 recurrence of material injury.

9           Notwithstanding the effectiveness of the orders,  
10 U.S. producers in certain product segments continue to face  
11 efforts to carve particular products out of these orders,  
12 either through a scope proceeding or here as a separate like  
13 product. As president of the AEC, we monitor the entire  
14 U.S. industry and their capabilities, and in every scope  
15 exclusion request at the Department of Commerce that the  
16 AEFTC has opposed, there are U.S. producers of that product.

17           That includes the products at issue here, as  
18 well as appliance trim kits and appliance handles. All of  
19 these products are simply fabricated extrusions that can be  
20 produced by any number of U.S. producers and are expressly  
21 covered by the scope of this case. Chinese producers are  
22 able, ready and eager to enter the U.S. market and there is  
23 no doubt that if the orders are revoked, unfairly priced  
24 Chinese imports will again flood the U.S. market.

25           Our domestic producers will quickly see these

1 gains erased if unfairly traded Chinese extrusions return to  
2 the market. In just one year, the Chinese producers went  
3 from just six percent of the market to nearly 20 percent of  
4 the market. Since then, the Chinese industry has continued  
5 to expand rapidly, and has been flooding the globe with its  
6 excess capacity.

7 As was evident before the orders, we simply  
8 cannot compete with Chinese extrusions that are dumped and  
9 subsidized. Revocation of the orders will threaten the many  
10 investments domestic producers have made in equipment,  
11 facilities and employees, and many producers will  
12 unfortunately have to grapple with the possibility of having  
13 to shut down operations again.

14 As such, the orders are critical to preventing a  
15 continuation or a recurrence of material injury. I will  
16 now turn it over to Jason Weber from SAPA.

17 STATEMENT OF JASON WEBER

18 MR. WEBER: Good morning. I'm Jason Weber,  
19 Director of Business Development of Emerging Markets for  
20 SAPA Extrusions. As Jeff said, I'm happy to be with you  
21 here today. On behalf of SAPA and its 5,800 unionized  
22 American workers, I'd like to thank the Commission and its  
23 staff for the opportunity to be here today, and to explain  
24 why the orders on aluminum extrusions from China are  
25 critical to U.S. industry.

1                   I'd like to start with some background  
2 information on SAPA and the aluminum extrusions that we  
3 produce. SAPA is the largest aluminum extruder in North  
4 America, with 18 facilities throughout the United States.  
5 We perform extensive fabrication and service a wide variety  
6 of markets and offer a full line of products to our  
7 customers.

8                   In fact, SAPA has hundreds of thousands of SKUs.  
9 Each of these SKUs are specific to a profile shape, alloy,  
10 temper, length, fabrication, surface treatment, quality  
11 specification, color treatment and even a packing  
12 specification. We use tens of thousands of dies to meet our  
13 customers' needs, and virtually all of those extrusions are  
14 dedicated specifically for a particular end customer.

15                  We often work with the customer in designing all  
16 aspects of a product, including the dies, shapes,  
17 tolerances, chemistry and tensile strengths of the profiles.  
18 The speed of the extrusion process, heating and cooldown,  
19 are all relevant to meeting the customers' specification and  
20 tolerances. In other words, we cannot just use a standard  
21 die and machine that extrusion into any type of part.

22                  If we cannot meet the right metal tolerances,  
23 shape and tensile strengths, the product will not perform as  
24 intended, and no amount of machining can fix it. Among many  
25 other products, we produce engine fittings for our

1 customers. The engine fittings we produce are not somehow  
2 separate or distinct from any other types of extrusions we  
3 produce.

4 They are part of a continuum that includes many  
5 different types of extruded products. All of these products  
6 are produced in the same facilities, on the same equipment  
7 and by the same workers. Also like other extrusions we  
8 produce, our engine fittings are part of a broad product  
9 line we offer to our customers.

10 Many of our customers purchase a package of  
11 products, and the engine fittings are just a component of  
12 the overall package. Some of our engine fittings are  
13 machined in our Portland, Oregon facility on the same  
14 equipment used to machine many other types of extrusions.  
15 Providing complete parts and full product line for the end  
16 customer is critical to our overall business.

17 This is how the industry adds value and provides  
18 just-in-time supply chain continuity to our customers. As  
19 such, SAPA has nearly 100 CNC machining centers throughout  
20 North America to fabricate its various extrusions. These  
21 fabricated extrusions are not priced any differently than  
22 other extrusions. The base metal price and negotiated  
23 conversion costs are built into the all-in final price.

24 The engine fittings we produce are no different.  
25 All of our production is currently threatened by Chinese

1 aluminum extruders. As I testified to the Commission last  
2 fall during the 332 investigation, the global aluminum  
3 industry is in the midst of a crisis driven by Chinese  
4 overcapacity.

5 Chinese primary aluminum capacity skyrocketed in  
6 recent years. China needed some way to use its primary  
7 aluminum, so it greatly expanded its capacity to produce  
8 aluminum extrusions as well. Construction is by far the  
9 single largest market for aluminum extrusions in China.  
10 With that sector consuming one-third of Chinese extrusions  
11 in 2015, demand in China for extrusions for use in  
12 construction has peaked and is declining.

13 Unfortunately, we do not expect the Chinese  
14 aluminum extrusion industry to contract with this declining  
15 domestic demand. Given the huge and increasing quantities  
16 of primary aluminum available in China, and the relative  
17 ease with which new extruders can establish themselves, the  
18 Chinese industry will only continue to grow.

19 In fact, we have heard that the largest aluminum  
20 extruder in China, Zhongwang, has started adding nearly 100  
21 new extrusion presses. This is an enormous expansion. It  
22 is over 79 percent more presses than all of the presses we  
23 have in the United States, and there is no Chinese outlet  
24 for that capacity.

25 With smaller quantities of extrusions being

1 consumed within China, Chinese extrusion producers will rely  
2 on exports to offload their excess production. Already over  
3 the last three years, Chinese exports of extrusions into the  
4 global market have exploded. If the orders on aluminum  
5 extrusions from China were to be removed, I have no doubt  
6 that these exports would flood into the U.S. market.

7 This would be disastrous for not only the U.S.  
8 extrusion industry, but the U.S. aluminum industry as a  
9 whole, which is already suffering from increasing imports  
10 and declining prices for extrusion. To prevent further  
11 injury and closures in the U.S. industry, the orders on  
12 Chinese aluminum extrusions must remain intact. The orders  
13 are critical to preventing unfairly-priced Chinese  
14 extrusions from once again swamping the U.S. market and  
15 causing material injury.

16 On behalf of SAPA and our workers, I urge the  
17 Commission to leave the orders on aluminum extrusion from  
18 China in place. Thank you very much for your time.

19 STATEMENT OF HOLLY HART

20 MS. HART: Good morning. I'm Holly Hart,  
21 Legislative Director and Assistant to the President of the  
22 United Steel, Paper and Forestry, Rubber Manufacturing,  
23 Energy, Allied Industrial and Service Workers International  
24 Union. The USW is the largest industrial union in North  
25 America and represents about 1.2 million active and now laid

1 off and retired workers.

2 I'm happy to be here today, to emphasize the  
3 importance to our members of the strong and competitive U.S.  
4 aluminum industry, which requires the continuation of the  
5 anti-dumping and countervailing duty orders on aluminum  
6 extrusions from China. The USW not only supports nearly all  
7 of the primary aluminum facilities in the United States, but  
8 also a large number of U.S. aluminum extruders.

9 This includes the largest extruder, SAPA, who  
10 you just heard from. Steelworker members in the aluminum  
11 extrusion industries work at SAPA facilities in Michigan,  
12 Oregon and Pennsylvania. In addition to about 1,000 workers  
13 in both petitioning and non-petitioning members of the  
14 Aluminum Extruders Council, we also have about 975 members  
15 who work for non-petitioning extruders around the country.

16 Our brethren unions including UAW, Teamsters,  
17 Sheet Metal Workers and the International Union of Operating  
18 Engineers are represented at other U.S. aluminum extrusion  
19 facilities, and together we represent a large portion of  
20 overall employment in this industry.

21 The orders are particularly critical now, as the  
22 U.S. aluminum industry is facing a major crisis. Chinese  
23 overcapacity, oversupply and exports are severely injuring  
24 the global market for aluminum. The U.S. primary aluminum  
25 industry has been already devastated. The United States has

1 gone from having 14 operating smelters to only five smelters  
2 operating today. That means thousands of workers have  
3 already lost their jobs, most of them Steelworker members.

4 Aluminum extruders and other downstream  
5 industries are also facing the effects of Chinese  
6 overcapacity. U.S. demand has increased, and as a result of  
7 the orders on aluminum extrusions from China, the aluminum  
8 extrusions industry has been able to retain jobs and even  
9 begin hiring again to meet demand.

10 The trade laws are working as they should work  
11 for the industry. But if the orders are lifted, the U.S.  
12 aluminum extrusions industry will suffer the same fate as  
13 the primary aluminum industry or worse. The massive  
14 expansion of China's aluminum extrusions industry far  
15 surpasses any demand growth in the United States or indeed  
16 worldwide. Without the orders, Chinese aluminum extrusions  
17 will flood into the United States and displace U.S.  
18 production. The jobs of thousands of American workers  
19 employed by these U.S. aluminum extruders are threatened,  
20 and they depend on the continuation of these orders.

21 So on behalf of our union's members, who make  
22 aluminum extrusions and the retirees and communities that  
23 depend on them, I urge the Commission to maintain the  
24 anti-dumping and countervailing duty orders on aluminum  
25 extrusions from China. Thank you very much.

1 STATEMENT OF SUSAN JOHNSON

2 MS. JOHNSON: Good morning. My name is Susan  
3 Mooney Johnson and I am the recently retired former  
4 President of Futura Industries Corporation and Aluminum  
5 Extruder in Clearfield, Utah. This was a position I held  
6 for 22 years. I am again testifying before the Commission  
7 today on this very important subject as I did in 2010 and  
8 2011 because continuation of the orders is critically  
9 important to Futura and the Domestic Industry.

10 We have been in operation for over  
11 70 years and employ about 350 people in our location in  
12 Utah. As you have heard today, the 2011 orders provided  
13 much needed relief to the Domestic Industry. Since the  
14 imposition of the orders, the volume of unfairly priced  
15 Chinese Imports has been reduced significantly. This  
16 demonstrates that the Chinese Producers cannot sell  
17 extrusions in our market without dumping or receiving  
18 subsidies.

19 The lack of unfairly priced Chinese extrusions  
20 disrupting the U.S. Market has allowed Futura Industries,  
21 like the rest of the industry to invest in its facilities,  
22 machinery and people. In 2013 we acquired a 220,000 square  
23 foot manufacturing facility and purchased a new 9-inch 3500  
24 ton press to better serve our customers and expand our  
25 product range. Total installed cost of a new press of this

1 size is about 18 to 20 million dollars. Through these  
2 investments we were able to hire approximately 30 additional  
3 employees.

4           These investments were only possible because of  
5 the orders. Futura, like many other domestic extruders  
6 produces a wide range of aluminum extrusions for many  
7 different industries including parts for shower enclosures,  
8 fitness equipment, components for trucks, cars and boats  
9 just to name a few. These extrusions range from standard  
10 profiles to custom machine parts including fittings for  
11 engine cooling systems.

12           There is nothing special or unique about an  
13 engine fitting that warrants the Commission to consider them  
14 separately from other aluminum extrusions. Engine fittings  
15 are no different from any other extrusions we produce in the  
16 Clearfield facility. Engine fittings simply exist on a  
17 continuum of further fabricated aluminum extrusions.

18           Indeed engine fittings represent a few of the  
19 aluminum extruded products we produce on our CNC machines,  
20 one of which has robot technology. The production processes  
21 to manufacture aluminum extrusions and engine fittings are  
22 exactly the same especially in comparison to machined  
23 extrusions that are within the scope. We produce fittings  
24 and aluminum extrusions on the same presses in the same  
25 facilities using the same employees. We use the same CNC

1 cells to further fabricate fittings and other machined  
2 extrusions.

3           From Futura's standpoint and that of our  
4 customers, engine fittings like other extruder parts are  
5 just that: Aluminum extruded parts. Obviously the shapes  
6 and tolerances will vary based on the type and design of the  
7 die which ultimately dictates the end use of a product but  
8 they are all extrusions. The end use is not a meaningful  
9 distinction. What our customers expect and what we provide  
10 are completed aluminum extrusions tailored to our customers  
11 desired end use whether it's a standard profile, custom  
12 shape, engine fitting, or any other extruded and machined  
13 part.

14           To further illustrate that engine fittings and  
15 aluminum extrusions exist on a continuum, customers that  
16 purchase engine fittings from us also purchase other  
17 aluminum extrusions and fully fabricated products from us.  
18 In fact, engine fittings may be one of several extruded  
19 products that we produce for a particular Class 8 truck  
20 manufacturer such as this engine manifold part that I  
21 brought with me today that accompanies the fittings.

22           Just like our other extrusions, the all-in price  
23 for engine fittings is derived from the base price of  
24 aluminum and the negotiated product conversion margin. The  
25 fact that there may be more value added to a particular

1 product does not make it unique to the other extrusions we  
2 produce. For instance, the fully fabricated commercial  
3 aircraft cockpit locking mechanism that we product and this  
4 manifold have significantly more value added than an engine  
5 fitting. There are no clear dividing lines.

6 What the amount of value added does illustrate is  
7 the importance of the product to our company's overall  
8 health and profitability. We cannot afford to lose any  
9 segment of our production to unfairly dumped imports. While  
10 the orders put the industry on the road to recovery the  
11 Domestic Industry remains vulnerable to a renewed flood of  
12 unfairly priced Chinese aluminum extrusions should the  
13 orders be lifted.

14 Unfairly traded imports tend to hit the smaller,  
15 one-location companies first and hardest. There is no doubt  
16 that if the Commission were to revoke the orders, unfairly  
17 priced Chinese extrusions would surge into the U.S. Market  
18 quickly and completely overwhelm the U.S. Industry putting  
19 local operations such as ours at imminent risk of closure.  
20 The Commission must not allow unfairly traded  
21 Chinese Imports to reenter the U.S. Market, crash Domestic  
22 prices and take sales from U.S. Producers.

23 We urge you to continue the orders on aluminum  
24 extrusions from China in order to protect our companies and  
25 workers like ours. Thank you very much for your time.

1 STATEMENT OF RICK MERLUZZI

2 MR. MERLUZZI: Good morning. My name is Rick  
3 Merluzzi. I am the President and Chief Operating Officer of  
4 Metal Exchange Corporation. We are the parent company of  
5 Pennex Aluminum Company. I'm here to address the effects  
6 unfairly traded Chinese aluminum extrusions have had on  
7 Pennex and how critical the orders have been to the  
8 improvement of the Pennex's operations.

9 Prior to the orders, the industry was under  
10 siege. Like other U.S. Producers we saw our prices,  
11 production and shipments erode due to unfair competition  
12 from China. Many producers were forced to shut down and  
13 enter bankruptcy. After duties were in place, we were able  
14 to purchase the distressed Leetonia facility of which some  
15 of you were able to visit.

16 As the market began to recover the negative  
17 effects of the Chinese we were able to reinvest in our  
18 facility and in those assets. In 2014, we began our capital  
19 investment project to add a second press and expand the  
20 overall floor space to accommodate more fabrication  
21 operations. On average, a press line can cost over 20  
22 million dollars while on the other hand the CNC cells are  
23 generally under 400,000 dollars.

24 We started production on our new press line in  
25 2015 and on your tour of our facility the Commission Staff

1 saw the results of this investment. This simply would not  
2 have been possible without the relief provided by the  
3 orders. We now produce and fabricate in that facility many  
4 of the more complex parts that we supply to the automotive  
5 and other industries.

6 I'd like to thank the Commission again for  
7 visiting the Leetonia facility and as you can tell we are  
8 very proud of this investment. On the tour you saw  
9 firsthand the metallurgical and technical expertise that  
10 begins at the press to meet the customer's particular  
11 tolerances and specifications. You also saw the extensive  
12 machining operations for many fabricated parts that flow  
13 from the extrusion process. Depending on the  
14 customer and the particular item, some of the products are  
15 extensively fabricated and others are less so. Regardless  
16 of the amount of fabrication, these products are produced in  
17 the same facility by the same employees on the same  
18 equipment. They all exist in a continuum. While the  
19 fabrication that takes place is not necessarily unique or  
20 specialized, basically the entire industry adds value for  
21 its customers in this same way. Our customers simply want  
22 one-stop solutions.

23 On the tour you saw that we have a number of CNC  
24 and robotic cells dedicated to fabricating parts for  
25 automotive applications. These cells are located in the

1 recently added portion of the factory. The CNC machines and  
2 robotic work cells can fabricate many in many different  
3 parts. The fact that certain Chinese Producers choose to  
4 have third parties finish the extrusions into fittings does  
5 not say anything about the fabrication practices of the  
6 Domestic Industry.

7 In fact, on your tour you saw one of our  
8 employees refurbishing the die that is dedicated to  
9 producing the extrusions for engine fittings. Like other  
10 extrusions, the die, the alloy and even the press speed are  
11 closely monitored to meet customer specifications. The  
12 extrusions we produce from the die are sold to one of our  
13 customers to fabricate further the extrusion into the engine  
14 fitting. We do not sell extrusions from this die to any  
15 other customer to fabricate anything else other than the  
16 engine fitting.

17 Like other producers our dies are customer and  
18 tolerance specific and we often work with the customer to  
19 design the dies. The vast majority of the extrusions we  
20 produce are intended to meet a specific customer need. To  
21 achieve that the aluminum must be pushed through the dies at  
22 the proper temperature and speed and cooled correctly to ensure  
23 the part meets the customer's tolerances and  
24 specifications.

25 Otherwise the part will not function as intended.

1 Once extrusions are uniquely produced in this manner, they  
2 can only be used for the intended use. On the tour, the  
3 Commission saw this first hand while we were impact testing  
4 one of our fabricated parts. The investments we have made  
5 in our Leetonia facility have allowed us to provide value to  
6 our customers in the manner which is very typical for most  
7 in our industry.

8 At the same time, these investments have allowed  
9 us to hire more employees to meet the increased demand of  
10 our customers. I am sure that those who were on the tour  
11 saw how dedicated our workers were and if the orders are  
12 revoked we risk losing all of this. Given the demonstrated  
13 ability and the drive by the Chinese Producers to enter the  
14 U.S. Market.

15 As you will hear from our colleagues I have  
16 absolutely no doubt that the Chinese Imports will surge into  
17 the U.S. Market if the orders are revoked and it is  
18 absolutely critical that the orders remain in place so the  
19 investments of Pennex and others that are made in the market  
20 are not undone. I thank you very much for your time.

21 STATEMENT OF W. BROOK HAMILTON

22 MR. HAMILTON: Good morning. It's good to be  
23 back before the Commission again. My name is Brook Hamilton  
24 and I am the President of Bonnell Aluminum, a member of  
25 AEFTC. Since 1955, Bonnell has manufactured aluminum

1 extrusions in the United States. We currently have  
2 manufacturing operations located in Tennessee, Michigan,  
3 Indiana and Georgia employing more than 1400 employees.

4 As the Commission is aware, aluminum extrusions  
5 are produced from aluminum billets. Extruders either cast  
6 billets themselves or purchase them. The billets are then  
7 heated and forced through a die to make various products,  
8 regardless of whether extruders purchase or produce their  
9 own billets, they price extrusions similarly. The all-in  
10 price for extrusions is based on the base price for the  
11 metal and a conversion cost to turn the metal into extruded  
12 product.

13 In a market without dumped and subsidized Chinese  
14 extrusions, the aluminum base cost is generally passed  
15 through to the customer and a conversion cost is negotiated.  
16 This conversion margin is essentially the spread between the  
17 all-in aluminum price and the price the extrusion is sold to  
18 the customer.

19 Inherent in the conversion margin are costs for  
20 overhead, labor and a reasonable profit. As such, the  
21 all-in U.S. price for all aluminum extrusions being sold  
22 today are derived the same way. Chinese Producers however  
23 offer U.S. Customers extrusions at a single all-in price,  
24 often without regard to the cost to extrude the billet or  
25 further fabricate the extrusion.

1                   During the original investigation when Chinese  
2                   extrusions flooded the U.S. Market, the Chinese all-in  
3                   prices for extrusions were significantly lower than U.S.  
4                   prices. The downward pricing pressure from Chinese  
5                   extrusions ruined the traditional pricing mechanism used by  
6                   Domestic Producers. Indeed, some Chinese all-in price  
7                   offerings were as low as the cost for U.S. Producers just to  
8                   obtain their raw material.

9                   At that time, many U.S. Producers were simply  
10                  forced to give up the business because they could not match  
11                  the Chinese prices. As a result, Subject Imports quickly  
12                  took twenty percent of the market in just one year. Those  
13                  producers which attempted to maintain volume by cutting  
14                  prices saw their conversion margins swiftly collapse.

15                 As a result, the Domestic Industry's financial  
16                 performance quickly deteriorated. If the orders are revoked  
17                 and Chinese Producers are allowed to reenter the market this  
18                 pattern will repeat itself and the gains the industry has  
19                 made over the last 5 years will be quickly erased. One of  
20                 the companies directly affected by the negative impact of  
21                 Chinese Imports was AACOA which had manufacturing facilities  
22                 in Niles, Michigan and Elkhart, Indiana.

23                 AACOA's owners were confronted with a dilemma.  
24                 The market was deteriorating. Many of their competitors had  
25                 gone out of business. Their billet suppliers were cutting

1 back production because of market deterioration as well as  
2 having incurred a lot of bad debt resulting from customer  
3 bankruptcies causing raw material supply constraints for  
4 AACOA. All of this was driven by low-priced Chinese Imports.

5 The risk factors were mounting to the point it  
6 was increasingly difficult to fathom taking on more debt to  
7 grow their business be it to add capacity or to produce  
8 their own billets. The landscape had changed and the  
9 long-term market prospects were bleak. Several factors  
10 combined which led them to sell their business but only once  
11 the orders were imposed and it was apparent the Chinese  
12 Producers could not compete at fairly-traded prices did it  
13 make sense for another entity to acquire AACOA.

14 Bonnell finalized the purchase of the AACOA  
15 plants in 2012. This investment by Bonnell has allowed us  
16 to increase our capacity, our employment levels and expand  
17 our product range to meet the recovery in U.S. Demand. For  
18 example, the Niles, Michigan facility had two extrusion  
19 presses, several CNC centers and the capability to provide  
20 fabrication processes such as machining, cutting, punching  
21 and so forth. The Elkhart, Indiana facility provided  
22 anodizing operations.

23 Providing fabricated aluminum extrusions and  
24 adding value is critical for the Domestic Industry. Today,  
25 most U.S. Producers have some type of fabrication capability

1 including precision machining. It is becoming increasingly  
2 rare that a U.S. extruder would not offer some type of  
3 fabrication service in addition to supplying raw extrusions.  
4 In keeping with customer demands, the orders have allowed us  
5 to invest in expending our facilities to accommodate more  
6 fabrication processes and equipment in Niles and adding  
7 anodizing capacity in Elkhart.

8 Both facilities are now operating at  
9 near-capacity and full employment. As such, we were also  
10 able to add a third extrusion line in our Niles, MI facility  
11 which will begin production later this spring. This nearly  
12 20 million dollar investment was only made possible because  
13 of the orders. If the orders are revoked, investments such  
14 as ours and others made throughout the U.S. Industry to  
15 satisfy U.S. demand would be in jeopardy and layoffs would  
16 ensue.

17 On behalf of Bonnell and our employees, I urge  
18 the Commission to continue the orders on aluminum extrusions  
19 from China. Thank you very much for your time.

20 STATEMENT OF BENNETT MCEVOY

21 MR. MCEVOY: Good morning. My name is Bennett  
22 McEvoy and I am the Vice President of Sales and Marketing at  
23 Western Extrusions. I appreciate the opportunity to speak  
24 with the Commission today and I also urge the Commission to  
25 find that aluminum extrusion imports from China will

1 continue to materially injure the Domestic Industry if the  
2 orders are revoked.

3 At our only aluminum extrusion facility in  
4 Carrollton, Texas we employ over 800 people and produce  
5 extrusions in a broad range of sizes which include extruded  
6 profiles as well as precision machined aluminum extrusions.  
7 We also provide an array of in-house custom fabrication and  
8 finishing services which allows us to meet a wide range of  
9 our customers' specifications.

10 Western is a leading U.S. Producer of aluminum  
11 extrusions for the building and construction,  
12 transportation, consumer durables, electrical and  
13 distribution markets. Since the orders have been in place,  
14 Western, like the rest of the industry, has benefitted from  
15 the relief that they have provided. However, many Chinese  
16 Producers have consistently shown a willingness to try to  
17 gain access to the U.S. Market by any means necessary.

18 Circumvented shower enclosures are just one of  
19 those extruded product lines where Chinese Producers have  
20 attempted to access the market. Before Chinese Producers  
21 flooded the U.S. Market with unfairly-priced extrusions in  
22 2009 and 2010, Western maintained a significant share of the  
23 U.S. shower enclosures market. However, as Chinese Imports  
24 rushed into the Domestic Market at rock-bottom prices we  
25 quickly lost sales, revenue, and share in the shower

1 enclosures market.

2 Like other U.S. Producers experiencing the  
3 effects of the Chinese surge, our financial performance  
4 began to rapidly deteriorate. When the orders were imposed  
5 in 2011, imports of Chinese extrusions declined  
6 significantly. At the same time, U.S. demand, including the  
7 shower enclosure segment showed signs of recovery. In  
8 anticipation of participating in the recovery of U.S. demand  
9 we added a new 14-inch press as well as investing in  
10 increasing our anodizing, mechanical finishing, and fabrication  
11 capacity.

12 Without dumped and subsidized Chinese extrusions  
13 disrupting the market, Western was able to recapture most of  
14 the volume that we lost to Chinese Producers, both in the  
15 shower enclosures market and the other markets we serviced.  
16 Not more than two years after the orders were imposed,  
17 Chinese Producers tried to pry their way back into the  
18 market. Desperate to reenter the U.S. Market, Chinese  
19 Producers began manipulating 5050 grade aluminum alloy to  
20 take advantage of the overlap in alloy content in the scope  
21 and started exporting these extrusions into the United  
22 States.

23 The Aluminum Association does not recognize the  
24 5050 alloy as an acceptable grade for extrusion  
25 applications. The vast majority of Chinese Imports of 5050

1 grade extrusions were initially concentrated in the shower  
2 enclosures market. Despite the significant duties in place  
3 we quickly saw prices for these products collapse and we  
4 began losing significant sales volumes to the so-called  
5 5050 Chinese extrusions.

6 One by one the customers switched to unfairly  
7 priced circumventing Chinese 5050 extrusions and our sales  
8 volumes of extrusions for shower enclosures plummeted. By  
9 the end of 2015, our sales for extrusions for shower  
10 enclosures were at levels not experienced since the original  
11 investigation. The AEFTC petitioned the Department of  
12 Commerce to investigate these 5050 extrusions. In November  
13 2016 Commerce issued a preliminary affirmative  
14 determination finding that such 5050 Chinese extrusions are  
15 later developed merchandise and are circumventing orders.

16 Nearly immediately following the Department's  
17 preliminary decision, nearly all of the customers that we  
18 had lost to the circumvented material began placing orders  
19 with us again. This shows the great lengths the Chinese  
20 Providers will go to gain access to the U.S. Market to  
21 unload their massive and growing excess production and  
22 capacity. It also shows what will happen to the industry as  
23 a whole if the orders were revoked entirely. The orders are  
24 critical to our survival.

25 On behalf of Western and our employees I urge the

1 Commission to continue the orders on aluminum extrusions  
2 from China. Thank you.

3 STATEMENT OF MICHAEL B. ADAMS

4 MR. ADAMS: Good morning. I am Mike Adams from  
5 Brazeway, Senior Vice President. With me are Stephanie  
6 Hickman Boyse our President and CEO and Donald Dinan our  
7 Counsel. I would like to thank the Commission for your  
8 interest in the Sunset Review. We appreciate the  
9 opportunity to be here again and participate in the  
10 process. Brazeway is a family-owned company who has been in  
11 business for over 70 years. We are a manufacturer of  
12 extruded aluminum tube fabricated components. Our products  
13 are used in the air-conditioning, automobile, home appliance  
14 and commercial refrigeration industries.

15 We are here today to highlight the critical  
16 importance of renewing the orders and to respond to specific  
17 allegations from Electrolux that FECs, one of several  
18 fabricated extrusions we produce, are outside the scope of  
19 the orders and that the elimination of the orders would pose  
20 no material injury or likelihood of material injury to the  
21 Domestic Industry. This is simply not true. While we  
22 respect and sincerely appreciate Electrolux as a customer,  
23 the livelihood of our business is at stake and we simply  
24 have no choice but to take firm exception with their  
25 position.

1           In addition to many others, Brazeway's business  
2           would be decimated if the orders were revoked.  
3           Additionally, elimination of FECs from the scope would  
4           impact all of our products and would cause irreversible  
5           material damage. Brazeway's FECs are part of the domestic like  
6           product. We would like to thank the ITC Investigative Staff  
7           for their visit to our Hopkinsville, Kentucky plant.

8           During their visit, they viewed our processes and  
9           we subsequently submitted a flow chart clearly showing  
10          that Brazeway produces extruded aluminum round tube and  
11          microchannel tubes, coated and uncoated and fabricates  
12          cut-to-length tubes, hair pins and FECs, all within the same  
13          facility with the same employees and produced from the same  
14          equipment.

15          FECs like other extruded fabrications are part of  
16          a continuum of products produced by the Domestic Industry.  
17          FECs have the same physical characteristics and uses as  
18          other aluminum extrusions. They are made from the same  
19          alloy aluminum series designations commencing with one,  
20          three and six. The manufacturing process is identical to  
21          our other extruded aluminum products, namely a billet is  
22          heated in an extrusion press and pushed through a die  
23          creating extruded tube.

24          This tube is then cooled and coiled, bent and  
25          fabricated into a serpentine shape. These are standard

1 manufacturing processes for aluminum extrusions. The fins  
2 are then added to the tube to create the FEC. FECs are  
3 interchangeable with each other. They are substantially  
4 identical to the base configuration and are manufactured by  
5 the same process.

6 The FECs that were exported by the Chinese  
7 Producers to Brazeway's customers were also substantially  
8 identical regardless of customer and were fully  
9 interchangeable. Customers and producers clearly identify  
10 FECs as aluminum extruded products. It should be noted that  
11 all U.S. Producers responding to the Commissioner's  
12 questionnaire reported that FECs are fully or mostly  
13 comparable to other aluminum extrusions.

