

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:
ALUMINUM FOIL FROM CHINA

) Investigation Nos.:
) 701-TA-570 AND 731-TA-1346
) (FINAL)

Pages: 1 – 277

Place: Washington, D.C.

Date: Thursday, February 8, 2018



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1 THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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3 In the Matter of:) Investigation Nos.: 701-TA-570 and

4 ALUMINUM FOIL) 731-TA-1346

5 FROM CHINA) (Final)

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10 Thursday, February 8, 2018

11 Main Hearing Room

12 U.S. International

13 Trade Commission

14 500 E Street, S.W.

15 Washington, D.C.

16 The meeting commenced, pursuant to notice, at

17 9:30 a.m., before the United States International Trade

18 Commission, the Honorable, Rhonda K. Schmittlein,

19 presiding.

20 APPEARANCES:

21 On behalf of the International Trade Commission:

22 Chairman, Rhonda K. Schmittlein, (presiding)

23 Vice Chairman, David S. Johanson

24 Commissioner, Irving A. Williamson

25 Commissioner, Meredith M. Broadbent

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3 Information Officer

4 Tyrell Burch, Legal Document Assistant

5 Sharon Bellamy, Records Management Specialist

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9 Craig Thomsen, International Economist

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11 Benjamin Allen, Attorney/Advisor

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14 OPENING REMARKS:

15 Petitioners (John M. Herrmann, Kelley Drye & Warren LLP)

16 Respondents (Ned H. Marshak, Grunfeld, Desiderio, Lebowitz,

17 Silverman & Klestadt LLP)

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

3 Kelley Drye & Warren LLP
4 Washington, DC

5 On behalf of:

6 The Aluminum Association Trade Enforcement Working Group and
7 its individual members

8 Lee McCarter, Chief Executive Officer, JW
9 Aluminum Company

10 Chester Roush, Chief Strategy Officer, JW
11 Aluminum Company

12 John Mucci, Sales Manager-Foil, JW Aluminum
13 Company

14 Beatriz Landa, Vice President and General
15 Manager-Specialties Products, Novelis Corporation

16 James D'Amico, Senior Account Manager, Novelis
17 Corporation

18 Murray Rudisill, Vice President-Operations,
19 Reynolds Consumer Products

20 Heidi Brock, President and Chief Executive
21 Officer, The Aluminum Association

22 Holly Hart, Legislative Director and Assistant to
23 the President, United Steel, Paper and Forestry, Rubber,
24 Manufacturing Energy, Allied Industrial and Service Workers
25 International Union

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6 Countervailing Duty Orders:

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8 Paul C. Rosenthal)

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10 Grace W. Kim)

11 Joshua R. Morey)

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

16 Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
17 Washington, DC

18 On behalf of:

19 China Nonferrous Metals Industry Association et al ("Chinese
20 Respondents")

21 Xinda Mo, Director of Light NonFerrous Metals
22 Department, China Nonferrous Metals Industry Association

23 Joe Esposito, Vice President, Network Planning,
24 Americas, Delta Air Lines, Inc.

25 Raymond Xu, Director, Global Sales, Dingsheng

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2 James P. Dougan. Vice President, Economic
3 Consulting Services

4 Parker R. Sultzer. Staff Economist, Economic
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10 Ned H. Marshak)

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15 Washington, DC

16 On behalf of:

17 Flexible Packaging Association's U.S. Aluminum Foil

18 Converters Committee; Makakin Industries, LLC, Ltd.;

19 Jiangsu Zhongji Lamination Materials Co., (HK) Ltd.;

20 Jiangsu Zhongji Lamination Materials Co., Ltd.

21 Alison Keane, President and Chief Executive
22 Officer, Flexible Packaging Association

23 Todd Lutterbein, President, Manakin Industries

24 Steve Casey, Senior Director -- Procurement, Bemis Company,
25 Inc.

1 Gary Michalkiewicz, Global Category Manager --
2 Barrier Products, Bemis Company, Inc

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5 Brian Nelson, Senior Category Manager, Sonoco
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9 Jeffrey S. Grimson)

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12 Washington, LLP

13 On behalf of:

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15 LLFLEX

16 Jim Squatrito, Chief Executive Officer, Oracle
17 and LLFLEX

18 Felicia LeBorgne Nowels) -- OF COUNSEL

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1 APPEARANCES (Continued):

2 Clark Hill

3 Washington, DC

4 on behalf of

5 ProAmpac Intermediate, Inc.; Ampac Holdings, LLC

6 and Jen-Coat, Inc., d.b.a. Prolamina (collectively

7 "ProAmpac")

8 Tim French, Chief Operation Officer, ProAmpac

9 Paul Schabow, Vice President of Procurement,

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16 on behalf of

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18 Linda Walmsley, President, Trinidad

19 Donna Walters, Director of Aluminum Risk,

20 Trinidad

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

3 Crowell & Moring, LLP

4 Washington DC

5 on behalf of

6 Valeo North America Inc., ("Valeo")

7 Yinbang Clad Material Co., Ltd ("Yinbang")

8 Rogelio Garcia Site Purchasing Manager, Valeo
9 Thermal Systems, North America

10 Albert Wang, Sales and Marketing Director,
11 Yinbang

12 Daniel Cannistra) OF COUNSEL

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14

15 REBUTTAL/CLOSING REMARKS:

16 Petitioner (Paul C. Rosenthal, Kelley Drye & Warren LLP)

17 Respondents (Jeffrey S. Grimson, Mowry & Grimson, PLLC)

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P R O C E E D I N G S

1
2 (9:36 a.m.)

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

4 CHAIRMAN SCHMIDTLEIN: Good morning. On behalf
5 of the U.S. International Trade Commission I welcome you to
6 this hearing on the final phase of Investigation Nos.
7 701-TA-570 and 731-TA-1346 involving Aluminum Foil from
8 China.

9 The purpose of these final investigations is to
10 determine whether an industry in the United States is
11 materially injured or threatened with material injury or the
12 establishment of an industry in the United States is
13 materially retarded by reason of imports of aluminum foil
14 from China.

15 Schedule setting forth the presentation of this
16 hearing, notices of investigation and transcript order forms
17 are available at the Public Distribution Table. All
18 prepared testimony should be given to the Secretary. Please
19 do not place testimony directly on the Public Distribution
20 Table. All witnesses must be sworn in by the Secretary
21 before presenting testimony.

22 I understand that the parties are aware of the
23 time allocations. Any questions regarding time allocations
24 should be directed to the Secretary. Speakers are reminded
25 not to refer in their remarks or answers to questions to

1 business proprietary information. Please speak clearly into
2 the microphones and state your name for the record for the
3 benefit of the court reporter.

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

7 Mr. Secretary, are there any preliminary matters?

8 MR. BISHOP: Madam Chairman, I would note that
9 all witnesses for today's hearing have been sworn in. There
10 are no other preliminary matters.

11 CHAIRMAN SCHMIDTLEIN: Very well. Let's move to
12 opening remarks.

13 MR. BISHOP: Opening remarks on behalf of
14 Petitioners will be given by John M. Herrmann of Kelley,
15 Drye and Warren. Mr. Herrmann, you have five minutes.

16 OPENING STATEMENT OF JOHN HERRMANN

17 MR. HERRMANN: Good morning, Chairman
18 Schmidtlein, members of the Commission and Commission Staff.
19 I am John Herrmann of Kelley, Drye and Warren appearing this
20 morning on behalf of the Aluminum Association Trade
21 Enforcement working group and its individual members.

22 This is the first case to come before the
23 Commission involving aluminum foil. It is also the first
24 year in the eighty-five year history that the Aluminum
25 Association has filed on behalf of its member companies

1 reflecting the dire condition in which the Domestic Industry
2 finds itself and the urgent need for relief from unfairly
3 traded imports of aluminum foil from China.

4 Subject Imports have injured the Domestic
5 Producers and the thousands of workers supported by the
6 industry for a decade and the injury continues today.
7 Low-priced imports from China are responsible for decisions
8 by Reynolds Consumer Products, Novelis Corporation and Alpha
9 Aluminum to close entire production facilities.

10 Subject Imports were also responsible for JW
11 Aluminum's 2013 decision to reduce significantly its
12 capacity to produce aluminum foil. Other U.S. Producers
13 have also idled production equipment at facilities that
14 continue to operate. These actions have resulted in the
15 removal of significant foil production capacity and job
16 losses for U.S. Workers.

17 While Respondents argue Domestic Producers have
18 ceded production of certain aluminum foil products to
19 Imports from China, the reality is much different.
20 Companies don't simply close up and walk away from
21 capital-intensive facilities. As you will hear this
22 morning these decisions were due to imports from China.

23 Over the past decade the volume of aluminum foil
24 imports from China has surged with imports from China
25 increasing by nearly 400 percent. Chinese Imports were less

1 than a quarter of total U.S. Imports in 2007 but in 2016
2 accounted for more than 70 percent of total imports.

3 Over that same period Chinese Imports have grown
4 from having virtually no presence in the U.S. Market to
5 holding a substantial share of the market today. That
6 increase in Subject Imports has intensified during the
7 current Period of Investigation.

8 While apparent consumption of aluminum foil
9 increased modestly since 2014 the volume of Chinese Imports
10 is increased by nearly 40 percent. The market share
11 captured by increased Chinese Imports has come directly at
12 the expense of U.S. Producers. Despite growing demand for
13 aluminum foil, the Domestic Industry's production, capacity,
14 capacity utilization and the volume and value of shipments
15 have all declined.

16 The increased market penetration by Chinese
17 Imports has been accomplished on the basis of a single
18 factor: Price. Aluminum foil is generally interchangeable
19 whether produced in China or the United States so price
20 drives purchasing decisions. The prices at which aluminum
21 foil from China has been sold in the United States has
22 significantly undercut domestic prices forcing Domestic
23 Producers to reduce their price in order to maintain
24 business.

25 Respondents argue that there is attenuated

1 competition between Subject Imports and the domestic
2 product. That is wrong. The Domestic Industry manufactures
3 aluminum foil in all 5 thickness categories and in all
4 product types for which data were gathered by the
5 Commission. The competition with imports is direct and
6 injurious.

7 The impact of surging volumes of low priced
8 imports of aluminum foil on the Domestic Producers financial
9 condition has been predictable. The Domestic Industry,
10 already vulnerable from the large volumes of low-priced
11 Chinese Imports in the years preceding the POI suffered
12 abysmal financial results in every year of the POI in both
13 the merchant market and the overall market.

14 The Subject Imports' negative effects also hit
15 the industry's workers with the number of workers, hours
16 worked and wages paid all declining. These facts
17 collectively establish material injury caused by Subject
18 Imports.

19 Further, there is no prospect for relief in
20 sight. Massive excess capacity in China as well as China's
21 slowing economy and third country barriers to imports of
22 Chinese aluminum foil in the EU, Turkey and India all
23 encourage Chinese Producers to export their oversupply to
24 the United States. Absent relief, unfairly traded imports
25 will continue to expand at the expense of the Domestic

1 Producers and workers supported by the industry.

2 To prevent further injury we urge the Commission
3 to reach an affirmative determination. Thank you.

4 CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Herrmann.

5 MR. BISHOP: Opening remarks on behalf of the
6 Respondents will be given by Ned H. Marshak of Grunfeld,
7 Disderio, Lebowitz, Silverman and Klestadt. Mr. Marshak,
8 you have five minutes.

9 OPENING STATEMENT OF NED MARSHAK

10 MR. MARSHAK: Good morning, again. I am Ned
11 Marshak of Grunfeld Desiderio. In many respects this case
12 raise issues similar to those which the Commission has
13 considered many times in the past. This morning you will
14 hear Petitioners' claims. You will hear them say there are
15 no material differences between ultra thin foil, household
16 foil and fin stock. You will hear them say you can make all
17 types of foil at any time and you will hear Petitioners
18 mantra "price, price, price."

19 We know however this Commission has not in the
20 past and will not now blindly accept these allegations and
21 in this case like all other cases you will carefully
22 consider the reasons why during the POI Chinese market share
23 has increased and prices have fluctuated and we know that
24 unless the answer to these whys are established by
25 substantial evidence that there has been a real but-for

1 causal connection between Subject Imports and the condition
2 of the Domestic Industry, you will reach a negative
3 determination.

4 So what makes this case special? Look around the
5 room. Our law firm represents Chinese Respondents in many
6 AC/CVD cases before the Commission and we always hope that
7 one or two purchasers will come forward and testify at a
8 hearing. We understand why purchasers, American Companies,
9 are reluctant to support their Chinese vendors in a public
10 forum. It's not good politics and companies who take a
11 public position risk being placed at the back of the line to
12 obtain necessary supply.

13 So we ask for help and we hope. This case is
14 different. Purchasers have taken the lead in urging the
15 Commission to reach a negative determination. We have had
16 to turn away persons who have asked to speak in public on
17 our behalf. We have had to limit their time. Why?

18 As a summary of Purchaser Questionnaire responses
19 in this Prehearing Staff Report reveals, as you will hear
20 this afternoon from American Companies whose businesses and
21 tens of thousands of workers have been placed at risk by the
22 Petition, purchase decisions are not based on price. The
23 aluminum foil industry is not monolithic.

24 First, ultrathin foil. This is a distinct
25 product. High-quality ultrathin currently is barely

1 available from U.S. mills and would not have been available
2 during the POI even if the Chinese had not been pulled into
3 this distinct submarket and would have been available in
4 sufficient quantities to meet U.S. demand in the future.

5 Second, household foil. Conditions of
6 competition in this market segment are unique. This record
7 is confidential. You will hear a lot more about household
8 foil from Trinidad's witness this afternoon. What I can say
9 in public now is that standard gauge foil is largely
10 household foil. Household foil is sold to millions of U.S.
11 households in small reels and small packages. The foil
12 sold in consumer retail packages is identical to foil
13 subject to this investigation.

14 For these reasons the Commission should consider
15 these small reels to be a part of the domestic like product
16 and the companies who convert jumbo rolls into household
17 foil packages to be part of the Domestic Industry.

18 Third, heavy and extra heavy foil. These
19 products are totally different from ultrathin foil. They
20 are used for different purposes. They are produced in
21 significant quantities in the United States today and they
22 will continue to be produced in the United States in
23 significant quantities for the foreseeable future.
24 Domestic Producers of heavy and extra heavy foil are not now
25 and will not in the future be injured by the relatively

1 small quantities of Chinese Imports.

2 Finally, fin stock. Chinese Respondents agree
3 with our customers that this is a separate like product.
4 This afternoon all of the customers you see in the room
5 today in all of these market segments will give life to the
6 data collected by Staff. You will hear why customers
7 reported by a 5:1 margin that Chinese foil was superior to
8 U.S. foil with respect to availability consistency but by a
9 3:1 margin that Chinese foil was superior to U.S. foil with
10 respect to reliability. That various specifications of
11 ultrathin are simply not available in the United States.
12 And their price is not the reason why our customers have
13 turned to Chinese foil.

14 Again, we thank our customers for stepping up so
15 that the Commission could reach a decision reflecting the
16 true conditions of competition in this industry. We thank
17 the Commission and Staff for taking the time necessary for
18 looking behind the gross data and to reach a reasonable
19 decision based on substantial evidence as to why.

20 We believe in the negative decision in this case
21 will be the only decision which is in the best interest of
22 our customers, and their tens of thousands American
23 employees and U.S. Consumers and the United States. Thank
24 you.

25 CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Marshak.

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MR. BISHOP: Would the Panel in support of the imposition of Antidumping and Countervailing Duty Orders please come forward and be seated. Madam Chairman, this Panel has 60 minutes for their direct testimony.

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CHAIRMAN SCHMIDTLEIN: You may begin when ready Mr. Herrmann.

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MR. HERRMANN: Thank you, Madam Chairman. Our first witness this morning will be Heidi Brock, the Chairman and Chief Executive Officer of the Aluminum Association.

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STATEMENT OF HEIDI BROCK

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MS. BROCK: Good morning, Chairman Schmidtlein and Members of the Commission and Staff. My name is Heidi Brock and I'm President and CEO of the Aluminum Association and I appreciate the opportunity to appear before you today.

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The Aluminum Association represents the more than 700,000 men and women who work directly and indirectly in the aluminum industry across 170 plants in 35 states nationwide. With a significant footprint in states like Ohio, Pennsylvania, Indiana, Kentucky, Missouri and Wisconsin the domestic aluminum industry is a driving force for advanced manufacturing in the United States.

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Representing 80 percent of American production of all forms of aluminum from primary producers, producers of semi-fabricated products, aluminum recyclers and industry

1 suppliers the Aluminum Association is the voice for the
2 plants and the people employed in the North American
3 Aluminum Industry.

4 Aluminum foil is a key market for us. In 2016
5 aluminum foil demand totaled about 1.5 billion pounds out of
6 an industry total of 26.4 billion pounds. So foil products
7 account for about 5.5 percent of the total domestic aluminum
8 market. Aluminum foil production is an important
9 contributor to our nation's economy accounting directly and
10 indirectly for 20,000 American jobs and 6.8 billion dollars
11 in economic activity.

12 That's why the unfair trade cases on imports of
13 certain aluminum foil from China are so important. The
14 decision to proceed with these cases was a significant
15 action for our association and our industry. In its 85-year
16 history the Aluminum Association had never before sought
17 trade enforcement relief on behalf of members from any
18 segment of the aluminum value chain.

19 Further, the aluminum industry historically has
20 not been a significant user of the U.S. Unfair Trade Laws
21 but when you consider that China has used more primary
22 aluminum in the last 7 years than the U.S. Industry has
23 produced in its 124 year history the request for trade
24 relief by domestic aluminum foil producers is not only
25 timely it is urgent and it is long overdue.

1 The relief we seek will help ensure that the U.S.
2 Aluminum Foil Industry can compete fairly in the U.S.
3 Market. This action is part of the Association's larger
4 effort to address the acute and persistent problems created
5 by China's massive over-capacity producing aluminum and
6 aluminum products, a point I addressed in testifying before
7 the Commission in Late September of 2016 in connection with
8 the agency's Section 332 Investigation on Aluminum.