14 FECs are sold through the same channels of  
15 distribution as other aluminum extrusions. The Chinese  
16 Producers of FECs that were exporting to the United States  
17 are extruders of aluminum and producers of FECs. The  
18 catalogs show that what they sell to Electrolux is  
19 substantially similar to what they would supply to other  
20 major appliance OEMs, who are customers of ours and would  
21 compete directly with Brazeway for sales of FECs.

22 All of our fabricated extrusions including FECs  
23 are priced in the same manner although FECs are sold by the  
24 piece they are priced on a floating LME metal base which  
25 passes directly through to the customer and a per unit

1 conversion or fabrication charge. This is documented in  
2 Brazeway's customer agreements including the price appendix  
3 with Electrolux. Prior to the orders, Electrolux was  
4 shifting its purchases to two Chinese Producers, solely we  
5 believe on the basis of price.

6 Chinese prices which the Department of Commerce  
7 found to be illegally subsidized and constitute dumping were  
8 so low that Brazeway could not compete. Our other main  
9 customer advised us that when its supply agreement expired  
10 it would shift purchases to Chinese Producers as well based  
11 on the China price. The loss of these customers would have  
12 forced us out of the FEC market. The United States FEC  
13 Industry would have been destroyed and Brazeway's existence  
14 would have been threatened.

15 When the orders were issued we were able to  
16 execute long-term supply agreements for the duration of the  
17 period of the orders with our largest customers including  
18 Electrolux. These agreements allow Brazeway to regain or  
19 retain significant portion of our FEC business. The result  
20 of this recovery in sales allowed us to expand our plants  
21 and employment, increase production, buy new equipment and  
22 increase investments in research and development in the  
23 United States, resulting in the introduction of innovative  
24 new products but these agreements have now expired and we  
25 fully expect that with the renewed availability of

1       subsidized and dumped China price product customers would  
2       again shift their FEC business.

3               As a consequence of this threat, we have not been  
4       able to renew the long-term supply agreements with our  
5       largest customers who are presumably awaiting the outcome of  
6       this case. Revocation of the orders would lead to  
7       significant adverse volume and price effects which would  
8       cause renewed material injury to the Domestic Industry, if  
9       not eliminate its existence.

10              Electrolux claims that there will be no harm to  
11       Brazeway because FECs are produced in Mexico. That claim is  
12       not accurate. Prior to 2008, both Electrolux and another  
13       major appliance OEM moved production to Mexico. Brazeway  
14       moved a portion of our fabrication to support them but we  
15       continued to make FECs in our Kentucky facility along with  
16       other fabricated extrusions and all our extrusion assets are  
17       in the United States and our facilities in Kentucky and  
18       Indiana.

19              For the parts assembled in Mexico only 15 to 20  
20       percent of the total value added is represented by that  
21       process. If the orders are removed, the harm would extend  
22       far beyond Brazeway's FEC business which would be lost. We  
23       would also lose the upstream U.S. Aluminum tube extrusion  
24       business which supports the U.S. and Mexican fabrication  
25       plants. This significant loss of business would cause

1 material injury at Brazeway and possibly put us out of  
2 business.

3           The continuation of these orders is vital, not  
4 just for Brazeway's U.S. aluminum extrusion manufacturing,  
5 but if removed would jeopardize our major billet suppliers  
6 such as Century Aluminum in Sebree, Kentucky and the  
7 aluminum fin supply from Mt. Holly, South Carolina and  
8 Russellville, Arkansas. We cannot overstate the importance  
9 of extending these orders and the impact it has on Brazeway  
10 U.S. Employees and extended supply base. Thank you very  
11 much for your time.

12                           STATEMENT OF JESSE E. GARY

13           MR. GARY: Good morning. I am Jesse Gary,  
14 Executive Vice President, General Counsel, and Secretary of  
15 Century Aluminum Company, and on behalf of my 1,800  
16 colleagues at Century I would like to thank the Commission  
17 and its staff for the opportunity to speak with you today.

18           As you know, Century is the largest remaining  
19 producer of primary aluminum in the United States, with  
20 smelters in Hawesville and Sebree, Kentucky, and Mt. Holly,  
21 South Carolina.

22           We understand that the Commission is assessing  
23 the antidumping and countervailing duty orders on aluminum  
24 extrusions from China. These orders are vital not just for  
25 the U.S. aluminum extrusions industry, including many of our

1 major customers here today, but also for the primary  
2 aluminum industry in the U.S. in which we compete.

3 If our major extruder customers are again injured  
4 by unfairly traded imports from China, the remaining primary  
5 aluminum producers in the United States will also be in  
6 jeopardy.

7 As we discussed a few months ago during the  
8 Commission's Section 332 hearing, the aluminum industry is  
9 suffering from the effects of a massive over-capacity and  
10 over-supply crisis.

11 This unfortunate situation is largely the result  
12 of rapid, unnecessary, and government-driven capacity  
13 expansions by aluminum producers in China. Chinese primary  
14 aluminum production capacity has skyrocketed, growing by  
15 more than 1200 percent between the years 2000 and 2015.

16 Chinese producers are now responsible for by far  
17 the largest share of aluminum production in the world, and  
18 their share has grown each year. This unprecedented growth  
19 is particularly shocking, given that it has occurred in a  
20 country with no natural comparative advantage.

21 Based purely on commercial considerations, the  
22 aluminum industry in China simply would not exist to the  
23 size and extent that it does now. This is a supply-side  
24 problem driven by China. Demand for aluminum has been  
25 healthy in recent years, but China's massive capacity

1 expansion has robbed primary aluminum producers of the  
2 benefits.

3 Unlike the primary industry, the antidumping and  
4 countervailing duty orders have allowed the U.S. extrusion  
5 industry to benefit from the improvement in demand. The  
6 orders are critical to the industry's continued recovery.

7 If they are lifted, aluminum extruders our  
8 customers will again suffer severe material injury. This  
9 will have drastic negative effects on primary producers like  
10 Century, as well, because primary aluminum demand is driven  
11 by the production and consumption of semi-finished aluminum  
12 products like extrusions.

13 For example, Brazeway is one of Century's largest  
14 customers. Brazeway produces aluminum extrusions for use in  
15 fin evaporator systems, as well as other types of  
16 extrusions. If fin evaporator systems are found to be a  
17 separate like-product and the Orders on them are lifted, I  
18 have no doubt that importers like Electrolux who are here  
19 today seeking revocation of the Orders will substitute  
20 Chinese extrusions for Brazeway's at unfairly traded  
21 prices.

22 If end-users like Electrolux face their own  
23 unfair competition, they should be seeking relief as the  
24 extrusions industry did rather than trying to pull apart the  
25 domestic supply chain.

1           Revocation will of course reduce Brazeway's  
2 overall sales and, by extension, the need for primary  
3 aluminum from producers like us in the United States.

4           Each ton of unfairly traded semi-finished  
5 aluminum exported here by China is a ton that is not  
6 produced in the United States, and thus is also one less ton  
7 of primary aluminum that is not purchased in the U.S. to  
8 service downstream producers like Sapa and Brazeway.

9           In this way, Chinese over-capacity and unfairly  
10 trade effects the entire value chain for aluminum products.  
11 This is confirmed by the WTO Dispute Settlement Proceedings  
12 that the U.S. Government is currently pursuing.

13           It is crucial that antidumping and countervailing  
14 duty orders remain in place to discipline Chinese imports of  
15 aluminum extrusions. Thanks very much for your time. I  
16 would be happy to answer any questions you may have.

17           MR. DeFRANCESCO: Commissioners, Robert  
18 DeFrancesco. That concludes our affirmative presentation  
19 and we would be happy to answer any questions that you have.

20           MR. PRICE: Alan Price. We reserve our remaining  
21 time for rebuttal.

22           VICE CHAIRMAN JOHANSON: Alright, we will begin  
23 Commissioner questions. And we will start with Commissioner  
24 Broadbent.

25           COMMISSIONER BROADBENT: Okay. Let's see. Mr.

1 Gary, can you, just to kind of give us some context. I know  
2 aluminum is a busy trade issue right now, just kind of how do  
3 you see the landscape of what you're trying to accomplish?

4 MR. GARY: Sure. So today obviously we're here  
5 talking about aluminum extrusions, but reference has also  
6 been made to the situation that the primary aluminum industry  
7 faces, as well. And I think the Commission is probably well  
8 aware of the WTO case that was brought a couple of weeks ago  
9 now specific to primary aluminum, and specifically targeted  
10 at the unfair subsidies that the domestic Chinese primary  
11 aluminum industry has been giving to itself.

12 While that case--and I guess it's important to  
13 understand, that case is specifically targeted at primary  
14 aluminum capacity, and obviously we all know that a WTO case  
15 like that takes some time to be completed. And so--but I  
16 think overall what we're seeing, and the reason why both us  
17 and the extruders are here today, is that whether it be in  
18 primary capacity or in extrusions, the over-capacity that's  
19 in China that's been created by these subsidies and what we  
20 consider to be unfair and illegal subsidies, has created  
21 this over-capacity situation which is damaging the U.S.  
22 industry, whether you're starting at the beginning in  
23 primary, or the downstream in extrusions.

24 So in the end, we're seeing the same root cause.  
25 There are different solutions for each part of the industry,

1 but no matter which part you're looking at the Chinese are  
2 operating unfairly, and the various parts of the industry  
3 need the help and protection that they're seeking today.

4 COMMISSIONER BROADBENT: Okay. Did anyone else  
5 want to comment on that question?

6 (No response.)

7 COMMISSIONER BROADBENT: Then there was a 201 that  
8 was filed and then withdrawn. Were you all involved in  
9 that?

10 MR. GARY: The 201 was brought by the United  
11 Steelworkers?

12 COMMISSIONER BROADBENT: Right. Okay. But in  
13 that--and I'm sorry, I didn't have a chance to look at what  
14 products were covered that would kind of indicate a  
15 sensitivity out there--

16 MS. HART: Holly Hart, Steelworkers. I believe it  
17 was purely primary aluminum.

18 MR. DeFRANCESCO: That's correct. Robert  
19 DeFrancesco. That petition covered both primary and--  
20 primary aluminum both unalloyed and alloyed form.

21 COMMISSIONER BROADBENT: Okay, that's good to  
22 know. I should know that and I just didn't. I've got to  
23 say, it's nice to have some women with some color on the  
24 panel here. It's helpful.

25 Alright, so those are sort of primaries. Now

1 we're down to the extrusion, a much more manufactured  
2 product here, and it seems to me like the major looming  
3 issue here is we don't really have any information on what's  
4 going on in China.

5           There are 700 firms there and no one is talking  
6 to us? Is that right?

7           MR. DeFRANCESCO: Commissioner--Robert  
8 DeFrancesco--yes. You sent out questionnaires. You  
9 received no responses from foreign producers other than the  
10 few U.S. producers who also happen to have operations in  
11 China. And that pattern was true in the original  
12 investigation.

13           You got no responses from the Chinese in the  
14 original investigation, and you really didn't get much of a  
15 response this time around, either. In fact, no response.

16           COMMISSIONER BROADBENT: Okay. I have a question  
17 for you that involves speculation of other people's motives.  
18 Why do you think the Chinese aren't participating? Do they  
19 think that they might have a better chance of winning if  
20 they don't participate? Or they don't have time or money to  
21 spend on it? What would you think is going on there?

22           MR. DeFRANCESCO: Sure. So I'll start and maybe  
23 Jeff might want to jump in. I think in the original  
24 investigation they didn't participate, I would be  
25 speculating, but I would think they realize that this was an

1 affirmative case then and it's an affirmative case now, and  
2 why necessarily waste their time, you know, fighting it.

3 And they have been taking those extrusions and  
4 that capacity and shipping it all over the world to other  
5 markets and damaging those other markets, and that capacity  
6 has grown since the original investigation until now. It's  
7 twice as large, if not larger, than it was then, and they  
8 still have plenty of capacity to damage the U.S. market.

9 COMMISSIONER BROADBENT: Okay.

10 MR. HENDERSON: Jeff Henderson with the AEC. I  
11 would add that both when I was in the extrusion industry  
12 working for SAPA and now as president of the AEC, I noticed  
13 a bit of a change in Chinese direction. In the last couple  
14 or three years, trade enforcement issues have really come  
15 front and center.

16 And it just appears that they believe that they  
17 can cheat their way to the market, as opposed to doing it in  
18 another way. And they've invested a lot of money, and put a  
19 lot of metal into North America as a result of that.

20 The 5050 example that we talked about in our  
21 earlier testimony is a good example of that.

22 MR. PRICE: Alan Price, Wiley Rein. So this is,  
23 like many cases, there's a lot of documentary evidence  
24 showing China has massive capacity. When Mr. Weber  
25 testified about the massive expansion going on at just one

1 extruder, that expansion is almost equal to the size of the  
2 entire U.S. industry. That one expansion. And that doesn't  
3 happen without massive government support going on.

4 Approaches, when you have these cases,  
5 unfortunately there's two ways of fighting a case. And one  
6 way is sort of coming into the ITC, laying your cards out on  
7 the table, but then you're giving over all of your  
8 information and cooperating, and then it's transparent and  
9 very easy for us to trace, and track, and assure compliance.

10 The other way is to hide, cheat, try to enter  
11 things under tariff numbers that don't have a suspension in  
12 the Customs module, and try to get away with it as long as  
13 possible, and try to do things like modify the product, and  
14 not tell anyone for awhile to see if you can get away with  
15 that, until you get caught. That has been a real issue in  
16 this case.

17 And so to the extent someone tries to make an  
18 issue that the modules have expanded in the number of tariff  
19 numbers, it's a function of the way the Chinese have  
20 actually approached trying to essentially cheat their way  
21 around the system rather than come into this agency and lay  
22 out and provide you all the information, and then provide a  
23 much more traceable set of paths for us to follow up on.

24 MR. DeFRANCESCO: Just to follow up on that, I  
25 would also note that their participation at the Department

1 of Commerce has been significantly greater than at this  
2 agency.

3 COMMISSIONER BROADBENT: Let's see. I think the  
4 prehearing report notes that there were, what, 97 scope  
5 exclusions since the imposition of the AD/CVD Orders. How  
6 many of these ended up excluding products from the scope?

7 MR. DeFRANCESCO: Commissioner--Robert  
8 DeFrancesco--I would have to go back and tabulate that, and  
9 we can do that in the posthearing brief. Those were  
10 requests. Obviously not all were granted. And the AEFTC,  
11 when those scope clarifications come in, judiciously  
12 examines whether to participate and oppose those, and there  
13 are times where we have not opposed certain exclusions or  
14 clarifications, and there were times where we have.

15 COMMISSIONER BROADBENT: But you do participate?

16 MR. DeFRANCESCO: We do. We do.

17 COMMISSIONER BROADBENT: And then who is  
18 initiating all these scope rulings?

19 MR. DeFRANCESCO: Most of the time they are U.S.  
20 importers who are importing from China, importing  
21 extrusions. Occasionally there are U.S. producers who have  
22 asked for scope clarifications when they felt there was a  
23 product that should be--that Customs should have been  
24 collecting duties on that it wasn't. But most of the time  
25 it's a Chinese producer.

1                   COMMISSIONER BROADBENT: Okay. And then--and this  
2 is the product where we have this kind of ghost stockpile of  
3 extrusions that have been going around the world to  
4 different ports. Who can tell me what's happening there at  
5 this point?

6                   MR. HENDERSON: Jeff Henderson with the AEC. This  
7 has become a bit of a specialty for me, I guess you would  
8 say.

9                   (Laughter.)

10                  MR. HENDERSON: Yeah--

11                  COMMISSIONER BROADBENT: Where in the world is the  
12 stockpile of extrusions?

13                  MR. HENDERSON: Exactly. In fact, just today I  
14 got an email from somebody saying here's all this data of  
15 what's going on. What appears to be happening at an  
16 aggregate level is that the Chinese are bringing a lot of  
17 aluminum into Vietnam. That seems to be the end point to  
18 this.

19                  Some of it has made a pit stop in Malaysia. Some  
20 of that that's in Vietnam now actually came out of either  
21 Mexico or the United States.

22                  Zhongwang Vietnam has built a huge remelt  
23 facility. There are rumors and speculation as to how many  
24 presses they may actually have in Vietnam working.

25                  I think it is an interesting set of announcements

1 that came out in the last few months where we saw China--or  
2 we saw Zhongwang announce the expansion with 99 extrusion  
3 press lines. They borrowed half a billion dollars in order  
4 to do that, but yet with capacity utilization so low in  
5 China where is that going to go?

6 And you see what's going on in Vietnam, and you  
7 wonder if those two are going to connect in some way. And  
8 we are getting multiple reports from members that are being  
9 solicited through email to buy Chinese extrusions with  
10 creative trade solutions which, when we decode that, means--

11

12 COMMISSIONER BROADBENT: It says that in the  
13 email, in the solicitation?

14 MR. HENDERSON: In some cases they have, yeah.  
15 And it just seems to become more and more brazen. So I  
16 believe that's basically what they're doing. And what's  
17 driving all of that is this unnecessary aluminum that's  
18 being produced, and the Chinese are trying to find a way to  
19 push it downstream. And their own market can't consume it,  
20 so they're looking for markets outside of China, and the  
21 U.S. market is a real prize for them if they could get here.

22 So if the Orders are revoked, we have no doubt at  
23 all that they are locked and loaded and ready to fire, and  
24 will do so faster and more effectively than they did the  
25 first time.

1 COMMISSIONER BROADBENT: Okay, thank you.

2 MR. DeFRANCESCO: Commissioner Broadbent, just to  
3 follow up quickly on the solicitations, we put a few of  
4 those on the record in our prehearing brief, and some of  
5 them are very explicit and say they'll certainly take the  
6 extrusion out of one container and put it in another and  
7 label it as Vietnamese and send it to the U.S.

8 MS. JOHNSON: Commissioner Broadbent, Susan  
9 Johnson, Futura Industries. So obviously I'm not a part of  
10 the Chinese extrusion industry, but I have a couple of data  
11 points that I think are interesting.

12 I think that the Chinese take a much different  
13 long view than we do. Somewhere around 1980, '82, I think  
14 the aluminum industry was declared an industry of interest.  
15 And coincidentally somewhere around 1983 is when most, if  
16 not all, extrusion plants in China came to be.

17 It can't be coincidental that they all opened  
18 about the same time with the same types of equipment.  
19 Members of our industry that have toured there have observed  
20 and commented on how inefficient their presses are compared  
21 to the U.S. presses.

22 And then the Zhongwang has a distribution  
23 company that they have established in the United States  
24 called Punching, and they sent some inquiries to us if we'd  
25 be interested in buying extrusions from them.

1                   So we traveled to the Los Angeles area, Whittier,  
2                   to tour, meet with them and tour one of these facilities.  
3                   The amount of square footage, the amount of investment, was  
4                   staggering. And in one particular conversation I asked how  
5                   long--I asked a very silly question, I guess, from their  
6                   perspective--I said, this is a massive investment. How long  
7                   do you think it's going to be before you break even? And  
8                   they looked at me like, "break even?" We're not interested  
9                   in making a profit. We're interested in market share.

10                   And the vice president of sales and I went out  
11                   and got in our rental car and thought, oh boy, this could be  
12                   really, really tough for a few years. That was before the  
13                   Orders were put in place in 2011.

14                   VICE CHAIRMAN JOHANSON: Alright, next up is  
15                   Commissioner Kieff.

16                   COMMISSIONER KIEFF: Thank you. I join my  
17                   colleagues in welcoming both panels, and appreciate the  
18                   opportunity to explore these issues with you.

19                   For me, what I'm especially interested in  
20                   focusing on, if we could, is admittedly I think some  
21                   analytical and legal topics, and by that I don't mean to  
22                   suggest that the witnesses coming and presenting isn't  
23                   extremely important and helpful; it is.

24                   I just am trying to think through the basic  
25                   decision making process. And as I understand it, this is

1 one of these--this is an interesting case for me, because  
2 it's--let's assume for purposes of this discussion some  
3 pretty significant degree of things we're all troubled by  
4 with respect to the Chinese actors. That assumption sounds  
5 reasonable in part because you have each explained some  
6 facts why it's probably true, and they haven't offered  
7 countervailing explanations. So I am left as a  
8 decision-maker saying okay, I can buy the cogent arguments,  
9 and I have no reason not to.

10 But it seems to me the cogent arguments that I am  
11 struggling with that are pushing back against this panel are  
12 not from China but from the other panel, who are domestics  
13 asking us to think about the very practical problem  
14 presented by a separate like-product analysis.

15 In effect, as I understand it, they're saying  
16 almost everything you're saying might be absolutely true and  
17 legally compelling with respect to most of the products on  
18 the table, except the few they're discussing. And with  
19 respect to the few they're discussing, as I understand it,  
20 they are in effect saying--and since we're thinking about  
21 extrusion, this is a nice metaphor--no matter how hard there  
22 is a push through the many, many pours in the U.S. border  
23 for many, many, many different products, the two particular  
24 streams they're interested in are coming into the market in  
25 a way that's not harming those separate market segments.

1                   And so what I'm trying to ask is: How do we  
2                   conduct our analysis if we do a separate like-product  
3                   analysis? And so I guess the first question is: What is the  
4                   test, the legal test, or the legal framework we should apply  
5                   for a separate like-product analysis?

6                   MR. DeFRANCESCO: Commissioner Kieff--Robert  
7                   DeFrancesco--I think as we've laid out in our prehearing  
8                   brief, we believe the Commission's Standard Six factor  
9                   like-product analysis is appropriate here. So far as the  
10                  semi-finished analysis goes that was advocated in the  
11                  Respondent's briefs, that is something the Commission  
12                  considered in its original investigation. It was fully  
13                  briefed and the Commission chose the six-factor test above  
14                  the semi-finished analysis, frankly for good reason given the  
15                  broad product spectrum and continuum here that the  
16                  six-factor test lends itself better to this analysis.

17                  COMMISSIONER KIEFF: Now that makes sense, and of  
18                  course the question for the other panel will be, regardless  
19                  of which of those two legal tests, you know, why are they  
20                  right and you're wrong, and that's the same question I'll  
21                  ask you.

22                  The concern I have about a six-factor test is the  
23                  old sleight-of-hand problem, which is, you know, if you  
24                  watch closely his fingers never leave his hand. And if  
25                  that's true with five fingers, it's even more complicated

1 with six. It's just really hard to figure out net/net why a  
2 decision goes one way or another when there are that many  
3 factors on the table.

4 And as I understand it, with a statutory  
5 framework like ours where we are often asked to apply many,  
6 many factors, one of the things that seems to be driving a  
7 lot of our overall patterns is do we have a cogent argument  
8 on one side? Do we have a cogent argument on the other  
9 side?

10 And in this case, thanks to the great briefing by  
11 both sides, we have two domestic cogent arguments. And  
12 again, even if we were to decide their way, it would only be  
13 with respect to those particular products. So what I'm  
14 trying to figure out is, is each prong of the six-factor  
15 test so clearly tipping in your favor that there's just no  
16 way to pause on the slippery slope?

17 Or is this just really a little bit more  
18 complicated? And in this case, what big-picture frame  
19 should cause us to tip one way or the other?

20 MR. DeFRANCESCO: Sure. Robert DeFrancesco again,  
21 on behalf of Petitioners.

22 So--and we will brief this in our post-hearing  
23 brief--we believe even if you looked at the semi-finished  
24 analysis, it is still one like-product. And as you heard  
25 from the testimonies here, one of the major items in that

1 semi-finished analysis is the degree to which the  
2 semi-finished product and the more processed product are  
3 dedicated to one another.

4 And I think you heard from all the witnesses here  
5 today about the degree to which the particular die, when  
6 that blank is pushed, is dedicated to becoming that  
7 downstream product.

8 COMMISSIONER KIEFF: No, I get that, but let me  
9 just ask on that question, like are you really saying that  
10 if we lift--if the Order were to be lifted with respect to  
11 these two particular like-products, the engine fittings and  
12 the fin evaporator coil, that all the extruded aluminum in  
13 China is now going to zip through those two pores in our  
14 border and totally destroy the domestic industry with  
15 respect to those two products?

16 MR. DeFRANCESCO: So with respect to the coil--not  
17 the coil, the engine fitting, I mean that is a machined part  
18 that is not unlike any of these other machined parts that  
19 are sitting on this table.

20 COMMISSIONER KIEFF: No, look, I love playing with  
21 aluminum. I used to do it in shop. I went to a technical  
22 school. I get all of that stuff, and I would love to, you  
23 know, play with it more, and I know that they like to play  
24 with it. That's great. I'm just trying to figure out why  
25 we think it's that likely that that much will get directed

1 to just those two particular product streams in a way that  
2 will harm the domestic industry, especially when we have a  
3 domestic industry in the U.S. coming back and saying to us,  
4 my gosh, we really think there are some cogent reasons why  
5 that may not happen.

6 MR. DeFRANCESCO: Well if you were to evaluate on  
7 the six-factor test and you found that those two products  
8 were separate like-products, the domestic industry are those  
9 products.

10 COMMISSIONER KIEFF: Yes.

11 MR. DeFRANCESCO: And at that point the effect on  
12 those industries would be similar to the effect on the  
13 overall domestic industry.

14 COMMISSIONER KIEFF: Well that is exactly the  
15 question I'll be asking this afternoon, is why the bad  
16 stories you've told with respect to many examples are not  
17 likely going to happen with respect to these two examples.

18 MS. JOHNSON: Commissioner Kieff, Susan Johnson  
19 for Futura Industries. There are six extrusion companies here that  
20 would, could, will produce those parts. We suggest that the  
21 other side give a request for quote on those products to all  
22 six distributors here.

23 This is--I liken this to a bakery. Our products  
24 are processes, technical, our products are technical.  
25 However, a bakery can produce everything from sour dough,

1 rye, wheat, anything you want. To say that those particular  
2 kind of rolls can only be produced at a bakery that's  
3 halfway around the world is nonsensical. And I think that  
4 all the extruders at this hearing today would be glad to  
5 offer quotes.

6 Now the products that they're obtaining from  
7 China are probably priced at a different methodology where  
8 capital equipment and many of the insurance, the loans don't  
9 exist on the other side.

10 And in fact, when the Orders were put into place  
11 in 2011 and the Chinese had 22 percent market share, most of  
12 the products that were being sold in this country were below  
13 the price of the raw material. Now tell me how you're able  
14 to sell products below the price of the raw material.

15 COMMISSIONER KIEFF: So that's very helpful, and  
16 maybe let me just make sure I'm hearing what you're saying.  
17 You're saying that even if we were to believe many of the  
18 facts argued by the other side about where they buy their  
19 stuff today, you think that there's still plenty in the  
20 record for us to conclude that tomorrow you could be  
21 providing those products. And that is the threat of injury  
22 or the actual harm?

23 MS. JOHNSON: As could any of the extruders at  
24 this meeting today, absolutely could produce them.

25 COMMISSIONER KIEFF: Well my time is up, and I

1 really appreciate very much the exchange and thank you very  
2 much, Mr. Chair--or Vice Chair.

3 VICE CHAIRMAN JOHANSON: Thank you, Commissioner  
4 Kieff. And I would also like to thank all the witnesses and  
5 their counsel for being here today.

6 This Order was imposed in 2011, the same year  
7 that I came to the Commission. However, it was voted on  
8 prior to my being sworn in. And it's something I've  
9 followed quite closely over the years.

10 Ms. Johnson, I was working at the time of the  
11 original investigation for Senator Hatch of Utah. And so I  
12 am actually somewhat familiar with your facilities at that  
13 point.

14 And, Mr. Henderson, I have followed quite  
15 closely, because I read the newspaper every day, what's  
16 going on with aluminum extrusions around the world. It is  
17 quite interesting how there's so much being generated in the  
18 press involving this investigation. It's hard not to follow  
19 it, if you follow the general news.

20 My first question is this: The Aluminum  
21 Extrusions Fair Trade Council at Exhibit 8, at page 6,  
22 reports that Commerce considered whether fin evaporator coil  
23 systems were within the scope of the original  
24 investigations, and in a subsequent scope inquiry.

25 Is this accurate? Moreover, did Commerce

1 consider whether fittings for engine cooling systems were  
2 within the scope during the original investigation, as well,  
3 or only in subsequent scope inquiry?

4 VICE CHAIRMAN JOHANSON: Does the timing of  
5 Commerce's scope determinations on these issues make any  
6 difference to the Commission's analysis.

7 MR. DINAN: Commissioner, Donald Dinan from  
8 Brazeway.

9 What is accurate is that in the Department of  
10 Commerce initial investigation whether fin evaporated coils  
11 were included in the scope, was decided as part and parcel  
12 of the original investigation. Indeed, if one reads the  
13 Department of Commerce determination, they actually have, in  
14 defining the scope and discussion the scope; they actually  
15 discuss FECs in particular.

16 To the second part of your question, I would  
17 submit that it's irrelevant if something's determined to be  
18 in the scope originally or if it's done through a subsequent  
19 process. You're either in or you're out, but what is  
20 correct as far as FECs go is that it was part of the  
21 original scope.

22 MR. DEFRANCESCO: And Commissioner Johanson,  
23 this is Robert DeFrancesco.

24 As Mr. Dinan just explained, it was part of the  
25 original determination. It was found to be in the scope and

1 determined in the original investigation. Brazeway  
2 participated in the original investigation. That data was  
3 on the record the first time when the Commission evaluated  
4 this issue in the original investigation, so that the degree  
5 to which they were producing FECs then it was on the record  
6 and they're producing FECs now and so there wasn't anything  
7 that was missing from the record at that time.

8 MR. DINAN: If I could just amplify on my  
9 colleague's comments. And yes, when the case came over to  
10 the ITC for the final injury, Brazeway filled out a full  
11 questionnaire and all the information, including the like  
12 product that was all in front of the Commission at that time  
13 and Brazeway was ruled to be part of the like product the  
14 Commission found.

15 MR. PRICE: Alan Price, Wiley Rein.

16 As you've heard, first of all, there are a  
17 number of domestic producers of engine fittings here. It's  
18 not a particular -- you know this is a product line and it  
19 sort of goes back to, I think, the thrust of Commissioner  
20 Kieff's question.

21 This is a product line where if you start  
22 looking at every individual nut, bolt, widget -- I'm using  
23 that very generically, not specific to an aluminum  
24 extrusion. They look like a billion different things, but  
25 that is the nature of this product line and that's not a

1 particularly unique product in this product line.

2 In fact, you know that engine manifold that Sue  
3 Johnson held up before you know it is -- you know goes with  
4 one of those fitting and we can bring one of those up there.  
5 It's far more sophisticated, for example, and they make  
6 fittings. SAPA makes fittings.

7 Again, it's all part of the original  
8 investigation. All the questionnaires were there. There's  
9 nothing unusual about it. The timing of when someone said,  
10 oh, hold it, I didn't -- you know I got caught by Customs.  
11 I'm going to put a scope ruling request trying to sneak this  
12 in which is often what was going on in many of these things you  
13 know and Commerce said, hey, this is clearly in the scope.  
14 So there's no question about it was in the scope. There  
15 were questionnaires from domestic producers and so timing is  
16 a red herring in terms of what the Respondents are arguing  
17 here.

18 Domestic production is a red herring; whether it  
19 is fin evaporator coils, whether it was engine fittings,  
20 whether it is appliance handles, which is sort of out there  
21 also in some of the discussions. All these things are  
22 produced or producible in the United States. And I will  
23 say, going back to one of the other questions, you know  
24 where the U.S. industry really doesn't produce it and has no  
25 interest in it we've actually not responded in some of these

1 scope proceedings because we're trying to be practical and  
2 realistic to get relief for the industry. It is what it  
3 is.

4 MS. JOHNSON: I don't know if you want to see  
5 this part. It's very cool.

6 VICE CHAIRMAN JOHANSON: Actually, I would.

7 MS. JOHNSON: It's got the date produced and the  
8 serial number. We make a thousand of these a day for the  
9 largest truck builder in the world and we made a sizable  
10 investment to produce it robotically on the CNC machine  
11 because -- you know to reduce the labor costs. So on an  
12 even playing field, I would say that our labor costs  
13 involved in the production of that are probably less than if  
14 that was going to be produced elsewhere, but we made a  
15 sizable investment in that robotic, in the CNC, in the  
16 training, and a sizable commitment to the customer that  
17 those will be delivered on time and perfect, a thousand a  
18 day every day.

19 MR. DEFRANCESCO: And just to follow up on that  
20 point, that engine manifold that you're looking at, and as  
21 Mr. Weber testified too, these engine fittings are part of a  
22 package of products that are sold to customers, along with  
23 that manifold and the fittings and everything else. If the  
24 fitting comes out and now that's being priced at Chinese  
25 prices when I sell that entire package I'm going to be

1 forced to price the rest of the package at those similar  
2 prices. So yes, excluding one of these parts along this  
3 continuum starts to have ripple effects along the package of  
4 parts that they produce.

5 VICE CHAIRMAN JOHANSON: Thank you for your  
6 responses.

7 Mr. McEvoy, you'd mentioned the value added that  
8 your firm does concerning aluminum extrusion with regard to  
9 shower frames and I wanted to dig further into that issue.

10 Above and beyond the manufacture of aluminum  
11 extrusions, to what extent do U.S. producers engage in other  
12 related value added activity? To what extent does this vary  
13 among producers and the specific markets that they serve?

14 MR. MCEVOY: Thank you. Bennett McEvoy, Western  
15 Extrusions.

16 The shower enclosures that I was discussing was  
17 just one market segment we service. I've actually some  
18 products here. You can see that's a shower enclosure header  
19 and it's again just one segment we service and I've got a  
20 really heavy curtain wall anchor here that I was questioned  
21 on the way in about what I was doing. And the reason I  
22 bring up the shower enclosures was because the only reason  
23 they were -- the Chinese were able to circumvent the duties  
24 by changing the alloy. It's not a very structural part  
25 because it's just holding up some light glass in your shower

1 door where that curtain wall anchor is holding up an entire,  
2 giant curtain wall unitized window frame that the size of  
3 four of those wooden shutters that are behind you, so we're  
4 talking about a massive structural product. And so they  
5 sold the shower doors because they could get around the  
6 duties by changing the alloys.

7 VICE CHAIRMAN JOHANSON: Was that their 5050  
8 issue?

9 MR. MCEVOY: Yes, sir. And it was tougher in  
10 these other products that are structural to circumvent the  
11 issues and so I think for Western the real -- you know the  
12 fear, and I strongly believe the reality is you know the  
13 5050 is just evidence of what they're willing to do. And  
14 we immediately lost all the orders. It was all about price.

15 You know the specifications, you know like Sue  
16 was saying earlier, we can all produce these similar  
17 products and when they were able to get the cheaper price  
18 they left us immediately. When they couldn't get the  
19 cheaper extrusions, they came back to us immediately.

20 MR. PRICE: Commissioner Johanson, I'd actually  
21 just like to quickly of the all six of the producers just  
22 quickly state what type of manufacturing operations that you  
23 do, okay?

24 MR. MCEVOY: Yes, I'll start.

25 VICE CHAIRMAN JOHANSON: If you can make it

1       rather quick, though.

2                   MR. MCEVOY:  Yes, I won't go through every  
3       machine, but so extrusions, anodizing, paint, mechanical  
4       finishing, brushing, polishing, CNC fabrication, punching,  
5       cutting, drilling, welding, deburring, and I'll stop  
6       there.

7                   MR. MERLUZZI:  Rick Merluzzi representing Pennex  
8       Aluminum.  We do punching, notching, CNC work, machining  
9       assembly, some anodizing external.  And I think those who  
10      have been at the factory have seen some of our operations  
11      and the sophistication of the downstream of our operation.

12                  MR. ADAMS:  Mike Adams, Brazeway, extruding,  
13      coating, cutting, stamping, lubing, vending, assembling,  
14      coining, and forming, which are processes that the ITC staff  
15      observed during their visit.

16                  MS. JOHNSON:  Susan Johnson, Future Industries  
17      Utah, all of the above, except for painting.  And in many  
18      cases, we're providing fully fabricated assembled parts to  
19      our customers to take labor out of their operations.

20                  MR. HAMILTON:  Brook Hamilton from Bonnell.  We  
21      can obviously extrude the machine.  We anodize.  We paint.  
22      We punch.  We form.  We tap.  We drill.  We assemble.  
23      Virtually all of the above that everybody else talked about.

24                  MR. WEBER:  Jason Weber, Sapa Extrusions.  We  
25      do everything.  Being the largest extruder, I would just add

1 quickly that the value added finishing is really something  
2 that you'll see throughout all the different extruders.  
3 That is really increased over the last years, especially,  
4 since the orders went in place. You know many of these  
5 services we put in to satisfy our customers requirements  
6 because they demand it. They want to take labor and become  
7 more efficient themselves, so they demand it out of us. It  
8 makes us a better supplier to get as close to our customers  
9 as possible.

10 VICE CHAIRMAN JOHANSON: Alright, thank you for  
11 your responses. The next Commissioner with questions will  
12 be Commissioner Williamson.

13 COMMISSIONER WILLIAMSON: Okay, thank you. I do  
14 want to express my appreciation to all the witnesses for  
15 coming.

16 Following on Vice-Chairman Johanson's question,  
17 do your Chinese competitors -- or other non-subject  
18 competitors provide all these services, in general? We  
19 sometimes have had Respondents come in and say, well, we  
20 just don't do all the things the domestics do. Is that an  
21 issue here?

22 MR. DEFRANCESCO: Sure. Commissioner  
23 Williamson, Robert DeFrancesco and I'll let the panel jump  
24 in.

25 Yes, is the short answer. And frankly, some of

1 the large consumers that are here today are also sourcing  
2 the identical Chinese part into some of their Mexican  
3 operations, so yes, the Chinese can service all of these  
4 parts; but I'll let the panel answer.

5 MR. WEBER: Jason Weber, South Extrusions.

6 We actually operate two facilities in China and  
7 there really is no difference between what they do in China  
8 and what we do here.

9 MR. HAMILTON: Brook Hamilton from Bonnell.

10 I would agree. There's no reason to think that  
11 Chinese producers can't do anything that we do. The  
12 equipment is commercially available. CNC machines you can  
13 order them on the Internet. They can set up and do whatever  
14 we do. They do it in ways differently. They don't have the  
15 same environmental regulations when it comes to paint lines  
16 and anodizing and so forth, but they could do what we do.

17 COMMISSIONER WILLIAMSON: Okay.

18 MS. JOHNSON: Sue Johnson, Future Industries.

19 All of the above, but also that gets to the  
20 question of why carve out engine fittings. If the engine  
21 fittings why not everything else? There's no reason why  
22 those should be carved out as a special exemption.

23 COMMISSIONER WILLIAMSON: Okay.

24 MR. PRICE: Alan Price, Wiley Rein.

25 Sort of going back, conceptually, to some of

1 these questions here, you know this reminds me of looking at  
2 a Seurat painting, a great pointillist out there. And the  
3 question is what's the scope? Well, the scope is the  
4 painting, okay, in this case. And when you judge what it's  
5 like in similar, you look at the whole painting. You don't  
6 look at each dot because each dot, by the way, can look  
7 incredibly different and out of place, but under the  
8 Commission test, obviously, you look at the entire  
9 painting.

10 The Chinese -- we'll see it in all these scope  
11 exclusion requests.

12 COMMISSIONER WILLIAMSON: Which gets to my  
13 question, you have sometimes not objected to a scope  
14 exclusion because there's no domestic production. This  
15 looks like an awfully slippery slope. What's the  
16 justification for saying, okay, we're not going to oppose  
17 that one if these things are --

18 MR. DEFRANCESCO: Commissioner Williamson,  
19 Robert DeFrancesco.

20 COMMISSIONER WILLIAMSON: Besides being nice?

21 MR. DEFRANCESCO: As the process has unfolded at  
22 the Department of Commerce, the Department of Commerce has  
23 drawn a line with a decision called Side Mount Valves that  
24 says if a part comes in that has -- let me just jump in here  
25 for a second.

1                   So we look at the Department's precedents and  
2                   rather than going to -- that we look at. We judge it that  
3                   way. We judge it as a practical of what's of interest and  
4                   we judge it, frankly, of what resources are available. This  
5                   is a very expensive process. It's a very expensive process  
6                   here. It's a very expensive process at the Commerce  
7                   Department and we try to be practical --

8                   COMMISSIONER WILLIAMSON: I can understand your  
9                   client -- go ahead. I'm sorry.

10                  MR. DEFRANCESCO: And we just try to be  
11                  practical working with the client. And honestly, every  
12                  month there is a call saying, hey, what are our priorities  
13                  and what are we looking at here. So yes, it is a slippery  
14                  slope, but we try to be practical. That's what scope  
15                  exclusions do and why you deal with things on scope. It can  
16                  be in the like product and you still take it out of the  
17                  scope or you let it fall out of the scope and sometimes that  
18                  happens.

19                  COMMISSIONER WILLIAMSON: Okay. Along the same  
20                  line, I think that Mr. Schaefer that raised this analogy of  
21                  steel products. You know slabs, hot rolled, cold rolled.  
22                  And he sort of said this is the same thing. You're shaking  
23                  your head. Why is he wrong?

24                  MR. PRICE: Well, needless to say, I know  
25                  something about both of these.

1                   COMMISSIONER WILLIAMSON: Yes, we've talked  
2 about those before.

3                   MR. PRICE: We have talked about those, although  
4 they both have the same common over capacity problem, but  
5 we'll stay away from that sort of issue at the moment.

6                   What I would say is that actually, first of all,  
7 most of you have walked through these steel mills. The hot  
8 mill is actually separate from the cold mill which is  
9 separate from the galvanizing line in most steel mills I've  
10 been in. I won't say it's true in every one, but it's  
11 they're generally -- these are big facilities that are  
12 bigger than this building, each one of these individually.

13                   Those are each separate items and it's just a  
14 different industry, structurally, in that you just don't  
15 have this whole set of massive variation because that's what  
16 an extrusion is. The extrusion the whole reason is it what  
17 it is, is that you can put -- you know think of it as your  
18 Playdoh machine and come out with lots of different things  
19 and have lots of different variations of it and machine it  
20 and do all these things, and that's what these guys do in  
21 that facility.

22                   Steel companies, basically, by and large, make  
23 steel. They may own ancillary, unrelated operations, but  
24 those steel operations are really completely -- you know are  
25 very different. It's a different industrial structure.

1 They're really just not comparable. The scopes are  
2 different. Each case is sui generis. You know if you  
3 want to go back and say in 1990 or 1980 should someone have  
4 said we have this thing called molten steel? I don't know,  
5 maybe, but the scopes are what you start with. Here are the  
6 scopes covers this product in this format and then what's  
7 like and most similar is what the question is under the  
8 statute.

9 The industry in steel, at least for dumping  
10 purposes, not 201 purposes, has said each of these are  
11 separate and that's what you start with. And then when you  
12 apply the factor test, based upon that scope, you get an  
13 answer that, yeah, hot roll is different than cold roll  
14 which is different than galvanized, okay.

15 I think in 201 context where they've said, hey,  
16 we have this thing called steel and it has been flat roll  
17 steel in at least one of those cases. So again, you start  
18 with the scope. You go from there. You start with this  
19 scope. This scope covers the uniqueness of this industry,  
20 so it's really inapposite analogy and discussion.

21 COMMISSIONER WILLIAMSON: Okay, thank you.

22 Going from big picture to more detail, how many  
23 domestic producers currently manufacture fin evaporator coil  
24 systems in the U.S. and also how many make fittings for  
25 engine cooling systems? And if you don't know that offhand,

1 I could take it post-hearing, but just wondering.

2 MR. ADAMS: Mike Adams, for Brazeway.

3 With regard to the fin evaporator coils, there  
4 would be a number of manufacturers capable of producing fin  
5 evaporator coils that would supply both the domestic  
6 appliance and the commercial refrigeration industry. Some  
7 of those are produced in copper and aluminum, some are fully  
8 aluminum. I don't know the total number of producers, but  
9 there are three producers of aluminum coils in the United  
10 States and I believe only two remaining that are both  
11 extruders and fabricators of FECs.

12 MR. DEFRANCESCO: Robert DeFrancesco on behalf  
13 of Petitioners.

14 With respect to the engine fittings, we'll have  
15 to get a number for you in the post-hearing brief, but you  
16 have at least three of them here in front of you today.

17 COMMISSIONER WILLIAMSON: Okay.

18 MR. PRICE: Alan Price.

19 Engine fittings is actually, I think, what  
20 you'll hear people say is a pretty unsophisticated part in  
21 the scale of things. Not unimportant, not that it doesn't  
22 have high demands, but I think a lot of people here would  
23 say they could all produce them. It doesn't matter whether  
24 it's -- in the context of like product it doesn't matter if  
25 it's none, one, or a hundred in the context. The industry

1 can make it and in this case the industry does make it, so  
2 it's clearly part of the continuum and those same producers  
3 produce lots of other things with the same employees, the  
4 same equipment. They are from part of the same packages of  
5 products that are often sold that you know at the time you  
6 extrude it, it's often interchangeable with anything else  
7 you could push through that press. It's all perceived to be  
8 part of a package you might offer to the transportation  
9 industry or to the appliance industry and so it is just part  
10 of the continuum.

11 COMMISSIONER WILLIAMSON: Okay, thank you for  
12 that.

13 My time is about to expire, so I'll come to some  
14 additional questions later. Thanks.

15 VICE CHAIRMAN JOHANSON: I'm sorry for  
16 interrupting you, Irving, but I've never chaired before.  
17 I'm not used to interrupting the former Chairman, but at  
18 that point I would.

19 COMMISSIONER WILLIAMSON: That's okay.

20 VICE CHAIRMAN JOHANSON: Okay, I will not  
21 hesitate next time. Commissioner Broadbent.

22 COMMISSIONER BROADBENT: Okay.

23 Yes, just to back up a little bit, we're in the  
24 first review here and I'm trying to figure out how the  
25 Commission weighted the evidence in its exclusion of heat

1 sinks during the original investigation.

2 How do the current separate, domestic like  
3 product arguments compare to the analysis conducted by the  
4 Commission in the original investigation? So -- what did we  
5 do during heat sinks and then how does it compare to these  
6 two products?

7 MS. JOHNSON: Susan Johnson from Future  
8 Industries.

9 At the time, in 2011, we produced a large amount  
10 of heat sinks and the way the exclusion happened, in my  
11 opinion, is that we did a very poor job of explaining how --  
12 what was the evidence based on -- by the Chinese producers  
13 that they have a special and unique way of producing them. We  
14 couldn't find a way to explain that that was just not the  
15 case. I mean a heat sink if it's produced to print it's in  
16 its final form and it will produce in transferring the heat  
17 the way it's designed to do.

18 COMMISSIONER BROADBENT: That decision turned on  
19 sort of dimensions and tolerances, I guess.

20 MR. DEFRADESCESCO: Commissioner Broadbent,  
21 Robert DeFrancesco.

22 And I think what Ms. Johnson was getting at is  
23 that the distinction that was made between finished and  
24 fabricated heat sinks is a blurred line that is really not  
25 accurate. And frankly, in our view, the finishing is

1 just a testing requirement and that testing requirement  
2 actually happens at the time it's produced or just before  
3 and that the industry here, in fact, when they made heat  
4 sinks that's exactly what they did. And so, we take issue  
5 with it, I think.

6 MR. PRICE: Alan Price, Wiley Rein.

7 There were a number of different scope  
8 exclusions, only one of which actually was the request that  
9 were considered -- not scope exclusions, but like product --  
10 excuse me, like product arguments. Only one of which was  
11 accepted. We were not counsel for that decision, so I think  
12 whatever Sue thought in terms of presentation and not  
13 explaining it correctly that's her opinion.

14 COMMISSIONER BROADBENT: Are you trying to  
15 defend your honor?

16 MR. PRICE: Perhaps. What I would say is that,  
17 by and large, you know you don't look at that one exception  
18 and sort of say, hey, what happened there and maybe there  
19 was something unique about the heat sink because it went into the  
20 electronics industry had some special thing that was going  
21 on there, but if you look at the products that existed and  
22 the ones that were included, for example, in the entire  
23 scope and the other scope exceptions that were rejected,  
24 frankly, I would say that none of the arguments that have  
25 been presented by the Respondents in this case would

1 distinguish themselves from the overall scope and the items  
2 where the scope arguments were rejected.

3 Obviously, the Commission -- the best way of  
4 saying this is the Commission sometimes has a lot of  
5 discretion. I mean it does and we may or may not agree with  
6 the way those decisions are evaluated, but sometimes they're  
7 evaluated and you come up with a decision we think applying  
8 the six-factor test --

9 COMMISSIONER BROADBENT: So you're not arguing  
10 that there's different arguments here. You're saying we  
11 were wrong five years ago and we should -- you know there's  
12 nothing in these two new requests that would be valid to  
13 differentiate.

14 MS. JOHNSON: Yes, Susan Johnson, Future  
15 Industries.

16 I don't think that it had anything to do with  
17 the discretion because I think we did a poor job of  
18 explaining how ^^^^ because I was the one that did a lot of  
19 that -- what was being argued about the uniqueness of their  
20 process was, in fact, fallacious. At the time we were  
21 producing a 20-to-1 heat sink that was used in the Sun's  
22 Spark System, which was a very powerful computer used for  
23 designing at the time. We were fully capable of producing  
24 heat sinks to the capability that was being claimed from  
25 China or greater.

1                   COMMISSIONER BROADBENT: But I don't think it's  
2 whether you could produce it or not that's the issue here.  
3 In terms of the law, is it a different domestic like  
4 product, so we've got to look at how do we make this product  
5 distinction?

6                   MR. PRICE: Right.

7                   COMMISSIONER BROADBENT: And you're not helping  
8 me because you're saying we were wrong, so it would be  
9 helpful to me --

10                  MR. PRICE: We would submit that your arguments  
11 -- all the other ones were correct, okay.

12                  COMMISSIONER BROADBENT: No, but how do the  
13 requests here differ from the one that we made five years  
14 ago?

15                  MR. PRICE: Go ahead, Robert.

16                  MR. DEFRANCESCO: Sure. So the principal item  
17 in the request on heat sinks came down to the degree of  
18 testing that went into the particular product and how the  
19 particular tolerances and things of that nature that really  
20 don't exist. It didn't exist for the other products that  
21 you found to be in and it doesn't exist for the products  
22 that are at issue here, so we'll be happy to explain that  
23 further in the post-hearing.

24                  COMMISSIONER BROADBENT: Okay. Well, talk to me  
25 about the two products that we've got on the table here as

1 requests for exclusions, the fitting and the evaporator  
2 coils.

3 MR. DEFRANCESCO: Certainly. And I can speak to  
4 the fittings and my colleagues can talk to the evaporator  
5 coils.

6 The fittings, I think everyone on this panel  
7 would say is not something unique that they make at their  
8 facilities. It's not necessarily produced to unusual  
9 tolerances or in any other unusual way from any other  
10 extrusion that they make.

11 MR. HAMILTON: I would second that. Brook  
12 Hamilton from Bonnell.

13 You know engine fittings we don't even have a  
14 category for engine fittings. I mean it's not a separate  
15 product code. We make them. It's not a separate -- we  
16 don't use different employees with different skills.  
17 They're just part of a wide variety of products that we  
18 make. We have well over a thousand customers. We have tens  
19 of thousands of individual dies that are geared to specific  
20 end uses and that's our business, so engine fittings are  
21 just one of thousands.

22 COMMISSIONER BROADBENT: One of thousands, okay.  
23 How about the fittings -- hang on one second. I had a good  
24 question here, now I can't find it. Okay, well, let's talk  
25 about the evaporator coils.

1                   MR. DINAN: Yes, on the evaporator coils, we  
2 would submit we can explain this in more detail in the  
3 post-hearing brief, but the fact pattern as compared to the  
4 heat sinks and the actual decision-making points of the  
5 similarities and differences are just completely different  
6 than what exists in FECs. With FECs it all comes out of --  
7 the billet goes into the press and out comes the tube. The  
8 tube that's extruded a number of things can be done with it.

9                   Brazeway sells much of its tube -- that's the  
10 product that actually gets sold. You can make hairpins  
11 where it gets bent. That's the product that gets sold. You  
12 can make serpentines. There's a number of things that you  
13 can do with that tube. One of the things that you can do  
14 with the tube is that you can bend it and make it into a  
15 serpentine, which forms the operative part of the FEC. In  
16 other words, the thing that makes it work is the extruded  
17 and bent tube, which the coolant is going through. All the  
18 fins do is make it more efficient for the evaporation of the  
19 heat, but after it's all made the extruded tube, which all  
20 comes off of the same press, all comes all off the same  
21 assembly line -- not assembly line -- manufacturing line,  
22 all comes off of the same coiling, then just gets merged.  
23 The machine just goes kaboom that puts the fins into it.

24                   And when you look at the cost of components and  
25 the value added, the insertion of those fins is a relatively

1 small part. So we would submit that to try to compare it  
2 with the heat sinks, and again, we can go down  
3 point-by-point, it's just -- I mean --

4 COMMISSIONER BROADBENT: Okay, well, let me ask  
5 one thing. I apologize. My time is almost expired, but see  
6 if you can answer this. Electrolux is arguing that the fin  
7 evaporate coils systems are sold to a distinct class of  
8 original equipment manufacturers, meaning refrigerated  
9 system manufacturers. Are there other aluminum extrusions  
10 or fabricated aluminum extrusions with in the scope that are  
11 sold to a distinct class of original equipment  
12 manufacturers?

13 MR. PRICE: I think everyone here would say yes,  
14 they all, that, you know, you can sell one --

15 COMMISSIONER BROADBENT: So that's not a valid  
16 distinction?

17 MR. ADAMS: Mike Adams from Brazeway. Just to  
18 elaborate briefly, I think that's correct, that you would  
19 not make a valid distinction from that. And I would  
20 envision the product line as sort of a tree with branches.  
21 We start with the billet and we can extrude any number of  
22 shapes, a bar, a microchannel tube, a round tube, and then  
23 any of those base tubes continue to be processed into a  
24 finished product. In the case of round tube, we could cut  
25 it, we could form it into a hairpin, form it into a

1 serpentine, and eventually a finned evaporator coil.

2 And what came to light during the investigative  
3 team's visit and follow-up questionnaire was, we don't even  
4 track FECs as a separate P&L line in our operations. It's  
5 part of the continuum of what we produce.

6 COMMISSIONER BROADBENT: Okay.

7 MR. PRICE: And just, on the lack of dedication,  
8 just a slightly different way of looking at it, which is, if  
9 you look at the cooling industries which would broadly be  
10 HVAC or something along those lines, or automotive or to the  
11 appliance makers, all of those guys also buy lots of other  
12 types of extrusions. So this is not something unique in  
13 those items even.

14 COMMISSIONER BROADBENT: Okay. My time's  
15 expired. Thank you.

16 VICE CHAIRMAN JOHANSON: Commissioner Kieff.

17 COMMISSIONER KIEFF: Thank you very much. If  
18 The Graduate is about plastics, maybe this is about heat  
19 sinks. I really hope to just not -- I hope this is not  
20 drilling on a tooth. I'm hoping that the conversation about  
21 heat sinks can be very value-neutral, nobody has to be  
22 throwing themselves or anyone else under a bus.

23 It is a feature, not a flaw for us to openly  
24 discuss particular components of an analysis and simply say  
25 it is what it is, and we now are asking you whether it is

1 something we should think about when thinking about these  
2 two other products. It's water under the bridge. It's for  
3 others, it's very kind of you to take upon yourself the --  
4 the way you described -- I just want to move past, again,  
5 the flame, so that we can instead really focus in on the  
6 analytics. Because it seems to me, there might be an  
7 opportunity here for us to really better understand what to  
8 do in our like product analysis.

9           So do you -- and you might prefer to do this in  
10 the post-hearing, as you've already suggested. I just want  
11 to encourage in the post-hearing that the focus not be on  
12 mistakes or rather just this analysis that is written and  
13 that part of the opinion is wrong on its own terms and  
14 that's fine. We like being told when we make mistakes.  
15 It's very helpful to us. I view that as a feature, not a  
16 flaw. I usually write hundreds of drafts of my documents,  
17 precisely because I have to keep making them better.

18           So please don't be afraid to focus in on--for  
19 both panels--to focus in on the reasoning with respect to  
20 heat sinks and explain why it's relevant or not to our  
21 analysis of these two particular product lines on the table  
22 now.

23           MR. PRICE: We'll be happy to do so, and we'll  
24 address it completely in the brief. I think as former  
25 Chairman Williamson will say, that was actually, even that

1 decision was a 4-2 decision on that one point, just want to  
2 acknowledge that. But it was the Commission decision, so  
3 we'll, you know --

4 COMMISSIONER KIEFF: And I would be asking the  
5 same question if I were in the '2' -- that's what I did  
6 yesterday when I was in the '2'. So that's helpful as well.

7 MS. JOHNSON: Susan Johnson, Futura Industries.  
8 I will tell you a side effect of that decision on your part,  
9 is that that type of product virtually went away from being  
10 produced by domestic producers. It was gone once that  
11 decision was made. Now very large heat sinks that are used  
12 in battery isolators, uninterruptable power supplies, those  
13 kind of things, remained here. But that particular type and  
14 class of heat sinks disappeared from our product line.

15 COMMISSIONER KIEFF: And I'm just curious, do  
16 you have an intuition as to why the more complicated heat  
17 sink is now still being domestically made?

18 MS. JOHNSON: Because there's a lot more that  
19 goes into -- in a battery isolator, you've got a large heat  
20 sink, you've got mechanisms that get loaded in, dial  
21 connectors, a lot of -- we're doing much of that work for  
22 our final customers. Whereas the smaller heat sinks, the  
23 kinds that were being used -- well, you know, you just  
24 attach them to whatever you're trying to transfer heat away  
25 from.

1                   COMMISSIONER KIEFF: So then I guess the next  
2 kind of conceptual question for me is, if it turns out--and  
3 I know that you think that we should not do this--but if it  
4 turns out that we treat these two products as separate, that  
5 of course doesn't end the analysis.

6                   So the next question is, do we have enough  
7 industry coverage to analyze those two like products,  
8 assuming we decide they are separate like products? And if  
9 we don't, how do we go about our analysis?

10                  MR. DEFRANCESCO: Robert DeFrancesco. I think  
11 if you decide that they are separate like products, you are  
12 then looking at the domestic producers that produce those  
13 like products, and if this were a case only on fin  
14 evaporators, and you had only one domestic producer, that is  
15 your domestic producer. So I think, depending on your  
16 decision, you do have enough coverage.

17                  COMMISSIONER KIEFF: Okay. And with that  
18 coverage, I'll just ask both panels in the post-hearing to  
19 try as hard as possible to explain why we're compelled to go  
20 their way using that lens.

21                  MR. DEFRANCESCO: Certainly. We'll be happy to  
22 address that in the brief.

23                  MR. HAMILTON: Commissioner Kieff, Brook  
24 Hamilton from Bonnell. This whole thought process is  
25 somewhat intriguing, and I'll start off with saying I think

1 it was flawed when we lost the heat sink situation. But as  
2 was mentioned earlier, and all these reviews from the time  
3 of the original orders were put in place, and the various  
4 challenges, they do become practical situations. And each  
5 one on a legal perspective is a slippery slope.

6 And we should probably fight every single one  
7 tooth and nail. But we don't have unlimited pockets and  
8 resources and all the things that go along with fighting  
9 these types of changes, or challenging them. But to me, the  
10 slippery slope gets worse when you have the type of products  
11 that are on the table today, asking to be sort of a separate  
12 stand-alone special case and so forth.

13 Because I think if you open a door to that line  
14 of thinking, there's nothing that says, well the guy who  
15 makes this isn't special, and the guy who makes that isn't  
16 special. And really what it does, in my mind, is it  
17 undermines the ruling completely. And we'd be here for the  
18 next twenty years, every week, in this hearing room  
19 defending the same thing and saying well, no, I make this  
20 and this is so special because that's my core business and I  
21 want to be able to buy from China and do whatever. And it  
22 would just go around and around and around. Because every  
23 single product we make is somewhat different for a different  
24 end use.

25 COMMISSIONER KIEFF: I am struggling with what

1 you are struggling with. I think it is a feature, not a  
2 flaw, that that is an awkward question. And I don't know  
3 how to answer it, and I recognize that in the Title 7 space  
4 that we are talking about right now, it seems as though  
5 there are these many slippery slopes and these happenstances  
6 of pause points on the slippery slopes, and it seems there's  
7 at least one body of professional commentary in the trade  
8 law space that says that's really a function of in effect  
9 how hard people push on both sides of each particular case  
10 and each particular argument in the cases.

11 And I don't know whether that kind of realist  
12 critique of trade law is correct, but it is a very prominent  
13 body of critique in the profession. I also spend a lot of  
14 my time and we, the Commission, spend a lot of our time in  
15 another body of law relating to intellectual property where  
16 the exact opposite arguments are kind of being made by --  
17 under the last two administrations from two different  
18 political parties -- which is that kind of aggregating up  
19 the value chain is always wrong.

20 And the lowest value component is where the  
21 legal regime remedy should always focus and only focus. So  
22 you know, this might sell, a smart phone might sell for a  
23 lot of money, hundreds of dollars, depending on the device  
24 and the plan. But gosh, each chip, even the important ones,  
25 are pennies, and therefore, remedies should only just be

1 pennies.

2                   So, but of course, I as a consumer, have never  
3 bought a chip for a cell phone. I actually only buy the  
4 cell phones, because I stopped playing with -- just like I  
5 stopped playing with aluminum, I went to law school and  
6 started doing other things.