9 The increased volumes of low-priced aluminum foil
10 imports from China have devastated Domestic Producers both
11 during the three year period in which the Commission will
12 focus its analysis as well as before that time. The
13 Aluminum Association is committed to combating unfair trade
14 practices that impact our industry while we strive for a
15 level playing field.

16 The U.S. Government must enforce its trade rules
17 so that companies can continue to innovate, invest and grow
18 with confidence in the United States. Other witnesses today
19 will provide details regarding the impact of Chinese foil on
20 U.S. Producers. These witnesses are our members and I am
21 here on behalf of the association today in support of their
22 efforts. We thank the Commission for its attention to this
23 urgent issue.

24 MR. HERRMANN: Thank you. Our next witness will
25 be Murray Rudisill of Reynolds Consumer Products.

1 STATEMENT OF MURRAY RUDISILL

2 MR. RUDISILL: Good morning, Chairman Schmidlein
3 and Members of the Commission and Staff. My name is Murray
4 Rudisill and I'm the Vice President of Operations with
5 Reynolds Consumer Products where I have been employed for
6 more than 30 years.

7 Most people think of aluminum foil as a boxed
8 product you have in your kitchen. Our case, however targets
9 imports of jumbo rolls of aluminum foil that are used to
10 produce not only the boxed household foil but a wide variety
11 of other products depending on the gauge and other
12 characteristics of the foil.

13 Aluminum foil is manufactured in an array of
14 alloy types, thicknesses or gauges, widths, tempers and
15 surface finishes. These physical characteristics allow
16 aluminum foil to be used in a wide range of consumer and
17 industrial applications. These include semi-rigid
18 containers and packaging such as pie pans, food and candy
19 wrappers and household foil and consumer durables such as
20 fin stock that is used in air conditioners and heat
21 exchangers such as residential and commercial HVAC and
22 thermal insulation in building and construction and
23 transportation applications.

24 Many Domestic Producers manufacture aluminum foil
25 across a wide range of different gauges that are used in

1 different applications. Reynolds production of aluminum
2 foil is typically in the gauge range of 0.0005 inches to
3 0.001 inches, a medium gauge range for the product.

4 Reynolds produces aluminum foil at our facilities
5 in Hot Springs, Arkansas and Louisville, Kentucky. Our
6 company's current operations and product mix however are
7 vastly different than they were several years ago. For many
8 years Reynolds also produced aluminum foil in a facility in
9 Richmond, Virginia. We were forced to shut this facility
10 down due to large volumes of low-priced imports from China.

11 In 2007, imports caused us to shut down a portion
12 of our Richmond operations dedicated to producing light
13 gauge aluminum foil as thin as 0.00025 inches, resulting in
14 the elimination of 60 million pounds of capacity. That
15 thinner gauge foil was used to produce cigarette liners,
16 candy wrappers, cereal box liners, sandwich wraps, blister
17 packs for pharmaceutical products and meals ready to eat or
18 MRE pouches; exactly the products that some purchasers are
19 now saying are not available in the United States.

20 This closure also resulted in decisions by
21 Reynolds to close downstream facilities owned by our company
22 that perform processing operations on the foil, resulting in
23 further job losses. Unfortunately, China remained
24 aggressive in sending additional volumes of aluminum foil
25 into the U.S. Market leaving us with unacceptably low

1 returns and forcing us to close the Richmond Facility
2 entirely in 2009.

3 This second closure resulted in the elimination
4 of an additional 100 Million pounds of Aluminum foil
5 capacity. In total, closure of our Richmond operations
6 resulted in the loss of 160 million pounds of capacity and
7 about 725 direct jobs. This capacity represents more than
8 half of the volume imported from China in 2016.

9 While several years have passed since the closure
10 of our Richmond foil facility and despite a growth in demand
11 pricing in the U.S. Market has only grown worse. Chinese
12 Producers and exporters continue to ship increasing volumes
13 of low-priced aluminum foil to the United States that create
14 intense pricing pressure for Reynolds' products.

15 These pricing pressures have reduced our revenues
16 and profitability to the extent that our company's senior
17 managers have been reluctant to pursue capital investments
18 that would increase our capacity and further strengthen our
19 company's competitiveness. Indeed, our company evaluated
20 undertaking a major capital investment in 2014 for our
21 Louisville facility that would have resulted in new,
22 well-paying jobs.

23 Our company's leadership, however ultimately
24 decided not to pursue the investment due to substantial
25 concerns about whether we could earn a sufficient rate of

1 return for the investment. After the Richmond facility was
2 closed Reynolds purchased aluminum foil from other Domestic
3 Producers to help offset the production that was lost as a
4 result of the closure.

5 We purchased aluminum foil from other Domestic
6 Producers for a number of years but were forced to begin
7 purchasing imports from China, low-priced Chinese Imports
8 forced our Domestic Suppliers to stop producing aluminum
9 foil for household applications. Significantly when we
10 began to purchase aluminum foil from China it was at a much
11 lower price than was available from Domestic Producers.

12 Over time our ability to be competitive for
13 certain accounts necessitated the purchase of limited
14 quantities of jumbo rolls from China, in order to be
15 competitive with other spoolers that were sourcing jumbo
16 rolls from China. We would strongly prefer however to rely
17 entirely on our operations in Arkansas and Kentucky to
18 produce all of the aluminum foil we sell.

19 This would allow our company to operate at a
20 higher rate of capacity utilization and run our facilities
21 at an optimal efficiency in this capital intensive industry.
22 I would like to address the argument by Trinidad Benham that
23 small reels of aluminum foil should be included in the
24 domestic like product.

25 With Reynolds being the only company in the

1 United States that is vertically integrated in that it
2 produces jumbo rolls of aluminum foil and processes or
3 spools them into small reels, our company's operations
4 provide an important perspective on this issue.

5 Other companies that spool aluminum foil into
6 small reels in the United States such as Trinidad Benham,
7 Handi-Foil and Durable Packaging do not produce jumbo rolls.
8 Instead, we understand that those companies import large
9 quantities of aluminum foil primarily from China that is
10 consumed in their spooling operations.

11 At Reynolds we view jumbo rolls of aluminum foil
12 in the boxed product or small reels as very different
13 products. First, jumbo rolls of aluminum foil are not
14 comparable in uses or physical characteristics of small
15 reels. Physically, jumbo rolls weigh about 750 pounds while
16 a small reel would weigh no more than a few pounds.

17 The jumbo rolls of aluminum foil that are the
18 subject of this case are used to make other downstream
19 products. In contrast, small reels of aluminum foil are
20 used by the ultimate customer. Given the fundamentally
21 different characteristics of jumbo rolls and small reels
22 they are seen as separate products by both producers and
23 consumers. An individual consumer or a restaurant is not
24 going to purchase a 750-800 pound coil of aluminum foil for
25 use in wrapping food. Further, while there is a significant

1 advertising to promote sales of small reels there is no
2 similar advertising for the sale of jumbo rolls.

3 Second, Reynolds produces jumbo rolls and small
4 reels in separate facilities on separate equipment and with
5 separate employees. This is not surprising given the
6 fundamentally different nature of the production processes.
7 The production of jumbo rolls involves melting metal,
8 casting the metal into coils and then cold-rolling the metal
9 to its final gauge.

10 In contrast, the production process for small
11 reels involves unwinding aluminum foil from jumbo rolls,
12 spooling it onto a cardboard core, placing the spooled roll
13 in a box for retail sale and packing and shipping the box
14 and as I noted the other producers of jumbo rolls and small
15 reels are completely different.

16 Third, the sales channels for jumbo rolls and
17 spooled foil are completely different. Jumbo rolls are sold
18 to processors that produce finished products. In contrast,
19 small reels are sold at retail to end consumers. There is
20 no competition between these two products.

21 Fourth, contrary to Respondents assertions the
22 25-pound cutoff established in the scope definition is
23 commercially significant and represents a clear dividing
24 line for aluminum foil's package for retail sales. Reynolds
25 is the only remaining significant Domestic Producer of jumbo

1 rolls of aluminum foil used in household applications in the
2 United States.

3 Our domestic competitors Nuranda, now Grangus and
4 Novelis have either stopped or significant reduced their
5 production of household foil due to the unrelenting pressure
6 and low-priced imports from China. Reynolds is firmly
7 committed to producing aluminum foil in the United States.
8 Our company however has lost substantial sales revenue as a
9 result of the lower prices prevailing in the U.S. Market due
10 to Chinese Imports.

11 There is an urgent need for trade relief to
12 return fair pricing to the U.S. Market and to ensure that
13 our company and our industry are able to earn a reasonable
14 return that will allow us to make the capital investments
15 that are necessary to ensure our long term competitiveness.
16 Thank you.

17 MR. HERRMANN: Thank you very much. Our next
18 witness will be Bea Landa from Novelis Corporation.

19 STATMENT OF BEATRIZ LANDA

20 MS. LANDA: Good morning. My name is Bea Landa
21 and I am the vice president and general manager, specialty
22 products, with Novelis Corporation. Joining me this morning
23 behind me is Jim D'Amico, a senior account manager with
24 Novelis, who has nearly 25 years of experience in the
25 production and sale of aluminum foil and will be available

1 to answer your questions.

2 Novelis Corporation is a subsidiary of Novelis,
3 Inc., the world's leading producer of flat-rolled aluminum
4 products. Novelis Corporation is headquartered in Atlanta,
5 Georgia. We produce aluminum foil at facilities in Terra
6 Haute, Indiana and Fairmont, West Virginia.

7 Demand for aluminum foil in the United States
8 has grown at a moderate steady rate in recent years. The
9 increase in demand, however, has been far exceeded by huge
10 increases in the supply of Chinese products to the U.S.
11 market. Because of its large size and openness, the U.S.
12 market has been an attractive outlet for the excess Chinese
13 production, resulting from irrational capacity expansions
14 that far exceed domestic demand in China.

15 Novelis has had long experience with the harmful
16 effects of low-priced imports of aluminum foil from China.
17 Indeed, Novelis aluminum foil operations today are vastly
18 different from and significantly diminished as compared to
19 our operations of a decade ago. Novelis has lost more than
20 100 million pounds of foil production to Chinese producers
21 in the past 10 years, as well as more than 120 jobs at our
22 U.S. operations.

23 The large increase in the volumes of low-priced
24 Chinese product entering the United States has devastated
25 pricing of aluminum foil in the U.S. market. Our company

1 was first confronted by an initial surge in imports of
2 aluminum foil from China in 2006 and 2007 that decimated
3 pricing.

4 We looked at filing an anti-dumping case in that
5 period, but for a variety of reasons, we did not. Instead,
6 with low prevailing prices and no prospect for improvements,
7 our company made the difficult decision to close its
8 facility in Louisville, Kentucky, a facility that produced
9 approximately 30 million pounds of light gauge foil
10 annually. Other companies made similar painful decisions to
11 close lines or whole facilities. Still, other companies
12 ceased production all together and just became importers.

13 While we made concerted efforts to sell our
14 Louisville facility and its assets, we were unable to
15 identify a buyer due to the poor market conditions resulting
16 from the inroads by imports from China. Our Louisville
17 facility sat abandoned and unused until the property was
18 sold in 2016 to be used for general warehousing services.

19 Regrettably, this was not the only significant
20 negative effect of Chinese imports on Novelis aluminum foil
21 operations. In 2014, Novelis ceased U.S. production of
22 aluminum foil for household applications due to poor market
23 conditions resulting from large volumes of low-priced
24 imports from China. As a result, we sold facilities in both
25 the United States and Canada after reaching the conclusion

1 that we could not operate them at a reasonable rate of
2 return.

3 The decision to sell these facilities was due to
4 the continued increase in the volume of extremely low-priced
5 aluminum foil imports from China and was quite painful.

6 In addition, Novelis has been forced to suspend
7 production on and layoff workers responsible for operating
8 three aluminum foil production lines, two separators, and
9 one annealing oven at our facility in Terra Haute, Indiana.
10 The most recent closure occurred when a production line was
11 mothballed in December 2014, well before the end of its
12 useful life due to the lost market share and the inability
13 to earn a reasonable return.

14 This production line, which Commission staff had
15 an opportunity to see during a plant tour last November, is
16 a state-of-the art mill that is just as efficient as any
17 mill in China.

18 The respondents' suggestion that domestic
19 producers are ceasing production of certain aluminum foil
20 products to pursue other allegedly higher value products is
21 wrong. Our company has invested tens of millions of dollars
22 in equipment that is now sitting idle because pricing in the
23 U.S. market due to unfairly traded imports from China fell
24 to such low levels, that we could not just continuing
25 production.

1 We did not cease production of light gauge and
2 household aluminum foil to pursue higher value products. We
3 were forced to shutter the production line because of
4 low-priced Chinese imports.

5 We are now struggling to sell a thicker gauge
6 container foil and aluminum foil used in fin stock
7 applications and continue to suffer from the intense
8 competition with low-priced Chinese imports. We cannot
9 continue to reduce prices on our product offerings and
10 remain sustainable.

11 The decisions by our company to down size its
12 operations have been particularly painful because we pride
13 ourselves on being able to compete with any producer in the
14 world. Novelis is an extremely efficient producer with
15 cutting--edge production machinery. We have historically
16 been one of the most cost-competitive producers of
17 flat-rolled aluminum products in the world. We cannot
18 compete however, against products that are subsidized by the
19 Chinese government and that are sold at unfairly low prices.

20 Our company has invested hundreds of millions of
21 dollars in recent years to expand its capability and
22 capacity to produce auto body sheet. In approving these
23 investments, our company's leadership has demonstrated its
24 commitment to pursuing significant investments and our
25 company's capital equipment so long as there's an

1 expectation of a reasonable return on the investment.

2 I was struck by the statement in the pre-hearing
3 brief of the flexible packaging association on certain
4 Chinese companies, which contains the following statement.
5 "A rational manufacturer chases the highest value
6 opportunity unless there are obstacles to overcome." That
7 is at page 42 of their brief.

8 I totally agree, but Novelis has learned the
9 hard way that the biggest obstacle to overcome in the
10 aluminum foil market is unfairly low-priced Chinese
11 products.

12 The next sentence of that same brief says, "In
13 this case, it is the domestic producer's utter inability to
14 provide quality products, which is a direct result of their
15 deliberate refusal to invest in equipment for four years
16 that forces them to exit this high end segment." That
17 statement is wrong in many ways. First, as I mentioned a
18 minute ago, Novelis has invested hundreds of millions of
19 dollars in recent years in the parts of the market where it
20 can make a reasonable return.

21 Second, I mentioned that we mothballed an
22 efficient state-of-the-art mill just a few years ago because
23 we could not compete effectively against Chinese prices.
24 That mill was installed at our Terra Haute facility in the
25 early 2000s.

1 Unfortunately, the prolonged poor conditions in
2 the U.S. aluminum foil market are not sufficient to justify
3 any new capital investments to strengthen the
4 competitiveness of Novelis aluminum foil operations. As a
5 result, recently, our company has made nothing more than the
6 minimal investments necessary to perform basic maintenance
7 on our foil-related assets.

8 We fear that our inability to make any
9 investments to strengthen and improve our foil-producing
10 equipment will put our future competitiveness at risk.
11 Absent trade relief, it is hard to envision such
12 investments. Further, without a remedy, it appears that the
13 already substantial volumes of unfairly traded imports from
14 China will only continue to grow.

15 Finally, I would like to briefly address the
16 arguments raised on the aluminum foil use for automotive
17 fin stock. After Chinese imports forced our company to
18 cease production of light gauge and household foil, we
19 produced increasingly large volumes of aluminum foil for
20 fin stock applications. While Valeo and Malese arguments
21 focus on the aluminum foil used in the automotive fin stock
22 applications, it is important that the Commission
23 understand this is just one application for fin stock
24 aluminum foil.

25 Novelis produces aluminum foil that is used in

1 automotive fin stock applications as well as in residential
2 and commercial HVAC applications. Further, I read with
3 interest that arguments by both the flexible packaging
4 respondents and automotive fin stock respondents that their
5 respective products are produced to exacting specifications
6 and that other aluminum foil products are not. Our
7 customers expect all of our company's aluminum foil to be
8 produced to exacting specifications irrespective of the end
9 use application.

10 In summary, if unfairly traded imports from
11 China continue to flood the U.S. market at the low-price
12 levels we have seen in recent years, our company will
13 continue to lose sales, market share, and jobs to subject
14 imports. We recognize that there is a place for imports in
15 the market, but they must be fairly traded. We are
16 confident that if import relief is granted to our industry,
17 Novelis has the means and the determination to serve this
18 market and again achieve a fair return on our investments.
19 Thank you.

20 MR. HERRMANN: Thank you. Our next witnesses
21 will be Lee McCarter and Chester Roush from JW Aluminum
22 Company.

23 MR MCCARTER: Good morning. My name is Lee
24 McCarter and am the chief executive officer of JW Aluminum
25 Company. Joining me this morning are Chester Roush, JW

1 Aluminum's chief strategy officer and John Mucci, JW
2 Aluminum's foil sales manager.

3 Mr. Roush and I will both testify this morning
4 and Mr. Mucci is available to answer to your questions. I'd
5 like to ask Mr. Roush to start by addressing the devastating
6 effects that unfairly traded imports of aluminum foil from
7 China have had on our company's operations.

8 STATEMENT OF CHESTER ROUSH

9 MR. ROUSH: Good morning. When Lee and I joined
10 JW Aluminum in 2009, our company was confronting numerous
11 challenges, perhaps most significant trying to navigate
12 successfully the aftermath of the global financial crisis.
13 While economic conditions have improved since that time, our
14 company's operations continue to be hurt by extremely
15 low-priced aluminum foil imports from China. Those imports
16 were already substantial in 2009 and have continued to
17 increase massively since to the detriment of our company and
18 our industry.

19 JW Aluminum produces aluminum foil at our
20 facilities in Goose Creek, South Carolina our company's
21 headquarters, as well as our facilities in St. Louis,
22 Missouri; Williamsport, Pennsylvania, and Russellville,
23 Arkansas.

24 We produce a wide variety of aluminum foil
25 products down to the thickness of .000275 inches that meet

1 all of the applicable industry specifications. We have also
2 produced aluminum foil with a thickness of .00025 inches as
3 recently as 2014, but have not produced that gauge since due
4 to the low prices that prevail in the market because of
5 Chinese imports.

6 While respondents have asserted that JW Aluminum
7 does not produce foil below 0003 inches, that is not
8 correct. In fact, despite the significant market share
9 gains made by low-priced Chinese imports, nearly 10 percent
10 of our company's shipments of aluminum foil in 2016
11 consisted of light gauge products and we are able to produce
12 more, but for the unfair competition from China.

13 While respondents assert that light gauge foils
14 produced in the United States are of inferior quality, that
15 is not true. The light gauge foil produced by JW Aluminum
16 are of high quality products. Indeed, we were recently
17 complimented by an employee of the company that will testify
18 this afternoon concerning the quality of our light gauge
19 foil. Our return rate with that customer during the fourth
20 quarter of 2017 was negligible with this customer accepting
21 99.6 percent of the volume of light gauge foil we shipped to
22 them.

23 Moreover, produce -- moreover JW Aluminum
24 produces with no significant returns millions of pounds of
25 aluminum foil used in aerospace honeycomb applications,

1 probably one of the most challenging specifications for a
2 manufacturer to meet.

3 We would welcome the opportunity to produce
4 larger volumes of these lighter gauge products should
5 reasonable pricing return to the market. Indeed, we have
6 continued to work actively with customers after these cases
7 were filed to supply their needs. The large increase in the
8 number of inquiries we have received from customers both
9 existing and new that are now seeking to purchase light
10 gauge foil from our company after we filed this trade case
11 under mines the respondent's argument that we do not produce
12 quality light gauge foil products.

13 While our company produces significant volumes
14 of light gauge aluminum foil, we also produce thicker gauged
15 foils that are used in a wide range of applications. This
16 includes thicker gauge aluminum foil used in fin stock for
17 heat exchange applications.

18 Indeed, a majority of JW Aluminum's 2016
19 shipments consisted of aluminum foil for fin stock
20 applications primarily HVAC applications such as evaporators
21 and condensers.

22 Further, respondents are trying to carve out
23 just one type of fin stock and not even all fin stock. The
24 negative effects of large volumes of low priced aluminum
25 foil imports from China on our operations have been

1 substantial. In 2013, our company made the difficult
2 decision to reduce the capacity of our mills in St. Louis
3 and Williamsport by approximately 20 percent. This was
4 achieved by a combination of idling certain equipment at
5 each facility, as well as by reducing our workforce and the
6 number of shifts worked by those employees that remained on
7 our payroll.

8 These significant reductions continue to affect
9 our company's operations today. The prices at which Chinese
10 foil has been sold and offered for sale in the United States
11 are persistently lower than the prices at which we need to
12 sell our foil to earn a reasonable rate of return.

13 Because aluminum foil is typically sold on the
14 basis of annual contracts and to a lesser extent on
15 contracts lasting more than a year, the pricing pressures
16 created by the large volume of Chinese imports have a
17 long-term effect on our business.

18 The metal calls are essentially a pass through
19 in setting prices of aluminum foil. Thus, demands by our
20 customers that we sell product to them that meet -- to them
21 at the China price have forced us to either lower
22 fabrication prices or lose the business.

23 In many cases, we have lowered our fabrication
24 prices and in some instances, we have simply walked away
25 from the business and given up the volume because of prices

1 demanded by our customers were unacceptably low. Neither
2 option is a viable alternative to sustain our business.

3 Even when our company had contracts with
4 customers, the contracts do not insulate us from the pricing
5 pressures created by low-priced Chinese imports. If our
6 customers receive a better offer from Chinese imports, they
7 can and have purchased Chinese products instead of
8 purchasing at the prices set in our contracts.

9 In summary, many of the large volumes of
10 low-priced aluminum foil imports from China continue to have
11 a devastating impact on our company's operations today. The
12 combination of reductions in our production and sales, as
13 well as the lower prices obtained for products we were able
14 to sell have resulted in unacceptably low earnings and
15 profitability.

16 STATEMENT OF LEE MCCARTER

17 MR. MCCARTER: Thank you, Chester. Madam Chair
18 and members of the Commission and staff, I could go on and
19 on about the damage that has been inflicted by the imports
20 of aluminum foil from China. We have all heard about the
21 lower volumes, reduced capacity, lost jobs, declining
22 investment, and compressed margins. The points I would like
23 to make are as follows. JWA and our industry is counting on
24 this Commission reaching an affirmative decision. I've had
25 many meetings just over the last two weeks trying to solicit

1 funds to invest in this critical industry. This is a
2 capital intensive industry requiring hundreds of millions of
3 dollars of investment to sustain and/or add capacity.

4 Given the steady increases in demand, we should
5 be seeing healthy returns and the ability to earn returns
6 that will support investment in our facilities. Those
7 investments have not been justifiable however, due to the
8 impact of low-priced Chinese imports in the market.

9 I've heard firsthand, a consistent response from
10 potential lenders and our company's owners. They need
11 tangible proof that the reckless assault by the Chinese
12 aluminum foil industry has ended and a sustainable period to
13 allow recovery is in place.

14 This will result in investment in new plants,
15 additional equipment, and jobs in America. Just since the
16 preliminary duties were established last fall, we have seen
17 the green shoots of investments in our industry as follows.
18 Granges announced \$110 million investment in expanding
19 their Huntingdon, Tennessee facilities to add capacity and
20 jobs.

21 Tasha and the Taiwanese entity announcement to
22 build two brand new facilities in the U.S.A. to add capacity
23 and jobs. Tradenoy suggestion to close Alpha Aluminum's
24 light gauge facility will restart, could add capacity and
25 jobs. And finally, our company is in the final stages of

1 solidifying a \$255 million investment in our facilities to
2 add capacity and jobs.

3 Bottom line, arresting the assault on our
4 industry by China equals investment in American capacity,
5 which equals more jobs. Thank you for your time and we look
6 forward to your affirmative decision.

7 MR. HERRMANN: Thank you very much. Our next
8 witness will be Holly Hart of the United Steel Workers.

9 STATEMENT OF HOLLY HART

10 MS. HART: Good morning Commissioner
11 Schmidtlein and members of the Commission. I'm Holly Hart,
12 legislative director and assistant to the president of the
13 United Steel Workers or USW. We're the largest industrial
14 union in North America with 850,000 workers employed in many
15 industries that include metals, rubber, chemicals, paper,
16 oil refining, and the service and public sectors.

17 The USW has been steadfast in its opposition to
18 the practices of foreign governments and companies that seek
19 to gain an unfair advantage over domestic industries by
20 violating U.S. and international trade rules. Such unfair
21 trading practices have had a devastating effect on American
22 manufacturers, their workers, and their families.

23 I'm here today on behalf of the more than 800
24 USW members that make aluminum foil. Unfortunately, the
25 aluminum foil industry is just one more victim of foreign

1 industry seeking to gain an unfair advantage through illegal
2 trading practices. USW members are employed at facilities
3 operating by Grainger's America's incorporated in Salisbury,
4 North Carolina; Novelis Corporation in Fairmont, West
5 Virginia and Terra Haute, Indiana; Reynolds Consumer
6 products in Louisville, Kentucky, and Hot Springs, Arkansas.

7
8 For those workers and their families, it's
9 critical that the Commission level the playing field and
10 provide trade relief from unfair imports of aluminum foil
11 from China. As you've heard this morning, increased volumes
12 of aluminum foil from China have hurt our members for much
13 longer than the Commission three-year period of
14 investigation. The extent of unfair competition from
15 Chinese imports of aluminum foil has been particularly
16 intense over the past few years, but this only tells part of
17 the story.

18 The persistent injury to the U.S. industry by
19 unfair imports has been over whelming, leaving us no choice
20 but to keep fighting product by product against Chinese
21 producers that continue to ship dumped and subsidized
22 products into the United States.

23 Over the past three years, unfair imports from
24 China have harmed the economic livelihood of hundreds of
25 American workers and their families. For example in 2014,

1 numerous workers lost their jobs after Novelis closed a
2 rolling mill at its Terra Haute, Indiana facility. In
3 addition, Noranda which is now known as Grangers, idled
4 equipment at its facilities in Huntingdon, Tennessee;
5 Salisbury, North Carolina; and Newport, Arkansas, resulting
6 in the loss of many other jobs.

7 The Department of Labor determined that
8 increased imports have contributed significantly to the loss
9 of jobs at each of these facilities and certified those
10 workers that were eligible to apply for trade adjustment
11 assistance.

12 The significant reduction curtailment and
13 layoffs incurred by the U.S. aluminum foil industry over the
14 past decade will undoubtedly continue if relief is not
15 provided. The surge in unfairly traded imports from China
16 also has caused our members to suffer reduced work hours and
17 shrinking paychecks during the period of investigation as
18 their employers were forced to cut back production.

19 The injury was also felt by our retirees, their
20 families, and the communities that depend on the success of
21 the domestic aluminum foil industry. There's no question
22 that American workers and our members and the products we
23 manufacture can compete with imports from any country in the
24 world as long as the competition's fair. American workers
25 continue to do their part to maintain the competitiveness of

1 the U.S. aluminum foil industry, but we don't have the power
2 to stop unfair trade. We count on your and our government
3 to make sure foreign producers play by the rules by
4 enforcing the trade laws.

5 On behalf of our union's members who make
6 aluminum foil, I urge the Commission to grant our workers
7 and this industry the relief they need by making an
8 affirmative determination in this case. Thanks very much
9 for your time and for the opportunity to testify on this
10 important issue. Thank you.

11 STATEMENT OF JOHN HERRMANN

12 MR. HERRMANN: For the record, I am John
13 Herrmann and I will conclude our presentation today by
14 addressing the key statutory factors the Commission must
15 examine in reaching its decision. We'll be going through
16 the PowerPoint presentation, the pink sheets that you should
17 have and we'll be displaying the public version on the
18 overhead screen.

19 First, the domestic like product. As
20 discussed in our prehearing brief, the like product in this
21 case should be defined co-extensively with the scope of the
22 case, and should consist of aluminum foil and reels weighing
23 more than 25 pounds. The scope definition includes certain
24 aluminum foil with a thickness of 0.2 millimeters, or .00787
25 inches or less, and the Commission should define the

1 domestic like product to include the continuum of aluminum
2 foil and reels with thicknesses that range from light gauges
3 to relatively thicker products.

4 The basic nature of the product and market
5 warrant a single like product definition under the six
6 factors the Commission traditionally analyzes.

7 The next slide includes a picture showing the
8 product that is within the scope of this case, a heavy reel
9 or jumbo roll, essentially a coil of aluminum foil. Jumbo
10 rolls of aluminum foil include a continuum of products that
11 vary by gauge or thickness, width, alloy, temper and other
12 physical characteristics. Jumbo rolls of aluminum foil are
13 consumed in producing a wide array of downstream products.
14 Respondents have raised three like product issues, each of
15 which should be rejected by the Commission.

16 First, Respondents argue that ultra-thin
17 aluminum foil with a gauge of .0003 inches or less, should
18 be defined as a separate like product. The record, however,
19 demonstrates that so-called ultra-thin foil and other
20 aluminum foils share physical characteristics and are used
21 in common flexible packaging applications.

22 Further, the last remaining domestic producer
23 of significant volumes of light-gauge aluminum foil, JW
24 Aluminum Company, produces aluminum foil with a thickness of
25 less than .0003 inches, and other aluminum foil at the same

1 facilities on the same equipment and with the same employee.
2 Finally, the record shows that ultra-thin aluminum foil and
3 other aluminum foil are both generally sold to entities that
4 further process the jumbo rolls into finished products.

5 Second, Respondents argue that the Commission
6 should define certain fin stock, which is defined as
7 aluminum foil with a gauge greater than .00177 inches and a
8 manganese content of more than one percent by weight, as a
9 separate like product. The certain aluminum fin stock
10 identified by Respondents is used in automotive heat
11 exchanger applications, but constitutes just one type of
12 fin stock. Well one of the Respondents appears to argue in
13 its brief that all fin stock should be defined as a
14 separate like product.

15 That is not what is argued previously and is
16 inconsistent with its request that the Commission gather
17 data in this final phase investigation on certain fin stock.
18 For the numerous reasons discussed in our brief, the
19 Commission should not define certain fin stock to be a
20 separate like product. Finally, Respondents raise a third
21 argument that in contrast to the first two seeks to expand
22 significantly the domestic like product to include small
23 reels that contain less than 25 pounds of aluminum foil.

24 As Mr. Rudisill of Reynolds testified,
25 however, small reels are a completely separate product from

1 jumbo rolls of aluminum foil. Small reels possess unique
2 physical characteristics and uses, and are manufactured in
3 different facilities on different equipment with different
4 employees relative to jumbo rolls. Further, small reels are
5 a finished product that is sold at retail to consumers,
6 while jumbo rolls are sold to intermediaries that use the
7 aluminum foil to manufacture finished products.

8 Finally, small reels and jumbo rolls are
9 perceived by producers and customers to be different
10 products and are sold at different prices. For these
11 reasons, small reels should not be defined as part of the
12 single like product.

13 I'd now like to focus on the three statutory
14 factors of volume, price and impact that support a finding
15 of material injury by subject imports. Let's start with
16 volume. The volume of subject imports from China is
17 substantial, having increased by almost 40 percent over the
18 2014 to 2016 period. Imports from China continued to grow
19 by an additional nine percent between interim 2016 and
20 interim 2017. The growth in imports during the period
21 reflects a long-term growth trend that has occurred over the
22 past decade.

23 As you see in Slide 8, the volume of subject
24 imports from China has grown by almost 400 percent since
25 2007. Imports from China have also captured an increasing

1 share of total U.S. imports, rising from 22.7 percent of
2 total imports in 2007 to 70.6 percent of total imports in
3 2016. The increase in subject imports was significant not
4 only on an absolute basis, but also as a share of the U.S.
5 market.

6 The market share held by subject imports
7 increased significantly. As imports from China penetrated
8 the U.S. market, the domestic industry suffered a market
9 share decline that was equally significant as you see on
10 Slide 11. On Slide 12 shows the increased volumes of
11 aluminum foil imports from China have far exceeded the
12 growth of apparent U.S. consumption during the Period of
13 Investigation.

14 While demand did increase over the POI, the
15 pace of the increase of Chinese imports was much, much
16 faster. Our witnesses testified that the critical factor
17 driving purchasing decisions in the U.S. market is price.
18 Purchasers also acknowledge that price is a very important
19 factor in their purchasing decisions. As the Commission
20 staff report demonstrates, imports from China have
21 consistently undercut U.S. prices during the POI, leading to
22 market share gains China has achieved.

23 Indeed, as reflected on Slide 13, based on the
24 pricing data for both indirect and direct import sales,
25 subject imports undersold the corresponding domestic product

1 on a volume basis in the vast majority of sales and in the
2 majority of possible quarterly comparisons. As shown on
3 Slide 14, responses to the purchase questionnaires show that
4 the vast majority of the companies that report switching to
5 imports from China rather than buying from a domestic
6 producer indicate that the Chinese product was lower priced.

7 Slide 15 shows the result of the significant
8 underselling by China, which was severe price depression and
9 suppression. The Commission's record establishes that U.S.
10 producers have had difficulty obtaining prices to enable
11 them to receive a reasonable rate of return throughout the
12 period. All but one of the eight pricing products showed
13 declines in pricing from the first quarter of 2014 to the
14 fourth quarter of 2016.

15 Customers have demanded that domestic
16 producers sell aluminum foil products to them at the China
17 price, and have forced them to either lower their price or
18 lose the business. The Commission's record indicates that
19 the domestic industry has had to do both. The impact of
20 these increasing volumes of low priced imports is
21 predictable and injurious. As detailed in our prehearing
22 brief and as shown in Slide 16, the domestic producers of
23 aluminum foil have been injured by the increasing volume of
24 unfairly traded imports from China for more than a decade.

25 As shown in Slide 17, the injury to the

1 domestic industry has continued during the three year period
2 that is the focus of the Commission's analysis in these
3 investigations. The injury caused by Chinese imports is
4 demonstrated by the decisions of numerous domestic producers
5 to close facilities and cease production of aluminum foil
6 where competition with low-priced Chinese imports has been
7 particularly intense, specifically light-gauge aluminum foil
8 used in converter and flexible packaging applications and
9 household foil.

10 As shown on the map, in 2007 Reynolds reduced
11 capacity at its Richmond, Virginia facility that produced
12 light gauge foil. Just two years later, it closed the
13 remainder of the facility. In total, this closure removed
14 160 million pounds of capacity from the U.S. market, or as
15 Mr. Rudisill testified, more than half of the volume of
16 Chinese imports in 2016, and resulted in the loss of
17 approximately 725 jobs.

18 In 2008, Novelis closed its Louisville,
19 Kentucky facility, which was focused on production of
20 light-gauged foils. In 2013, JW Aluminum reduced the
21 capacity of its facility in St. Louis, Missouri and
22 Williamsport, Pennsylvania by close to 20 percent. In 2013
23 Noranda, and now Granges, was forced to lay off one-third of
24 the light gauge workforce at its facility in Salisbury,
25 North Carolina.

1 In 2014, Novelis idled its light gauge
2 operations in Terre Haute, Indiana, eliminating 100 million
3 pounds of finishing capacity. In 2015, Republic Foil closed
4 its facility in Danbury, Connecticut. Also in 2015, Oracle
5 sold its rolling assets in Winston-Salem, North Carolina to
6 Aluminum Source, which after a name change to Alpha Aluminum
7 closed that facility in 2016, laying off 100 workers.

8 Finally, in 2015 Noranda laid off 70 percent
9 of the workers at its Newport, Arkansas facility prior to
10 filing for bankruptcy in 2016. As shown on the map, we've
11 been projecting the domestic industry today is vastly
12 different than it was just a decade ago, and even three
13 years ago.

14 As indicated in Slide 19, despite a growth in
15 demand during the period, the domestic industry suffered
16 declines in all of its key trade variables. Production and
17 shipments fell, and employees lost their jobs. Further, as
18 Mr. McCarter and Mr. Roush testified, capacity was reduced
19 due to increasing imports from China.