7                   But there is a big tension in the bodies of law  
8 that govern us, about how we're supposed to even  
9 conceptualize this stuff, and that tension was very present  
10 for the last two administrations and it doesn't seem to be  
11 coming any less tense in the current, and so I do think this  
12 is a very fluid space and any guidance you can give us in  
13 the post-hearing about what formal law we're supposed to  
14 follow in this space for both sides will be very helpful,  
15 because for us, we're not policy makers. You give us the  
16 law and tell us what it is and we'll apply it.

17                   MR. PRICE: Really quickly, we'll address the  
18 law, but I think Stephanie actually wants to address --

19                   MS. BOYSE: Yes, I cannot address the law. I  
20 apologize for that. But what I would like to address, and  
21 you had a question earlier that I would love to also tag  
22 onto, because I think it's really critical to this case in  
23 general for all of the extruders, including Brazeway and  
24 including the FECs.

25                   You know, the majority of an FEC is an aluminum

1 tube, so where does it stop, right? So if we suddenly  
2 exclude the FEC from this case, which is found to be part of  
3 the original scope, Electrolux has argued this once before  
4 unsuccessfully. This is not the first time we've had this  
5 discussion.

6 So here we are again trying to argue that an  
7 FEC -- because we slap some fins on an aluminum-extruded  
8 tube and because it's bent -- suddenly in a different  
9 category. So then we would say, well then Brazeway would be  
10 very concerned about our aluminum hairpins which are also  
11 bent tubes which go to the air conditioning industry, so  
12 suddenly now all of our hairpins are at stake, and is that  
13 going to be part of a scope exclusion, and then continue to  
14 go back through the entire chain of this product.

15 One hundred percent of what Brazeway makes is  
16 related to extruded tubing. Our entire business will be  
17 wiped out if this case is not resolved in a positive manner  
18 for the all of the extruders here. But quite frankly, our  
19 entire business will be done.

20 And very quickly these parts which have already  
21 been challenged and already qualified with specifically what  
22 I was looking to say, you know, many of our customers would  
23 just come right back into the U.S., so our business has  
24 gone.

25 To the earlier point though, I thought you asked

1 a great question and then you ran out of time, and if I may.  
2 You know, we've got a domestic OEM that's challenging a  
3 domestic producer, which is a unique circumstance. But what  
4 we don't have are the rest of the domestic OEMs here  
5 challenging anything.

6 Whirlpool, GE, Subzero, Viking, Hussman,  
7 Hillphoenix -- none of those guys are here arguing this.  
8 And it's because it happens to be, with all due respect to  
9 one of our largest customers, Electrolux, it was Electrolux  
10 that initially went and started to very quickly desource  
11 product from the United States and bring in subsidized  
12 Chinese FECs. So they have something specifically to lose.

13 Brazeway regained that business through this  
14 period of time. And certainly what is the benefit of them  
15 arguing this? They'd love the opportunity to go do it  
16 again. So I understand and I respect that opportunity, but  
17 again, you know, we were all talking about the continuum of  
18 these products and I don't know where it would end. I'm  
19 terrified, quite frankly, that if these orders are not  
20 continued, that our entire business, we'll be out of  
21 business within a year.

22 COMMISSIONER KIEFF: Thank you, and I apologize  
23 for going over my time. Thank you, Mr. Vice-Chairman.

24 VICE CHAIRMAN JOHANSON: Certainly, Mr. Kieff.  
25 U.S. apparent consumption of aluminum extrusion's increased

1 sharply since the imposition of the orders in 2011. And  
2 this can be seen at Table 1-1 of the staff report. However,  
3 U.S. producers' production capacity has declined over that  
4 period of 2010 to 2015. Please discuss the outlook for U.S.  
5 aluminum extrusion demand over the next few years and the  
6 domestic industry's ability to meet that further demand.

7 MR. WEBER: Jason Weber, Sapa Extrusions. I  
8 think for at least the next two to three years, we're  
9 looking at a situation of relatively flat growth, if any.  
10 So slow to no growth. We typically track GDP, so you can  
11 kind of understand from the whole macro-economic level what  
12 that means to extrusion activity.

13 I think you alluded to basically the capacity  
14 and what you saw in 2010 -- which is really at the height of  
15 the dumping that was occurring from China at that time --  
16 when we saw a massive exodus of available product from  
17 domestic producers, being produced in China and shipped over  
18 here.

19 So at that time, I think there was somewhere  
20 around sixty presses that were taken out of the system,  
21 because there was just simply no business. And something  
22 like ten extrusion plants just ceased to exist. So overall,  
23 we're still not back, not even close to where we were  
24 pre-recession levels in the overall market of extrusion.

25 MR. MCEVOY: Commissioner, Bennett McEvoy,

1 Western Extrusions. I just want to add that -- talking  
2 about capacity -- and I echo Jason's comments about the  
3 growth in the market is kind of low to moderate and follows  
4 GDP -- but I think everyone in this room has been adding  
5 capacity and spending--you know, Western, upwards of \$30  
6 million--on adding capacity, and are continuing to try to do  
7 that, but we've taken on to do that, taken on a lot of  
8 debt. And if the duties were taken away, not only would it  
9 hamper our ability to service the capacity we've added, but  
10 additionally it would, you know, halt any new expansion  
11 because these are expensive additions to add. Thank you.

12 VICE CHAIRMAN JOHANSON: Certainly. Mr.  
13 Hamilton?

14 MR. HAMILTON: Brook Hamilton from Bonnell.  
15 Just to kind of add onto that. We suffered with the orders  
16 -- before the orders were put in place, we lost one of our  
17 plants, three extrusion presses were taken off line and  
18 several hundred employees lost their jobs and a plant was  
19 shuttered. And so we've seen both sides of it.

20 And since the orders have been in place, we've  
21 been able to recover, albeit quite slowly. But I'd like to  
22 sort of underscore the capital investment required to kind  
23 of service the market. You've heard numbers, \$18 to \$20  
24 million for a press. And that's fairly typical.

25 And to Bennett's point, the payback for these

1 things takes a while. These are long-term significant  
2 investments and you can't hope to recover that type of  
3 investment inside of five years. It just takes a while.  
4 And that assumes you're going to be able to ramp it up and  
5 run it at a fairly full capacity.

6 So when you hear that without any demand the  
7 Chinese are -- one company in China is putting in round  
8 numbers, a hundred presses. I don't know how you could even  
9 service that debt without the things running full speed.  
10 And there's no demand for them to run full speed. So the  
11 whole economics of what's going on over there. Obviously  
12 the equipment will be put in place. There's a huge demand  
13 on their part to utilize it and run it and ship product  
14 somewhere. If they get a toe-hold back into this industry,  
15 our domestic industry will disappear. It will completely  
16 disappear and it won't take long.

17 MR. MERLUZZI: I'd like to just add on to  
18 Mr. Hamilton's comment and Mr. McEvoy's comment as well.  
19 This is Rick Merluzzi representing Pennex Aluminum.

20 The question around both demand and supply or  
21 capacity. The demand so far going forward, as Mr. Weber  
22 said -- we track generally with GDP and there might be  
23 changes within the market, but aluminum extrusions go into a  
24 zillion different products that we just talked about. And  
25 it touches -- you probably have gone by them a hundred times

1 today on the way in to the session here this morning.

2 But in essence, it tracks a lot with GDP and  
3 there might be transformation, greater growth in automotive,  
4 maybe less growth in the building construction today, but  
5 that's the demand profile we see. And on the capacity side,  
6 it is very encouraging that producers have put in the  
7 capital to supply the domestic industry. And as Mr.  
8 Hamilton said, it's a long-term payback and we are very  
9 nervous today.

10 And as the team from the Commission saw what we  
11 invested in the Leetonia facility, it is substantial. And  
12 even today as we are unsure whether the orders will  
13 continue, it affects our decision-making and what further  
14 investments go in. So I would strongly -- I'll come back to  
15 the essence of today -- we strongly encourage that these  
16 orders stay in place as they are currently configured.

17 MR. ADAMS: Mike Adams from Brazeway. We would  
18 have a similar story to the four speakers immediately  
19 presenting. Starting in 2005 and continuing through the  
20 period during the investigation of 2008 and '09, Brazeway  
21 was losing substantial pieces of business to Chinese  
22 competition to the point where we closed one of our  
23 factories in Michigan. That was the location that we were  
24 founded as a company. During that process, we lost 22% of  
25 our workforce in the United States.

1                   After the orders were put in place, we were able  
2                   to make investments and grow our remaining facilities and  
3                   subsequently grow our U.S. employment base by 36%. So the  
4                   other things driving our industry going forward to the other  
5                   part of the question would be GDP gross housing starts in  
6                   the general economy.

7                   MS. JOHNSON: Susan Johnson, Futura Industries.  
8                   I'd like to go back to the engine fittings. Sorry, I can't  
9                   get away from that. But I realize we've talked about it a  
10                  lot. But that's partially because of what was said in the  
11                  opening statement, that there was no one who produced these  
12                  products domestically, was an absurd statement.

13                  I also read the nonconfidential version of the  
14                  filing for Adams Thermal, and even though I am an engineer  
15                  by education, I do understand nuance, and some of this was  
16                  completely, to be polite, it was nonsensical. The talking  
17                  about changing of the cross-section, making that some kind  
18                  of a unique product, was -- so you're going to have a block  
19                  and then you're going to hollow out the center and you're  
20                  going to take metal off the outside in order to product an  
21                  engine fitting, when you can extrude it into that shape?

22                  MR. HENDERSON: This is Jeff Henderson with AEC.  
23                  I'd like to expand on the investment and the significance of  
24                  your decision on continuing the orders. I've reported to  
25                  the folks in our preparation that I've had at least a half a

1 dozen calls in the last two to three months from various  
2 investors or ownership groups or whomever that have a  
3 financial stake in our industry, wanting to know whether or  
4 not the orders are going to be continued. Because if they  
5 are not, we're out. It's done. And to me, that's a very  
6 scary thing.

7           The other part is that we tracked capital  
8 investment in the industry based on press releases and  
9 knowledge just from our position in the market and almost  
10 \$1.5 billion in plant and equipment have been invested by  
11 the extruders as a result of the orders. And it was all  
12 based on the concept that said, we are free now to go out  
13 and compete in the market and provide value-added services  
14 to the customers that want them. And I can't  
15 remember--I've been in this industry since the early  
16 90s--and I can never recall a five-year period of time where  
17 anything close to that was ever invested in our industry.  
18 It's a remarkable outcome.

19           VICE CHAIRMAN JOHANSON: Thank you for your  
20 responses. The yellow light is on, so we will next move to  
21 Commissioner Williamson.

22           COMMISSIONER WILLIAMSON: Thank you. I just  
23 have some questions on another subject, but having wrestling  
24 with the heat sinks issue, so much back when we had the  
25 original case. And I had asked the question yesterday, what

1 happened to the domestic industry? Ms. Johnson, you've  
2 already answered that question.

3 And in your discussion, you talked about the  
4 testing and all -- I remember us spending a lot of time  
5 trying to figure out did this testing and assurance really  
6 make it different? And I came to the conclusion they  
7 didn't.

8 But what -- and I think there's a lesson -- at  
9 least I'm drawing some lessons from that that I want to test  
10 out here, because I think it applies to when we look at  
11 these other, the fin evaporator coils and the other  
12 product we're talking about.

13 All of you talked about what you've done in the  
14 last five years in terms of either more fabrication, quality  
15 improvements and I think there's a general trend in American  
16 manufacturing that people are having to meet tighter and  
17 tighter tolerances often -- this goes with the higher tech  
18 nature of all of our products.

19 And so what the question that I want you to  
20 address is, are these differences that -- when they're  
21 talking about the different products -- really just what  
22 anybody has to do with their product and make them  
23 competitive in the global market? I mean maybe you weren't  
24 testing your other extrusions like they were testing the  
25 heat sinks before -- I'm probably wrong, because I'm seeing

1 a look on your face, Ms. Johnson. But there's a trend I see  
2 here --

3 MS. JOHNSON: You either make them to print or  
4 you don't.

5 COMMISSIONER WILLIAMSON: Good. Okay. So, but  
6 the question I'm raising is, that doesn't make it a  
7 different product because you meet tighter specifications or  
8 you have to do more quality assurance or things like that --

9 MR. HAMILTON: Brook Hamilton from Bonnell. I  
10 think what you're mentioning is a hundred percent true. And  
11 probably true whether there were illegal Chinese extrusions  
12 or not. I mean let's just say, manufacturing has evolved  
13 and continues to evolve. The products put out by OEM, be  
14 they electronic self-driving cars or whatever the latest  
15 thing is, or smart phones, as Commissioner Kieff was holding  
16 up.

17 They're more exacting, they're more precise,  
18 consumers want more value in them and they need to be  
19 assembled more efficiently and so tolerances are tighter and  
20 it's incumbent upon all of us as manufacturers to  
21 continuously improve. And that has become a bigger and  
22 bigger part of our focus in this industry.

23 And in order to be competitive and survive, we  
24 focus on those improvements, on cost-cutting and all the  
25 things that make us just a better manufacturer. So to your

1 point, I don't think just because somebody extrudes and  
2 machines something that's close tolerance, makes them any  
3 different than all the other things that we're doing. It is  
4 just part of an evolving and maturing industry that is  
5 meeting the demands of today's marketplace.

6 MR. WEBER: Jason Weber, Sapa Extrusions. A  
7 couple things, because I think, like everybody, we wrestle  
8 with, you know, what happened on the heat sinks, and then we  
9 hear about this engine-fitting, right? And I mean in  
10 preparation for this, what is an entity, right? If it walks  
11 like a duck and talks or quacks like a duck, it is a duck.

12 It's an extrusion. It's a machined extrusion.  
13 That's all it is. There's nothing special about it. Until  
14 the point that you actually machined it--and any one of us  
15 can machine that--just like we can machine a heat sink, we  
16 can extrude a heat sink, we can do everything that we need  
17 to do to make a heat sink.

18 So I think that's a very important  
19 differentiation. You can call it whatever you want, but  
20 it's an extrusion. It's a machined extrusion. Going back  
21 and further on to Brook's point about, you know, and your  
22 question about domestic industry and getting better.

23 Sapa, being the largest extruder, there is not a  
24 market that we don't serve, save a flight-critical aerospace  
25 application. We don't make those types of extrusions, but

1 those are excluded from the scope of these orders in 2000  
2 and 7000 series extrusions.

3 But if you look at what some people might term  
4 standard product, we sell a lot through distribution. But  
5 even that product is not standard. It might be a rod. It  
6 might be just a solid chunk of metal, but there is a  
7 specific reason that our customer has a specific  
8 specification that our customer has made of that rod, so  
9 when they get it into their production process, if they're  
10 machining it, that it performs the right way, it moves  
11 through their machining center and doesn't get a lot of  
12 chips or tool breakage and different things like that when  
13 you're actually machining a product.

14 And even though they're relatively simple in  
15 shape, it doesn't mean that they're not very complex to  
16 produce because we have special alloys. They might be a  
17 6000 series alloy, but we have different mixes of 6061.  
18 Depending on what the final end-use is and the types of  
19 machining that's done to it.

20 So again, going back to even like Susan's point  
21 before, you know, you're not going to just extrude a blob of  
22 metal and then just machine the part that you want. You're  
23 going to get that as close as possible. We have three  
24 different product categories of round rod. And within that,  
25 we have different alloys, different tolerances, different

1       tempers, that all make those parts, those machined products,  
2       you know, a specific very unique product.

3                   MR. HENDERSON: This is Jeff Henderson with AEC.  
4       Let's talk about the heat sink thing, okay? Because I was  
5       there. No blame. But here's what happened. We had the  
6       questionnaires. The questionnaires asked for your data  
7       about blank heat sinks, your data for fabricated heat sinks,  
8       your data for finished heat sinks.

9                   Now, when I went back to our accounting  
10       department and our IT gurus who were gonna mine our data to  
11       come up with this, what's a blank heat sink? What do you  
12       mean? Well, that's just the full lineal. Oh, okay, just  
13       sticks, yeah. OK. Well, they all start as sticks, so  
14       they're all that. Well, no, no, we'll go a little farther.  
15       Well, we do fabricate.

16                   So we filled out the blanks and fabrication as  
17       best that we could determine within that kind of obscure  
18       product group for us. Finished heat sinks was a mysterious  
19       term, and like the other extruders that submitted their  
20       questionnaires, nobody filled that column in because what in  
21       the world is a finished heat sink?

22                   What I just sent to you is a finished heat sink.  
23       That's what you bought from me. You bought from me a piece  
24       of metal that will perform to a certain standard, that has  
25       the appropriate fabrication to meet whatever installation

1 need you have.

2 So in the hearing, when we actually heard the  
3 petitioners on this, we learned in live-time what a finished  
4 heat sink was, and we were put in a position because, oh my  
5 goodness, if that's what you're talking about, everything we  
6 do is that. And so, but it was way too late, because the  
7 wheels had turned and the documents were in, and it was too  
8 late to back step.

9 One note though that I think is quite  
10 interesting. I believe that the distinguishing  
11 characteristic that enabled them to win that case was that  
12 they claimed that they tested material, all the heat sinks  
13 to fit, whether or not they were going to meet the specs.  
14 And this testing that was done seemed to be that critical  
15 next thing, because we were asked, do you test?

16 Well, Sue's right. You don't need to test.  
17 It's designed. If it runs to spec, it works. That's just  
18 the nature of that product. But what's interesting is, a  
19 couple of years later, that same petitioner came back to us  
20 through scope and asked us if we could kind of move a little  
21 bit, maybe this testing thing wasn't needed after all, which  
22 was to me, the whole foundation on which they won their  
23 argument.

24 So I think that was a very isolated incident  
25 that just had a series of failures to communicate and other

1 things associated with it that just kept us from keeping  
2 that product line. And as Sue said, that mistake has led to  
3 a loss of business, loss of jobs and loss of those  
4 relationships with those customers.

5 COMMISSIONER WILLIAMSON: Thank you. I had a  
6 couple of other questions, but that's helpful to give a  
7 history, and if there's any -- I'll leave it to the lawyers  
8 to draw analogies to the present case, as I'm sure you will.

9 MR. DeFRANCESCO: We will in our post-hearing.

10 COMMISSIONER WILLIAMSON: Okay. Let's see, but  
11 I did have -- is it fair to say that U.S. producers are  
12 insulated in changes from primary raw material costs, given  
13 the fact that the majority of U.S. producers index their  
14 prices to the cost of aluminum?

15 MR. DeFRANCESCO: So I'll start, and I'm sure  
16 the industry witnesses will jump in. I think you heard in  
17 Mr. Hamilton's testimony that for this product, for these  
18 aluminum products, it is true that the pricing mechanism is  
19 the base metal price plus the amount of conversion and that  
20 the metal portion of that price is passed through to the  
21 customer.

22 That doesn't mean they're insulated, however,  
23 from negative price effects from Chinese imports. I think  
24 as Mr. Hamilton testified, where they erode the price is in  
25 that conversion margin above the base metal. Rick, do you

1 want to -- yeah.

2 MR. MERLUZZI: Yeah. Just a comment on this.  
3 In normal market conditions, in fair market conditions like  
4 we are in today, the case is it is a pass through on the  
5 metal cost. What we saw during the period of imports back  
6 in 2009-2008 period is a fairly significant distortion,  
7 where product was coming in, as Mr. Hamilton had testified,  
8 at below the actual metal cost and how could that be? How  
9 could that be? So normal market conditions, you're right.

10 MR. PRICE: I'll go into one thing in this whole  
11 WTO case. How can that be? There can be a system in the  
12 supply chain throughout China where companies are operating  
13 below variable cost, and they keep on getting lending and  
14 they keep on, both continue to operate and to expand and  
15 that applies, we believe, not only to at the primary level,  
16 but actually we think it exists throughout much of that  
17 whole supply chain.

18 That's one of the reasons why we have all these  
19 China problems on this case, but also in the primary area in  
20 lots of other industries. But that will all come out as  
21 that dispute's litigated.

22 MR. DINAN: And I would just like to add, and  
23 we've seen this at the FEC level. There's no insulation  
24 whatsoever. U.S. producers have to cover the aluminum cost,  
25 what the aluminum costs them. In China, it's not even a

1 consideration. Oftentimes, we've seen the product is being  
2 fabricated and shipped to the United States, sold as FECs,  
3 at a price that is lower than they can buy the raw aluminum.  
4 They're not even covering their aluminum costs. So there's  
5 no insulation whatsoever.

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

8 VICE CHAIRMAN JOHANSON: Thank you Chairman  
9 Williamson. Commissioner Broadbent, do you have further  
10 questions?

11 COMMISSIONER BROADBENT: Yeah. I think I had a  
12 couple here. Let's see. We often hear in steel cases  
13 sometimes, I think your counsel there, that there's this  
14 increasing shift to aluminum in the vehicle production  
15 industry, in the auto industry, and it seems that you're  
16 representing here that there's sort of the other situation,  
17 that demand is slowing for aluminum. Can you kind of  
18 explain the tradeoff so that you're consistent --

19 MR. PRICE: Yeah, I would say -- I'll let the  
20 clients explain the tradeoffs. But a lot of the shift that  
21 you're all hearing about is in the sheet side of the  
22 business. So if you look at hoods, if you look at, you  
23 know, those types of things, that's where the shift is to  
24 aluminum. It's not that there's not, you know, some  
25 extrusion portion but that's the heavy, that's where the

1 heavy shift is.

2 MR. MERLUZZI: I'll make a comment on that.  
3 This is Rick Merluzzi, representing Pennex Aluminum. I just  
4 gave a presentation on this at the Platt's conference a  
5 couple of weeks ago. As I said before, the aluminum  
6 extrusion market is growing. It is growing about GDP. It's  
7 been historically like that. Maybe through little periods  
8 we were better than industrial production in the U.S.

9 But there's been a bit of a transformation. The  
10 automotive market growth is greater right now, but the  
11 residential, construction in particular. The construction  
12 market is kind of bifurcated. The commercial construction  
13 is growing, and the residential construction is not growing  
14 as much. So net-net. We're seeing some growth, but it's  
15 more in the general economy GDP type of rate.

16 COMMISSIONER BROADBENT: Talking about the  
17 tradeoff between aluminum and steel.

18 MR. MERLUZZI: Well in the automotive market,  
19 there is greater growth of aluminum extrusions right now in  
20 part due to those tradeoffs and driven by the CAF and  
21 driven by the lightweighting of vehicles.

22 COMMISSIONER BROADBENT: Okay.

23 MR. WEBER: Jason Weber, SAPA Extrusions. Just  
24 to kind of add on a little bit to what Rick was saying, was  
25 you know, when you start to look at what was going in say

1 2005-2006, right before the recession, you had a huge surge  
2 in residential construction. If you look at, you know, what  
3 the numbers are today, that typically being one of the  
4 largest uses for extrusion, that hasn't recovered to, you  
5 know, pre-recession levels.

6           Who knows if it will or if it won't? Housing  
7 starts have come up, but you know let's say the  
8 transformation that we've seen in transportation,  
9 specifically in the automotive world, just go back and think  
10 we're somewhere around, what is it, 40 pounds per car? It's  
11 getting up to there. It's forecasted to go to there.

12           So we're somewhere below that right now of  
13 extrusion, and again when you start looking at the castings  
14 and the body sheet and those particular products, I mean  
15 that has way more impact.

16           But also on the transportation side, classic  
17 trucks and trailers, which is a huge use of extrusion, you  
18 know, those different segments are also down, I think, in  
19 something like the flatbed trailer market. They're off like  
20 30 percent year over year.

21           COMMISSIONER BROADBENT: But I'm trying to get  
22 at the steel versus aluminum balance, and you're talking  
23 about general trends in different markets, just on the  
24 growth in those markets, right? You're not talking about  
25 any shifting of use.

1                   MR. WEBER: Well, each one will, you know, will  
2                   have its own shift, right, and when we specifically talk  
3                   about transportation it's about weight. But overall, I  
4                   guess I can't really comment on the steel, you know, side of  
5                   things. I can just tell you what --

6                   COMMISSIONER BROADBENT: What's going on in the  
7                   -- yeah, okay, right.

8                   MR. WEBER: General market, yeah.

9                   COMMISSIONER BROADBENT: Right, thanks.

10                  MR. MERLUZZI: Rick Merluzzi representing Pennex  
11                  Aluminum. I think Mr. Price had it, made the comment about  
12                  sheet. It's primarily driven by sheet.

13                  COMMISSIONER BROADBENT: Right.

14                  MR. MERLUZZI: Than extrusions, in terms of that  
15                  substitution and effect on steel.

16                  COMMISSIONER BROADBENT: Okay, thank you. What  
17                  do you think is going on with this company's Zhongwang, and  
18                  why do they keep adding capacity?

19                  MR. HAMILTON: I believe that they're one of the  
20                  outlets by which the Chinese primary industry is throwing  
21                  off its excess production.

22                  MR. DeFRANCESCO: Just to follow on that, so  
23                  this company Zhongwang is the second largest extruder in the  
24                  world, second to SAPA. Once their presses come online, they  
25                  will be the number one largest extruder in the world. As

1 Jeff was saying, as primary aluminum production in China  
2 skyrockets, they have to have an offtake for that product,  
3 and it's an offtake in the semi-finished form, extrusions  
4 and sheet and the like.

5 So these same debt subsidies that are pumped  
6 into the primary industry are also pumped into the  
7 semi-finished industry to create that capacity, to offtake  
8 that aluminum, and in fact Zhongwang has just recently  
9 installed its own smelter. So now they're making the  
10 primary aluminum and they're making the extrusions as well.

11 So if the money is free or almost free, why not  
12 install a hundred more press?

13 MR. GARY: And it's Jesse Gary from Century, and  
14 maybe as a primary producer I can just add a little  
15 something here. I think the Commissioners will remember  
16 from the 332 hearing that one of the factors sort of  
17 affecting the primary industry is there's this 15 percent  
18 export duty for primary aluminum coming out of China. So  
19 they've built this massive capacity with no place to go.  
20 They don't have the demand.

21 So to get it out of China, they need to find a  
22 way to get it out, and that method is to build 90 presses  
23 that they don't have a need for, because then they can get  
24 the extruded aluminum or the semi-finished aluminum out of  
25 the country and therefore export their problem.

1                   COMMISSIONER BROADBENT: Okay. Let's see. I'm  
2 trying to piece together the various numbers you've provided  
3 concerning Chinese capacity and whether that makes sense.  
4 Many of the Chinese capacity figures you refer to are sort  
5 of under two million tons, and then you kind of refer to  
6 individual companies. But overall, you say there's  
7 production and consumption in China that are orders of  
8 magnitude greater than the individual capacity figures that  
9 you reference.

10                   You state that the production was 20.3 million  
11 and consumption was 16.5 million, respectively. Is that the  
12 number you feel pretty comfortable with?

13                   MR. DeFRANCESCO: Commissioner, we can explain  
14 that further, but those numbers we've pulled, I believe, and  
15 I'd have to look at this to confirm it, but I believe we  
16 pulled those from the CRU data that we have, that talks  
17 about the amount of consumption in China versus the amount  
18 of production and there's figures in the staff report that  
19 talks about the amount of excess supply that exists of  
20 extrusions in China, and that that number is enough to  
21 service the entire demand in the U.S. by itself. But we can  
22 clarify that some more for you in the post-hearing.

23                   COMMISSIONER BROADBENT: Okay, and since I know  
24 you all follow this really closely, have the Chinese made  
25 any sort of official representations about trying to reduce

1 capacity in this industry?

2 MR. DeFRANCESCO: Robert DeFrancesco. The only  
3 statements from the Chinese regarding their capacity has  
4 been on the primary side of the ledger. There haven't  
5 really been statements about extrusions. In fact obviously  
6 there's the Zhongwang expansion of 100 presses, and the  
7 Chinese statement vis-a-vis their capacity has been we're  
8 evaluating our environmental standards and may take down a  
9 smelter or two.

10 MR. GARY: And I think -- it's Jesse Gary from  
11 Century Aluminum. I think statements are one thing.  
12 Actions are another obviously. So there have been various  
13 statements throughout the years. We have never seen -- we  
14 have not seen a year, you know, choose which year you wish  
15 to go back to, where we've seen a net loss of capacity in  
16 China. They've continued to grow, not but for any  
17 statements that they have made, and grow significantly.

18 COMMISSIONER BROADBENT: Yeah.

19 MR. PRICE: So again, this sounds like the other  
20 rattle too. You see this constant, constant growth.  
21 Actually, although we can debate whether or not this means  
22 anything, on steel and on coal there is actually more --  
23 there has been at least some announcements of trying to rein  
24 in the capacity in a more official way. It continues to  
25 expand, but at least there's been attempts there, something

1 like the Global Forum announced.

2           Whether or not it again is a talkfest and a, you  
3 know, whatever it is we'll see. There's nothing comparable  
4 in the aluminum area, and in fact our impressions are that  
5 the U.S. government, in its attempt to broach these issues  
6 with the Chinese frankly have been rejected in, you know.  
7 One of the reasons why, you know, is that I think in steel  
8 frankly, there's been this series of cases not only in the  
9 United States but globally going across multiple product  
10 lines in multiple countries, to start to deal with the  
11 issue.

12           It creates some impetus for trying to finally  
13 have to deal with the problem, because even China at some  
14 point has to deal with the fact that it can't lend money  
15 exponentially forever. Maybe they can, but you know, at  
16 some point even though you run into it for a problem out  
17 there, they have not come to that day of reckoning at all in  
18 the aluminum industry, and if anything in fact there are  
19 several major expansions of millions of tons coming online  
20 on the primary side that are in these whole facilities that  
21 have a whole huge set of extrusion plants tied right next to  
22 it, with a series of sheet plants right next to it, and it's  
23 all going to come out to the United States because there is  
24 no -- well excuse me, out into the global market or the  
25 United States, if you lift this order, because there is no

1 place for it to go to.

2 I mean this is really -- it's fascinating  
3 because in aluminum, you can actually get, you know, through  
4 a lot of work that we've put, worked with Jesse on getting  
5 together. You can actually get down to what's really going  
6 on a core industrial level.

7 COMMISSIONER BROADBENT: Okay, great. Yeah, my  
8 time has expired.

9 VICE CHAIRMAN JOHANSON: Commissioner Kieff. Do  
10 you have any further questions?

11 COMMISSIONER KIEFF: No. I just thank the panel  
12 and look forward to the other questions.

13 VICE CHAIRMAN JOHANSON: Thank you, Commissioner  
14 Kieff. I have one issue I would like you all to address in  
15 the post-hearing brief please. In the post-hearing brief,  
16 could U.S. producers of fin evaporator please respond to  
17 Electrolux's assertions on pages 5 to 6 and pages 19 to 21  
18 of their pre-hearing brief, regarding the product mix by  
19 origin of its fin evaporator coil systems? Okay, thank you.  
20 That concludes my questions. Commissioner Williamson, do  
21 you have any questions?

22 COMMISSIONER WILLIAMSON: Are changes in raw  
23 material costs immediately reflected in aluminum extrusion  
24 prices, or is there a lag?