20 The large volumes of imports at prices that
21 undercut and depressed and suppressed U.S. prices also had a
22 devastating effect on the U.S. industry's financial
23 performance. As net sales values dropped significantly, the
24 domestic industry's net and operating income were abysmal
25 throughout the period. These poor financial results have

1 prevented domestic producers from making much needed capital
2 investments.

3 The causal nexus between subject imports and
4 the injury that the U.S. industry has suffered is
5 compelling. As indicated in Slide 21, all of the market
6 share that the domestic industry lost from 2014 to 2016 was
7 due to imports from China. No other factor explains this
8 injury. As shown on Slide 22, non-subject imports cannot be
9 blamed for the domestic industry's injury, as these imports
10 declined during the period.

11 Despite the Respondent's argument that the
12 domestic producers and subject imports are concentrated in
13 different product thicknesses, the Commission's record shows
14 that the subject imports competed with the domestic product
15 in every product thickness group. As indicated in Slide 23,
16 subject imports surged in every product thickness group
17 during the Period of Investigation.

18 Respondents also argue that the growth in
19 imports from China was largely due to the inability of U.S.
20 producers to supply high quality thin-gauge aluminum foil.
21 But as indicated in Slide 24, the Commission's questionnaire
22 show that the market share gains by China reflect a
23 comparable loss in market share for U.S. producers. The
24 Commission's pricing data show that imports from China
25 displaced product by significantly underselling U.S.

1 producers in every quarter.

2 All of these facts demonstrate material injury
3 caused by dumped and subsidized imports from China. There
4 is also a threat of injury by these imports. As shown in
5 Slide 25, there has been a huge expansion in China's
6 capacity to produce aluminum foil since 2010. This increase
7 in capacity has led to a steady increase in aluminum foil
8 production in China.

9 As you can see in Slide 26, China's production
10 of aluminum foil substantially exceeded home market
11 consumption in every year during the Period of
12 Investigation. The disparity between China's aluminum foil
13 capacity and consumption has caused and will continue to
14 cause China to export this product. China retains massive
15 idle capacity that could flood the U.S. market if allowed to
16 do so. China has sufficient excess capacity to supply the
17 entire U.S. market.

18 Even worse, as we documented in our brief,
19 Chinese producers are continuing to add even more capacity
20 that will only exacerbate this problem. China's massive
21 excess capacity is likely to result in further increases in
22 exports to the United States, given that the United States
23 is China's largest export market. As our final slide, Slide
24 29 shows, aluminum foil producers in other significant
25 markets have already been hurt by imports from China, and

1 authorities in those countries have erected barriers to
2 Chinese imports.

3 This includes the European Union, which
4 recently extended its anti-dumping order on imports of
5 aluminum foil from China for an additional five years.
6 Further, India issued an anti-dumping order on imports of
7 aluminum foil from China in May of last year. Such an order
8 will almost certainly result in diminished shipments to
9 China's second largest and a very significant export market.

10 Absent a remedy in this case, the United
11 States will continue to be the dumping ground for Chinese
12 over-capacity, causing further injury to our already
13 battered industry. That concludes our presentation. Before
14 responding to your questions, I'd like to introduce my
15 colleagues Paul Rosenthal, Grace Kim and Josh Morey from
16 Kelley Drye, as well as Brad Hudgens from Georgetown
17 Economic Services. Thank you for your attention. We'll be
18 happy to answer your questions.

19 CHAIRMAN SCHMIDTLEIN: All right. Thank you
20 very much. I'd like to thank all the witnesses for being
21 here today. We appreciate your time in helping us to
22 understand the issues in this case. We'll begin the
23 Commissioner questions with Vice Chairman Johanson this
24 morning.

25 VICE CHAIRMAN JOHANSON: Thank you Chairman

1 Schmidtlein, and I would also like to thank all of you for
2 being here today. With respect to your argument regarding
3 the importance of price page 24 of your brief, when I look
4 at Table 2-7 on page 2-9 of the staff report, I see that
5 there are more purchasers that rated five separate
6 characteristics as very important more frequently than
7 price.

8 These factors include availability, quality
9 meets industry standards and thickness specifications. I
10 also see that quality was listed as the most important
11 factor by four times as many purchasers as listed price as
12 the most important factor. Could you all please discuss
13 these factors?

14 MR. ROSENTHAL: Paul Rosenthal, Kelley Drye.
15 There's no question that quality, availability, etcetera,
16 are important to purchasers, but price is always among the
17 top and as you know, Commissioner Johanson, price doesn't
18 have to be the primary or even most important factor in
19 decision-making by purchasers. All of the record as a whole
20 demonstrates that price is a very important factor and a key
21 part of the decision-making in this case.

22 I will go on to say that elsewhere in the
23 record, when the Commissioners, or excuse me, when the
24 questionnaire asks about the importance of price and the
25 reasons why purchasers shifted from domestic producers to

1 the imported product, the question is asked is price the
2 primary reason and our view is that's not the correct
3 standard to use. It does not have to be the primary reason;
4 it only has to be an important reason.

5 VICE CHAIRMAN JOHANSON: Thank you, Mr.
6 Rosenthal for your response. Pro Impact points out that the
7 domestic industry's financial performance fluctuated
8 throughout the period, and that despite a decrease in
9 operating income from 2014 to 2015, operating income and the
10 industry's operating income margin increased in 2016 at a
11 time when subject imports were rising by virtually the same
12 amount as in 2015. This is all discussed at page 30 to 31
13 of Ampac's prehearing brief.

14 How do you respond to the claim that this is
15 evidence that there is no causal link between subject
16 imports and the condition of the domestic industry?

17 MR. HERRMANN: Sure, Vice Chairman Johanson.
18 Let me start, and I suspect others may have additional
19 thoughts. One thing I'd like to raise, and this touches on
20 confidential information so we'll certainly address it for
21 you in our post-hearing brief is there are variations in the
22 domestic industry database that the Commission has from 2014
23 to 2016, in terms of some of the responses. So I think
24 that's an issue that the Commission needs to look at.

25 I think another factor that explains the

1 increase in operating income from 2015 to 2016 is survivor
2 bias. Several companies left the industry in 2014. Others
3 shifted the focus of their production from lighter-gauge
4 products to heavier-gauged products, and I think that may
5 explain some of the improvement that you see in the
6 industry's condition in 2016. One final point I would raise
7 for you as well is throughout the Period of Investigation,
8 the domestic industry's operating income and net income have
9 been very, very low.

10 They have fluctuated over the period as you
11 obviously know and were discussing, but they have fluctuated
12 around very low levels that are not healthy or sustainable
13 for the industry in the long run.

14 MR. ROSENTHAL: Commissioner Johanson, I'd
15 just add to that last point. Even at their peak,
16 profitability was abysmal. So the notion that there's this
17 fluctuation and things were improving while imports were
18 increasing really doesn't shed much light on the injurious
19 impact of the imports. As Mr. Hermann pointed out, in order
20 to even maintain that abysmal level of profitability, the
21 industry went through what I would argue are other
22 indications of injury.

23 They lost employees, they closed plants, and
24 they effectively got out of product lines where they were
25 losing more money. So to me, even having the peak

1 profitability where it is today, only shows that all these
2 other things that -- painful steps that the industry took
3 to even get to that level of profitability overall shows
4 injury.

5 MR. MCCarter: I'd like to just add on, you
6 know, the low levels of profitability for '14, '15, '16,
7 '13, you can pick any year you want in the last five years
8 or so. The reality of it is is given where the
9 profitability is and given the expectations, giving the
10 pricing coming in from China and the volumes coming in from
11 China, try to secure funds even at best to expand capacity,
12 it's impossible given the lack of return to motivate a
13 shareholder or an investor to put money in these assets
14 going forward.

15 VICE CHAIRMAN JOHANSON: Thank you for your
16 responses, and following up on that, if the industry is
17 injured, threatened with further injury and vulnerable, how
18 is the industry able to finance nearly three quarters of a
19 billion dollars in investments by Granges, JW Aluminum and
20 Novelis?

21 MR. MCCARTER: You know if you notice, those
22 announcements of investments have come just since the
23 preliminary duties were announced last fall. So it's on the
24 strength and the assumption that we're going to get in a
25 permanent decision here that's motivating people to go ahead

1 and start looking at investing in these plants.

2 As I mentioned, these investments are hundreds
3 of millions of dollars, and if we're going to be ready to
4 support the industry we have to start now as the equipment
5 lead times to get equipment in place and to expand that
6 capacity takes time. So based upon the preliminary duties
7 that were put in place, you know, we're making the
8 assumption we're going to have a permanent indication. As I
9 sit here right now at JW, we haven't broke ground. So it's
10 not too late to reverse our decision.

11 MR. HERRMANN: And Commissioner Johanson, this
12 is John Hermann from Kelley Drye. That was exactly the
13 point I was going to make, which is investments have been
14 announced, but they have not been started. I think one
15 thing that's significant to look at is the announcement by
16 Granges of a \$110 million investment in its mill in
17 Huntington, Tennessee.

18 One of the product lines that was identified
19 in that announcement was light-gauge converter foil, the
20 very product that I'm sure you'll be hearing a lot about
21 this afternoon is not being adequately supplied to the
22 market. So I think on the hope and expectation of an
23 affirmative determination, you're beginning to see
24 investments that are going to meet that demand. But I think
25 those investments will disappear very quickly absent trade

1 relief on this product line.

2 The final point I would make with respect to
3 the Novelis investment, that is an investment in auto body
4 sheet, a product line that has been experiencing strong
5 growth and as Ms. Landa testified, Novelis' leadership is --
6 welcomes the opportunity to make capital investments in
7 portions of the aluminum industry that are doing well and
8 growing. We'd hope with an affirmative determination here
9 that the foil sector will be in that same condition going
10 forward.

11 VICE CHAIRMAN JOHANSON: Ms. Landa, did you
12 have anything to add?

13 MS. LANDA: Not really. He stole my thunder
14 there.

15 VICE CHAIRMAN JOHANSON: Okay, all right.
16 Thanks for your responses. Getting back to the whole issue
17 of profitability, on page 74 of the Chinese response brief
18 and also on page 81 of the Flexible Packaging Association
19 brief, we are told that "there is no evidence that the
20 domestic industry has ever earned higher profits than they
21 did during the Period of Investigation."

22 If you do have some evidence that the domestic
23 industry has been more profitable in the past, I invite you
24 to put that onto the record during the post-hearing, or to
25 provide that right now.

1 MR. ROSENTHAL: We'll provide that for the
2 record.

3 VICE CHAIRMAN JOHANSON: Okay.

4 MR. ROSENTHAL: And we'll also demonstrate
5 there's some other product lines that have not been hit with
6 the same level of low priced imports that are more
7 profitable, which is why investments are being made in
8 those.

9 VICE CHAIRMAN JOHANSON: Okay. Thanks for
10 your responses. I have plenty more questions, but the
11 yellow light is on so I'm going to stop for now.

12 CHAIRMAN SCHMIDTLEIN: Commissioner
13 Williamson.

14 COMMISSIONER WILLIAMSON: Okay. Thank you
15 Madam Chairman, and I do want to express my appreciation to
16 all the witnesses for coming today and presenting their
17 testimony. Let me start with kind of a broader question.
18 Respondents argue for looking at segments of the market. Do
19 you agree that the market is segmented, and is it segmented
20 by gauge or by end use?

21 MR. ROSENTHAL: No, we don't believe it's
22 segmented. This is a market similar to many others you see
23 in the metals industry, or an industry that's simply a
24 continuum of different products. And as you've heard, these
25 products are made on the same equipment, the same processes,

1 the same workers in many, many instances. So we don't
2 believe a segmented industry analysis of appropriate.

3 You've got different customers, but this is no
4 different than many products you see in the steel industry
5 or, for example, the corrosion-resistant products that go
6 into the automotive industry or can go into the construction
7 industry. Those are not segmented industry, and you didn't
8 approach those cases with a segmented industry analysis and
9 you shouldn't do it here.

10 MR. HERRMANN: Just one additional point,
11 Commissioner, if I could. For all the reasons Mr. Rosenthal
12 indicated, we don't think a segmented analysis here is
13 appropriate. But even if the Commission were to look at a
14 segmented analysis, the record information before the
15 Commission shows that subject imports have increased in
16 every segment that's been identified.

17 So the Respondents' arguments that they are
18 present in the light and standard gauges of the market but
19 are not present in the heavier gauges of the market is not
20 supported by the record before the Commission.

21 COMMISSIONER WILLIAMSON: Okay, taking that last
22 point, what do we make of the difference in market
23 concentration between domestic and subject imports that we
24 see in the record? And also there are some differences in
25 market performance for the domestic industry in different

1 areas.

2 MR. ROSENTHAL: I would argue that their analysis
3 proves our point. What they are confusing is cause and
4 effect. They will show you that they have a larger market
5 share in the intergauge products. Yes. Because they drove
6 the U.S. industry out. It's not like the U.S. industry
7 doesn't have capability and is not producing the product as
8 not competing, but they have--the domestic industry has lost
9 sales, they've closed facilities, and, yes, now the imported
10 products have a higher market share. And that's the
11 evidence of injury. It's not evidence of lack of injury.

12 MR. HERRMANN: One other point, Commissioner, that
13 I think is worth considering is having already driven the
14 domestic industry out of the light gauge or lighter gauges,
15 003 and less, and standard foil, there is increasing
16 competition from imports from China even on the thicker
17 gauge products now.

18 I don't know if any of these folks on our panel
19 would comment on that briefly, but they are seeing
20 competition throughout the entire range of products.

21 MS. LANDA: Yes. So this is Novelis. I can talk
22 about the Novelis experience. So we exited the household
23 foil market in 2014 because we could not compete with the
24 low prices. And that forced us to take the very painful
25 decision of shutting down three mills, two separators, and

1 one annealer. So I think that proves that it's not just
2 focused on the thinner gauge market, but it's throughout.

3 COMMISSIONER WILLIAMSON: Okay, thank you.
4 Anybody else?

5 MR. MCCARTER: Just one other comment. At JW
6 Aluminum we sell below that 003, roughly 10 percent was
7 below that 003, and I'd just like to make the point that
8 with the preliminary duties that went into effect last fall
9 we have even more requests for volume in that range to sell
10 than we had previously through the Period of Investigation.

11 COMMISSIONER WILLIAMSON: Any complaints about
12 what you're selling them?

13 MR. MCCARTER: Well it's ironic enough. You know,
14 there were complaints on the quality side of that, if you
15 read the Respondents' requests, but all of a sudden when the
16 price went up from China we didn't hear the quality concerns
17 that were being expressed. They needed the product. They
18 wanted the product at the price that we were offering.

19 COMMISSIONER WILLIAMSON: And they weren't
20 whispering that "we're not happy" other than the fact that
21 they may be paying more?

22 MR. MCCARTER: You know quality is always a topic
23 of a discussion. I'm not going to run away from that. And
24 so we always strive to produce the highest quality product
25 we can. But I do find it fascinating that when the duties

1 went into place, price went up. All of a sudden price
2 wasn't, you know, as it relates to JW Aluminum, the quality
3 noise dropped significantly.

4 COMMISSIONER WILLIAMSON: Okay, thank you. That's
5 helpful. Mr. Rudisill?

6 MR. RUDISILL: This is Murray Rudisill with
7 Reynolds. We have a slightly unique perspective to add.
8 When we shut down the Richmond foil plant in 2009, we became
9 a net buyer. Even though we're mostly a producer, we were
10 buying foil across the whole gauge range that's part of the
11 case here.

12 So we saw the progression of the Chinese entry
13 into the market that started with the light-gauge foil, and
14 it's worked its way up the gauge spectrum, and now it's in
15 every gauge category.

16 COMMISSIONER WILLIAMSON: Is there any reason why
17 that particular pattern? I mean it's not the first time
18 we've seen that you move from one area to another, but is
19 there any reason why it followed that pattern as opposed to
20 the heavy start in the heavy gauge or something?

21 MR. RUDISILL: Typically the fabrication prices
22 are higher in the lighter gauges. So it's a logical entry
23 point for it. And then, because it is so similar across the
24 gauge range, you can make any product in the foil category
25 with the same equipment. So as more and more producers came

1 online in China and the competition got greater in the light
2 gauge area, some producers moved into heavier gauges, for
3 whatever economic reasons that they had at the time.

4 We just saw it in every category.

5 MR. HERRMANN: One additional point I would add,
6 Commissioner, is that the light-gauge products not only
7 maximize the value addition, as Mr. Rudisill was just
8 talking about, but it maximizes capacity utilization with
9 the number of passes that are required to achieve the
10 thin-gauge, with the number of jobs that are associated to
11 rolling a product down to a very thin gauge. You basically
12 have additional processing time, which maximizes the usage
13 of the assets wherever that product is produced.

14 COMMISSIONER WILLIAMSON: Okay. So why would
15 that--so I guess the thinner gauges are a higher value
16 product. I'm just curious. Why is it that that's where
17 they would enter? Is it because their production costs are
18 lower for doing that?

19 MS. BROCK: Commissioner, this is Heidi Brock with
20 the Association. One of the things that we see is the Value
21 Added Tax rebate in China is an incentive for the
22 fabrication industry to collect that rebate on higher value
23 products.

24 So the higher value--or the higher prices there,
25 there's an additional incentive for them to enter in at that

1 stage because of the Value Added Tax.

2 COMMISSIONER WILLIAMSON: And in fact they get
3 that rebated.

4 MS. BROCK: They get that rebated.

5 Ms. Landa: I think the other aspect is, there's
6 so much capacity in China that the more production time they
7 can use the more utilization they're going to get out of
8 their assets. So the thinner gauge requires the most
9 production time. So I think it makes sense that they would
10 enter in that category.

11 COMMISSIONER WILLIAMSON: Okay. Thank you. That's
12 helpful for understanding.

13 Table 20 of the Flexible Packaging prehearing
14 brief shows which domestic producers produce which products.
15 And I was wondering if you agree with that table? And you
16 can either do it now or posthearing.

17 MR. HERRMANN: I'm sorry, Commissioner, I don't
18 have the table in front of me right now. Why don't we do
19 that in the post-hearing.

20 COMMISSIONER WILLIAMSON: Post-hearing will be
21 fine. Thank you.

22 This can also be answered post-hearing, but is
23 any domestic producer currently making foil under the zero
24 point--I guess the 0003? Is any producer in a position to
25 resume or increase production if Orders are imposed? That

1 may have already been answered, but--

2 MR. MCCARTER: We sell below 0003 today, and we
3 have an opportunity to turn on or expand some more capacity
4 in that area. But we obviously want to wait and see what a
5 final determination is, because the time to hire workers and
6 invest the funds and the equipment enables it to run, and so
7 forth.

8 COMMISSIONER WILLIAMSON: Thank you. Anybody
9 else?

10 (No response.)

11 COMMISSIONER WILLIAMSON: Good. I understand you
12 disagree with the Respondents' definition of fin stock, and
13 I was wondering how you would define it, and why? I think
14 they take a broader definition, if I understood what they
15 were saying.

16 MR. HERRMANN: This is John Herrmann of Kelley
17 Drye. I think we would say that the Respondents have carved
18 out a portion of fin stock generally. They are looking at
19 a product with a manganese content that would be comparable
20 to a 3000 series alloy. But as we indicated in our
21 prehearing brief, there are multiple alloys that are used to
22 produce fin stock, not just for automotive applications but
23 for HVAC applications and elsewhere. So our view is that
24 there is a much broader continuum or spectrum of fin stock
25 products, and that there is no clear dividing line that

1 would allow the Commission to segregate the certain fin
2 stock that has been identified from the Respondents from
3 other fin stock, much less from aluminum foil in jumbo
4 rolls as a whole.

5 COMMISSIONER WILLIAMSON: Does that definition
6 include a significant portion of the fin stock production,
7 or market?

8 MR. HERRMANN: I would say it includes a portion
9 of the market, but there's other information before the
10 Commission showing that there is significant production of
11 other fin stock that does not fall within the definition of
12 certain fin stock. JW Aluminum is a large producer of fin
13 stock that would not fall within the definition of certain
14 fin stock, and other companies produce fin stock that is
15 outside of the certain fin stock definition put forward by
16 the Respondents as well.

17 COMMISSIONER WILLIAMSON: Okay. Thank you for
18 those answers, and my time has expired.

19 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

20 COMMISSIONER BROADBENT: Thank you, Chairman
21 Schmidtlein.

22 Let's see. Mr. McCarter, how do we take into
23 account the statement on page 2-10 of the staff report that
24 says 31 of 45 purchasers indicated that they have
25 experienced supply constraints from U.S. producers since

1 2014? Doesn't that large number of purchasers experiencing
2 supply constraints suggest a degree of supply tightness from
3 the domestic industry? Particularly since two U.S.
4 producers admitted that this is the case?

5 MR. MCCARTER: There is no question that, given
6 what's occurred over the last five years, six years, seven
7 years, and as Mr. Herrmann's charts had indicated with the
8 shutdown of capacity, that supplies are tight. We've been
9 forced to shut down and curtail capacity. In JW's case we
10 had to curtail capacity in 2013 and lay off people and
11 reduce our output simply because the economics weren't there
12 to keep running that equipment.

13 So it's natural that as we've been driven out of
14 business by the imports, driven by price because we can't
15 meet those investment hurdles that keep equipment going,
16 that you would see a tight market from domestic suppliers.

17 What we look forward to, as I indicated, is to
18 expand capacity, to increase our ability to meet the needs
19 of our customers with domestic capacity, with domestic jobs,
20 by an affirmative decision out of this committee here.

21 MR. HERRMANN: If I could just add to that,
22 please, Commissioner, I think two points that are important
23 to keep in mind in that regard are: There are already
24 existing idled mothballed capacity that the domestic
25 industry has that can be brought back online in short order

1 should there be improvements in market conditions.

2 Ms. Landa testified about mills that are sitting
3 idle at Novelis's facility in Terra Haute that the
4 Commission staff had the opportunity to see. So that's one
5 component of the ability to supply a demand in the market.

6 The second is, as we were talking about a few
7 minutes ago, there have been announcements about companies
8 looking to invest and expand their capability to produce
9 aluminum foil. You've seen that from Granges with their
10 \$110 million announcement. We talked about JW's
11 announcement that they're looking to invest \$255 million in
12 their facilities. And a third one I would point to is, as
13 Mr. Roush I believe testified, reporting that Tachan
14 International is looking at major investments in the United
15 States, including the production of a fully integrated mill
16 I Florida that would supply aluminum foil. And I guess one
17 other one that's worth mentioning is the former Alpha
18 Aluminum facility in Winston Salem, North Carolina, that
19 could be brought back online and produce lighter gauge
20 products.

21 MR. ROSENTHAL: Commissioner Broadbent, if I just
22 might interject a little bit, I swore to myself I was not
23 going to use the line that you've heard many times before
24 about the boy who killed his parents and throws himself on
25 the mercy of the court because he's an orphan. You've heard

1 it many times. It actually applies here, but it may be
2 slightly too glib even for me.

3 But this is a really important--the reason why we
4 go into this context, and why the history here is so
5 important, is that the same purchasers who are complaining
6 about, or alleging lack of availability, are the ones who
7 essentially starved the domestic producers of sales because
8 they relied on imports from China.

9 And now, for example after their preliminary
10 determination has been issued, they go to JW and say, well,
11 we want you to supply this product right now. I know JW has
12 increased its sales and are prepared to increase them
13 further, but it's a little ironic, and I would argue unfair,
14 to suggest that the industry based on their arguments should
15 be penalized further because, having reduced capacity, they
16 now cannot immediately supply the domestic purchasers'
17 needs.

18 You've got customers who were long-standing and
19 having their needs supplied, and you've got customers who
20 now, I would hope, would like to use domestic supply going
21 forward, and you've got a willing industry willing to
22 invest.

23 And my argument would be that just because at
24 some time in this period the customers have not been able to
25 get this product, (a) is not legally a reason to not provide

1 relief because the statute and the Commission precedent
2 makes clear that the industry doesn't have to supply the
3 whole market; but, secondly, because it is effectively an
4 indication of injury that they can't get this product, not
5 an indication of no injury.

6 COMMISSIONER BROADBENT: Mr. Herrmann, Table 2-7
7 on page 2-19 of the prehearing report shows that all of, or
8 almost all purchasers considered availability, product
9 consistency, quality, and thickness specifications to be
10 very important in their purchasing decisions.

11 For all of these factors, majorities or
12 pluralities of purchasers indicated that the U.S. product
13 was inferior to Chinese imports, as shown in Table 2-9 on
14 page 2-22.

15 Does this suggest the lack of substitutability
16 between domestic like product and subject imports?

17 MR. HERRMANN: No. Commissioner, I don't believe
18 it does. And I think the point that Mr. McCarter was making
19 a few minutes ago about domestic purchasers coming back to
20 JW Aluminum seeking supply from that company, to replace
21 product that they had previously purchased from China,
22 indicates that the two products are very much
23 interchangeable.

24 COMMISSIONER BROADBENT: But how would you square
25 that with the results on these tables, Table 2-7?

1 MR. HERRMANN: You know, I guess I would say the
2 behavior of those purchasers to come back and be seeking
3 supply from domestic producers, clearly I think they would
4 not be buying a poor quality product from domestic
5 producers.

6 Mr. Roush testified concerning the superior
7 quality ratings that JW has received in selling light-gauge
8 product to one of the purchasers that will be testifying
9 later this afternoon. And I think those facts speak for
10 themselves.

11 MR. ROSENTHAL: I would also compare, if you will,
12 the return rate that you heard JW testify about, that they
13 have a return rate of point six percent, which is
14 phenomenally good. They supply the aerospace industry. I
15 would argue that the return rate on Chinese products is no
16 better. And therefore I am skeptical of purchasers who find
17 other reasons to cite other than price.

18 I'm not disagreeing that quality, availability,
19 and all those things are not important in this industry as
20 they are in many others, but the notion that this quality is
21 not as good I don't think is borne out by the objective
22 facts on record.

23 COMMISSIONER BROADBENT: Okay, I guess I'm saying
24 that this table really is pretty difficult for you guys to
25 deal with, because there's a lot of information in there

1 that you're trying to address with anecdotal--

2 MR. ROSENTHAL: But that table is anecdotal as
3 well. It's their subjective--

4 COMMISSIONER BROADBENT: But it's a lot of people.

5 MR. ROSENTHAL: Understood.

6 COMMISSIONER BROADBENT: A lot of purchasers.

7 MR. ROSENTHAL: Understood. A lot of purchasers
8 who have a particular let's just say reason for answering as
9 they do. And I would argue that when you look at return
10 rates of point six percent, and you compare those to the
11 Chinese, that's an objective measure. And perhaps the
12 subjective response in that particular table is not, I would
13 say, a fair representation of what's happening in the
14 marketplace.

15 MR. MCCARTER: Lee McCarter. I would just like to
16 make one other point on that.

17 Quite simply, with the mills that we run if we
18 have return rates that are in excess of that one-half or one
19 percent, our financial performance would be so draconian it
20 wouldn't even be worth running, given this marketplace that
21 we have out there.

22 So, you know, that's across the company's
23 operations. We're very focused on the quality, and
24 obviously delivery and availability and all of that. But
25 you couldn't survive with high return rates.

1 So again I come back. The customers with the
2 preliminary duties that were put in place were coming to us
3 asking us to supply. It clearly exceeded our ability to
4 supply, given the manned capacity we currently have, but we
5 look forward to investing to expand that capacity to support
6 the industry as we go forward.

7 COMMISSIONER BROADBENT: Okay, thank you.

8 CHAIRMAN SCHMIDTLEIN: I would like to go back to
9 the argument with regard to the certain fin stock. And I
10 was looking at your slide, and I think you just talked about
11 this maybe with Commissioner Williamson, that in your view
12 the Respondents' arguments are limited to certain fin stock
13 used in automotive applications? And so are you saying that
14 the certain fin stock that's discussed in the staff report
15 isn't also used in HVAC?

16 MR. HERRMANN: The certain fin stock that's
17 identified in the staff report has a manganese content of
18 greater than one percent. And at the preliminary
19 conference, the Respondents' testimony was focused on fin
20 stock used in automotive applications. I suspect you'll
21 probably be hearing more about fin stock for use in
22 automotive applications this afternoon from Valeo, which is
23 a major auto component manufacturer.

24 The point I was trying to make, and the point we
25 make in our brief, is that there are many other

1 nonautomotive applications of fin stock--aluminum foil used
2 in fin stock applications--and that you have other alloys
3 that do not have the same manganese content such as a 1000
4 series alloy which is essentially pure aluminum that are
5 manufactured by domestic producers here in the United States
6 and sold in significant volumes.

7 CHAIRMAN SCHMIDTLEIN: Alright, so I'm just trying
8 to find in the staff report--because I'm looking at it where
9 we talk about the certain fin stock and the tables produced--
10 --you know, Table 1-2. And it talks about the chemical
11 composition and the different arguments with regard to that,
12 and the alloys that are used. And that's another question I
13 have is, you say there's overlap.

14 But before we go to that, I don't see in here
15 where what this table is discussing is limited to manganese
16 content greater than one percent. It defines it on page
17 1-29, a certain fin stock is composed of a thicker gauge of
18 aluminum usually above 45 microns. And then it talks about
19 differences in chemical composition.

20 But I'm looking--so I'm just--and we do discuss
21 it over here in terms of I think what's being defined in
22 this table as heat exchangers that are also used in HVAC
23 applications. So maybe they have a purchaser here that's
24 from the automotive industry, but I don't think this table
25 is limited to just automotive applications.

1 MR. HERRMANN: Sorry, Commissioner? Which table
2 was it?

3 CHAIRMAN SCHMIDTLEIN: I'm looking at Table 1-2.

4 MR. HERRMANN: On page?

5 CHAIRMAN SCHMIDTLEIN: 1-28, Roman Numeral I-28.
6 You know, and the question on this table is, of the U.S.
7 purchasers that were surveyed, you see the vast majority of
8 them saying, in terms of comparability, that fin stock--
9 certain fin stock, which is defined, right? But I don't see
10 the one percent manganese but, okay, we'll come back to that
11 question in a second, but those purchasers, 14 say "not at
12 all comparable" in terms of characteristics and uses to all
13 other aluminum foil, which would presumably include these
14 other categories of fin stock; 17 say "not at all
15 comparable" in terms of interchangeability; 14 out of 17 say
16 "not at all comparable in terms of market perceptions."

17 MR. HERRMANN: Yeah. I guess in terms of the one
18 percent of manganese, I'm looking now at the Commission's
19 questionnaire where certain fin stock is defined. It's
20 defined in the Commission's questionnaire as "a product
21 greater than or equal to 45 microns in thickness, containing
22 1 percent or more by weight of manganese."

23 CHAIRMAN SCHMIDTLEIN: Okay. Okay, so maybe it's
24 just not repeated in the narrative here in the staff report.
25 But that is what's being compared here.

1 MR. HERRMANN: Right.

2 CHAIRMAN SCHMIDTLEIN: So but the real question
3 is, doesn't this undermine your argument that there's no
4 clear dividing line between how certain fin stock is
5 defined, and "all other aluminum"?

6 MR. HERRMANN: No, I don't think so, Commissioner,
7 with all respect. I think the manganese content in the
8 certain fin stock distinguishes it from other fin stock.
9 The certain fin stock that's defined in the Commission's
10 questionnaire is only a small portion of the continuum of
11 all fin stock products.

12 You know, I'd invite some of the industry
13 witnesses to weigh in here in terms of fin stock products
14 that they manufacture that have specifications and alloys
15 that differ from the certain fin stock as defined in the
16 Commission's questionnaire and is defined generally.

17 MR. ROSENTHAL: Madam Chairman, you're trying to
18 figure out whether fin stock, however defined, is different
19 than other aluminum foil, based on this chart? Because I
20 see two separate issues here.

21 One is the way that the Respondent has defined
22 fin stocks, which is narrower than the entire universe of
23 fin stock. And that's where we say their line-drawing makes
24 no sense.

25 And the second one is whether purchasers see fin

1 stock, however defined, as comparable to other types of
2 aluminum foil. And I would argue that this is no different
3 than many other products on a continuum where you would, in
4 many other steel products you'd never find, let's say, an
5 alloy steel product of certain types interchangeable with
6 the carbon, because you just won't use it in the same
7 applications. No one would use one type of steel on one end
8 of the continuum to substitute for the other, and therefore
9 they're not interchangeable. It doesn't mean they're not
10 part of the same continuum.

11 So the way this question is asked, I can
12 certainly understand why purchasers would say I wouldn't use
13 a thick fin stock product in a foil application that would
14 be used for tobacco wrappers. So in that sense they are
15 totally not interchangeable. It doesn't mean they're not
16 part of the same like product because of the continuum.

17 So that's I think what is asked for here, and I
18 don't think really this chart gets you an answer to whether
19 it is the same like product. I think the problem that the
20 Respondents have is the way they've defined fin stock is too
21 narrow, and they've been inconsistent in trying to carve out
22 or define how fin stock should be defined as a separate like
23 product. Because there there isn't any clear dividing line
24 that they've proposed, or at least not one that makes
25 commercial sense.

1 CHAIRMAN SCHMIDTLEIN: Okay. But I would assume
2 that this other fin stock that's outside the definition of
3 certain fin stock would be lumped into this category all
4 other aluminum foil, right, in the question that was put to
5 the purchasers?

6 MR. ROSENTHAL: Yes.

7 CHAIRMAN SCHMIDTLEIN: Right.

8 MR. ROSENTHAL: Those were two separate --
9 again, two separate issues. Would you use a thicker fin
10 stock in an application involving a thinner-gauged foil?
11 That's the way I look at this question. If I'm wrong about
12 that, then I can be correct; but this question is basically
13 asking do you find fin stock, which is thicker, which we
14 might use in an automotive application or VAC application as
15 interchangeable with other aluminum foil. That's the
16 question I see being asked here. And of course, the answer
17 is going to be no because I would never use a thicker-gauged
18 fin stock product as a substitute for a product that's going
19 to go and be using a foil that might be used in a household
20 application or a foil that might be used in a gum wrapper.
21 It doesn't mean they're not the same like product.

22 CHAIRMAN SCHMIDTLEIN: Right. So before my time
23 runs out maybe one of the industry witnesses can address it.
24 There were a couple of questions in the prelim that we said
25 we would come back to which involved the physical

1 characteristics and how those are defined, but then also the
2 process for making fin stock as compared to other types of
3 aluminum foil and what additional steps are involved. And
4 then the question about -- and I know you say there's
5 overlap in the alloys, but I assume that means there are
6 additional alloys that are used in fin stock that aren't
7 used in other, so Mr. McCarter, if you want to take on a
8 couple of those.

9 MR. MCCARTER: So first of all, let's back up
10 for a second. So you melt aluminum and you have an aluminum
11 bath prior to casting it and rolling it and making it into
12 the end use product. So to be clear, you know, if you look
13 at JW Aluminum we have a multitude of alloys that going to
14 the foil industry. It could be 1100. It could be 1200. It
15 could be 3,000 series or 8111 and so forth.

16 We also have customers that have asked us to run
17 different levels of mag for their products, right? So we
18 might have Customer A, based upon their specifications, we
19 will create a cast coil with a higher level of mag versus
20 somebody else in another application for those products.
21 That's all taking place at the bath, if you will, the
22 aluminum bath side were we cast the product. So it's not
23 unusual to have different levels of alloy and elements, if
24 you will, in the process based upon customer specification
25 and we meet those specifications of the customers.

1 The second thing I'd point out in the production
2 of foil, fin stock or lighter gauge, you use the same mills
3 and the same process to do that. As you cast a product, you
4 then roll the products. I can roll products foil in all
5 four of our facilities. I can choose not to produce foil in
6 some of our facilities because of being economically driven.