25 MR. HAMILTON: Brook Hamilton from Bonnell,

1 Commissioner. Hopefully I've got your question properly.  
2 So it kind of depends. It depends on customers and what you  
3 negotiate and so forth. In our case, for the bulk of our  
4 invoices, we transfer or charge the price of the raw  
5 material, the aluminum price, whatever's in effect at the  
6 time of shipment.

7 Different companies do it differently.  
8 Sometimes there's a lag that's agreed to and maybe we'll use  
9 a three month trailing average or what have you. Others in  
10 different sectors may have a fixed, maybe they're selling  
11 catalogue pricing for the various products that they make.  
12 So we'll agree to hold those prices firm for a year, you  
13 know, to allow them so they don't have to change their price  
14 books. But there will be an adjustment at some later date.

15 So it depends, but at the end of the day, the  
16 customers realize that if the value, I guess it's obviously  
17 more concerning if it goes up. But they're going to be  
18 paying sort of a two component price structure, the price of  
19 the metal and then the conversion cost.

20 COMMISSIONER WILLIAMSON: Okay, thank you.

21 MR. MERLUZZI: This is -- if I can add, this is  
22 Rick Merluzzi of Pennex Aluminum. The bulk of the industry  
23 operates the way Mr. Hamilton suggested. For Pennex we base  
24 it on the prior month's Midwest transaction price. So  
25 there's basically not a lagging. You acquire your raw

1 materials and then you sell it the next month.

2 COMMISSIONER WILLIAMSON: Okay, good. Thank you  
3 for those answers, and I thank the panel.

4 VICE CHAIRMAN JOHANSON: Thank you, Commissioner  
5 Williamson. We will now break for lunch. We will come back  
6 at -- oh, I apologize. Okay. The Chairman or the Vice  
7 Chairman requests that each staff -- I'm sorry. Does staff  
8 have any questions?

9 MR. CORKRAN: Douglas Corkran, Office of  
10 Investigations. Thank you Vice Chairman Johanson. Staff  
11 has no additional questions.

12 VICE CHAIRMAN JOHANSON: All right. Do  
13 Respondents have any questions?

14 MR. SCHAEFER: We don't, Mr. Vice Chairman.  
15 Thank you.

16 VICE CHAIRMAN JOHANSON: All right, thank you.  
17 Then we will now -- we will now take a lunch break. We will  
18 come back at 1:15. Thank you.

19 (Whereupon, a luncheon recess was taken, to  
20 reconvene at 1:15 p.m. this same day.)

21  
22  
23  
24  
25

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

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

4                   VICE CHAIRMAN JOHANSON: Mr. Secretary, are  
5 there any preliminary matters?

6                   MR. BISHOP: No Mr. Chairman, there are no  
7 preliminary matters.

8                   VICE CHAIRMAN JOHANSON: All right, thank you.  
9 With that, we will begin our afternoon session with the  
10 Respondents.

11                   STATEMENT OF JEREMIAH DORRIS

12                   MR. DORRIS: Good afternoon Madam Chairman and  
13 Vice Chairman and the rest of the Commissioners, my name is  
14 Jeremiah Dorris, and I am Electrolux's senior manager for  
15 trade compliance, where I'm responsible for the operational  
16 and trade compliance functions associated with the  
17 international trade. My teams are responsible for the  
18 import of any items where Electrolux is the importer of  
19 record into the United States, to include fin evaporator  
20 coils, kitchen appliance handles and trim kits.

21                   Accordingly, along with members of the  
22 Electrolux team, I've prepared and submitted the responses  
23 to the importer and purchaser questionnaires. I want to  
24 thank the Commission for holding this hearing, and the  
25 Commission staff for their follow-up questions to the

1 questionnaire responses.

2 I'm joined by two of our commodity manager,  
3 Erik Mata and Hernando Hicks, who will discuss fin  
4 evaporator coil systems and kitchen appliance handles, and  
5 all three of us are available for questions after our  
6 presentation.

7 Electrolux produces over 3.1 million  
8 refrigerators and freezers in Anderson, South Carolina and  
9 St. Cloud, Minnesota factories, where we employ  
10 approximately 3,000 people. Our overall U.S.-based  
11 employment is approximately 10,000 people. We are here  
12 today to respectfully request that you revoke the  
13 anti-dumping and countervailing duty orders on imports of  
14 fin evaporator coil systems and kitchen appliance handles.

15 We are unable to source these products  
16 domestically, so we have to import them. As a result of  
17 these orders, we have expended millions of dollars in  
18 anti-dumping and countervailing duties, compliance,  
19 accounting and legal costs. If there was a domestic  
20 industry that produced these products, the orders would at  
21 least benefit them.

22 But in this case, there are no competitive  
23 domestic producers of these products. Before the orders  
24 even went into place, the U.S. fin evaporator Brazeway moved  
25 its refrigerator fin evaporator manufacturing to Mexico,

1 where it has stayed and sold us fin evaporators ever since.  
2 We have never been able to source kitchen appliance handles  
3 domestically within the United States.

4 The orders on these two products creates  
5 substantial costs to U.S. refrigerator manufacturers and  
6 provide no benefits to another U.S. industry. These orders  
7 should be revoked for such products. On behalf of  
8 Electrolux, other U.S. manufacturers of refrigerators and  
9 all of their workers and families, we respectfully ask that  
10 the Commission revoke the orders on fin evaporator coil  
11 systems and kitchen appliance handles. Thank you.

12 STATEMENT OF ERIK MATA

13 MR. MATA: Good afternoon Mr. Vice Chairman  
14 and Commissioners. My name is Erik Mata. I'm the Commodity  
15 Manager for Compressors and Cooling Systems, where I am  
16 responsible for supplier relationship management for cooling  
17 systems including fin evaporators for Electrolux  
18 refrigerators and freezers.

19 I have held this position for 3-1/2 years and  
20 in the refrigerator appliance business for over 14 years.  
21 I'm here today to explain why fin evaporator coil systems  
22 are different products from aluminum extrusions and should  
23 be separately examined by the Commission in this review.  
24 I'm also here today to clarify statements made by Brazeway  
25 regarding its fin evaporator coil systems.

1                   The Commerce Department has found that  
2 aluminum extrusion components of complete fin evaporator  
3 coil systems are covered by the scope of the aluminum  
4 extrusions from China orders. Electrolux, however, always  
5 purchases complete fin evaporator coil systems. It never  
6 purchases the aluminum extrusion by itself. Based on my  
7 industry experience and knowledge, there's a clear dividing  
8 line separating fin evaporator coil systems from aluminum  
9 extrusions.

10                   As I explain what fin evaporator coil systems  
11 are and how they are different from aluminum extrusions, I  
12 would like to share with the Commission a sample fin  
13 evaporator coil system and sample aluminum extrusions, as we  
14 can see here on the table. The square and circle tubes are  
15 aluminum extrusions, and the other item is a fin evaporator  
16 coil system.

17                   As anyone can see, these are plainly different  
18 products. Fin evaporator coil systems cool air for  
19 refrigerators, freezers, heating, ventilation and air  
20 conditioning or HVAC and other customer industrial  
21 appliances. I will explain more in a minute, but these  
22 systems evaporate refrigerant into gas to absorb heat and  
23 cool air.

24                   The production process for fin evaporator coil  
25 systems begins with an aluminum billet extruded into a tube

1 of a designated diameter, wall thickness and coil. This is  
2 typically how the extruder tube is supplied to the fin  
3 evaporator manufacturers, in coils, not pieces.

4 The extruder tube is one of several input  
5 components used to manufacture fin evaporator coil systems.  
6 That manufacturing process involves up to 16 different  
7 steps, as follow. The extruder tube coil is cut to length.  
8 The extrusion is shaped into bent or hairpin profile, and  
9 then into separate serpentine-shaped tube. Sheets of  
10 aluminum alloy are cut, stamped and/or punched to form fins.

11 The insertion of the serpentine tubing into a  
12 stack of fins. Once inserted into the fins, the serpentine  
13 tubing expands in order to secure thermal contact with the  
14 fins. Aluminum or cooper U bends may connect the unbent  
15 ends of the serpentine tubing to each other and the fins  
16 through different brazing techniques.

17 The ends of the tubes are welded to import and  
18 export circuits, forming the systems. Some producers add  
19 other components, such as foam, stainless steel or  
20 non-extruded aluminum heaters, thermostat, sensors or other  
21 attachments, and fittings to the systems. Hydrostatic burst  
22 test of 350 PSI and factory proof test pressure of 140 PSI.

23 First leakage check for circuit tightness at  
24 both ends of the opening of the tube of by filling with  
25 nitrogen to 1.8 to 2.0 MPa pressure and submerging the

1 entire system into a water tank to test for air bubbles.

2 Multiple surface decontamination treatments using aluminum

3 acid agent, water, and passivation film-forming agent.

4 Second leakage check. Oven-drying at temperatures of 120

5 degrees plus or minus 10 degrees C for 18 to 20 minutes.

6 Nitrogen injection to dry and clean inside of the tube.

7 Electrical property check and finished product

8 check.

9 This multi-step manufacturing operation

10 changes the essential physical characteristics and uses of

11 the upstream aluminum extrusion. Fin evaporators are complex

12 components of machines, while aluminum extrusions are

13 profiles. As you can see in the sample, fin evaporators

14 include a number of stamped aluminum fins that are made of

15 non-extruded aluminum alloy sheets of multiple sizes

16 attached to the coil, two copper or aluminum stub fittings

17 welded to the open ends of the coil, a capillary on the fin

18 evaporator's suction line and, in certain instances,

19 additional componentry such as foam air dams and defrost

20 heater, sensors, thermostat, or other attachments.

21 The sample we brought today is a refrigeration

22 fin evaporator. Above you will see photographs of

23 refrigeration and HVAC fin evaporators and aluminum

24 extrusions, specifically window profiles, hollow profiles,

25 and extruded aluminum tubing. Each picture speaks a thousand

1 words.

2                   Just as stark as the differences in physical  
3 characteristics and appearances are the differences in  
4 end-use applications between fin evaporator coil systems and  
5 aluminum extrusions. Fin evaporators are used for the  
6 thermal management of refrigerators, freezers, HVAC, and  
7 other consumer and industrial appliances that require cooled  
8 air. Fin evaporators have a complex chemical and mechanical  
9 function: to evaporate a recirculating refrigerant or  
10 cooling chemical into a gas, which absorbs heat in the  
11 process and cools the air that passes over the fin  
12 evaporator. The fins attached to the evaporator coils  
13 improve the efficiency of the cooling system by directing  
14 hot air closer to the coils and expanding the surface area  
15 of the evaporator system. Depending on the end-use  
16 applications, fin evaporators have varying degrees of  
17 cooling capacity, flow patterns, fin configuration, and fin  
18 densities. Fin evaporators are produced in custom shapes and  
19 sizes that are proprietary and dedicated to specific users  
20 and application and, thus by definition one type of fin  
21 evaporators is not interchangeable with another, much less  
22 with aluminum extrusions.

23                   On the other hand, the end-use applications  
24 for aluminum extrusions vary widely, for example windows,  
25 doors, or framing, but their functions are simple and

1 physical in nature essentially, support, contain, and  
2 transfer. Aluminum extrusions do not have specific cooling  
3 capacity, flow patterns, or fins. Thus, fin evaporators are  
4 significantly different from aluminum extrusions in terms of  
5 function.

6 Aluminum extrusions are not dedicated for use  
7 as fin evaporators and fin evaporators have specific  
8 dedicated uses unlike aluminum extrusions. Aluminum  
9 extrusions have literally thousands of different uses, one  
10 of which is the production of fin evaporators. An extremely  
11 small percent of aluminum extrusions are dedicated to fin  
12 evaporators. Each fin evaporator has one specific use in one  
13 specific type of refrigeration system. On the other hand,  
14 many aluminum extrusions are mass produced for distributors  
15 or for many customers and are standardized commodities, with  
16 the same exact aluminum extrusion sold to many different  
17 customers.

18 Fin evaporator and aluminum extrusions  
19 comprise separate markets. While aluminum extrusions are  
20 sold to distributors or end users, fin evaporator coil  
21 systems are sold to a distinct class of original equipment  
22 manufacturers of OEMs specifically, refrigerated system  
23 manufacturers and produced-to-order exclusively for a  
24 specific individual OEM. Fin evaporators are finished  
25 merchandise that is fully and permanently assembled and

1 completed at the time of sale or importation. They have been  
2 completely manufactured into a downstream product and  
3 require no further finishing or fabrication for their  
4 end-use.

5 On the other hand, as you can see in the  
6 samples, many aluminum extrusions are sold as only  
7 mill-finished, meaning they are only processed through  
8 aging, but no further finishing or fabrication. Most  
9 aluminum extrusions covered by the orders, even if they have  
10 undergone some degree of further fabrication, are still pure  
11 aluminum extrusion. Fin evaporators, on the other hand and  
12 as you can see, are finished products that contain an  
13 aluminum extrusion and many non-aluminum extrusion parts.  
14 Not surprisingly, customers, end-users, and producers  
15 perceive fin evaporators to be distinct from aluminum  
16 extrusions. In fact, customers, end-users, and producers do  
17 not identify fin evaporators as aluminum extrusions at all,  
18 but rather as downstream components of refrigerators that  
19 are used to evaporate cooling chemicals from liquid to gas.

20 As I just explained, extruding the coil input  
21 is only the first of many steps required to manufacture fin  
22 evaporator coil systems. Manufacturing of fin evaporators  
23 requires unique knowledge, capabilities, and employees for  
24 tube bending, attaching stamped fins, leakage testing, and  
25 brazing copper tube. Fin evaporator manufacturers develop

1 and supply OEMs component solutions as opposed to producers  
2 of aluminum extrusions that produce commodity-type raw  
3 extruded profiles. Of the 30 U.S. aluminum extruders listed  
4 in the Commission's staff report, I believe only one,  
5 Brazeway, manufactures fin evaporator coil systems.

6 The majority over 70 percent of the cost and  
7 value of fin evaporator coil systems come from non-aluminum  
8 extrusion components and post-extrusion manufacturing costs.  
9 The proprietary data regarding relevant cost and value of  
10 fin evaporators and the component used to make them reflect  
11 the labor-intensive fin evaporator manufacturing process and  
12 resulting value added.

13 Thus, the Commission should treat fin  
14 evaporator coil systems as a separate product from aluminum  
15 extrusions.

16 I would also like to briefly address the  
17 statements made by Brazeway included in the U.S. Aluminum  
18 Extrusions Fair Trade Committee's brief at Exhibit 8. Brazeway states  
19 that it is the largest manufacturer of fin evaporator coil  
20 systems in the United States and that it currently supplies  
21 Electrolux most of its fin evaporators. Brazeway states  
22 that, as a result of the orders, it kept a significant  
23 portion of Electrolux and Whirlpool's fin evaporator  
24 business and increased its sales, investment, capacity,  
25 production, and employment in the United States.

1                   Brazeway is our primary supplier of fin  
2                   evaporators for refrigerators we produce in the United  
3                   States and Mexico. However, all of the fin evaporators that  
4                   we purchase from Brazeway are produced in Mexico. Brazeway  
5                   does not domestically produce the refrigeration fin  
6                   evaporators we require. I presume the same is true for  
7                   Whirlpool. Electrolux has purchased fin evaporators from  
8                   Brazeway in Mexico since at least 2006 and continue to  
9                   purchase from Brazeway in Mexico today. Based on my industry  
10                  knowledge, I believe that Brazeway moved its entire  
11                  refrigeration fin evaporator coil system production to  
12                  Mexico to support its customer's operations base in Mexico,  
13                  where both Electrolux and Whirlpool have additional  
14                  refrigerator factories. The majority of Whirlpool's North  
15                  American refrigerator manufacturing operations are located  
16                  in Mexico, including a large factory in Monterey where  
17                  Brazeway's fin evaporator operations are located. Electrolux  
18                  has a plant in Juarez, Mexico. That is why I believe that,  
19                  despite the protection of the orders and absence of  
20                  significant Chinese imports of fin evaporators in the US  
21                  market, Brazeway has kept its refrigeration fin evaporator  
22                  production in Mexico. Thus, Brazeway has no US sales of fin  
23                  evaporators to Electrolux and presumably Whirlpool to lose  
24                  if the orders were revoked.

25                   Brazeway also states that if the orders were

1 terminated, Electrolux and Whirlpool would shift purchases  
2 to Chinese suppliers. In reality, however, this is  
3 impossible. Electrolux is finalizing a long-term supply  
4 agreement with Brazeway's Mexican facilities for the supply  
5 of fin evaporator coil systems. This agreement demonstrates  
6 the long-term partnership between the two companies. I do  
7 not know, but I assume Whirlpool has similar long-term  
8 supply agreements with Brazeway. These agreements protect  
9 Brazeway's Mexican sales to Electrolux and presumably  
10 Whirlpool.

11 Thank you and I am happy to answer any  
12 questions you may have.

13 STATEMENT OF BEN CARYL

14 MR. CARYL: Good afternoon Vice Chairman and  
15 Commissioners and staff. My name is Ben Caryl of Crowell  
16 and Moring, counsel for Electrolux. My testimony will focus  
17 on why revocation of the orders as to fin evaporator coil  
18 systems will not materially injure the domestic industry  
19 producing fin evaporators within a reasonably foreseeable  
20 time.

21 First, as Mr. Mata just testified, there is a  
22 clear dividing line between fin evaporator coil systems and  
23 aluminum extrusions based on each of the five factors the  
24 Commission semi-finished product analysis and the  
25 Commission's traditional six factor domestic like product

1 analysis.

2 To reiterate, we are not arguing the aluminum  
3 extrusion tube used to produce fin evaporators are separate  
4 like products. We are arguing that a finished, complete fin  
5 evaporator coil system, the products that Electrolux  
6 purchases, are separate like products from aluminum  
7 extrusions.

8 Second, U.S. manufacturers of fin evaporator  
9 coil systems constitutes a separate domestic industry from  
10 U.S. aluminum extruders. This morning, Mr. Adams of  
11 Brazeway said there are a number of companies capable of  
12 producing fin evaporator coils. The identity of the  
13 domestic industry is confidential, but please look at the  
14 record to see if any other U.S. producers of fin evaporators  
15 have submitted questionnaire responses or otherwise  
16 indicated support for the orders.

17 Third, revocation of the orders on fin  
18 evaporator coil systems is not likely to lead to  
19 continuation or occurrence of material injury within the  
20 reasonably foreseeable time. Many of the key facts,  
21 conditions of competition, argument and analysis are  
22 confidential. But I will say what I can publicly now, refer  
23 to our confidential slides and continue to address this in  
24 the post-hearing.

25 There is no record evidence that subject fin

1        evaporator imports ever injured the domestic industry. The  
2        Commission typically begins its likely injury analysis in a  
3        sunset review with its injury determination in the original  
4        underlying investigation. The Commission's investigation  
5        for the aluminum extrusion orders, however, did not  
6        separately analyze the volume effects, price effects and  
7        impact of imports of fin evaporators on the domestic fin  
8        evaporators industry.

9                        Instead, and contrary to testimony you heard  
10       this morning and the Commission's original determination and  
11       views in this case, without conducting a separate like  
12       product analysis for fin evaporators the Commission included  
13       them in the same domestic like product and industry as  
14       aluminum extrusions, but we are here to confirm that they  
15       are not.

16                      There is no record evidence in the subject fin  
17       evaporator import data during the original investigation  
18       that indicates subject fin evaporator import volumes were  
19       significant. There's no record evidence that subject fin  
20       evaporator import price has depressed or suppressed domestic  
21       fin evaporators during the investigation. There is no  
22       record evidence that subject fin evaporator import prices  
23       undersold the domestic fin evaporators during the  
24       investigation, as neither Petitioners nor the Commission  
25       requested pricing data on any fin evaporator products during

1 the original investigation.

2 Commission staff did not confirm any lost  
3 sales or revenue allegations regarding fin evaporators  
4 during the original investigation. I refer to Confidential  
5 Slide 2. Finally, there's no record data on the domestic  
6 fin evaporator industry's statutory performance factors  
7 during the Period of Investigation. Thus, there is no  
8 record evidence, much less substantial record evidence from  
9 the Commission's original investigation, that the domestic  
10 fin evaporator industry was ever materially injured by  
11 subject fin evaporator imports.

12 Further, the Commerce Department did not  
13 individually investigate or find dumped or subsidized sales  
14 of fin evaporator imports. Thus, contrary to Brazeway's  
15 claims otherwise, there was no record -- there is no record  
16 evidence from the Commerce Department's investigation that  
17 fin evaporator imports were being dumped or subsidized in  
18 the United States.

19 The domestic fin evaporator industry is not  
20 currently injured by subject imports of fin evaporators.  
21 Subject fin evaporator imports are virtually non-existent in  
22 the U.S. market. I refer to Confidential Slide 3, which  
23 shows U.S. fin evaporator market share for 2013 to 2016  
24 based on the staff report data. Subject fin evaporator  
25 imports are currently negligible under the statute, and thus

1 by definition are not currently significant and are not  
2 injuring the domestic industry.

3 As Confidential Slide 4 shows, there is no  
4 correlation much less causation between subject import fin  
5 evaporator volumes and the domestic fin evaporator  
6 industry's performance. Returning to Confidential Slide 3,  
7 which shows that the domestic fin evaporator industry's U.S.  
8 market share declined from 2013 to 2016 has been due to  
9 increases in non-subject fin evaporator import volumes  
10 during the same period.

11 Thus any injury the domestic fin evaporator  
12 industry currently suffers from imports is from non-subject  
13 sources, which increased throughout the review period and  
14 captured U.S. market share at the direct expense of the  
15 domestic fin evaporator industry. Please refer to  
16 Confidential Slide 5. Thus, the domestic fin evaporator  
17 industry is not presently materially injured by reason of  
18 subject imports, and given that the Commission has never  
19 found that subject fin evaporator imports materially  
20 injured the domestic fin evaporator industry, and that  
21 imports do not currently injure the domestic industry, the  
22 Commission has no historic base for which to compare and  
23 assess the likelihood of a continuation or recurrence of  
24 material injury, as it does in most sunset reviews, and  
25 instead must determine whether it is likely that such

1 imports will materially injure the domestic industry within  
2 a reasonably foreseeable time upon revocation.

3 If the orders are revoked on the fin  
4 evaporator coil systems, it's highly unlikely that subject  
5 fin evaporator imports will materially injure the domestic  
6 fin evaporator industry within a reasonably foreseeable  
7 time. Due to several unique but confidential conditions of  
8 competition identified in Confidential Slide 7, the domestic  
9 fin evaporator industry is insulated from injury from  
10 subject fin evaporator imports.

11 I refer the Commission to Mr. Mata's testimony  
12 regarding Brazeway, our confidential pre-hearing brief at  
13 pages 19 through 26 and the confidential slides.  
14 Confidential Slide 5 compares the domestic fin evaporator  
15 industry's domestic fin evaporator sales to other  
16 confidential data. I can only publicly say that the bottom  
17 row levels on this slide are unprecedented. Confidential  
18 Slide 6 is a table summarizing U.S. fin evaporator  
19 producers' major customers and the location of the  
20 production sold to each customer.

21 Confidential Slide 7, as mentioned, summarizes  
22 two important but confidential conditions of competition in  
23 the fin evaporator coil industry, and Confidential Slide 8  
24 summarizes our list of information that the Commission  
25 should request related to fin evaporator coil systems. In

1 its statements included in Petitioners' brief, Brazeway  
2 explains that it relocated a portion of its fin evaporator  
3 coil system production to Mexico by building a manufacturing  
4 plant that's supported by the supply of extruded aluminum  
5 tube from its U.S. facilities.

6 It states that the orders allowed it to  
7 increase its fin evaporator sales capacity, production and  
8 wages in the United States. These statements do not comport  
9 with the other confidential record information, including  
10 U.S. fin evaporator producer questionnaire responses.  
11 Today, Mr. Adams of Brazeway and Mr. Gary of Century  
12 Aluminum now claim that revocation of the orders on fin  
13 evaporators will injure the U.S. primary aluminum and  
14 billet industry.

15 In general, I want to make three seemingly  
16 obvious statements, but they are very relevant to this case.  
17 The Commission examines likely injury to the domestic  
18 industry's domestic manufacturing and sales operations of  
19 the like product by subject imports upon revocation. Two,  
20 it logically follows the Commission does not examine injury  
21 to domestic industries' offshore manufacturing or sales  
22 operations of the like product, and three, it also logically  
23 follows that the Commission does not examine injury to a  
24 domestic industry's upstream operations of a different like  
25 product.

1                   For example, in proceedings on cold-rolled  
2                   steel, the Commission does not consider the impact  
3                   cold-rolled steel imports have on domestic industry's  
4                   hot-rolled steel production. Thus, to the extent that  
5                   Brazeway and now Century are arguing that revocation of the  
6                   orders as to fin evaporators will injure their U.S.  
7                   production of aluminum extrusions and primary aluminum  
8                   billet, the Commission should only consider effects that  
9                   revocation would cause to U.S. fin evaporators, fin  
10                  evaporator manufacturers, U.S. fin evaporator production and  
11                  sales. Thank you, and I'll now hand it over to Alex  
12                  Schaefer.

13                                   STATEMENT OF ALEXANDER M. SCHAEFER

14                                   MR. SCHAEFER: Good afternoon, Commissioners.  
15                   In view of the ever-expanding scope in this case, we  
16                   appreciate the Commission's examination of the like product  
17                   issues associated with fin evaporator coil systems and  
18                   fittings for engine cooling systems. But in response to the  
19                   Commission's Notice of Institution, Electrolux raised  
20                   another important like product issue concerning those  
21                   kitchen appliance handles that have been found by Commerce  
22                   to be covered by the scope.

23                                   The Commission's draft questionnaires in  
24                   September included specific breakout data for kitchen  
25                   appliance handles, and requested that interesting parties

1 provide comments on the definitions for and pricing products  
2 for kitchen appliance handles. In its comments on the draft  
3 questionnaires, Electrolux proposed specific revisions to  
4 the draft questionnaires to elicit more meaningful and  
5 useful data, that would enable the Commission to fully  
6 examine the like product issues, the domestic industry  
7 issues and separate injury analyses implicated by the  
8 handles.

9                   The final questionnaires, however, not only  
10 ignored Electrolux's proposed revisions to elicit additional  
11 information, they in fact removed all of the draft  
12 questionnaire's requests for kitchen appliance  
13 handle-specific information.

14                   Commission staff and an attorney from the  
15 General Counsel's office informed us that the reason for not  
16 creating the separate breakout was because Electrolux  
17 indicated in its substantive response that kitchen appliance  
18 handles are not domestically produced, and the Commission  
19 will not define a like product that's domestically produced.

20                   We respectfully submit that that position is  
21 unsupported by the language of the statute, and also is  
22 inapposite with the statute's underlying purpose. In order  
23 to determine whether material injury to an industry in the  
24 United States is likely to continue to recur by reason of  
25 subject imports, the Commission has to apply the statutory

1 definitions of industry and domestic like product.

2 Under the statute, the term "industry" means  
3 the producers of the domestic like product or at least a  
4 large proportion of them. Domestic like product meanwhile  
5 is, and I'm quoting here, "a product which is like or in the  
6 absence of like most similar in characteristics and uses  
7 with the article subject to an investigation."

8 Nothing in the statutory framework forecloses  
9 the Commission from examining whether a product that isn't  
10 produced in the U.S. is nevertheless in the language of the  
11 statute, like or most similar in characteristics with the  
12 article subject to the investigation, or whether it's not.  
13 To interpret these provisions differently is to stand in  
14 profound conflict with the overarching purposes of the like  
15 product analysis exercise, which of course is to ensure that  
16 AD/CVD orders are covering all of the like products that are  
17 causing injury, and none that aren't.

18 There's no authority for the proposition that  
19 once a product that the domestic industry doesn't produce is  
20 inadvertently included within the scope, the Commission  
21 lacks the authority to evaluate its impact and the extent to  
22 which it represents a separate like product in order to  
23 appropriately circumscribe the order.

24 The Commission has that authority, and it  
25 shouldn't cede it, particularly under the circumstances at

1 issue here. If there's a separate like product that's not  
2 domestically produced, there's inherently no relief to  
3 provide to the domestic industry regarding that product.  
4 Accordingly, U.S. AD and CVD orders shouldn't encompass such  
5 products, and Electrolux submits that includes appliance  
6 handles.

7 As we've outlined in our prehearing brief and  
8 as Hernando will explain to you shortly, application of the  
9 Commission's traditional six like product factors  
10 establishes that kitchen appliance handles are a separate  
11 like product from aluminum extrusion. Given that there are  
12 no U.S. producers of kitchen appliance handles, a recurrence  
13 or continuation of injury by reason of a revocation of the  
14 order as to that like product is necessarily impossible.

15 The Commerce Department is obliged to  
16 determine the scope of an investigation, meaning describe  
17 the class or kind of foreign merchandise at the AD order  
18 covers. Although the Commission can't alter the scope of  
19 these orders directly, it must nonetheless identify the  
20 domestic like product or products, the industry or  
21 industries and the foreign like products.

22 In a given proceeding, the Commission can and  
23 has found multiple like products and voted affirmative on  
24 one and negative on another. In fact, that happened in this  
25 proceeding. In such cases, the Commerce Department issues

1 or continues an order only as to the imports for which the  
2 Commission made affirmative determinations. Thus ultimately  
3 such like product industry and separate injury  
4 determinations may effectively change the scope of the  
5 resulting or continuing AD/CVD orders.

6 There is every reason to maintain that  
7 structure for a like product that's not domestically  
8 produced. In short, if these items aren't part of the  
9 domestic like product, then the orders shouldn't cover them,  
10 and revocation on that basis is appropriate.

11 Finally, I'd like to make one additional legal  
12 point that the Commission should address in its sunset  
13 determination. The Commerce Department has issued several  
14 scope rulings that kitchen appliance handles and trim kits  
15 that include non-aluminum extrusions components are covered  
16 by the AD/CVD orders -- I apologize -- are not covered by  
17 the AD/CVD orders on aluminum extrusion from China.

18 That came after several rounds of remands from  
19 the U.S. Court of International Trade. These remand  
20 determinations were upheld by the CIT and are now before the  
21 Federal Circuit. For purposes of the sunset review,  
22 however, the Commission should confirm that it is treating  
23 imports of such kitchen appliance components as non-subject,  
24 based on the CIT's opinions affirming the Commerce  
25 Department's determinations on remand that those handles and

1 trim kits are not covered.

2 Let me now pass the baton to Hernando Hicks of  
3 Electrolux, who can provide more detail on the distinction,  
4 the very important distinction between aluminum extrusion  
5 and kitchen appliance handles.