7 CHAIRMAN SCHMIDTLEIN: But there must be
8 additional steps you take to make this higher-gauge with
9 this special --

10 MR. MCCARTER: Ironically enough -- well, it
11 takes place --

12 CHAIRMAN SCHMIDTLEIN: As opposed to like
13 ultra-thin aluminum foil or standard aluminum foil.

14 MR. MCCARTER: In the case that you're speaking
15 of here where the different levels of magnesium come into
16 the product, if you will, that is done all the way at the
17 front end of the process, so you'll add another ingredient,
18 if you will, into the aluminum bath.

19 CHAIRMAN SCHMIDTLEIN: So the steps to make
20 ultra-thing aluminum foil at your company are exactly the
21 same as to make this certain fin stock that's defined in the
22 questionnaire?

23 MR. MCCARTER: What I'm saying to you is that
24 the production of the aluminum itself at the front end of
25 the bath we make those different alloys and so if I wanted

1 to have a higher level of mag in the product I would do
2 something different at the very beginning of the process and
3 the next day I might do something different again to create
4 another alloy at the front end of the process. From then it
5 goes right into the rolling process, which is the same
6 across the foil spectrum.

7 CHAIRMAN SCHMIDTLEIN: Right.

8 MR. MCCARTER: Same type of mills, if you will,
9 or different types of mills; but it's a milling or a rolling
10 process.

11 CHAIRMAN SCHMIDTLEIN: Right.

12 MR. MCCARTER: That then goes down further steps
13 that are similar along the way there.

14 CHAIRMAN SCHMIDTLEIN: So are they exactly the
15 same or are there different steps for certain fin stock and
16 other aluminum?

17 MR. MCCARTER: So let me give you an example.
18 For a fin stock product that might be a heavier gauge you're
19 going to run it fewer times through the mill, okay, versus a
20 very thinner product you're going to run it more times
21 through a mill because you have to get it thinner and
22 thinner and thinner each time. And then depending upon how
23 thin it goes, it might even have to be run in a process that
24 results in having to separate the product after it's milled
25 because of the thickness required in the production

1 process.

2 But the concept of casting -- melting, casting,
3 rolling, separating, slitting, dependent upon the thickness
4 of the product, you're going to run it, like I said, either
5 less or more times through a mill and it may use a separator
6 or not. And based upon the customer's specification, you
7 may have a different alloy requirement, higher level mag or
8 not.

9 CHAIRMAN SCHMIDTLEIN: Okay. But I just want to
10 be clear.

11 MR. MCCARTER: Sure.

12 CHAIRMAN SCHMIDTLEIN: So what I'm taking from
13 your answer is that the steps are the same. It's just the
14 question of how many times you're rolling it depending on
15 how thick you want it.

16 MR. MCCARTER: Generally, yes, I'd make that
17 statement. You might make it longer. You might make it
18 less to get different physical properties, but you're still
19 baking it, if you will.

20 CHAIRMAN SCHMIDTLEIN: Right, okay.

21 MR. MCCARTER: Putting it in a kneeling furnace,
22 for example.

23 CHAIRMAN SCHMIDTLEIN: Okay, alright. My time
24 is up. We can continue with this the next round.

25 Vice-Chairman Johanson.

1 VICE CHAIRMAN JOHANSON: Thank you, Chairman
2 Schmidtlein.

3 On page 81 of the Flexible Packaging
4 Associations brief and also found at page 79 of the Chinese
5 response brief, there is an assertion that the profitability
6 of the domestic industry in volumes of subject imports have
7 not always moved in the same direction. Does that weaken
8 the causal link?

9 MR. ROSENTHAL: Vice-Chairman Johanson, I
10 partially answered this earlier, but I want to expand a
11 little bit on that. Our point, essentially, is that the
12 profitability throughout has been very, very low and from a
13 very narrow gauge. And what was happening throughout this
14 period is that in order to maintain profitability as imports
15 were increasing the domestic industry were doing things to
16 reduce cost, including closing lines, laying off workers,
17 and the like. So I don't think you can simply look at the
18 increased imports in a -- for example, an increase in
19 overall profitability from one year to the next and say, oh,
20 well, the imports had nothing to do with the industry's
21 profitability.

22 Profitability was terrible throughout and even
23 when it improved it improved only a very, very low level and
24 that was accomplished by closing lines, laying off workers,
25 and finding other ways to reduce costs. So no, their

1 argument does not prove that there's no relationship between
2 the imports and profitability.

3 And I would add one more thing and that is that
4 the foreign producers throughout their briefing have ignored
5 the impact of their pricing and the requirements by the U.S.
6 producers to maintain production to reduce prices and that's
7 been a steady state throughout the entire period and before.

8 MR. RUDISILL: If I could build on that answer a
9 little bit, an example of where that general rule would be
10 untrue that higher volumes would correspond directly with
11 higher profitability would be if you were running a facility
12 that was not fully loaded. It's a highly capital-intensive
13 industry, so you have fixed costs. So in our case, when we
14 shutdown our facility, obviously, we had lower volumes at
15 the end of that. We had higher profitability than we had
16 right before the shutdown because there were a lot of fixed
17 costs that went away.

18 So often that trend that you brought up is true,
19 but then there are examples where it wouldn't be the case
20 either.

21 VICE CHAIRMAN JOHANSON: Thanks, Mr. Rudisill
22 and Mr. Rosenthal.

23 On page 28 of the Flexible Packaging
24 Association's brief, they argue that a difference in the
25 production processes between the domestic industry and the

1 Chinese industry is that the Chinese foil industry has more
2 access to primary aluminum and that it does not need to use
3 scrap aluminum. Is such a difference in raw materials
4 significant for the quality of the final foil product?

5 MR. MCCARTER: In our foil products, depending
6 upon which application, we'll use 100 percent prime
7 aluminum. So we have access to it here in the U.S., right?
8 It's freely traded out there in the marketplace and haven't
9 had a problem getting a supply of prime aluminum for our
10 product.

11 It is, in fact, the case in some products we may
12 be able to blend and use scrap aluminum, which actually
13 could lower the cost of the product and allow us to stay in
14 business throughout this period of time, but in what we're
15 talking about primarily it is mostly prime aluminum used in
16 our processes.

17 VICE CHAIRMAN JOHANSON: Okay, thank you Mr.
18 McCarter.

19 In following up with that, and this is partially
20 out of my personal curiosity, but in the past month or so I
21 read in the New York Times or the Wall Street Journal that
22 the Chinese Government has established new rules about the
23 importation of scrap aluminum and would these new rules
24 provide increased access to scrap for the U.S. industry? I
25 recall a picture of someone in Portland, Oregon with like a

1 giant mound of aluminum cans. He said he couldn't get rid
2 of them.

3 MS. BROCK: Yes, if China is successful in
4 implementing their policy to have more barriers for scrap
5 imports into China that would mean there's additional scrap
6 here in the United States for use in aluminum products.

7 MR. MCCARTER: I just want to point out again
8 for these foil products it requires a higher purity of
9 aluminum to meet the customer's specifications, so whether
10 there's more scrap or not really doesn't have a significant
11 bearing on the production of foil products as a whole. It
12 might have an impact on other segments of the market outside
13 of the foil products.

14 VICE CHAIRMAN JOHANSON: I assume a lot of those
15 aluminum cans are going to become new aluminum cans; is that
16 the case?

17 MR. MCCARTER: Basically, yeah.

18 VICE CHAIRMAN JOHANSON: Okay, thanks. I
19 appreciate it. That's one area of aluminum I know a lot
20 about, so I was just curious. My son brought it up. He was
21 very curious. He said I'm finally working on a case that he
22 knows about. He knows all about aluminum from foil and cans
23 and so anyway it's not some of these products we deal with.
24 I'm digressing, though.

25 I confess to finding that the Midwest Premium is

1 confusing and it's a confusing part of the market. How did
2 something like this evolve and in the case of import
3 competition does it remain a future of the U.S. market? It
4 appears to me that the Midwest Premium is disadvantaging
5 domestic production; am I correct there?

6 MR. MCCARTER: So let's just talk about what the
7 Midwest Premium is just to get on the same base. You know
8 aluminum is traded in the U.S. We buy it based upon the LME
9 price, the freely-traded price, plus the Midwest Premium or
10 sometimes it's referred to as a location premium. The cost
11 of getting that aluminum either from a warehouse or from a
12 smelter to a site, so hence, the term "location premium" and
13 our products are a standard pass through of both the LEM,
14 plus the premium or what we call the Midwest Transaction
15 Price, so that's a pass through part of our products, if you
16 will.

17 Just like, though, over in China they have the
18 Shanghai Exchange over there. They have a premium, if you
19 think about it, to ship it from China all the way over here
20 -- a location premium. It's just not articulated as a
21 Midwest Premium that's out there. So to me, you know, while
22 they could have an advantage because they are getting
23 lower-cost prime aluminum that's subsidized by the
24 government put into their facilities, yes, you know, they
25 would have an advantage from that standpoint.

1 From our standpoint, given domestic competition,
2 it's a pass through process for us and we're focused on the
3 fabrication margins versus the metal price, if you will.

4 VICE CHAIRMAN JOHANSON: But as a pass through,
5 someone's having to pay for that pass through.

6 MR. MCCARTER: That's correct.

7 VICE CHAIRMAN JOHANSON: And who would be paying
8 for that?

9 MR. MCCARTER: The customer pays for it. The
10 all-in pricing is the LME, plus the premium, plus our
11 fabrication charges, the all in revenue charges.

12 VICE CHAIRMAN JOHANSON: So this Midwest Premium
13 hurts the U.S. production; is that correct to say or it puts
14 you, competitively, at a worse position?

15 MR. MCCARTER: You know you'll see the Chinese
16 Exchange will track up and down and close to the LME, plus
17 the premium advantage or disadvantage, dependent upon what's
18 going on, on the world commodity markets. I don't look at
19 that as a disadvantage -- a significant disadvantage, other
20 than the facts that those mills over there it's not
21 transparent what they're buying that for because of the
22 subsidy efforts that go on in the country over there.

23 MR. ROSENTHAL: The problem in the U.S. has not
24 been the raw material cost fluctuations up or down or the
25 Midwest Premium. The underselling that's taken place is

1 dramatically -- accounts for -- well, let's put it this way,
2 the problem as been the squeezing of the fabrication price,
3 if you will. That's where the U.S. industry's profitability
4 has been squeezed. It's how much are they actually getting
5 for fabrication.

6 The amount of underselling far dwarfs any kind
7 of advantage or disadvantage when it may come to premium,
8 which I don't believe really exists because the Chinese have
9 to actually, as you've heard, ship that product all the way
10 over here. So they have to account for a lot of additional
11 costs and still manage to undersell the U.S. producers quite
12 dramatically.

13 VICE CHAIRMAN JOHANSON: And just to follow up,
14 Respondents indicated in their pre-hearing briefs that U.S.
15 imports of aluminum are not subject to the Midwest Premium.
16 Is this because the Midwest Premium is only applicable to
17 primary aluminum; is that the case?

18 MR. MCCARTER: Yes. When you buy it from China
19 many of them will price over what they call the LME or
20 London Metal Exchange, okay, and then you've got to add
21 freight and duties and so forth; hence, an equalizing factor
22 to some extent. Here we price based upon the LME and the
23 premium and we offer -- there is full market transparency
24 into that price and cost, unlike what we see coming from
25 China.

1 VICE CHAIRMAN JOHANSON: Okay, thank you for
2 your responses. My time has expired.

3 COMMISSIONER WILLIAMSON: Okay, thank you.

4 Following up on that, so how often does the
5 Midwest Premium change and how quickly do your contracts
6 reflect changes in the premium?

7 MR. MCCARTER: What's the industry standard for
8 this is so every day that premium and the LME can change and
9 what is typically -- and you really have two different ways
10 that contracts are applied here. Some customers will elect
11 to call us up and say we want to fix the metal for a period
12 of time -- the year, the month, or six months and we will
13 lock it in with a hedging program, both on the premium and
14 the LME versus -- or the other normal way is what's called a
15 Prior Month Averaging, so for example, in the month of
16 January there will be kept a tab, if you will, a table of
17 all the various daily changes in the LME and the Midwest
18 Premium. You take a monthly average, so it goes at what's
19 called a Prior Month Average.

20 So let's just say you had a number of
21 fluctuations and then in January that the LME metal was a
22 dollar and the Premium was 10 cents it would be -- a 1.10
23 would be the pass through charge for the metal.

24 COMMISSIONER WILLIAMSON: Okay. And how closely
25 does the premium reflect actual cost experienced by domestic

1 producers of foil?

2 MR. MCCARTER: The transportation costs, so how
3 closely -- I just want to make sure I understand the
4 question. So how closely does that premium reflect the cost
5 of the transportation for the location charge from the
6 smelter to the consumer? Again, that's an average that's
7 set. JW has a smelter that sits right next door to it. We
8 don't happen to buy any metal from that smelter because it
9 doesn't offer at a suitable price, but at the time that we
10 were still buying from it you would still pay the premium
11 even though it was a mile away.

12 COMMISSIONER WILLIAMSON: Okay. So it's almost
13 like some kind of average of transportation.

14 MR. MCCARTER: From regions from across the
15 United States, yes.

16 MR. RUDISILL: If I could take a run at the
17 Midwest Premium too.

18 COMMISSIONER WILLIAMSON: Sure.

19 MR. RUDISILL: The Midwest Premium, first of
20 all, it's a regional premium for North America and every
21 region of the world has its own premium. There's one in
22 Asia. There's one in Europe. Mostly, North and South
23 America do it off the Midwest Premium. It's the theoretical
24 cost to get metal from the smelter to a location in the
25 Midwest. That's how it's defined. And how the price is

1 actually arrived at is through a survey from the
2 publication called Platts. And they will take data from
3 buyers, sellers and traders and aggregate that data and come
4 up with an average premium.

5 So depending on where your location is -- you
6 could be closer to a smelter and have an advantage over the
7 Midwest Premium. You could be further from the sources of
8 metal and be disadvantaged to the Midwest Premium, but
9 that's the intent of it is to try to aggregate what that
10 true cost is of transportation within this region.

11 COMMISSIONER WILLIAMSON: Does the formula ever
12 change?

13 MR. RUDISILL: It's a survey.

14 COMMISSIONER WILLIAMSON: Okay.

15 MR. RUDISILL: Yes, so it's actually prices that
16 are reported to this publication and they aggregate them.

17 COMMISSIONER WILLIAMSON: And everybody just
18 accepts it.

19 MR. RUDISILL: We just accept it.

20 COMMISSIONER WILLIAMSON: Okay. My next
21 question was going to be why is this still a factor in
22 setting foil prices, but I guess that's --

23 MR. RUDISILL: There's a long history to that.

24 COMMISSIONER WILLIAMSON: Okay, which we
25 probably don't need to go into here.

1 MR. ROSENTHAL: I just want to leap in on this.
2 First of all, Midwest Premium was a mystery to me too until
3 we got involved in this, but one of the things I realized
4 is, to the extent that the Respondents are arguing that
5 that's the cause of the domestic industry's problems, I want
6 to strongly urge that that's crazy. If that's an
7 alternative cause of injury they're proposing or that's the
8 reason why the domestic industry's profitability has been
9 depressed for this time that makes no sense and is not
10 supported by the record.

11 The problem here is low pricing due to
12 underselling by the foreign producers and customers
13 basically saying we're not going to buy your product unless
14 you lower your price to compete with the Chinese. It has
15 nothing whatsoever to do with the Midwest Premium. I just
16 want to make clear that in my view the discussion of the
17 Midwest Premium is a total red herring.

18 COMMISSIONER WILLIAMSON: Okay, thank you.

19 Could you show us what -- and you'll probably
20 have to do it post-hearing, but could you show us what
21 happened to the fabrication fee portion of the price over
22 the POI. You did mention that there was a squeeze in the
23 fabrication price.

24 MR. ROSENTHAL: I think the producers should
25 talk about that.

1 COMMISSIONER WILLIAMSON: Okay, that'll be
2 helpful. Who wants to go first?

3 MR. MCCARTER: You know our fabrication prices
4 have been on the decline in the period and since I joined
5 the company in 2009. It has been a declining line versus an
6 increase in line for the like products as you go across the
7 period.

8 MR. RUDISILL: So we've been buying foil in all
9 the gauge ranges during the period of investigation and
10 before and we've seen a steady decline in fabrication
11 prices. It's basically been a consistent, steady downward
12 decline in fab prices.

13 MS. LANDA: We see decline in fab prices and we
14 also see a decline in volumes because there were just some
15 categories we couldn't compete in.

16 COMMISSIONER WILLIAMSON: Okay. And this is a
17 decline reflecting decline in cost of fabrication or are you
18 just saying this is the import competition that's doing
19 this.

20 MS. LANDA: This pretty much represents our
21 pricing, so this would be a decline in pricing. We did do a
22 lot -- we took a lot of measures to reduce our costs. At
23 the same time, we were trying to be more efficient. There
24 were some layoffs, so primarily, the big driver was the
25 price coming down and us trying to maintain cost.

1 COMMISSIONER WILLIAMSON: Okay.

2 MR. RUDISILL: So as to the price of imports,
3 since we produce and we buy we have a good basis of
4 comparing the actual input costs and how they would compare
5 to the fabrication charges of the material that we purchase.
6 Our own fabrication costs go up and down some with energy
7 and other factors. The fabrication costs of the product
8 that we've been buying has only gone down. It hasn't really
9 correlated with actual costs as we see it.

10 COMMISSIONER WILLIAMSON: Okay.

11 MR. RUDISILL: And the basis for that is there's
12 been continued expansion in rolling mills in China, so they
13 fight with each other for the market share that is much
14 lower than the amount of available capacity that they have
15 and it drives the price down.

16 COMMISSIONER WILLIAMSON: Okay, thank you for
17 those answers.

18 You argue that subject imports cause both price
19 depression and suppression. The Commission found neither in
20 their preliminary phrase. What is new or different on this
21 record to show price depression or price suppression?