6 STATEMENT OF HERNANDO HICKS

7 MR. HICKS: Thank you. Good afternoon Mr.  
8 Vice Chairman and Committee and staff. My name is Hernando  
9 Hicks. I am Electrolux's commodity manager for stainless  
10 steel, where I'm responsible for metal, coated and component  
11 purchases of the seven North American facilities that  
12 produce Electrolux appliances, primarily refrigerators,  
13 dishwashers and ovens.

14 I have been in the refrigerator appliance  
15 business for nine years, and the U.S. manufacturing industry  
16 for 21 years. I am here today explaining why kitchen  
17 appliance handles produced from aluminum extrusion that have  
18 been found by the Commerce Department to covered by this  
19 case are different in key aspects from aluminum extrusions  
20 and should be separately examined by the Commission in this  
21 review.

22 The Commerce Department found that kitchen  
23 appliance handles, handles for refrigerators and ovens  
24 without end caps are covered by the scope of the aluminum  
25 extrusion orders. Based on my industry experience and

1 knowledge, however, kitchen appliance handles and aluminum  
2 extrusion are different products in different markets and  
3 industries.

4                   Handles and extrusions have different physical  
5 characteristics and uses. Kitchen appliance handles have  
6 been designed and manufactured for a specific refrigerator  
7 or oven models. At the time of import, they are fully  
8 complete, finished, and are ready for the specific use. The  
9 kitchen appliance handles are constructed and finished to  
10 precisely match the contours, colors and finishes of the  
11 kitchen appliance models for which they are intended.

12                   The handle in the design is specified by  
13 Electrolux's major customers, as well as consumer-specific  
14 feedback from kitchen appliance focus group reviews. The  
15 handle tolerances must always meet the customers' specific  
16 requirement of aesthetics, texture and function mandated for  
17 kitchen appliance. Kitchen appliance handles cannot serve  
18 any other purpose than their specific intended use, whereas  
19 aluminum extrusions have a wide range of uses, primarily in  
20 building, construction, transportation and engineering  
21 product sectors, which the group that spoke before focused  
22 on.

23                   Kitchen appliance handles are not  
24 interchangeable with aluminum extrusions. Kitchen appliance  
25 handles are produced in custom shapes and sizes that are

1 proprietary and dedicated to specific applications, users  
2 and models. Thus, these handles are not even  
3 interchangeable with each other, much less with aluminum  
4 extrusions.

5           Handles and extrusions are sold in different  
6 channels of distribution as well. Kitchen appliance handles  
7 are sold to distinct classes of commercial users and  
8 consumers, while aluminum extrusions are sold to a wide  
9 array of manufacturers, fabricators and distributors and end  
10 users. The commercial end users that buy kitchen appliance  
11 handles are kitchen appliance manufacturers such as  
12 Electrolux.

13           Kitchen appliance handles are sold as finished  
14 products, not as products requiring further fabrication  
15 before use. The channels of trade for kitchen appliance  
16 handles are also different from aluminum extrusions because  
17 they are all imported. No U.S. aluminum extruder makes or  
18 sells kitchen appliance handles.

19           Kitchen appliance handles and aluminum  
20 extrusions do not share common manufacturing facilities or  
21 production employees. As I just mentioned, no U.S. aluminum  
22 extrusions produce kitchen appliance handles. Producers of  
23 kitchen appliance handles are not in the business of selling  
24 aluminum extrusions. Producers of kitchen appliance handles  
25 purchase aluminum extrusions from aluminum extruders, and

1 manufacture them into kitchen appliance handles.

2                   Specifically, the unfinished aluminum extruder  
3 profile is cut to length on the cutting machine, is bent to  
4 the design specification, is punched by a punching machine.  
5 Then holes are drilled and chamfered on a bench drilling  
6 machine. The end surfaces are then cut to a contour  
7 specification. Holes are screwed using an automatic  
8 screwing machine. The sizes and dimensions are inspected.

9                   It's brushed using a triangle brushing machine  
10 to specification, and anodized, mirror polished with a  
11 vertical abrasive finishing machine, and then finally  
12 assembled, inspected and packed for shipment. These  
13 manufacturing processes add significant value to the  
14 aluminum extrusion. In fact, the extrusion could be as  
15 little as 20 percent of the total value of the kitchen  
16 appliance handle.

17                   Based on these differences, it is no surprise  
18 that customers, end users, producers perceive kitchen  
19 appliance handles to be distinct from aluminum extrusions.  
20 Purchasers of kitchen appliance handles expect such products  
21 would not require further fabrication or processing, such as  
22 bending, cutting, forming, punching or stamping prior to  
23 being affixed to the kitchen appliances.

24                   Purchasers of kitchen appliance handles,  
25 whether manufacturers or consumers, expect such products to

1       enhance the function, usability and appearance of their  
2       kitchen appliance by giving them a functional yet attractive  
3       means to easily open their appliance doors.

4                       Many consumers of kitchen appliances demand  
5       that their appliance have high end finishes such as  
6       stainless steel and the appliance's appearance complement  
7       the overall design of their kitchens. Electrolux kitchen  
8       appliance handles offer such discriminating consumers with  
9       the enhanced and customized appearance for their appliances.

10                      Finally, kitchen appliance handles are priced  
11       on a different basis than aluminum extrusions. Kitchen  
12       appliance handles are sold by the piece, whereas aluminum  
13       extrusions, as you heard earlier, are typically sold on the  
14       basis of a metal price plus a per pound fabrication charge.  
15       Thus, there is clear difference between kitchen appliance  
16       handles and aluminum extrusions.

17                      Because there are no U.S. producers of kitchen  
18       appliance handles, revocation of the aluminum extrusion  
19       orders on kitchen appliance handles would have no impact on  
20       the U.S. aluminum extruders. On the other hand, revocation  
21       of the orders on the kitchen appliance handles would provide  
22       significant relief to Electrolux and other U.S.  
23       manufacturers of kitchen appliances, who currently have to  
24       pay millions of dollars in extra duties for a product that  
25       is not available domestically.

1                   Thank you, and I'm happy to answer any other  
2                   questions you may have.

3                   MR. HEFFNER: Good afternoon, Vice Chairman,  
4                   Commissioners and staff. My name is Doug Heffner from  
5                   Drinker, Biddle and Reath. We're here today on behalf of  
6                   Adams Thermal. I have to the right of me Mr. Rick Johnson  
7                   from Drinker Biddle and Mr. Richard Ferrin from Drinker  
8                   Biddle.

9                   Todd Herkschorn from Adams Thermal was going  
10                  to be here today. He had an unexpected emergency and had to  
11                  cancel. So we apologize, but he is available for any  
12                  questions for post-hearing.

13                  And I'll pass it over to Mr. Johnson now.

14                  STATEMENT OF RICK JOHNSON

15                  MR. JOHNSON: Good afternoon, Commissioners.  
16                  Thank you for this opportunity to testify.

17                  Adams Thermal is a manufacturer of engine cooling  
18                  systems for off-highway and on-highway vehicle applications.  
19                  It manufactures cooling modules, radiators, charge air  
20                  coolers, oil coolers, fuel coolers, and condensers.

21                  Adams Thermal did not participate in the  
22                  Commission's original injury investigations because it had  
23                  no idea that an import investigation covering aluminum  
24                  extrusions would have any direct relevance to its business.

25                  When the Commission conducted its original injury

1 investigations the scope referenced 15 HTS classifications,  
2 as you heard this morning. But now these Orders identify  
3 more than 100 HTS classifications, including, by my count at  
4 least, eight entirely different HTS chapters. These are not  
5 minor modifications.

6 We are unaware of the existence of any other  
7 Order that has undergone such an expansion of HTS  
8 classifications. Moreover, as of late 2016 there were  
9 already 97 scope rulings conducted by the Department of  
10 Commerce.

11 For virtually every one of these, the product at  
12 issue was not investigated nor considered by the Commission  
13 in its original investigation.

14 In making its like-product analysis, the  
15 Commission looks for clear dividing lines among possible  
16 like-products and disregards minor variations. In the  
17 initial investigation, the Commission found such a clear  
18 dividing line with respect to finished heat sinks based on  
19 the totality of the factors analyzed in the separate  
20 like-product analysis.

21 Now before we present our argument, we would like  
22 to show you which products we're talking about, some  
23 samples.

24 MR. HEFFNER: We have both the aluminum feedstock  
25 that it came from--this is Douglas Heffner--and the fitting

1 that was machined from that aluminum feedstock.

2 MR. JOHNSON: And I think you can probably figure  
3 out which is which based on the shape from the original  
4 blank. So these aluminum extrusions, these blanks, are  
5 aluminum extrusions of the type considered by the Commission  
6 in its initial investigation.

7 As you can see, they are unfinished, basic shapes  
8 and forms, have uniform cross-sections. The finished  
9 fittings, on the other hand, are those that are imported by  
10 Adams Thermal. Much of the aluminum extrusion has been  
11 removed through machining, as you can see. Holes have been  
12 bored to allow fluid to pass through. They have been  
13 threaded, whether on the interior or the exterior of the  
14 formed tubular sections. The tubular section itself may not  
15 be uniform. They no longer have uniform cross-sections.  
16 They are finished parts ready for assembly into the engine  
17 cooling system.

18 Finished parts such as these were not considered  
19 by the Commission in its initial investigation. Adams  
20 Thermal believes that the precision fittings--machining that  
21 changes the uniform cross-section of the original extrusion  
22 into fittings for engine cooling systems fundamentally  
23 changes the nature of the product such that it's no longer  
24 merely an extrusion, but is a fabricated finished part and  
25 becomes a separate like-product.

1           Indeed, they are a separate like-product  
2           regardless of whether the Commission applies its standard  
3           like-product test, or instead applies its semi-finished  
4           product analysis. For purposes of this testimony, we will  
5           focus on the traditional like-product factors and refer to  
6           the Commission to our prehearing brief for consideration of  
7           the semi-finished product analysis.

8           Under the traditional like-product analysis, as  
9           you know, the Commission generally considers six factors.  
10          These show a clear dividing line between fittings for engine  
11          cooling systems and subject aluminum extrusions when these  
12          factors are evaluated.

13          Looking at the first factor, fittings for engine  
14          cooling systems have physical characteristics and uses that  
15          are distinct from aluminum extrusions. Fundamentally, every  
16          example of an extrusion from the initial investigation is a  
17          product with a shape that generally resembles a profile with  
18          a consistent cross-section.

19          In contrast, the particular machining processes  
20          used to produce the Adams Thermal fittings significantly  
21          changed the physical properties of the blank feedstock to be  
22          more than a fabricated aluminum extrusion, and instead a  
23          fully finished part.

24          The cross-section shape of the finished part is  
25          not uniform, but instead is fundamentally changed by the

1 machining processes. The finished parts are specially  
2 designed and processed to have physical characteristics that  
3 meet the unique requirements of on- and off-highway vehicle  
4 parts manufacturers.

5           These parts do not resemble the aluminum  
6 extrusions contemplated by the Orders. As also noted in our  
7 brief, none of the information presented by the other  
8 parties contradicts the plain-to-see fact that fittings are  
9 not feedstock. Instead, they're downstream, highly value  
10 added, physically very distinct and therefore entirely  
11 different products.

12           Ultimately, fittings for engine cooling systems  
13 are systems or parts designed specifically for use in oil  
14 coolers, condensers, and radiators. There's no secondary  
15 market for these fittings.

16           In contrast, the class or kinds of extrusions  
17 covered by the Orders have a wide range of uses. I think  
18 somebody said a zillion this morning.

19           Regarding the second factor, the manufacturing  
20 facilities and production employees used to produce aluminum  
21 extrusions differ sharply from the facilities and employees  
22 used to manufacture fittings for engine cooling systems.

23           In fact, the aluminum extrusion blank is just the  
24 starting point for the production of the fittings. The  
25 smooth blank is inserted into a CNC machine where it

1 undergoes complex shaping processes. The blank is  
2 rough-turned, holes are drilled. The piece may be shaped  
3 further through a boring and threading process. The top of  
4 the piece may be further flattened in the C&C machine and an  
5 inner thread bored in the drill hole.

6 In all cases, much of the aluminum is removed by  
7 precise post-extrusion machining processes. It is these  
8 steps taken in the CNC machine that fundamentally changes  
9 the form of the final fitting part.

10 Indeed, the fittings require very tight  
11 tolerancing and control of processes to ensure that they  
12 will braze adequately in Adams Thermal's heat exchanger  
13 manufacturing process. Extensive technical and quality  
14 system audits are conducted prior to engaging with a  
15 supplier.

16 In most cases, the U.S. aluminum extrusion  
17 producers do not make fittings for engine cooling systems,  
18 but instead only extrude the blank and sell it to an  
19 independent downstream customer who manufactures the  
20 fitting. The record shows that one U.S. extruder claimed to  
21 be a producer of fittings for engine cooling systems, but  
22 the Commission staff collected further evidence for that  
23 particular producer that they did not produce the fitting,  
24 instead producing the extruded aluminum blank that was then  
25 sold to unaffiliated customers that manufactured the

1 fittings in a separate plant.

2 Even in the rare case where an extruder also  
3 manufactures the downstream fittings, the producer must  
4 transform the extrusion to a different production area where  
5 entirely different machinery transforms the extrusion into a  
6 fitting. And labor is performed by different employees from  
7 those on the extrusion line.

8 There is significant additional processing  
9 equipment and manpower necessary to operate the equipment  
10 for these fittings as compared to what's necessary to  
11 produce the general aluminum extrusion shapes and forms.

12 The relevant analogy here, as I think you've  
13 already heard, is flat-rolled steel. There's a reason that  
14 the Commission considers a slab to be a different  
15 like-product than a hot-rolled coil or a cold-rolled coil.  
16 These forms of steel are often made in the same mills but  
17 the production lines are entirely separate and are manned by  
18 different employees. Yet the Commission does not dismiss  
19 these distinctions by saying the slab is no different than a  
20 cold-rolled coil being finished in a certain way based on  
21 end use.

22 Turning to the third factor, aluminum extrusions  
23 are not interchangeable with fittings for cooling systems.  
24 This point should be obvious. Ultimately an extruded  
25 aluminum shape or form is about as interchangeable with one

1 of these fittings as a cherry tree is with a bedroom  
2 dresser, or a flat piece of paper is with an origami swan.

3           Regarding the fourth factor, it should go without  
4 saying that the perceptions of customers and producers of an  
5 extruded aluminum bar, rod, or hex blank differ sharply from  
6 the expectations of Adams Thermal's customers who purchase  
7 finished fittings for engine cooling systems, or Adams  
8 Thermal itself.

9           Adams Thermal customers do not expect to receive  
10 an extruded aluminum bar or a blank, and in fact they would  
11 obviously find no value in the receipt of such raw material.  
12 For purchasers of fittings for engine cooling systems, the  
13 underlying intermediate extruded product has no value other  
14 than as a raw material.

15           For purchasers of general aluminum extrusion  
16 shapes and forms such as bars, rods, and hexes, of course  
17 the expectation is that they will receive an extrusion for  
18 further processing into a semi-finished or fully finished  
19 downstream good. Purchasers of general aluminum extrusion  
20 shapes and forms would not expect to receive a finished  
21 fitting for engine cooling systems, as such finished good  
22 would likewise have no value for purchasers tasked with  
23 making any other extruded aluminum product.

24           Regarding producer perceptions, the producer of  
25 raw hexed or barred extruded aluminum understands that its

1 product will be further fabricated into a final good,  
2 including but by no means limited to fittings for engine  
3 cooling systems.

4           The producer of these fittings expects finished  
5 product to be incorporated into the engine cooling system  
6 without further fabrication.

7           Regarding the fifth factor, aluminum extrusions  
8 have different channels of distribution than fittings for  
9 engine cooling systems. Aluminum extrusions may be sold to  
10 general producers of aluminum products, or sold to customers  
11 in specified finished applications.

12           The Adams Thermal fittings enter an entirely  
13 different channel of trade at the time of importation, and  
14 they're clearly dedicated for a specific market. Thus, the  
15 channels of trade differ from the channels of trade for  
16 general aluminum extrusions shapes and forms.

17           Indeed, I think it is important to note that  
18 Adams Thermal purchases its fittings from Chinese machining  
19 shops, not from extruders. By contrast, aluminum extrusions  
20 are either sold directly to end users, or sold as a raw  
21 material to machine shops so that they can produce a  
22 precision machine part such as fittings for oil cooling  
23 systems.

24           Additionally, although the prehearing staff  
25 report states that a certain percent of all producers

1 reported shipments of extrusions intended for fittings for  
2 engine cooling systems, or to end users, the shipments of  
3 extrusions were as feedstock. That is, the extrusion  
4 shipments were intended for fittings. They were not yet  
5 fittings. And thus, the end users were in fact end users of  
6 feedstock, not end users of the fittings.

7           Regarding the final factor, price, it's clear  
8 that the value added to the aluminum extrusion feedstock by  
9 the further processing is significant, and that finished  
10 fittings are sold at a much higher price than aluminum  
11 extrusions.

12           This translates to significantly higher prices  
13 for the finished fitting. The informatino in the prehearing  
14 staff report comparing the average unit values for aluminum  
15 extrusions versus fittings is inaccurate because the data is  
16 skewed by one U.S. producer that did not report the price of  
17 the finished fittings, but instead reported the price of the  
18 aluminum extrusion that it sold to a downstream customer  
19 before the customer transformed it into a fitting and marked  
20 up the price.

21           When that extruder's data is removed, the  
22 remaining data show that there was a clear difference in  
23 price. We refer you to pages 20 and 21 of our prehearing  
24 brief regarding the details.

25           Moreover, in terms of how prices are set,

1 fittings are priced by the piece, not on some other basis.  
2 As discussed in our brief, no evidence exists on the record  
3 to contradict this fact.

4 For all of these reasons, the Commission should  
5 determine that fittings for engine cooling systems  
6 constitute a separate like-product from aluminum extrusions.  
7 Thank you.

8 STATEMENT OF DOUGLAS J. HEFFNER

9 MR. HEFFNER: Thank you, Mr. Johnson. Again, my  
10 name is Doug Heffner from Drinker Biddle. In my testimony  
11 today I'd like to briefly go through the analysis of the  
12 likely volume, price effects, and impact of imports of  
13 subject fittings for engine cooling systems.

14 There is--I first would like to start out on  
15 coverage. There's a small quantity of fittings for engine  
16 cooling systems that are produced by domestic producers of  
17 aluminum extrusions. Those data are on the record.

18 There are also fittings for engine cooling  
19 systems that are produced by U.S. fabricators that are  
20 customers of the domestic extruders such as independent  
21 fabricating and machine shops.

22 Adams Thermal provided to the Commission staff  
23 several names of U.S. fabricators that make fittings for  
24 engine cooling systems, but it appears from our purview of  
25 the record that the Commission received no response from any

1 of these producers.

2 In the absence of additional data, the Commission  
3 should rely on the data it has on the record right now.

4 Concerning volume effects, the total volume of  
5 imports of fittings from all countries is small and stable.  
6 Subject imports from China represent a small fraction of  
7 total imports. Please refer to the prehearing staff report  
8 at C-3 for the details.

9 The Commission should note that the import data  
10 from most of the Period of Investigation does not reflect  
11 the effects of the Order, because Adams Thermal was not  
12 aware until late 2015 that Chinese fittings for engine  
13 cooling systems were potentially subject to the Orders.

14 Like so many other importers that are caught up  
15 in these Orders, the fittings that Adams Thermal imported  
16 were not classified among the HTS codes that were originally  
17 identified in the Orders.

18 So as a practical matter, the Orders did not have  
19 a restraining effect at all on the import volumes you see  
20 for Chinese engine fittings in Table C-3 of the staff  
21 report.

22 This alone suggests that revoking the Orders with  
23 respect to the fittings for engine cooling systems would  
24 have little or no volume impact. Moreover, there is no  
25 evidence provided in the record that subject fittings for

1 engine cooling systems took away sales from the U.S.  
2 industry.

3 For these reasons, the Commission should conclude  
4 that if the Orders were revoked the likely volume of subject  
5 imports would still be small.

6 Regarding price effects, the Commission staff did  
7 not collect pricing series data on fittings for engine  
8 cooling systems, so our thought is the Commission should  
9 look at the AUV data contained in Table C-3 of the staff  
10 report.

11 Those data show that Chinese imports of these  
12 fittings are priced higher than nonsubject imports and U.S.  
13 fittings, too. Moreover, the trend in pricing data do not  
14 support any theory that Chinese imports are depressing or  
15 suppressing U.S. prices.

16 Impact. Finally, the Commission must consider  
17 the likely impact of subject imports on the domestic  
18 industry if the Orders are revoked.

19 Although most of the data on impact are  
20 confidential, it suffices to say that the data do not point  
21 to any indication that revocation of the Order with respect  
22 to these fittings will result in likely declines in the  
23 indicia that the Commission typically examines concerning  
24 its analysis of the impact on the domestic industry. Please  
25 refer to pages 26 and 27 of Adams Thermal's prehearing brief

1 for additional details.

2 In conclusion, if the Commission determines that  
3 the fittings for engine cooling systems constitutes a  
4 like-product that is separate and distinct from the aluminum  
5 extrusions, the Commission should determine that revocation  
6 of the Orders with respect to Chinese imports of these  
7 fittings is not likely to lead to continuation or recurrence  
8 of material injury to the domestic industry producing these  
9 fittings.

10 Thank you. Can we have a check on time?

11 MS. BELLAMY: You have eight minutes remaining.

12 MR. HEFFNER: Thank you. We will reserve that.

13 Thank you.

14 VICE CHAIRMAN JOHANSON: I would like to thank all  
15 of you for speaking this afternoon. And before we begin our  
16 questions, I would like to note that Chairman Schmidlein  
17 would like to apologize for not being here today. She was  
18 up all night with her sick 5-year-old child. She was really  
19 hoping to make it this afternoon, but unfortunately she is  
20 not going to be able to make it here. She looks forward to  
21 reading the transcript and your post-hearing briefs.

22 We will now begin the questions with Commissioner  
23 Kieff.

24 COMMISSIONER KIEFF: Thank you. And as with the  
25 morning panel, I join my colleagues in thanking each of you

1 on the afternoon panel for preparing, presenting, traveling,  
2 and following up in the post-hearings.

3 Let me, if I could, just start with one question  
4 that may be on a number of my colleagues' minds. Just to  
5 formally ask it: Do you on this panel take any position with  
6 respect to continuation of the Orders with respect to any of  
7 the products other than the ones you specifically mentioned?

8 MR. SCHAFER: I think officially we don't. For my  
9 part, frankly, to be perfectly truthful, I agree with Mr.  
10 Price's comment this morning that the recovery of the  
11 extrusions industry reflects the law working the way that it  
12 is supposed to. And I should add that that is the first  
13 time I have ever begun a sentence with the phrase "I agree  
14 with Mr. Price" on anything.

15 (Laughter.)

16 MR. SCHAFER: The issue is whittling down just  
17 precisely what that industry is and what it makes and what  
18 it doesn't. That's really I think where all of the people  
19 on this panel are living.

20 COMMISSIONER KIEFF: Okay, so then to follow up on  
21 the origami reference, I the other day passed an art supply  
22 store here in town that was selling origami paper, and  
23 selling origami instruction services.

24 Last month I was at a conference in Tokyo and  
25 stayed in a hotel where the bill that I received was for the

1 hotel services. They provided coffee and tea in my room.  
2 They also had an origami swan that you described, an  
3 instruction sheet for making origami swans, and a stack of  
4 origami paper which of course I brought back to give to my  
5 4-year-old so that we could practice playing.

6 Did they sell me the--what were they in the  
7 business of doing? I think they advertise themselves, we  
8 all know--right, this is Starbucks that, you know, charged  
9 for the coffee but gives free Wi-Fi. There are lots of  
10 airports that don't provide a nominal charge, but do have  
11 free Wi-Fi and charge you extra if you want to sleep for  
12 five hours.

13 How particular people bundle their services,  
14 there is no one size that fits all for all people and all  
15 times. And for me as someone who really does enjoy milling  
16 aluminum--I haven't in a long time--I just am struck that  
17 the part that your counterparts circulated, and the parts  
18 that you circulated, tell me that you do the same things  
19 differently.

20 But what I don't understand is how that informs  
21 our thinking about what counts as a domestic like-product.  
22 So let me try it this way.

23 Do you agree with each other on many of the  
24 facts, and disagree with their significance? Or do you  
25 think there's like a big factual difference between the

1 morning panel and the afternoon panel?

2 I'm trying to understand where the disagreement  
3 is, and the nature of the disagreement. I mean, do you  
4 disagree that the product they handed off to us that they  
5 made? Because that part was an extruded piece of aluminum,  
6 and it had been machine milled, and it had threading in it,  
7 and it really resembled the machine-milled threaded extruded  
8 parts that you handed up. Did it not exist? Did they not  
9 make it? Like where's the difference? Or did they do those  
10 things and it doesn't matter to your case?

11 MR. FERRIN: This is Richard Ferrin at Drinker  
12 Biddle. With respect to the fittings, certainly the  
13 domestic industry makes the extrusion feedstock for the  
14 fittings. And according to their testimony, at least some  
15 of them do actually make the fittings for engine cooling  
16 systems. So there is a domestic industry.

17 But as I think they will admit, what they do is  
18 they take it to a different location there on the shop floor  
19 and use completely different equipment. They don't use a  
20 press to make the finished fittings. Instead, they use a  
21 C&C machine, and those involve a number of different  
22 processing steps, and that adds significant value. And that  
23 is what is very, very different here.

24 It doesn't matter the fact that they're doing it,  
25 you know, in the same building. The fact is that they're

1 adding a great deal of additional value by doing the  
2 fabrication processes with the C&C machine. And I think one  
3 piece of evidence you can look at to clarify and confirm  
4 that is look at the average unit value pricing data on Table  
5 C-3.

6 If you look at the average unit value for the  
7 domestic industry and compare it to the average unit value  
8 of subject imports, there is a huge difference there. There  
9 is also a huge difference--

10 COMMISSIONER KIEFF: Just so I'm getting the  
11 nature of your argument, I take it their response, though,  
12 was the nature of that argument applies to the tens of other  
13 products currently in the case, as well.

14 In other words, there's lots of processing for  
15 those, too. Why are those not separate domestic  
16 like-products, but these three or four or two, whatever key  
17 number is, why are these separate domestic like products?

18 MR. FERRIN: I apologize. I now understand your  
19 question a little bit better. There may be other products  
20 with other fabrication steps that might well be separate  
21 like-products, as well. We don't know. We're speaking--

22 COMMISSIONER KIEFF: You take no position on them,  
23 and therefore you're not--

24 MR. FERRIN: We don't even know what they are.

25 COMMISSIONER KIEFF: Gotcha -- .

1           MR. FERRIN: The only thing that's before the  
2 Commission now is comparing the aluminum extrusions to our  
3 product, and comparing the aluminum extrusions to the  
4 product, the FEC product. And so that's all we can speak  
5 to.

6           MR. HEFFNER: And if I could add, it's a very  
7 fact-specific, intensive type of investigation. So it's  
8 difficult to just go ahead and say for any product, you  
9 know, whether it's going to meet the requirements for the  
10 subject--

11           COMMISSIONER KIEFF: Yeah, I just want to confess  
12 my own, as I did with the morning panel, my own unease about  
13 highly fact-intensive multi-factorial analysis, because to  
14 me they resemble whoever pushes harder.

15           MR. HEFFNER: Well, and we are pushing hard.

16           COMMISSIONER KIEFF: And I absolutely get that,  
17 too. As I mentioned to the morning panel, I noticed that  
18 this is not a case where we have a foreign industry in the  
19 afternoon and a domestic industry in the morning. This is a  
20 case where we have a domestic industry in the afternoon and  
21 a domestic industry in the morning, and they're both pushing  
22 hard, ably, with good witnesses and lawyers.

23           MR. CARYL: Ben Caryl, Crowell & Moring.  
24 Commissioner Kieff, as far as fin evaporator coils, the  
25 Commerce Department had a scope ruling and it found that the

1 aluminum extrusion component of the fin evaporator coil  
2 system was subject to the Order.

3 So, you know, there's all this discussion of  
4 fabrication and processing. As Mr. Mata testified, there's  
5 a manufacturing process, once you get aluminum extrusion, to  
6 manufacture a fin evaporator coil system. And that's also  
7 why we argued we have done our like-product analysis to the  
8 semi--

9 COMMISSIONER KIEFF: Okay, so it sounds like you  
10 are basically saying that if we were doing an independent  
11 analysis of each of the many tens of other products, and if  
12 somebody were here presenting that analysis to us, we ought  
13 to be pretty open to the view that all of those  
14 post-extrusion processing steps for all of those other  
15 products make them at least good candidates for an analysis  
16 of separate like-product?

17 MR. CARYL: Well we're not going to take a  
18 position on the other ones, but there's a difference between  
19 processing something, and once the processing is finished  
20 it's an aluminum extrusion. And then manufacturing  
21 something using aluminum extrusion to make a different  
22 product. That's what our focus is.

23 COMMISSIONER KIEFF: Okay, so--

24 MR. CARYL: And then--go ahead.

25 MR. SCHAFER: I was just going to say, another way

1 to conceptualize that might be to say, we heard a lot this  
2 morning about the continuum, but the continuum of course  
3 can't go on endlessly. It can't be everything that has an  
4 extrusion in its somewhere.

5 At some point, the nature of the manufacturing  
6 process has become more than fabrication, punching, and  
7 gnarling, and what have you. At some point you have  
8 something like this (indicating), that's so vastly different  
9 from what comes out of the far side of the die that it's not  
10 reasonable to treat it that way anymore.

11 COMMISSIONER KIEFF: Absolutely. But just to be  
12 really explicit for both sides, what I'm struggling with is  
13 it's surely got to be more than zero, and a lot less than  
14 infinity. I just can't figure out why either side is giving  
15 me a cogent, objective, neutral rule of decision.

16 Let me try it this way. So for Mr. Caryl, I  
17 guess, can you in the post-hearing try to flesh out, are  
18 there other domestic producers of FECs, and third-party  
19 assemblers, and et cetera, you could flesh out the details  
20 of that domestic market and try to explain a little bit more  
21 about why earlier in the investigation when they were  
22 originally mentioned these arguments weren't fleshed out  
23 more fully, because they seem to be coming in at this phase.

24 For Mr. Schafer, I'm trying to figure out how we  
25 define a domestic like-product if there's no domestic

1 production. And if you can kind of give us some precedent  
2 about how we should think about that. And if not, what do  
3 we look at as most like.

4 And then this is just a very minor question, and  
5 I don't mean it to be a gotcha, and I don't want to--I just  
6 want to try to figure out whether this is actually just a  
7 typo, or whether I'm supposed to be taking significance from  
8 this word.

9 On page 3 of the pink sheets, to the right of the  
10 pie chart--and I'm not going to say anything confidential--  
11 there is a word next to the--there is a blue square, a small  
12 blue square. The last word next to the small blue square is  
13 the word "injury." Should that be "industry"?

14 MR. CARYL: That should be "industry."

15 COMMISSIONER KIEFF: Okay, that's fine.

16 (Laughter.)

17 COMMISSIONER KIEFF: I just wanted to make sure  
18 that--paging Dr. Freud.

19 (Laughter.)

20 MR. CARYL: If there was a color on that pie chart  
21 for domestic injury as far as the fin evaporator coil, it  
22 would not exist on that pie chart.

23 COMMISSIONER KIEFF: That's what I thought you  
24 were arguing. That's why I was struck by it.

25 Okay, thanks. No further questions.

1                   VICE CHAIRMAN JOHANSON: Thank you, Commissioner  
2                   Kieff. And I would like to thank all of you for being here  
3                   this afternoon.

4                   Adams Thermal has indicated that fittings for  
5                   engine cooling systems are within the scope. And Electrolux  
6                   has reported that fin evaporator coil systems are within the  
7                   scope. What other fabricated extrusions are within the  
8                   scope of the Orders?

9                   For example, are there fabricated aluminum  
10                  extrusions that are sold to the automotive industry other  
11                  than fittings for engine cooling systems?

12                  MR. HEFFNER: I can--this is Doug Heffner from  
13                  Drinker Biddle. I believe there were some other scope  
14                  rulings on that, and I can--sometimes my memory is not the  
15                  best, but I will get that for you in the post-hearing.

16                  VICE CHAIRMAN JOHANSON: Okay, thank you.

17                  MR. HEFFNER: I know there is at least one or two.

18                  VICE CHAIRMAN JOHANSON: Alright, Mr. Caryl?

19                  MR. CARYL: 1 We can follow up post-hearing, but  
20                  we can also refer to our Exhibit No. 1 in our pre-hearing  
21                  brief that tries to summarize all the scope rulings, and  
22                  which ones were found in, and which ones were found out.

23                  VICE CHAIRMAN JOHANSON: Okay, thank you.

24                  And this is quite an investigation. As I  
25                  mentioned this morning, I was not here for the original

1 investigation, but I've read so many reports about this  
2 since coming to the Commission, I guess largely due to the  
3 scope determinations. There seems to be quite a bit in the  
4 trade press.

5 So I know that you all have been busy in the  
6 Trade Bar in this issue. And this is a question for  
7 Electrolux. On page 11 of your brief you argue that fin  
8 evaporator coil systems are not interchangeable with other  
9 aluminum extrusions.

10 But this would seem to be true for many types of  
11 extrusions across a spectrum of this broad scope. How is  
12 your product different?

13 MR. MATA: This is Erik Mata from Electrolux.  
14 Fin operators are completely different than just simple  
15 extrusions. One of the products included into the fin  
16 evaporator is the extruded tube, but the extruded tube alone  
17 does not function in our refrigerator, so they're completely  
18 separate products and that's why they are not  
19 interchangeable.

20 MR. CARYL: Vice-Chairman Johanson, you know the  
21 Commission when there's a continuum like product the fact of  
22 the lack of interchangeability is not the deciding factor.

23 We also point out that interchangeability is not  
24 a specific factor in a semi-finished product analysis. Of  
25 course, it's a consideration and it's fact that they're not

1 interchangeably, so that's just another reason that  
2 semi-finish product analysis is more appropriate for fin  
3 evaporator coils.

4 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.  
5 Caryl.

6 In their pre-hearing briefs, Electrolux and  
7 Adams Thermal the issue as to whether fin evaporator coils  
8 or fittings for engine cooling systems are a separate  
9 domestic like product than aluminum extrusions.

10 How should the Commission take into account in  
11 its domestic like product inquiry the fact that the scope  
12 includes extrusions that are "finished, fabricated or any  
13 combination thereof"?

14 MR. SCHAEFER: Mr. Vice Chairman, and as  
15 Commissioner Kieff has pointed out, the lines can be  
16 difficult to draw, but I think I would say there's a  
17 difference between a finishing or fabrication operation and  
18 a manufacturing operation that yields an entirely different  
19 category of product. That is a fact-intensive analysis.  
20 There's no getting around that, but I think everybody  
21 understands that if you have a piece of carpet trim that's  
22 been punched out of the far side of the dye and you then  
23 punch nail holes in it that that's a fabrication operation.

24 When you make that thing and start welding  
25 copper stud fittings and press fitting and brazing fin sheet

1 onto it and adding thermostats and dams, you're not  
2 processing any more. You've undertaken a manufacturing  
3 operation that should be enough to justify being considered  
4 a separate like product.

5 VICE CHAIRMAN JOHANSON: Okay.

6 MR. FERRIN: This is Richard Ferrin of Drinker  
7 Biddle.

8 With respect to our fittings, it seems to me  
9 that what the scope of the order includes or doesn't include  
10 isn't really the issue before the Commission. We're not  
11 arguing here that these fittings for engine cooling systems  
12 are outside the scope of the investigation.

13 We did argue that before the Commerce  
14 Department, but that's not an issue here. The question  
15 whether it is a separate like product or part of the same  
16 like product, so how Petitioners define the subject  
17 merchandise is really not the issue. The issue instead is  
18 what is the domestic industry? Are we're talking about  
19 multiple domestic industries here? Are we talking about one  
20 single domestic industry here? And I would say,  
21 respectfully, that I don't think that you can answer that  
22 question by looking at the scope.

23 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.  
24 Ferrin.

25 And I guess taking a 30,000-foot view of what

1 we're doing here today arises in this question. The  
2 Aluminum Extrusions Fair Trade Committee argues at page 7 of  
3 their brief that Adams Thermal and Electrolux are attempting  
4 to re-litigate scope proceedings that they lost at Commerce  
5 under the guise of domestic like product arguments. Could  
6 you all please respond?

7 MR. HEFFNER: Doug Heffner for Adams Thermal.

8 We're not trying to re-litigate whether  
9 something's in the scope. We're trying to make the argument  
10 that it's a separate domestic like product. Two totally  
11 separate different issues, so I don't see them as being one  
12 in the same here.

13 MR. SCHAEFFER: We consider that to be sort of  
14 unresponsive, frankly, to the arguments that we've made. We  
15 said these are separate like products for all of the reasons  
16 that the Commission typically find separate like products  
17 and there's no indication that they are likely to cause  
18 injury if the order is revoked.

19 It's not a response to that argument to say  
20 you're just trying to re-litigate scope. We're trying to  
21 get them out of the order because they belong out of the  
22 order. It has nothing to do with scope.

23 VICE CHAIRMAN JOHANSON: Alright, thank you, Mr.  
24 Schaefer and others.

25 Is there any evidence that producers of the

1 finished fittings in engine cooling systems use a different  
2 price setting structure than producers of all other aluminum  
3 extrusions?

4 MR. HEFFNER: Doug Heffner again for Adams  
5 Thermal.

6 What we understand from our client, and we can  
7 confirm this in post-hearing, they purchase the fittings on  
8 a per-piece basis. They purchase it from a machine  
9 fabricating shop. They don't deal with extruders at all, so  
10 for us the answer is it's on a per-piece basis that they  
11 negotiate with a particular producer, machine shop in China  
12 and then they produce it and they sell it to them on a  
13 per-piece basis. That's it.

14 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.  
15 Heffner.

16 And this is a question for Electrolux. What  
17 record evidence supports your assertion at page 5 of your  
18 pre-hearing brief that "many other aluminum extrusions, on  
19 the other hand, are typically commodities in that they are  
20 mass produced for distributors and many customers, i.e., the  
21 same exact aluminum extrusion is sold to many different  
22 customers"?

23 MR. SCHAEFER: Let me start on that. I think  
24 the first principle is you go back to the petition. The  
25 petition had some fairly remarkable exhibits. They had

1       essentially -- when they showed their sort of archetypical  
2       extrusion product what they showed was a bin with L-channel  
3       and U-channel pieces coming out. And what they said in the  
4       petition was what extrusions are, are intermediate products  
5       that are fabricated in the manufacture of other stuff.  
6       That's no more, no less. They were quite explicit about  
7       that. That is, in fact, why so many manufacturers find  
8       themselves in the position that Electrolux and Adams Thermal  
9       find themselves because the understanding was what comes out  
10      of the dye is the subject merchandise, not this thing and  
11      not their things.

12                   And when I hear testifying witnesses saying take  
13      a look at this. We bang out 400,000 of these before  
14      breakfast there's reason to think that what they're selling  
15      is going to multiple customer bases.

16                   VICE CHAIRMAN JOHANSON: Alright, thank you for  
17      your responses. And the yellow light is on, so I will stop  
18      with that question. Commissioner Williamson?

19                   COMMISSIONER WILLIAMSON: Thank you. You know I  
20      always want to thank the witnesses for their testimony this  
21      afternoon.

22                   I want to go back to Commissioner Kieff's  
23      question. And I guess this is back to the slippery slope  
24      question and I know you've -- basically, what you're arguing  
25      we don't know the answer to that question, but we know our

1 products should be excluded; is that fair?

2 MR. SCHAEFER: Well, it seems to me,  
3 Commissioner Williamson, that the only alternative is to say  
4 since the slope is so darn slippery if there's an extrusion  
5 in it that's the end of it. We understand it's a product  
6 category that covers hundreds of thousands of things and  
7 we're not going to get into a fact-intensive inquiry about  
8 every single one of them, so heck with it, we'll throw them  
9 all in there. That's deeply unjust and it's not consonant  
10 with the underlying law and there's no indication that this  
11 is going to lead to some sort of landslide of people coming  
12 flying in making like product requests, but as a factual  
13 matter we can provide information and data as to the  
14 products that we know something about.

15 MR. CARYL: And I'll just add to use the analogy  
16 the slope is much more slippery as a result of the expansion  
17 of the scope and these scope rulings. And we understand you  
18 guys are not in control of the scope, but you do make  
19 domestic like product analyses and determinations which, as  
20 Mr. Schaefer testified in our affirmation presentation, can  
21 rationalize these orders and make the slope less slippery,  
22 in fact.

23 COMMISSIONER WILLIAMSON: Okay.

24 Post-hearing it maybe looking at Commission  
25 precedence and if you can give us any further -- and I

1 invite the Petitioners to do the same -- give us any further  
2 guidance on this, looking at Commission precedents and  
3 things like that. We've had an interesting discussion on  
4 heat sinks, which has convinced me that I was right six  
5 years ago, but anyway, yeah, I don't know if there are other  
6 precedents out there that you think can provide us some  
7 guidance on this.

8 MR. SCAHEFER: I think there are and we'll do  
9 our level best to marshal them and feature them in our  
10 post-hearing brief, but I wanted to back to the heat sink  
11 example for a minute because there were a couple of things  
12 that I heard this morning in precisely that vane that I  
13 found troubling in terms of the continuum and where this  
14 thing has to start and where it has to end.

15 There were a number of assertions about what  
16 happened with the heat sinks situation and as far as I can  
17 tell they boil down to two. One was that the Chinese  
18 producers alleged that there was some voodoo element to  
19 their manufacturing process that may or may not exist.

20 COMMISSIONER WILLIAMSON: No, they said that we  
21 tested them and we tested each one and that made a  
22 difference.

23 MR. SCHAEFER: And that the issue wasn't fully  
24 vetted, in effect, that they sort of snuck in because nobody  
25 was paying attention.

1                   COMMISSIONER WILLIAMSON: Well, I don't know  
2 about that because I know they spent awful lot of time  
3 looking at them.

4                   MR. SCHAEFER: Well, that was precisely what I  
5 was going to say and I was disheartened on behalf of the  
6 staff that it's been my experience they don't let anything  
7 snick in and heavens knows I've tried, but I went back and  
8 looked at the determination and wanted to quote a couple of  
9 the findings that you all made. They weren't related to  
10 testing and weren't related to propriety coatings or  
11 anything else.

12                   It started out with specific and precise  
13 tolerances, okay. "Customized thermal resistance  
14 properties, also true of fin evaporator coil incidentally,  
15 sold to distinct classes of end users and distributors.  
16 There's evidence in the record that customers and producers  
17 of them perceive them to be distinct from other aluminum  
18 extrusions. On balance, we find that there's a clear  
19 dividing line separating them from other aluminum extrusions  
20 based on these factors." This is precisely what we're  
21 talking about with these products.

22                   COMMISSIONER WILLIAMSON: But you remember my  
23 discussion this morning about what is happening in modern  
24 manufacturing. Tolerances, all those things are changing  
25 and you told me all the virtues of why this is different and

1 that's part of it.

2 MR. SCHAEFER: I don't believe there's any  
3 evidence on the record suggesting that the tolerances are  
4 changing for other types of extruded products. We have some  
5 speculation, at best, but no data to support it and even if  
6 you accept that they are there's no way to quantify the  
7 difference between the sort of baseline commodity stuff and  
8 more sophisticated product.

9 COMMISSIONER WILLIAMSON: Well, I guess the  
10 question, though, is the more sophisticated stuff is  
11 included and we consider that part of the like product.

12 MR. SCHAEFER: Again, I'm not aware that that's  
13 true because we haven't looked at the details for any of  
14 those types of products. We've only examined the ones that  
15 are before the Commission at this point.

16 MR. CARLY: Can I just add --

17 COMMISSIONER WILLIAMSON: And we did have a lot  
18 of testimony on that this morning.

19 MR. CARLY: And sophisticated aluminum  
20 extrusions that fall within the scope are covered by the  
21 scope and you have to determine whether they're part of the  
22 same like product or not. Products containing aluminum  
23 extrusions the aluminum extrusion part is the only part  
24 contained in the scope and you're asking about Commission  
25 precedents, we'll look at that further for post-hearing,

1 but most recently you guys in the truck and bus tire case or  
2 OTR, one of the most recent cases, you had the issue of  
3 mounted assemblies, you know, the wheel and the tire.

4 In that scope they specifically included mounted  
5 -- tire assemblies, but the duty is only applied to the  
6 actual tire. And in the prelim, you guys explored the issue  
7 under the semi-finished product analysis of whether the  
8 whole assembly, the assembled tire, was a separate like  
9 product. In that case there's very little difference  
10 because the wheel is not of very much value to the tire, but  
11 so far, that, I think, is the closest situation where you're  
12 trying to look at a product that's being imported -- the fin  
13 evaporator coil system is being imported that covers the  
14 included part of aluminum extrusion.

15 And just to reiterate, we're not arguing that  
16 aluminum extrusions that go into fin evaporator coil systems  
17 are separate like products. We're arguing that the system  
18 that comes in that's sold that is the separate like product,  
19 so I agree that it's an unusual situation, but you know it  
20 is what it is. We didn't create it.

21 COMMISSIONER WILLIAMSON: Okay.

22 I believe in your pre-hearing brief you  
23 basically argued on semi-finished product that if you used  
24 that argument. Could you maybe in the post-hearing address  
25 looking at the traditional six factor.

1                   MR. CARYL: Absolutely. And this morning  
2 someone referenced the fact that the Commission decided it  
3 was appropriate in the original investigation to apply the  
4 six-factor test instead. I'll just note that the footnote  
5 addressing that said the six-factor test is "somewhat more  
6 appropriate than a semi-finished analysis in analyzing these  
7 four product issues."

8                   The four product issues in the original  
9 investigation were aluminum extrusions. They're different  
10 levels of processing, but a semi-finished product analysis  
11 is for products that are upstream and downstream and that's  
12 what the Commission has traditionally used and we're happy  
13 to provide you with an analysis for both tests.

14                   COMMISSIONER WILLIAMSON: Okay. And I guess the  
15 question should the test be the outcome determinant in this  
16 case?

17                   MR. CARYL: We argue that under either test  
18 you're going to get the same outcome.

19                   COMMISSIONER WILLIAMSON: Okay, good.

20                   MR. HEFFNER: For Adams Thermals too. This is  
21 Doug Heffner.

22                   I would agree that looking at it either way, and  
23 we addressed it both ways in our pre-hearing brief using the  
24 traditional like product six-factor test or the other test  
25 that one way or another it should be considered a separate

1 domestic like product, but I want to emphasize here one of  
2 the important things that when you look at fittings is both  
3 of these tests look at perception. What is the perception  
4 of producers? What is the perception of consumers? And I  
5 think that's a big issue here, especially, in this case  
6 because what do we have before us?

7           We have a situation where you have a large  
8 aluminum extrusion industry that you sent questionnaires to.  
9 You know what you got back as far as who's producing  
10 fittings, okay. They testified today that there were two  
11 companies that produced fittings for engine cooling systems.  
12 The third customer who testified today I believe from Pennex  
13 said they make the extrusions for the fittings, okay. So  
14 you don't have a very large base there to start with, okay.  
15 So then the next thing is look at all the hundreds of  
16 fabricators that make this product. I mean there are  
17 hundred of fabricators that make fittings for engine oil  
18 cooling systems. We gave the staff a number of names to  
19 send out questionnaires to. We saw nothing back from any of  
20 them on the fact that they were even interested in this at  
21 all and the most likely reason is they don't consider these  
22 to be extrusions. They consider them -- their perception is  
23 these are separate and distinct parts, separate and distinct  
24 industries.

25           MR. FERRIN: This is Richard Ferrin with Drinker

1 Biddle.

2 One brief thing that I would like to add, you  
3 even heard the terminology this morning from Petitioner's  
4 side saying that they refer to the aluminum extrusions as a  
5 semi-finished product. That's exact right. It's a  
6 semi-finished product, whereas, the products that are before  
7 you today here are finished products, not semi-finished  
8 products. They are finished products.

9 Now the other side may want to say, well,  
10 there's a whole bunch of finished products out there, but we  
11 did not create this problem in the first place. The problem  
12 was created, I think, by something that was over broadly  
13 drawn by Petitioners in the first place. And what is before  
14 the Commission is now is trying to determine whether or not  
15 these two products should be considered part of the same  
16 like product as a semi-finished product that they're made  
17 from. Thank you.

18 COMMISSIONER WILLIAMSON: Okay, my time has  
19 expired. Thank you, I'll come back.

20 VICE CHAIRMAN JOHANSON: Thank you, Commissioner  
21 Williamson. Commissioner Broadbent.

22 COMMISSIONER BROADBENT: Mr. Caryl, it's my  
23 understanding that under ADCVD orders that cover the  
24 finished fin evaporator coil systems Commerce applies duties  
25 solely to the aluminum extrusion portion of that incoming

1 product; is that correct?

2 MR. CARYL: That is correct.

3 COMMISSIONER BROADBENT: If that's correct, does  
4 it make sense for us to be conducting our six-factor  
5 domestic like product test between a finished sub-assembly,  
6 which includes copper fins and other stuff, to all other  
7 aluminum extrusion products?

8 MR. CARYL: Yes.

9 COMMISSIONER BROADBENT: Wouldn't it make more  
10 sense to compare the aluminum extrusion components within  
11 the sub-assembly to other aluminum extrusions?

12 MR. CARYL: No. We're not arguing that the  
13 aluminum extrusion that is eventually incorporated into  
14 aluminum extrusion -- I'm sorry, fin evaporator coil system  
15 is a separate like product.

16 As Brazeway testified earlier today, you know  
17 they sell aluminum extrusions. They sell hairpins. They  
18 sell serpentine tubes by themselves. They also sell fin  
19 evaporator coils. So that's exactly what this semi-finished  
20 product analysis should be used for.

21 COMMISSIONER BROADBENT: Okay.

22 MR. SCHAEFER: This is Alex Schaefer from  
23 Crowell for Electrolux. Electrolux doesn't import the tube  
24 that goes into a fin evaporator coil systems like that. And  
25 a fin evaporator coil system like that doesn't compete with

1 tubes. The point of commercial contact is the finished  
2 system, which is what Electrolux purchases and what they  
3 import. And so, from our perspective, comparing it to just  
4 the tube does a disservice to the nature of the  
5 manufacturing process that it goes through to become the  
6 finished system, which is sort of the point and why we think  
7 it's a separate product category.

8 COMMISSIONER BROADBENT: Okay.

9 Are there other scope imports of sub-assemblies,  
10 other than the fin evaporator coil systems?

11 MR. CARYL: We'll have to look at that  
12 specifically at post-hearing, but again, reference our  
13 Exhibit 1 where we tend to summarize these scope rulings and  
14 which products have been found to be in and out.

15 COMMISSIONER BROADBENT: Okay.

16 This is a legal question for Adams Thermal, I  
17 guess. If the Commission determines that there's a  
18 feedstock aluminum extrusion product that is distinct from  
19 downstream from fittings and other fabricated products,  
20 would it be appropriate for the Commission to conclude that  
21 fittings for engine cooling systems is too narrow a  
22 definition of a separate like product?

23 MR. FERRIN: Richard Ferrin for Drinker Biddle.

24 The Commission could make that determination.

25 We're not here advocating this determination because we

1 don't have knowledge to be able to impart about all the  
2 other products. Also, Mr. Schaefer, I believe, gave an  
3 example that there are some products that may have some  
4 minimal amount of fabrication that might more appropriately  
5 be considered the same like product as aluminum extrusions.  
6 They may be, they may not be, but we don't want to get into  
7 that. That is for the Commission to decide, but the  
8 analysis that you're using I don't think that we would,  
9 principle, have any objection to that.

10 COMMISSIONER BROADBENT: Yes, I guess it would  
11 be the data challenge would be the biggest thing.

12 Okay, this is for -- let's see, Brazeway and  
13 AEFTC report that Commerce considered whether fin evaporator  
14 coil systems were within the scope during the original  
15 investigation and then in a subsequent scope inquiry; is  
16 that right? It was considered in the beginning and then  
17 subsequently?

18 MR. SCHAEFER: Electrolux didn't participate in  
19 the investigation, but there was like many importers that  
20 were unaware of the breadth.

21 COMMISSIONER BROADBENT: So you don't know.

22 MR. SCHAEFER: We know there was a scope ruling  
23 subsequent to the investigation because there was some  
24 ambiguity in the wake of the investigation about whether the  
25 product that Brazeway had intended to cover was merely the

1 internal coil or the entire system. Our view was that by  
2 all appearances it was merely the internal coil, but since  
3 we were importing the systems there was a different scope  
4 issue in play. The Commerce Department disagreed.

5 COMMISSIONER BROADBENT: Okay.

6 MR. CARYL: And if I could chime in. Ben Caryl,  
7 Crowell.

8 I think the more relevant question is whether  
9 the Commission looked at fin evaporator coil systems as a  
10 separate like product in the original investigation. And  
11 although, Brazeway participated in the original  
12 investigation, there was no like product argument made as to  
13 fin evaporator coils. There was a handful of products that  
14 the Commission did analyze specifically, including finished  
15 heat sinks. But again, Electrolux was not aware that fin  
16 evaporator coil systems were considered aluminum extrusions  
17 because, in reality, they are not.

18 COMMISSIONER BROADBENT: Okay.

19 I don't know how to pronounce AEFTC argues on  
20 page 10 that very small portions of extrusions are created  
21 to a standard size and specification that can be sold  
22 through distributions, whereas, the large majority of  
23 extrusions are sold directly to end users for specific use  
24 that they were designed for and often manufactured for  
25 propriety designed dyes for specific customers; therefore,

1       how are fittings for engine cooling systems or fin  
2       evaporator coil systems different than other products within  
3       the scope that are also designed for very specific end use  
4       applications?

5                   MR. HEFFNER:   Doug Heffner for Adams Thermal.

6                   Again, I would say that with regard to Adams  
7       Thermal we're talking about a feedstock.  The feedstock can  
8       come in a variety of different forms and shapes.  Most of it  
9       is going to be an extrusion like a hex or a round bar or a  
10      square bar or a rectangular bar.  There's some other shapes  
11      too.  Some of the things we brought today are some other  
12      shapes, but many of those shapes -- more of the basic shapes  
13      will go to distribution and so the feedstock that a lot of  
14      our product is made out of as far as fittings does end up  
15      going to distribution.

16                   They could be sold to distributors or it could  
17      be used for specific other uses for purposes like fittings  
18      for an engine cooling system.  Once you put it in a CNC  
19      lathe it changes the shape and form of the product.

20                   MR. SCHAEFER:  And this is Alex Schaefer from  
21      Crowell Morning for Electrolux.

22                   I would add that I think it's telling.  There's  
23      sort of the use of the same words to describe two rather  
24      different phenomena in the following sense.  It's telling  
25      that they talk about custom dies because the dye dictates

1 what sort of shape you're going to have, what sort of  
2 profile you're going to have coming out the other end and  
3 they can be quite complex and unusual, but you're still  
4 talking about the thing coming out of the other end of the  
5 extrusion press. You're punching a billet through.

6 Now depending on what dye you use and how  
7 customized it is, you may have some fairly funky shapes, but  
8 you're still talking about an extrusion emerging from an  
9 extrusion press. That's fundamentally different from saying  
10 we have an extrusion of whatever shape that we're then  
11 manufacturing into a product that falls in an entirely  
12 separate commercial category, so it's not just a question of  
13 the specificity. It may be that some of those funky shapes  
14 that come out means that the product is only useful in a  
15 particular context or for a particular purpose, but as I  
16 say, that's different from manufacturing an extrusion among  
17 a number of other inputs into something altogether  
18 different.

19 COMMISSIONER BROADBENT: Okay.

20 Just out of curiosity, has Commerce made any  
21 additional subsidy findings or conducted any new subsidy  
22 investigations regarding the subject aluminum extrusion  
23 industry in China since the original investigation?

24 MR. HEFFNER: Doug Heffner for Drinker Biddle.

25 I believe they have, but we're not really

1 representing any Chinese producers. We would have to look  
2 that up and provide that to you in post-hearing.

3 COMMISSIONER BROADBENT: Okay.

4 MR. SCHAEFER: We can also look at that  
5 post-hearing. I am fairly certain that the Commerce  
6 Department has not found any subsidies whatsoever specific  
7 to the Chinese fin evaporator coil system manufacturers.

8 COMMISSIONER BROADBENT: Okay.

9 Electrolux reported that Commerce has issued  
10 several scope rulings regarding the kitchen appliance  
11 handles and trim kits and that multiple rounds of litigation  
12 has ensued. What is the current status of the litigation  
13 for some or all the kitchen appliance components within the  
14 scope of the orders? What evidence supports your answer,  
15 keeping in mind that we have to defer to Commerce on the  
16 scope rulings?

17 MR. SCHAEFER: So for trim kits, Commerce  
18 initially found them within the scope. After a series of  
19 remands, Commerce determined that they are not within the  
20 scope. The Court of International Trade upheld that  
21 determination and it's on appeal before the Federal Circuit  
22 at the moment.

23 As to appliance handles, the process was  
24 similar, except that the Court of International Trade  
25 distinguished between appliance handles with end caps,

1 assemblies, in effect, and those without. The Court said  
2 the ones with the end caps the Court remanded and  
3 ultimately, Commerce determined that the ones with the end  
4 caps did not fall within the scope. The ones without the  
5 end caps do fall within the scope. That's why I raised the  
6 issue of the appliance handles because, for the moment, the  
7 appliance handles without the end caps remain within the  
8 scope and the Court has affirmed that determination as well.

9 COMMISSIONER BROADBENT: Okay, thank you very  
10 much.

11 VICE CHAIRMAN JOHANSON: Commissioner Kieff.

12 COMMISSIONER KIEFF: Yes, thank you very much.

13 Let, if I could, try to say back to you what I  
14 think I'm hearing as everyone's theory of the case so that  
15 you can then tell me if I'm hearing it correctly. And then,  
16 if I'm not hearing it correctly, fix my thinking.

17 So it sounds to me like the morning panel put  
18 forward a broad, deep, detailed-rich case and they covered a  
19 whole lot. And it sounds like, in effect, and I'm  
20 summarizing and summaries are always somewhat inaccurate,  
21 but as I understand it, in effect, you're saying you don't  
22 make the determination about what the Complainants complain  
23 about. You don't make the determination that Commerce  
24 determines on scope. You are here to talk to us about what  
25 our statute tells us we should pay attention to on the

1 question of separate like products.

2 And on the separate like products, you have no  
3 particular water to carry with respect to the many tens of  
4 other products that have been discussed. You are reminding  
5 us that we should be aware that they are not the product of  
6 a fully argued, fully vetted, highly adversarial contested  
7 and multiple prongs of adjudication adjudicated set of  
8 decisions. They are merely the product of a reasonable set  
9 of complaints, a reasonable set of determinations by a  
10 political branch of the government, the Department of  
11 Commerce, and the absence of peer groups like you  
12 representing each of the many other tens of products.

13 And so your affirmative case back to us is for  
14 the particular products that you're talking about you see  
15 some pretty concrete differences between them and extruded  
16 aluminum and you think we should take some significance  
17 those distinctions, enough significance to treat them as  
18 separate like products. Have I basically got it right so  
19 far?

20 MR. SCHAEFER: Commissioner Kieff, I don't want  
21 to speak for the Adams Thermal folks, but for our part, I  
22 don't think we take issue with any of that description.

23 COMMISSIONER KIEFF: Okay.

24 MR. HEFFNER: For Adams Thermal, we agree  
25 entirely, except maybe with regard to whether Commerce was

1 reasonable.

2 COMMISSIONER KIEFF: That's fine. And I don't  
3 mean to be disparaging anybody in this. I just mean to be  
4 recognizing it all for what it is.

5 So then if we were to decide that there are  
6 separate like products, the next question we have to try to  
7 figure out is, is there a domestic industry that is being  
8 materially injured or threat with material injury. And now  
9 you may differ in some of these products, but as I think I'm  
10 grasping your argument, it basically goes along the  
11 following lines.

12 Gosh, these particular products either don't  
13 have much of a domestic industry that's why you're buying  
14 them from China or you're buying them from places other than  
15 China that are non-subject and that non-subject geographic  
16 location -- I forget which is confidential, so that's why  
17 I'm being vague. That non-subject location may be part of  
18 the reason there is not much domestic manufacturing, may not  
19 be, but whether it is or isn't -- whether there is domestic  
20 industry or not, that domestic industry is not being injured  
21 and then you have kind of various subtleties or textures to  
22 those arguments. Is that big picture basically right?

23 MR. SCHAEFER: It's precisely right Commissioner  
24 Kieff. I would only add -- not to put too fine a point on  
25 it but in the case of the appliance handles it is not just

1 that there is not much of a domestic industry it is that  
2 there isn't any which is why we find the whole issue of  
3 breaking out the domestic like product so troublesome.

4 Because it puts an importer of that product which  
5 presumably wasn't targeted by the Petition in the position  
6 of being caught in the crossfire -- that interpretation puts  
7 that importer in the position of being caught in the  
8 crossfire and of everybody saying, "Gee sorry fellows that  
9 that got stuck in there, there's nothing anybody can do  
10 about it," versus for example an importer of the heat sink  
11 where there is domestic production.

12 That person is better off. That's a perverse  
13 result in our view. But other than that nuance we agree  
14 with your summation.