22 MR. HUDGENS: I think where we'd argue is that
23 over the period of investigation prices did decline from
24 first quarter of 2014 to fourth quarter 2016. And as a
25 result of significant underselling throughout the period the

1 U.S. producers have not been able to obtain an operating
2 margin that has been sustainable and the operating margins
3 that the U.S. industry is experiencing throughout the period
4 is a reflection of suppression and depression of pricing and
5 that's the reason why there's been such an abysmal
6 financial performance by the domestic industry.

7 COMMISSIONER WILLIAMSON: Thank you. I say
8 again what is new since the prelim? I might've missed that
9 part.

10 MR. ROSENTHAL: We didn't answer that one. And
11 I would argue that you're wrong in your prelim.

12 COMMISSIONER WILLIAMSON: I guess his answer
13 would say why we were wrong.

14 MR. ROSENTHAL: I really do believe that you
15 should've found it in the prelim. And if you look at what's
16 happened here, whether raw material costs go up or go down,
17 whether the prices go up or down with those raw material
18 costs what continues to happen is inadequate profits. So
19 even when the U.S. producers raised their prices in order to
20 reflect the pass through or the pass through that happens
21 you still see depressed profitability. The bottom line
22 here, despite all the efforts through reduced costs,
23 layoffs, closing facilities to maintain profitability, even
24 when you've got declining raw material costs you see profits
25 that don't get above an injurious level. To us, that's an

1 indication of price suppression.

2 COMMISSIONER WILLIAMSON: Okay. Is there
3 anything new that's happened that might make us see the
4 light, in your view?

5 MR. ROSENTHAL: Well, you weren't at the
6 preliminary staff conference, so I'm just hoping I can be
7 more compelling in front of you than I was with the staff.

8 COMMISSIONER WILLIAMSON: You always are, but
9 okay, thank you. Okay, if you do think of anything
10 post-hearing, I'll take it.

11 MR. ROSENTHAL: I understand I haven't been
12 convincing thus far, but we'll try harder in post-hearing.

13 COMMISSIONER WILLIAMSON: Okay, thank you. And
14 actually, my red light just came on, so thank you.

15 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

16 COMMISSIONER BROADBENT: Mr. Herrmann, I'm
17 trying to make sense of this scope change that you requested
18 in December. Why did you wait to seek the revision in the
19 scope with respect to the double backed versus single backed
20 aluminum? Isn't that going to mess up the questionnaire
21 responses we have to look at?

22 MR. HERRMANN: I don't think so, Commissioner.
23 The reason we requested the scope clarification is from our
24 perspective double backed foil was never a part of the scope
25 and was never a product that we were seeking relief on. In

1 fact, none of the members of the domestic industry before
2 you today produce that product.

3 The reason that there was confusion is the
4 domestic industry did and does and continues to want to seek
5 relief on thicker-gauged foil products that have a lubricant
6 applied on both sides. They are not backed in the sense of
7 being backed, but they do have a lubricant applied on both
8 sides and that is to allow the container foil to be easily
9 removed from molds when you're making a pie plate or a
10 turkey pan or something like that. So the reason we wanted
11 to come forward at the Commerce Department was to clarify
12 that there is no intention by the Petitioners to cover
13 double backed foil. And in doing that, we did clarify that
14 we do wish to seek relief with respect to aluminum foil that
15 has a lubricant applied on both sides.

16 COMMISSIONER BROADBENT: Do you think it's
17 legitimate that Trinidad's complaining about that?

18 MR. HERRMANN: No, I don't. I don't think the
19 intention has ever been to include that product in the
20 scope. We didn't talk about it at the preliminary that we
21 were seeking relief on that product. I would look at the
22 submission we made to the Commerce Department simply as
23 being explicitly clear that the domestic industry does not
24 seek relief on double backed product.

25 COMMISSIONER BROADBENT: Okay. Trinidad

1 recommends using the six-factor traditional like product
2 analysis for determining whether household foil should be
3 included in the domestic-like products. It states that
4 there's a clear continuum between household foil and other
5 standard-gauged aluminum foil. How do you respond to
6 Trinidad's usages of the traditional like-product analysis
7 and how do you respond to their factual argument?

8 MR. HERRMANN: Sorry. You said they're seeking
9 to include household foil within the like product or was it
10 a different product?

11 COMMISSIONER BROADBENT: They want to use the
12 six-factor traditional like-product analysis for determining
13 whether household foil should be included and it states that
14 there's a clear continuum between household foil and other
15 standard-gauged aluminum foil.

16 MR. HERMANN: I'm sorry, Commissioner, maybe we
17 can address that in the post-conference. I don't recall
18 that anyone has challenged the inclusion of household foil
19 in the domestic-like product.

20 COMMISSIONER BROADBENT: On less than 25.

21 MR. HERRMANN: On small reels, I'm sorry. I'm
22 sorry. I'm sorry. So yes, we address that issue in our
23 pre-hearing brief. We'll be happy to provide you more on
24 that. Mr. Rudisill testified at length about that with
25 respect to Reynolds' production process.

1 I guess one thing I would point you to is the
2 vast difference between the operations that spoolers have
3 that are making this argument, so Trinidad Benham purchases
4 jumbo rolls and spools those products into small reels.
5 Other domestic spoolers do the same thing. They do not have
6 facilities that allow them to produce jumbo rolls and I
7 think that's a very significant distinction between the
8 producers that are here before you now that are heavily
9 invested in capital-intensive production facilities to
10 produce jumbo rolls and spoolers that have a much, much
11 lower level of capital investment and are not melting metal
12 and are not producing jumbo rolls.

13 MR. ROSENTHAL: Go ahead.

14 MR. RUDISILL: I can speak to that. So I don't
15 have all six factors in front of me, but I can just describe
16 to you some of the differences that delineate the products.
17 So first of all, the physical characteristics of it a jumbo
18 roll ways 700 or 800 pounds where a boxed roll of foil
19 weighs a few pounds. It's designed to be in a grocery store
20 on the shelf the consumer could pick up and you know take
21 home, put in their cart or be in a restaurant where you can
22 use it for one use after another.

23 A consumer roll, a box roll it's in a box. It
24 has a cutter blade on it. It's designed to dispense and
25 tear. It's designed to protect it from contamination. You

1 couldn't use a jumbo roll in that application.

2 COMMISSIONER BROADBENT: Yes. But I think what
3 we're talking about is the different between the 24 and the
4 26-pound reels, right?

5 MR. RUDISILL: Okay, so why 25 pounds was chosen
6 to be the upper limit. The largest roll that we're aware of
7 weighs less than that box roll. So there's a 24-inch wide
8 roll that is like a thousand feet and heavy gauged that
9 weighs like 22, 23 pounds, but again, it's a box used in a
10 similar application to say a 10 or 15-pound roll on a food
11 service application, but very different from one that's
12 designed to be put on a spooler and spooled into individual
13 rolls. There's nothing in between like, say, 25 and 800.
14 There's not like steps that go up to say 25, 30, 45, 50.
15 That's the highest.

16 COMMISSIONER BROADBENT: But what about the
17 distinction with 24 and 25?

18 MR. RUDISILL: There's no distinction.

19 COMMISSIONER BROADBENT: Okay, so why are we
20 picking 25 as the cut off?

21 MR. RUDISILL: Because it's the upper limit. So
22 the difference is between 25 and 800 as opposed to 25 and
23 24.

24 COMMISSIONER BROADBENT: Okay. I mean Trinidad
25 is arguing that there is limited difference between 24 and

1 26-pound reels and I'm just trying to -- tell me again. I
2 guess I didn't follow you.

3 MR. RUDISILL: So we're saying 25 and below is
4 the same. It's 24 and below, but there's a weight for the
5 maximum weight of a box roll that's in that range of 24 or
6 25 pounds. Everything below that is a totally different use
7 of foil than what's in our case, which are these jumbo reels
8 that are 7, 800 pounds. Does that make sense to you?

9 MR. ROSENTHAL: I'm not sure that argument gets
10 them very far. It may get them to a 26-pound roll, but it
11 doesn't get them to the jumbo roll, which is really an
12 intermediate product. I look at the jumbo roll similar to a
13 product like wire rod, which is a product that is
14 intermediate and then is used by downstream industries to
15 produce a number of different products from nails to fences
16 and the like.

17 Similarly, the jumbo rolls here are used by
18 downstream industries to produce wrap, Reynold's Wrap, or it
19 could be used for household aluminum products or it could be
20 used for fin stock and the like. So I think that they are,
21 by just trying to argue that the 25-pound line should be 24
22 or 26 doesn't get them to where they want to be. We're not
23 arguing that -- or I can't believe that they are seriously
24 arguing that the 24 or 25-pound roll is the same as the
25 jumbo or vice versa.

1 They're different like products. And we've gone
2 through -- and Mr. Rudisill has gone through the six-factor
3 test and we will reiterate that. But there's a clear
4 difference between those products. They're a downstream
5 convertor into another product.

6 COMMISSIONER BROADBENT: Okay, thanks, that
7 helps. Let's see. This is for -- I know your first name,
8 but I don't know your last name. Heidi Brock. In August
9 2016, Aleris announced that it entered into a definitive
10 agreement to be acquired by Zhongwang, USA, a subsidiary of
11 one of the largest producers in China.

12 However, in November 2017, Aleris and Zhongwang
13 announced that their plan merger was suspended after failing
14 to win approval from CFIUS. Can you comment on what Aleris'
15 rationale was behind entering into this agreement with
16 Zhongwang and the reasons why the deal fell apart? As well
17 as Aleris' current relationship with Zhongwang.

18 MS. BROCK: Commissioner, thank you for the
19 question. I think it's probably best for us to go back and
20 provide a follow-up in the post-hearing.

21 COMMISSIONER BROADBENT: That's fine. Ms.
22 Brock, are imports of out-of-scope downstream aluminum
23 products, such as aluminum foil containers, increasing from
24 China or nonsubject countries?

25 MS. BROCK: We would be happy to take a look at

1 nonsubject countries and provide some additional information
2 in the post-hearing, but I can say that our members have not
3 been commenting on concerns with imports from other
4 countries.

5 COMMISSIONER BROADBENT: Okay, thank you very
6 much.

7 CHAIRMAN SCHMIDTLEIN: Okay, I want to follow up
8 on this question about price depression or suppression. And
9 I looked quickly again at your brief. And the argument you
10 make in there, and then at the prelim decision where we talk
11 about the raw material cost -- and I understand your
12 argument with regard to, you know, why--basically coming
13 back to why--why is it that we're unable to make a
14 reasonable profit, right? When we're passing through the
15 LME and the Midwest premium.

16 One question I had though is when I look at the
17 pricing tables--and this is not confidential--when you look
18 at the staff report, Roman Numeral V-25, where it talks
19 about what happens with the pricing products, and that for
20 five of the products, domestic prices actually increased
21 from January 2014 to September 2017? And for three of the
22 products, there were decreases ranging from .3% to 5.7%. So
23 I guess one question is, does this support price
24 depression? When you've got five out of the eight products
25 increasing in price?

1 MR. HUDGENS: This is Brad Hudgens for
2 Georgetown Economic Services. So I think that the
3 conversations with the staff, there's been an error in
4 Product 1, that would--once we get it corrected--that will
5 show a price decline over the four-year period.

6 There's also been several revisions that have
7 been filed since the report has been published. So once
8 those revisions and corrections have been made, you will see
9 that in all but one of the eight pricing products, there has
10 been a price decline over the three-year period, which is
11 First Quarter 2014 to Fourth Quarter 2016.

12 CHAIRMAN SCHMIDTLEIN: Okay, say that again?
13 That, so there's been an error and what were the errors?
14 What happened? Because I thought I have the revised Product
15 1 pricing table from last night, but it shows an increase.

16 MR. HUDGENS: If you're looking at First Quarter
17 2014 to Fourth Quarter 2016, over the three-year period --

18 CHAIRMAN SCHMIDTLEIN: Oh, I'm looking through
19 the nine-month -- period --

20 MR. HUDGENS: -- There has been an increase in
21 the most recent quarter. But we were looking at the period
22 before we filed the petition.

23 CHAIRMAN SCHMIDTLEIN: I see. So you think that
24 in turn is a result of the --

25 MR. HUDGENS: We think that plays a role --

1 CHAIRMAN SCHMIDTLEIN: -- petition?

2 MR. HUDGENS: Yes.

3 CHAIRMAN SCHMIDTLEIN: Okay.

4 MR. ROSENTHAL: Commissioner, if you look at
5 Confidential Slide 15, that summarizes where pricing was
6 through that three-year period, '14 through '16, and as we
7 note that the producers' prices fell for all the A products,
8 but for one. That's our analysis of the up-to-date pricing
9 information. Up-to-date in your--that you've gathered--it
10 does not include the interim period, as Mr. Hudgens pointed
11 out.

12 CHAIRMAN SCHMIDTLEIN: Okay. And have you
13 looked at the decrease in these prices compared to raw
14 material costs?

15 MR. HUDGENS: Yes. So what --

16 CHAIRMAN SCHMIDTLEIN: Because I don't see that
17 in your brief. So can you talk about that here? Or --

18 MR. HUDGENS: We can. So I think that Number
19 One, that the witnesses have indicated that there's been a
20 squeeze in fabrication prices over time. I think another
21 point that we'd make, as I've indicated to Commissioner
22 Williamson, is that there was a degree of price depression
23 already in the market as we entered the period of
24 investigation.

25 So prices have been depressed to the point where

1 the, you know, the producers have not been able to sustain a
2 profitability that is much above break-even. And even in
3 2014, you're beginning to have a price depression, and that
4 has sustained over the period because of this significant
5 pervasive underselling by the subject imports over the
6 period.

7 CHAIRMAN SCHMIDTLEIN: Okay. So can you follow
8 up in your post-hearing, I guess, with comparison of what
9 the raw materials, I guess as a part of the cost of goods
10 sold, you know, what we see, in terms of the percentage
11 change, the absolute change, and how that compares to --

12 MR. HUDGENS: Yes.

13 CHAIRMAN SCHMIDTLEIN: -- the changes in the
14 pricing products? And I suppose along with the AUVs, I mean
15 we don't have -- well, I guess you could look at the
16 absolute changes in these prices, but it might be easier to
17 look at it on a short term --

18 MR. HUDGENS: Yes, we will do that.

19 CHAIRMAN SCHMIDTLEIN: -- by the -- per pound.
20 All right. Okay. The last question I wanted to ask was, if
21 the Commission does find that certain fin stock is a
22 separate like product, is there a record to go affirmative
23 on that here?

24 MR. ROSENTHAL: We'd like to take a look at that
25 in the brief. We frankly don't, obviously, don't agree with

1 the premise there that you should go that way, but I would
2 say that on the face of all the data, with the increased
3 imports declining profitability for those producers of fin
4 stock, that the answer would be "Yes, there is a record to
5 go affirmative," but I haven't looked at that.

6 I think we should look further at whether -- I
7 don't know if it's broken out or could actually get
8 information separately on, preferably fin stock per se, and
9 we need to worry about that little problem.

10 CHAIRMAN SCHMIDTLEIN: Yes. Staff has collected
11 that information, I believe, so you could address it in the
12 post-hearing if you'd like.

13 MR. HERRMANN: Commissioner, I'm just gonna add
14 one point. We'll obviously address that in our
15 post-hearing, but one thing that I think is significant to
16 think about here is the threat of injury to domestic
17 producers of fin stock.

18 As we've talked about this morning, you've seen
19 a progression of imports from China focused in the
20 light-gauge products moving to the standard-gauge products.
21 They're now, as our witnesses have testified, seeing an
22 increased presence in Chinese imports in thicker-gauge
23 products. We have the slide, I believe it was Slide 22,
24 which showed the increase in Chinese imports across all of
25 the thickness types over the course of the period.

1 And one thing I would invite you to think about,
2 and which we'll be obviously addressing in our post-hearing
3 is, the prospect of threat to the domestic industry if fin
4 stock is carved out, and what would happen to those
5 producers if you have all of the Chinese overcapacity and
6 shipments to the United States focused on that one unique
7 application along the continuum of aluminum foil products.

8 CHAIRMAN SCHMIDTLEIN: Okay. Well, I invite you
9 to address that in the post-hearing, along with the
10 respondents, they could also address that argument in the
11 post-hearing.

12 MR. ROSENTHAL: Commissioner, I'll add one
13 thing. I now see the table on the fin stock profitability
14 and I would argue that it looks pretty dismal there, too.
15 So I don't think -- you get the threat.

16 CHAIRMAN SCHMIDTLEIN: Okay. Okay. All right.
17 I have no further questions. Back to Vice-Chairman
18 Johanson.

19 VICE CHAIRMAN JOHANSON: Thank you, Chairman
20 Schmidtlein. Maybe I'm being a bit simplistic, but I'm
21 curious. Given the name of the product listed on the
22 petition, how did fin stock end up being included in the
23 scope? Was that just an artifact of having drawn the upper
24 limit dimension at 0.2 millimeters?

25 I do find it interesting that the Aluminum

1 Association makes the distinction between foil and fin stock
2 in some of its publications. And you can see this at Page
3 14 of Valeo's brief. Why didn't you all call the product
4 aluminum foil and fin stock?

5 MR. HERRMANN: I think the answer to that,
6 Commissioner, is we view aluminum foil as jumbo rolls that
7 are used in many different applications. We referred to
8 certain aluminum foil as the product at issue here. For the
9 same reason, we didn't refer to flexible packaging or
10 household foil or fin stock for that matter.

11 We think there's a continuum of uses to which
12 aluminum foil jumbo rolls can be put. And as Mr. Rosenthal
13 has mentioned, that's not unusual to see a product that
14 comes before the Commission and is a single like product put
15 to multiple end uses for different products along a
16 continuum.

17 MR. ROSENTHAL: And in fact, in many cases,
18 either an association or a company may say, "I produce jumbo
19 rolls" or "I produce wire rod," and they'll put on their
20 website for their customers, "These are the applications,"
21 will use in nails, for fences or PC strand. And "For you
22 customers, this is what we make for you."

23 Same thing goes for producers of aluminum foil
24 in jumbo rolls. We sell that to you customers in the
25 automotive industry, in the HVAC industry, in the household

1 foil industry and so these are what I regard as marketing
2 and customer-driven and commercially-driven definitions or
3 services. But they don't define the product that is the
4 subject of the case.