15 COMMISSIONER KIEFF: Alright and then Mr. Heffner  
16 you looked like you wanted to say something?

17 MR. HEFFNER: I was just going to say that we  
18 agree.

19 COMMISSIONER KIEFF: Okay.

20 MR. FERRIN: If I may this is Richard Ferrin  
21 again. Of course in our situation it is more the former but  
22 just to be clear we are not saying unlike the other group --  
23 we are not saying that there is zero domestic industry.

24 There is a small domestic industry and you can --  
25 there's not a lot of evidence on the record but there is

1 just enough evidence on the record that you could examine  
2 the volume price and impact of it and I think the answer is  
3 clear when you look at the tiny little domestic industry and  
4 measure it the way the Commission normally does it should be  
5 a negative determination.

6 COMMISSIONER KIEFF: So then what do we then do  
7 with the argument made by the morning panel that "Look  
8 whatever has just been said -- they still would love to sell  
9 you the very stuff you are talking about. And if they can't  
10 sell it to you they are being either injured or threatened  
11 with injury."

12 MR. SCHAEFER: Alex Schaefer from Crowell for  
13 Electrolux. That sort of Alice in Wonderland thinking from  
14 our point of view which is to say -- we have asserted  
15 repeatedly and argued repeatedly that for example, appliance  
16 handles are not manufactured in the United States.

17 There is no domestic production. That assertion  
18 stands unrebutted. As far as I am aware nobody has ever  
19 argued differently. The witnesses this morning said we  
20 would love to do it -- issue an RFQ and that's fine as far  
21 as it goes but it seems to me you can't possibly sustain an  
22 argument that you are going to be injured by continuing to  
23 not have business that you never had in the first place.

24 COMMISSIONER KIEFF: I don't think that's their  
25 argument. I take it their argument is there are some

1 domestic -- there is some domestic production of that stuff  
2 and the switching cost for them of putting on a different  
3 dye or adding another post-processing manufacturing step --  
4 whatever you want to call it are such that that's business  
5 they would love to have.

6 So I don't know that they are making a truly  
7 Alice in Wonderland argument. I think they are making an  
8 argument that we often see here by Petitioners that this is  
9 -- as long as there is a legal framework to our  
10 decision-making process and the legal framework is domestic  
11 industry being injured or threatened with injury, they  
12 presumably are going to make the colorable showing that they  
13 have some domestic industry with respect to these separate  
14 like products, assuming we make the determination they are  
15 separate like products.

16 They are then going to say -- and here's our  
17 proof that we would be consummating those sales -- why is  
18 that not either injury or threat?

19 MR. SCHAEFER: Well I don't know that they are  
20 going to say that and I don't know that they could --

21 COMMISSIONER KIEFF: Let's assume they do and  
22 let's assume they do with some amount of data greater than  
23 zero. I mean I'm not suggesting that it is going to be as  
24 they say in the legal movie "awesome". I am just saying as  
25 I understand our statute as long as they come forward with

1 some credible showing of evidence that they have some  
2 industry and that they would like to be doing those sales,  
3 doesn't that start to resemble a plain vanilla Title 7 case?

4 MR. SCHAEFER: I guess I don't think it does  
5 because particularly for the purpose of a Sunset Review  
6 where you are considering whether injury -- material injury  
7 is likely to recur, that's not a sort of injury that was  
8 occurring in the first place because they have never served  
9 -- they have never produced these products.

10 They never sold them to us, they never expressed  
11 any interest in doing so. As we have been publicly out  
12 there litigating back and forth our phone hasn't rung.

13 COMMISSIONER KIEFF: Okay so then please in the  
14 post-hearing for both sides give us legal authority for the  
15 view that the standard's is especially tough in a Sunset or  
16 that in a Sunset where the data is especially small that the  
17 lens through which we look at this, the eyes should be  
18 especially jaundiced when -- because that will then give us  
19 a clear path to the decision you are asking for.

20 I take it the alternative path would be even if  
21 they were tool and dye ready to sell these products that you  
22 would still be buying them from whomever you are buying them  
23 from and that the replacement benefit would not go to the  
24 domestic industry.

25 And if anyone has evidence on either side of that

1 point pro or con, that can really help us make a decision  
2 pro or con.

3 MR. SCHAEFER: We will address that in our  
4 post-hearing.

5 MR. CARYL: Commissioner Kieff, typically when  
6 those arguments are made it is in reference to, you know,  
7 certain grades or sizes of a single like product. That  
8 argument is not made when it is you know, definitely when it  
9 is not domestically produced at all.

10 And if it is, you know, barely produced or  
11 produced in a very small -- in the original investigation  
12 they would allege, you know, they wouldn't have alleged  
13 present injury or threat they would allege, you know,  
14 material retardation of the industry.

15 And that certainly wasn't alleged in reference to  
16 evaporator coils or kitchen appliance handles in the  
17 original investigation.

18 COMMISSIONER KIEFF: Great and then if there is  
19 anything else to the analysis -- again I just gave a sketch  
20 but if I am missing something on either side, please just  
21 brief it in the post-hearing but thank you all very much.

22 VICE CHAIRMAN JOHANSON: Thank you Commissioner  
23 Kieff. Mr. Schaefer, as you were discussing with  
24 Commissioner Broadbent about 15 or 20 minutes ago several of  
25 the extrusion shapes that you passed to us here on the DIAS

1 were what you would call "funky" shapes, that's a quote I  
2 think.

3 MR. SCHAEFER: Those didn't come from us  
4 Commissioner Johanson.

5 VICE CHAIRMAN JOHANSON: Okay, okay from Mr.  
6 Heffner then maybe I will address this to Mr. Heffner and to  
7 Mr. Schaefer as well. As you mentioned once extruded such  
8 an unusual shape could probably only be used to make the  
9 part that you showed to us. How does that impact our  
10 analysis of the first prong of the semi-finished product  
11 analysis which is dedication to downstream product?

12 Aren't these shapes -- aren't these funky shapes  
13 basically wholly dedicated to making that part and does this  
14 contrast with the photos on pages -- how does this contrast  
15 the photos on pages 10 to 12 of your Brief which shows it  
16 pieced off as a basic hex shape that probably has many  
17 downstream uses?

18 MR. HEFFNER: Doug Heffner from Drinker Biddle --  
19 unfortunately the only samples that we had left after we  
20 gave them to the Department of Commerce were these funky  
21 ones that we had so that's all we could bring you.

22 A good portion -- if you look at the information  
23 that we have provided, because we actually also included our  
24 scope ruling, there you will see that most of them are basic  
25 shapes. So -- and as I said basic shapes that can be used

1 for a variety of different things.

2 So I would say even though the ones that you are  
3 looking at may be dedicated to that specific product, I  
4 would say overall the products that we are using are more so  
5 the basic shapes.

6 Yeah -- you can also refer to our Brief at page  
7 10. You can see some of the more typical 10, 11, 12 -- you  
8 can see some of the more typical shapes that we have there.

9 VICE CHAIRMAN JOHANSON: Alright thank you Mr.  
10 Heffner I appreciate your comments.

11 MR. HEFFNER: Sure.

12 VICE CHAIRMAN JOHANSON: Do you all know which  
13 firms manufacture fittings for ancient cooling systems in  
14 China and which firms manufacture fin evaporator coil  
15 systems in China?

16 MR. MATA: This is Erik with Electrolux. Yes  
17 there are a few that I know of in China, Changzhou Changzheng,  
18 one of them and Jiangsu Changfa is one of them and Changzhou Changfa  
19 is another one, those are the ones that we know of.

20 VICE CHAIRMAN JOHANSON: Okay so you know of  
21 three of them then, okay. I appreciate it. Well that  
22 concludes my questions. We have a rather discreet number of  
23 topics that we have been discussing here today and I think  
24 that we have covered them pretty well so that concludes my  
25 questions.

1           Commissioner Williamson do you have any further  
2 questions?

3           COMMISSIONER WILLIAMSON: Yeah just a couple. I  
4 was curious I have been looking at this thing here -- how,  
5 extrusions are a wide variety. Are fitting evaporator coils  
6 a wide variety too, is that a more complicated, a simple  
7 one, and I guess there are fin evaporator coil systems that  
8 you are talking about and what is the significance of that?

9           I am trying to figure out these to get a better  
10 feel of what we are talking about here.

11          MR. MATA: Sure. Fin operator coil systems there  
12 are a few, there are several different kinds of it micro channels  
13 is one of them which is vastly used in the automotive  
14 industry. The fin evaporators that we have here they are the  
15 most common in the appliance industry.

16          There are different configurations -- tubing  
17 configurations. There are different fin configuration and  
18 density and also sizes depending on the size of the product  
19 that the fin evaporator system is assembled into with varied  
20 capacity -- cooling capacity so to say.

21          MR. CARYL: And Commissioner Williamson in the  
22 handout there was a slide, there is a picture I think I have  
23 two pictures -- I saw those and then there's an A frame one  
24 that is used for HVAC, that's a fin evaporator coil also so  
25 that's kind of two pieces and we can submit post-hearing you

1 know additional pictures and samples.

2 COMMISSIONER WILLIAMSON: What I am trying to get  
3 an idea of you talked about this one having different  
4 materials attached and all -- sometimes we have people talk  
5 about the most extreme example of something to make a point.

6 MR. CARYL: We definitely brought one of the  
7 smaller examples just for logistical purposes.

8 COMMISSIONER WILLIAMSON: Okay that's what I  
9 would like to get a better feeling from post-hearing,  
10 Petitioner's also can address that question too.

11 Let's see Mr. Heffner, in post-hearing maybe you  
12 can address the difference and looking at the cooling  
13 systems, the fittings and cooling systems the differences in  
14 the unit values between domestic, Chinese to explain those  
15 difference if you can.

16 And you probably can do it post-hearing given the  
17 proprietary --

18 MR. HEFFNER: Doug Heffner, Drinker Biddle again  
19 -- we'll try to do that in post-hearing. It involves  
20 confidential information.

21 COMMISSIONER WILLIAMSON: Yeah I understand that,  
22 if there is anything that can tell us about that that would  
23 be helpful.

24 MR. HEFFNER: I don't know if there -- I don't  
25 know.

1 COMMISSIONER WILLIAMSON: Yeah.

2 MR. HEFFNER: I would have to go back and look at  
3 the information in detail and try to sort it out.

4 COMMISSIONER WILLIAMSON: Okay thank you. I  
5 guess the other thing for post-hearing for the lawyers is  
6 precedent -- what you are asking, basically what you are  
7 asking us to do is to say -- create a like product or  
8 identify a like product category that wasn't in the original  
9 and then find that that category doesn't injure the domestic  
10 industry -- I think that's what you said.

11 I don't know what precedent, what legal guidance  
12 -- kind of along the questions that Commissioner Kieff has  
13 asked here. I don't know, I'm not sure that there is any  
14 precedent for that here.

15 MR. CARYL: We can look at that post-hearing.

16 COMMISSIONER WILLIAMSON: Yeah okay and  
17 Petitioners of course would be asked to do the same. I  
18 think that is all the questions I have so I want to thank  
19 you all for your testimony.

20 COMMISSIONER BROADBENT: I have no further  
21 questions I want to thank the panel.

22 VICE CHAIRMAN JOHNSON: Alright that concludes  
23 the Respondent panel. Yes I would like to -- would, does  
24 staff have any questions for the panel?

25 MR. CORKRAN: Douglas Corkran, Office of

1       Investigations. Thank you Vice Chairman Johanson staff has  
2       two additional questions please.

3               MR. ENCK: Justin Enck, Office of Investigations.  
4       The question regarding U.S. imports of aluminum extrusions  
5       from non-subject countries -- the volume of those imports  
6       has been sizable during the period of review.

7               I was wondering if the orders were revoked how  
8       would the presence of those imports affect the imports from  
9       China?

10              MR. SCHAEFER: For our part as Mr. Mata discussed  
11       earlier because Electrolux is in the process of signing a  
12       supply agreement it appears likely that the presence of  
13       those imports would largely forestall additional imports  
14       from China, you only need so much.

15              But any further detail than that likely strays  
16       into confidential data territory and so we are pleased to  
17       address that in the Brief.

18              MR. ENCK: Thank you.

19              MR. HEFFNER: Doug Heffner from Adams Thermal, we  
20       will have to address that in the post-hearing.

21              MR. HICKS: If I may add in the case regarding  
22       handles it wouldn't change anything because you don't have  
23       anyone that is producing it.

24              MS. ALVES: Thank you, good afternoon it is Mary  
25       Jane Alves from the General Counsel's Office. There was

1 mentioned in the pre-hearing Briefs and again today that  
2 Commerce has made a preliminary circumvention determination  
3 in November, 2016.

4           Either now or in your post-hearing briefs and  
5 this extends to Petitioners as well when is Commerce  
6 scheduled to issue its final results and what is the  
7 significance, if any, of its preliminary or final  
8 circumvention determination in these reviews?

9 Thank you.

10           Mr. Vice Chairman, staff has no further  
11 questions.

12           VICE CHAIRMAN JOHANSON: Thank you Miss Alves.  
13 Do the domestic industry parties have any questions for this  
14 panel?

15           MR. PRICE: No questions.

16           VICE CHAIRMAN JOHANSON: Alright thank you. Now  
17 we turn to closing statements. This morning's panel has 14  
18 minutes left from their direct testimony and 5 minutes for  
19 their closing statement for a total of 19 minutes.

20           The afternoon panel has 8 minutes left from the  
21 direct testimony and 5 minutes for their closing statement  
22 for a total of 13 minutes. As is our practice we will  
23 combine the remaining times. Mr. Price you may begin when  
24 you are ready -- or Mr. DeFrancesco you may start when you  
25 are ready.

1 MS. BELLAMY: Will the room please come to order.

2 VICE CHAIRMAN JOHANSON: You may begin.

3 MR. DeFRANCESCO: Thank you, Commissioners.

4 To give part of our rebuttal, Ms. Boyse is going  
5 to begin, and then I will take the balance of the time on  
6 the close.

7 CLOSING STATEMENTS OF STEPHANIE HICKMAN BOYSE

8 MS. BOYSE: Thank you, Commissioners. Stephanie  
9 Boyse with Brazeway. You know, quite frankly I am  
10 incredibly disappointed by Electrolux's testimony. There  
11 were multiple comments that are completely inaccurate.

12 They showed you a photo of an A coil for HVAC  
13 that is not a product we make. It is not a product  
14 Electrolux buys, and it is not a product in question here.

15 They also talked about processes we don't produce  
16 and has nothing to do with a fin evaporator coil. They  
17 also mentioned that they brought one of the simplest parts.  
18 They did in fact bring the most complex part. In most cases  
19 we simply assemble the fins onto the tube. Sometimes we'll  
20 put a joint on; sometimes we won't. So I wanted to clear  
21 that up.

22 Electrolux said that they are unable to source  
23 domestically. This is simply not true. Brazeway has a  
24 large facility in Hopkinsville, Kentucky, that makes all of  
25 our processes from the beginning of the extrusion through to

1 the final assembly. As a matter of fact, Whirlpool still  
2 buys their products from that Kentucky facility, and the ITC  
3 staff visited that facility. So that is evidence of that.

4 As a matter of fact, we could make all of our  
5 products in Kentucky, and I would love to do that. I would  
6 love to make products in our closed-down Michigan plant.  
7 But the fact of the matter remains that we are forced to  
8 move a portion of this assembly to Mexico in order to meet  
9 the China price.

10 We lost millions of units prior to the Orders  
11 being put in place, and in order to be able to regain those  
12 units we were--it was insisted upon by Electrolux that we  
13 move a portion of that assembly to Mexico so that we  
14 wouldn't raise their price. Quite frankly, much more,  
15 including other types of extruded products, could be done in  
16 the United States but those industries have been lost, and  
17 frankly customers aren't willing to pay those prices  
18 anymore.

19 The outcome of your decision doesn't harm  
20 Electrolux. They are a large, multi-national. They're  
21 going to be just fine if these Orders go in place as  
22 written, but the outcome of your decision severely affects  
23 my business. It affects the 800 employees that work at  
24 Brazeway, our three communities, and the entire supply chain  
25 that we help feed.

1           If you modify the scope, or if you change the  
2 Orders in any sort of way, quite frankly our business will  
3 be lost. We will fully go out of business.

4           Brazeway has been in my family for over 70 years.  
5 We have, as I mentioned, 800 employees. We are a  
6 significant employer in the small towns that we reside in.  
7 Any change to these Orders will decimate my business. Short  
8 of a natural disaster, quite frankly, unfair Chinese imports  
9 are the single most competitive threat to our business that  
10 could wipe our business out overnight.

11           So I urge you to please take that into  
12 consideration as you're making your decisions. Thank you.

13           CLOSING STATEMENT OF ROBERT DeFRANCESCO

14           MR. DeFRANCESCO: Thank you, Commissioners. I'm  
15 just going to start with a few points, first about appliance  
16 handles and trim kits.

17           We heard today that there are no domestic  
18 producers of those products. There was an APO release  
19 yesterday. There's a domestic producer questionnaire. In  
20 that APO release, that domestic producer identifies himself  
21 as an appliance handle and trim kit manufacturer, among  
22 other products that he makes.

23           The producer that's in that release submitted a  
24 questionnaire response in the original investigation of  
25 domestic producer questionnaire response, and has submitted

1 one here. There is domestic production. The appliance  
2 handles and the other products that domestic producer makes  
3 are no different than any of these other products.

4 All of the extruders who were here today on the  
5 panel, they can produce those appliance handles just as well  
6 as any other U.S. producer, given the chance, given an RFQ  
7 from Electrolux or any other appliance manufacturer. They'd  
8 be happy to supply that product.

9 Electrolux may not purchase from that particular  
10 U.S. producer that was in that APO response, but that  
11 doesn't mean there are not U.S. producers of that product.

12 With respect to the legal proceeding as it  
13 relates to appliance handles, we have been at this both at  
14 the Court of International Trade and now at the Federal  
15 Circuit for a very long period of time, and Electrolux and  
16 others have been trying to chip away at that appliance  
17 handle market. And I can tell you that the producers, we  
18 would like to be able to produce more of it and they can't,  
19 and there's a recurrence and continuation of injury as it  
20 relates to that product.

21 With respect to Commissioner Johanson's question  
22 earlier about Chinese FEC producers, you had asked if there  
23 are any. Electrolux's answer was, yes, there are. And I  
24 would ask you: Where are they? They didn't submit any  
25 questionnaire responses to the Commission. No Chinese

1 producer submitted a questionnaire response to the  
2 Commission.

3 If we are evaluating the degree to which the FEC  
4 industry may be injured or may not be injured, the Chinese  
5 have refused to provide capacity data, shipment data, or  
6 anything else to the Commission. I just leave you with  
7 that.

8 Finally, with respect to the like-product we have  
9 same physical characteristics. They are aluminum  
10 extrusions. They are produced to different shapes,  
11 different sizes. They're all produced to aluminum alloy  
12 grades 1, 3, and 6. We saw all the different shapes and  
13 permutations that can be produced. They're made in the same  
14 facilities on the same equipment by the same employees.

15 The fabrication takes place in the same  
16 facilities with the same employees on the same equipment.  
17 There's nothing unique about the fabrication that takes  
18 place in those facilities.

19 With respect to the engine fittings, all we heard  
20 from was Adams Thermal's attorneys. There was no Adams  
21 Thermal witness to discuss the market or how it's purchased.  
22 And I fail to see how they buy the product in China that  
23 relates in any way to domestic production and the domestic  
24 industry in the United States.

25 Finally, the engine fittings that they're

1 complaining about are no more complicated. Frankly, they're  
2 even less complicated than the engine mounting system that  
3 they go into, which is also manufactured in the same U.S.  
4 facilities, in the same production equipment, by the same  
5 employees.

6           When we talk about pricing mechanisms, the  
7 pricing mechanisms, whether it's per-pound or per-piece, it  
8 is the metal plus a conversion cost. It is the same pricing  
9 mechanism across all of these extrusions. It is metal and  
10 conversion. And as you can see, these products have very  
11 extensive fabrication. Some have extensive. Some have less  
12 extensive. But they are all produced in the same facilities  
13 by the same production and same employees.

14           The channels of distribution are also the same.  
15 We have, some of these are sold to automotive and  
16 transportation customers. Some of these are sold to  
17 building and construction customers. Some of these are sold  
18 to appliance manufacturers. But there is direct overlap. A  
19 lot of sales to OEMs. The small amount that goes through  
20 distribution, even those products are dedicated to becoming  
21 that product and to go into particular end customers.

22           Finally, with respect to the semi-finished  
23 analysis, just a quick note. We heard in our panel today  
24 the amount of dedication that the product, when it comes to  
25 the die, this is a net blank--this comes out as a net shape.

1 It is going to be fabricated, yes. It's going to have these  
2 holes machined into them, and whatnot, but this is going to  
3 become an engine fitting--an engine mounting system. It is  
4 not going to become something else.

5 We heard from testimony today that even the  
6 engine fittings that they're producing, they're produced  
7 from one die. It's sold to one customer. And that customer  
8 only makes engine fittings out of them. They don't push  
9 metal through the same die, sell that metal into  
10 distribution, and it is somehow machined into something  
11 else.

12 Finally, we heard a little bit of allusion to it  
13 today in the questions and answers. Essentially what they  
14 are asking you to do is go down the rabbit hole and start  
15 finding all sorts of different domestic like-products.  
16 Based on their analysis, we could have hundreds if not  
17 thousands of like-products, given the permutations that can  
18 be pushed through the die.

19 Obviously that is not appropriate. We do not  
20 agree with that analysis. And if the Commission wants to  
21 have multiple changed circumstances reviews to address  
22 like-product in this area, if we start chipping away at that  
23 that's what's likely going to happen.

24 And your decision in the original investigation  
25 was correct. It is a single domestic like-product. It is a

1 continuum of products that all have the same production  
2 employees, the same production equipment, the same  
3 facilities where they both fabricate and extrude. And some  
4 products are more fabricated than others, but they're all  
5 produced in the same facilities and all sold to similar and  
6 overlapping channels of distribution, and all priced the  
7 same way.

8 And with that, I'll close. Thank you very much.

9 VICE CHAIRMAN JOHANSON: Thank you, Mr.  
10 DeFrancesco and Ms. Boyse.

11 And it is now time for the opposition for  
12 rebuttal and closing.

13 CLOSING STATEMENT OF ALEXANDER H. SCHAEFER

14 MR. SCHAEFER: Thank you, Commissioners. Alex  
15 Schaefer from Crowell & Moring for Electrolux. I am going  
16 to be brief because we don't frankly have too much to say  
17 that hasn't been said.

18 In my inarticulate fashion today, and in much  
19 better fashion in our papers, and we'll have more to say in  
20 our post-hearing materials, there are a couple of points I  
21 would like to make in response to Ms. Boyse from Brazeway's  
22 comments, which Electrolux found rather galling.

23 She began by saying we showed a picture of a  
24 product that Brazeway doesn't make. I'm not sure why that's  
25 in any way relevant. The product is a fin evaporator coil

1 system that Electrolux purchases, and the duties don't get  
2 any smaller just because it's not one that Brazeway makes.

3 She also accused us of arguing that the product  
4 that we brought in was the simplest example, when in fact it  
5 is rather sophisticated. We said nothing of the sort.

6 Mr. Mata very clearly said this is the most  
7 common one, meaning the one that's sold the most. He took  
8 no position on whether it's relatively complicated or  
9 relatively simple. We explicitly deferred that to the  
10 briefing.

11 As to the reasons why Brazeway moved its  
12 production to Mexico, I fail to understand the relevance.  
13 The U.S. antidumping and countervailing duty laws are not  
14 designed to prop up Brazeway's Mexican operation. I don't  
15 think I need to address the they're going to be just fine  
16 argument. I'm not sure the company's size has anything to  
17 do with anything in this matter.

18 And in re that Mexican production, I'd note  
19 Brazeway didn't file a foreign producer questionnaire. They  
20 also indicate that Whirlpool buys from them in the U.S., but  
21 Whirlpool, who ha been involved in these cases from the  
22 start, both at the Commerce end and on the ITC side, as far  
23 as I know didn't file a U.S. domestic purchaser  
24 questionnaire.

25 But here's the thing. Ultimately we don't

1 actually have a quarrel with most of the domestic extruder  
2 industry, because we're not buying extrusions. What we're  
3 saying is, the Commission has to take a hard, hard look at  
4 what that industry is and what it makes and what it doesn't.

5 Thank you for allowing us the opportunity to sort  
6 of air our grievances here today, and I'll cede the rest of  
7 my time to Mr. Ferrin.

8 CLOSING STATEMENT OF RICHARD P. FERRIN

9 MR. FERRIN: Good afternoon. Let me just start  
10 briefly by talking again about the analogy that I mentioned  
11 earlier about steel products. As I said before, you have a  
12 slab which is separate from hot-rolled, which is separate  
13 from cold-rolled, which is separate from galvanized.

14 In each of those instances, at least with the  
15 hot-rolled, cold-rolled, and galvanized, those products can  
16 either go down the line to make the more downstream product,  
17 or they can be made to make a gazillion different products.  
18 There's a gazillion different products, for example, that  
19 are made with a corrosion-resistant steel. Some are used in  
20 the building trades. Some are used for blanks for  
21 automobiles, et cetera.

22 There's a lot of--but the Commission doesn't  
23 decide, well, because there's so many downstream products  
24 that are made from corrosion-resistant steel, we're just  
25 going to consider corrosion-resistant steel and everything

1 made subsequently from it as all one like-product because  
2 there's no clear dividing lines. That's not how the  
3 Commission does its analysis, at least with steel products.

4 And they don't do that with any other metal  
5 products that I'm aware of. This seems to only be happening  
6 with the case of aluminum extrusions. And unfortunately I  
7 think this was a problem from the very beginning of the  
8 investigation.

9 This investigation, the original scope was so  
10 broad that it created--there were all sorts of like-product  
11 problems lurking there in the background, and they really  
12 weren't discussed, I don't think, all of them in the  
13 preliminary--in the original investigations. Only a few  
14 specific like-products were discussed.

15 The Commission didn't really tackle the broader  
16 issue. Now here, I don't think the Commission is in a  
17 position to tackle the broader issue of how to define the  
18 like-product for all time, because we have a limited record.

19 All we have is evidence about aluminum extrusions  
20 as the domestic industry generally is conceived of, which is  
21 stuff that you push through the die. And then you have  
22 these two separate like-products. And that's the evidence  
23 on the record before the Commission right now.

24 So when the Commission starts looking at this, I  
25 don't think it's sufficient to say, well, you know, there's

1 so many different products that are made from aluminum  
2 extrusions that we're just going to lump it all together so  
3 that everything subsequent to pushing it through an aluminum  
4 extrusion is all going to be one single like-product. I  
5 don't think that would be consistent with the Commission's  
6 jurisprudence in any steel case or any metal case, or  
7 frankly any other case that I'm aware of.

8 Now a couple other points. Mr. DeFrancesco  
9 complained that there was no testimony from anybody at Adams  
10 Thermal here. I'm sorry that our witness was unable to come  
11 today, but I just want to emphasize that he is available to  
12 answer any questions. So if Commission staff have any  
13 questions for him, we will be glad to put that in the  
14 posthearing brief.

15 Now Mr. DeFrancesco also says that for aluminum  
16 extrusions all the dies are different. But the point is the  
17 analysis here is not what is pushed through the die, but  
18 it's what occurs after it's pushed through the die. They're  
19 talking about their industry in terms of all of the data,  
20 the pricing products, et cetera, at the stage in which the  
21 aluminum extrusion is pushed through the extruder.

22 They don't really talk much about the fabrication  
23 steps that occur afterwards. And they did not ask the  
24 Commission to collect data from the hundreds and hundreds of  
25 independent fabricators in this country. And it's probably

1 a good reason why, because they have no idea what they're  
2 going to say. If they did this in the original  
3 investigation, they might not have even had standing.

4 But unfortunately, that just wasn't considered in  
5 the original investigation. It is becoming increasingly a  
6 problem now, and I think the Commission should think long  
7 and hard before they accept all of the injury information  
8 that's just talking about the portion of the industry that  
9 is pushing it through the die, and then have them turn  
10 around and claim, well this industry really includes also  
11 the fabricators.

12 Even though the fabrication is done on different  
13 equipment, it's done on a CNC machine, it's not done on an  
14 extrusion press, and it's not done by the same people. I  
15 wasn't at the plant tour, but I doubt very seriously that  
16 the guy on the line who handles the extrusion press is also  
17 the same guy that handles the CNC machine. I think that's  
18 highly unlikely. I think the Commission needs  
19 to go through its normal six-step like-product test, and I  
20 think that they will conclude that there are significant  
21 differences that the Commission must consider and must  
22 determine as a result that aluminum extrusion industry is a  
23 separate and distinct industry from the industry that  
24 produces fittings for engine cooling systems.

25 Once the Commission does that, then I think they

1 ought to proceed to looking at the separate injury analysis.  
2 There is a domestic industry that produces fittings for  
3 engine cooling systems. However, if you just look at the  
4 evidence in the record--and admittedly there's not a lot of  
5 evidence on the record that's isolated to this particular  
6 domestic industry--but what evidence you have makes it  
7 clear, it seems to us, that there's no volume effects.

8           There have been no allegations--no allegations  
9 whatsoever--by the domestic industry that they have in the  
10 past, that they do now, or that they ever will in the future  
11 lose any sales to Chinese extrusions. There's no price  
12 effect.

13           If you look at Table C-3, again look at the  
14 average unit values for the Chinese extrusions versus what  
15 the domestic industry presents as their average unit values  
16 for these fittings, I can't tell you what the difference is  
17 but just look at it and it's not a small difference.

18           And as a result, I don't think there's any  
19 consequent impact. For these reasons, we hope that the  
20 Commission will make a negative determination with respect  
21 to fittings for engine cooling systems, determine that it is  
22 a separate like-product, and that the domestic industry that  
23 produces fittings for engine cooling systems is not likely  
24 to be materially injured, or have a continuation or a  
25 recurrence of material injury by reason of subject imports

1 of such fittings.

2 Thank you.

3 VICE CHAIRMAN JOHANSON: Thank you, Mr. Ferrin. I  
4 will now make the closing statement.

5 Post-hearing briefs, statements responsive to  
6 questions, and requests of the Commission, and corrections  
7 to the transcript must be filed by February 6, 2017.

8 Closing of the record and final release of data  
9 to parties, by March 1st, 2017. And final comments are due  
10 on March 3rd, 2017.

11 And with that, this hearing is concluded.

12 (Whereupon, at 3:35 p.m., Thursday, January 26,  
13 2017, the hearing in the above-entitled matter before the  
14 United States International Trade Commission was adjourned.)

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## CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Aluminum Extrusions from China

INVESTIGATION NOS.: 701-TA-475 and 731-TA-1177

HEARING DATE: 1-26-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Review

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 1-26-17

SIGNED: Mark A. Jagan

Signature of the Contractor or the  
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Duane Rice

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Gaynell Catherine