5 They are subject to the case, as I said, as an
6 intermediate product that can be used in all sorts of
7 applications. And I think part of the problem we have in
8 this case is that people talk in shorthand. It's aluminum
9 foil for a fin stock application of aluminum foil that goes
10 into household application, but it is not a separate
11 product.

12 MR. HERRMANN: And I'm sorry, Commissioner, just
13 one other point. We will address for you in our
14 post-hearing brief, the Aluminum Association's reporting
15 methodology. So we'll address that for you.

16 VICE CHAIRMAN JOHANSON: Thanks, Mr. Herrmann.
17 And also in your post-hearing brief, or maybe right now, if
18 you'd like, could you provide me with the petitioners' best
19 arguments for distinguishing the fin stock domestic like
20 product argument from the way the Commission handled
21 heatsinks in the aluminum extrusions' investigation?

22 MR. HERRMANN: I think we'll have to do that for
23 you in the post-hearing. I am not familiar with that
24 decision as we sit here.

25 VICE CHAIRMAN JOHANSON: Okay, thank you. I

1 look forward to seeing that, Mr. Herrmann. Now, I just
2 spoke to that fin stocks. And I'm gonna talk just for a
3 minute about ultra-thin aluminum foil. How does the
4 European Union carve out for ultra-thin aluminum foil in its
5 anti-dumping case and form the market characteristics in the
6 United States?

7 MR. HERRMANN: Sorry, Commissioner, I'm not sure
8 I understand your question.

9 VICE CHAIRMAN JOHANSON: From what I understand,
10 the EU has an order on foil, and I think that they carved
11 out ultra-thin aluminum foil?

12 MR. HERRMANN: Right.

13 VICE CHAIRMAN JOHANSON: How should that -- did
14 they see something there that you are concerned we're not
15 seeing here?

16 MR. HERRMANN: I think you've got a different
17 industry bringing a different case in a different
18 jurisdiction. I think, as we've addressed in our brief,
19 there is domestic production of that product here. There
20 used to be a lot more, frankly. And, you know, based on the
21 six factors that the Commission applies, we think it's very
22 clear that that product should be included in the single
23 like product.

24 MR. ROSENTHAL: I'd argue, too, they industry
25 chose to have a narrower scope. It doesn't really make any

1 difference here, just in response to Commissioner
2 Broadbent's question, I would argue any purchaser who is
3 concerned about the scope clarification that took place
4 earlier in the Fall really shouldn't be complaining. It
5 should be happy that it was clarified to cover one product
6 and not another so there's not confusion there.

7 So narrower scope, more clarity, and in our
8 case, I think it's helpful. The fact that the Europeans
9 wanted a narrower scope for their case is really based on
10 their industry needs and production capabilities.

11 MR. HERRMANN: And just one other point,
12 Commissioner. I think there were some arguments and issues
13 raised to the European finding in the preliminary phase.
14 And in its preliminary views, the Commission quite clearly
15 indicated that what the Europeans did was not particularly
16 persuasive or controlling with respect to what this
17 Commission does in defining the domestic like product in
18 this investigation. We'd encourage that same finding in the
19 final.

20 VICE CHAIRMAN JOHANSON: Okay, yeah. I was
21 wanting to focus on the persuasive part, not the controlling
22 part, if you understand. Thanks for discussing that.

23 On Page 24 of the Flexible Packaging Association
24 brief, it is noted that the household foil market in the
25 United States is past the point of rapid expansion. And I

1 was gonna ask you all, since you're the domestic industry
2 here, is this due to the presence of substitute products in
3 this segment?

4 It seems to me that for most uses of household
5 foils, there's other substitutes that are readily available
6 such as plastic wrap, sealable containers, etcetera. Why is
7 the market not growing that quickly?

8 MR. RUDISILL: So maybe the best way for me to
9 start. This is Murray Rudisill. Could I ask you to repeat
10 the question to make sure I'm answering it?

11 VICE CHAIRMAN JOHANSON: Yeah, the Flexible
12 Packaging Association states that the household foil market
13 in the United States is past the point of rapid expansion.
14 And I'm wondering, if you agree why is that the case?

15 MR. RUDISILL: How you define rapid expansion?
16 But it is consistently growing. It's a consistently growing
17 market and there are increasing uses of aluminum foil in
18 consumer applications. And we expect it to continue
19 growing. The other question you mentioned was on
20 substitution --

21 VICE CHAIRMAN JOHANSON: Right.

22 MR. RUDISILL: -- so there is overlap,
23 obviously, in some areas where -- so say, for food storage,
24 you could wrap something in foil or you could put it in a
25 plastic bag, so clearly, there's an opportunity for

1 substitution in an application. There's other applications
2 where there is not a substitute, like, for example,
3 grilling. There's not a suitable substitute for foil.
4 Does that --

5 VICE CHAIRMAN JOHANSON: Yeah, that does help
6 out. Actually, I use aluminum foil to cook on fire a lot,
7 so. But you have to get extra-thick aluminum foil.
8 Commissioner Williamson is laughing, I don't know why. It's
9 actually a very good meal when you go camping. Okay.
10 Thanks for your response, Mr. Rudisill.

11 We are all familiar with what's going on out
12 there. There's a whole lot going on with trade right now
13 here in D.C. And I was wondering, how would the possible
14 trade restrictions as a result of the impending 232 aluminum
15 investigation affect the aluminum foil industry, either
16 directly or indirectly?

17 MR. ROSENTHAL: I can safely say that we don't
18 know. We don't know what the scope of the 232 will do,
19 whether it -- obviously, it's a national defense-oriented
20 analysis and I would like to think that household foil is
21 essential to national defense, but I'm not sure that
22 everyone else will agree with that.

23 In all seriousness, I don't think anyone has any
24 idea of what the scope -- either a product coverage, country
25 coverage -- type of remedy might be employed, if any. So I

1 don't think we can really answer that, other than we have to
2 wait and see along with you.

3 MR. HERRMANN: I think one other point,
4 Commissioner, to consider is the duration of the remedy, if
5 any, that's put in place by the president. It could be in
6 place for a very short period of time. It could be in place
7 for a longer period of time. It's impossible to know.

8 But as you've heard, Mr. McCarter and some of
9 the other witnesses testified this morning, the certainty
10 that would be provided by unfair trade orders, anti-dumping
11 and countervailing duty orders, would give the industry the
12 certainty of the duration and sustainability of relief that
13 would allow them to move forward with some of the
14 investments that we've talked about this morning.

15 VICE CHAIRMAN JOHANSON: All right. Thanks for
16 your responses. My time has expired.

17 COMMISSIONER WILLIAMSON: Thank you. Just a
18 couple of questions. Ms. Hart, we've heard mention of a
19 number of closures and, you know, reduction in staffing in
20 this industry, and I was just -- and many times when we have
21 an industry that's under pressure, we see that the unions
22 and the workers have been taking steps to try to help the
23 industry be competitive. And I was just wondering if, is
24 any of that going on here?

25 MS. HART: Yes.

1 COMMISSIONER WILLIAMSON: Just -- what's
2 happening to the workers here?

3 MS. HART: Holly Hart from the Steel Workers.
4 You know, clearly, you've heard from not only the company
5 witnesses, but from me, about the number of people that have
6 lost their jobs are continuing to, you know, those that do
7 have their jobs, some of them are working reduced hours.
8 That's a significant hit to their take-home pay.

9 And, you know, the union -- I can't speak to
10 specifics, and perhaps the individual producers can help
11 fill in -- but as a general rule, we try to, you know -- if
12 our employer is successful, our membership stays steady.
13 And, you know, so we as a union have a direct interest, and
14 our members do, in making sure that their employer is as
15 successful as possible.

16 So, you know, if there are efficiencies that can
17 be eked out of the process that currently is being used, you
18 know, we're always willing to work with employer to make
19 sure we're producing it as efficiently, quickly and as well
20 as possible.

21 COMMISSIONER WILLIAMSON: Thank you. Anybody
22 else wanna add anything on this topic?

23 MR. RUDISILL: I can add one example to that.
24 So, the Richmond foil plant that we shut down was a USW
25 plant. And the steel workers worked with us along the way

1 to find ways with job classifications and other operational
2 excellence initiatives to prolong the life of that facility.
3 So our experience with the union has been one of cooperation
4 and mutual effort to make the most of the economic
5 situation.

6 COMMISSIONER WILLIAMSON: Thank you. My last
7 question also has to do deal with closed plants. And we've
8 noted that several companies either exited the aluminum foil
9 business or ceased production of products like light-gauge
10 or household or foil.

11 This is, you know, a lot of these examples came
12 from before the beginning of the period of investigation.
13 So how should the Commission consider this information?
14 Since these things happened before the period of
15 investigation?

16 MR. ROSENTHAL: I think this is a very important
17 condition of competition. And it goes in very many
18 respects, the direct rebuttal of the respondents' arguments.

19 One of their arguments has been that the
20 domestic industry is not interested in producing and
21 supplying such things as light-gauge foil and what we're
22 telling you is, A, the industry's interested. We were
23 forced out of a lot of the business before this, but we
24 still have production and we still have interest.

25 And so, yes, that history, that context is very

1 important to understand why we got to where we are today,
2 and why it's so important to have relief going forward. JW
3 Aluminum is prepared to invest a lot more money if there is
4 trade relief here and to expand the capacity to supply the
5 light-gauge foil market. So that's why that context
6 matters.

7 When the domestic industry is being accused of
8 lack of interest or lack of willing to invest, and you hear
9 Ms. Landa say, "Well, we're investing hundreds of millions
10 of dollars in a aluminum product for the auto industry
11 because we can make a profit there," and she rejects the
12 claim in the flexible foil industry brief that suggests that
13 the industry in this case is not focused on and willing to
14 invest in profitable areas, that is part of this entire
15 context.

16 I can go on and I'll probably spend a little bit
17 more time in my rebuttal on this topic. But this is an
18 incredibly important context. This industry wants to
19 produce the entire range of foil products. They do. And
20 they can produce more, but history, the past, we hope is not
21 prolonged.

22 The reason why we're here today is to say that,
23 unless something is done now, there won't be any arresting
24 of the decline in the ability to produce light-gauge foil.
25 There won't be an ability to supply the medium-gauge.

1 And in fact, if you choose, and I hope you
2 don't, and I don't think the record supports you find a
3 separate like product on the aluminum foil for fin stock
4 applications, the same trends are appearing there and
5 profitability has declined there, and what we're telling you
6 is that history is a guide to the future and it reflects on
7 what's happened in this period of investigation.

8 So that is why we've spent as much time as we
9 have, providing you this context, because it reflects what's
10 been going on through this period and what will happen in
11 the future.

12 COMMISSIONER WILLIAMSON: Okay. Anybody else?
13 Good.

14 MS. LANDA: Bea Landa from Novelis. Just to add
15 to Mr. Rosenthal's comments. I think it's really a turning
16 point for us. The Chinese capacity is unlimited. They're
17 gonna continue coming in unless there's a remedy. What we
18 see is either, there's a path where we continue idling
19 assets and continue shutting plants because we can't
20 compete.

21 Or we have some remedy and there's an
22 opportunity to make investments in a healthy market. And
23 the only action that could happen is remedy. I think that's
24 really what we're holding onto and what's gonna change the
25 domestic industry. Thank you.

1 COMMISSIONER WILLIAMSON: Thank you for those
2 answers. I have no further questions.

3 CHAIRMAN SCHMIDTLEIN: Any questions?

4 VICE CHAIRMAN JOHANSON: Thank you, Chairman
5 Schmidtlein. I had just three remaining questions that are
6 disparate. So, get ready for it. I was wondering, what is
7 the focus of Gr nges' \$110 million investment in Tennessee?
8 Is it fin stock, standard, ultra-thin? And do you happen to
9 know about the other domestic industries as well?

10 MR. HERRMANN: So, Commissioner Johanson, this
11 is John Herrmann. All we know about the Gr nges investment
12 is what is identified in the press release. In the press
13 release--which is attached to our prehearing
14 brief--identifies fin stock, it identifies light-gauge foil.
15 I believe they use the term convertor foil in the press
16 release. And I believe there may be one other aluminum foil
17 application that's identified. But those are the
18 applications that are identified in their press release.

19 VICE CHAIRMAN JOHANSON: Do you know about the
20 other companies which are planning investments? What they
21 might be investing in?

22 MR. HERRMANN: Well, I think, JW can talk to
23 that. The other information that's in our prehearing brief
24 is an investment that's being contemplated by Ta Chen
25 International. The press reports of that contemplated

1 investment specifically identified convertor foil.

2 I think they would produce a wide range of
3 products, the integrated mill that they've been rumored to
4 be interested in. I'd need to look back at the reporting to
5 see exactly, but I think it's a range of different gauges
6 and different applications.

7 VICE CHAIRMAN JOHANSON: Okay. Thank you, Mr.
8 Herrmann.

9 MR. MCCARTER: Yes, sir, Commissioner, you know,
10 JW, we're looking to invest in a, to significantly upgrade
11 facilities that could provide product into the foil segment.
12 What is really gonna determine is where we apply that
13 investment is largely be dependent on the decisions we see
14 out of this Commission over the next weeks or months or
15 whatever it is.

16 So again, back to what Bea was saying down
17 there, just like in the, for Novelis, they're economically
18 motivated to invest in an automotive product, hundreds of
19 millions of dollars. It's no different. We're gonna go
20 where the return is. And I can tell you now, you know, she
21 used the term "a turning point". I think it's quite simple
22 on the foil business in North America. From JW's
23 standpoint, if we don't get an affirmative decision, those
24 plants are toast. Right?

25 Those are employees we're gonna have to go look

1 in the eye and say goodbye. Because, quite simply, the
2 level of earnings out of that, it just doesn't warrant
3 staying in business. So we're gonna go where the return is,
4 just like in Novelis' example, they've gone where the
5 automotive return is, we're gonna do the same thing. We
6 have to. In order to survive.

7 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.
8 McCarter.

9 MR. RUDISILL: This is Murray Rudisill with
10 Reynolds. Just to add our perspective to it. I mentioned
11 in my testimony that we considered a major capital
12 investment in 2014 and believe the economics to be
13 undependable to support it. We would bring back that
14 analysis, redo it and if this is a favorable ruling, it
15 would increase the probability that that would happen.

16 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.
17 Rudisill. The bullet point in the Chinese respondents'
18 brief, and which runs over Page 43 and 44, is fairly direct
19 in stating that the domestic industry has quality problems
20 in ultra-thin, and that this is not just an issue with idle
21 facilities. Could y'all please respond to this?

22 MR. ROUSH: This is Chester Roush with JW
23 Aluminum. I think I can respond based on what I reported.
24 If you take a look at our return rate, if you will, to our
25 customers, in total, in our light-gauge facilities, we're

1 averaging about 99.2% our customers who are keeping that
2 material.

3 So we feel we're very competitive in the
4 marketplace. We're supplying a very critical aerospace
5 application, which is the customers' keeping 99.6% of that
6 product. So we hear the argument and we think quality is
7 important. But at the end of the day, we feel like we're
8 very competitive in the quality side.

9 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.
10 Roush. And I have just one more question. The respondents
11 note that China is cutting its aluminum production this
12 winter as part of their Blue Sky Program. How does this
13 affect the likely volume entering the U.S. market?

14 And also, you all mentioned at Pages 2 and 23 of
15 your brief that China is increasing its capacity
16 irrationally and this seems to contradict what the
17 respondents contend. Could you all please discuss that?

18 MS. BROCK: Vice Chairman Johnson, this is Heidi
19 Brock with the Aluminum Association. We commend China for a
20 policy like the winter heating program, but I think that
21 there are really varying degrees of what we've seen, in
22 terms of the data coming out of that program, and what is
23 actually being verified as taken offline.

24 That winter heating program is really targeting
25 more of the primary aluminum production because when you

1 make primary aluminum, it's very energy intensive. There
2 are greenhouse gas emissions that are significant, that come
3 from that production. So that winter heating program is
4 targeted more at that upstream product of primary aluminum.
5 There's really -- the data on what's actually being taken
6 offline is quite variable there. And your second question
7 was --

8 VICE CHAIRMAN JOHANSON: You all mentioned at
9 Page 2 and 23 of your brief that China is increasing its
10 capacity irrationally?

11 MS. BROCK: So what we see --

12 VICE CHAIRMAN JOHANSON: And this seems to
13 contradict what the respondent's state.

14 MS. Brock: Right. What we see is the
15 overcapacity continuing to grow, despite these programs to
16 address the overcapacity. So that the gap continues to
17 widen between what China is consuming and what the demand
18 profile is, as well as what is being built and brought
19 online.

20 MR. HERRMANN: If I could, Vice-Chairman. This
21 is John Herrmann from Kelley Drye. I think we'd refer you
22 back to the slides at the end of our PowerPoint deck that
23 show the significant excess capacity in China beyond its
24 domestic consumption, and the fact that -- despite those
25 substantial differences that would give China enough excess

1 capacity to supply the enter U.S. market, you're still
2 seeing additional capacity being added in China beyond what
3 is already currently a very significant oversupply
4 situation.

5 VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.
6 Herrmann. Mr. Rosenthal, did you wanna add something?

7 MR. ROSENTHAL: I'd just add, apart from the
8 excess capacity, is the declining opportunity to unload that
9 capacity. You also saw towards the ends of the slide that
10 more countries are imposing barriers to exports of this
11 product from China. So whatever excess capacity there is,
12 is gonna be more focus on the U.S., which is already their
13 number one target.

14 VICE CHAIRMAN JOHANSON: Okay, thank you for
15 your responses. That concludes my questions. I appreciate
16 you all being here today.

17 CHAIRMAN SCHMIDTLEIN: Okay. That concludes the
18 Commissioner questions. Do staff have any questions for
19 this panel?

20 MS. HAINES: Staff has no questions.

21 CHAIRMAN SCHMIDTLEIN: Thank you. Do
22 respondents have any questions for this panel?

23 MR. MARSHAK: No, we do not.

24 CHAIRMAN SCHMIDTLEIN: Okay. Thank you very
25 much. All right. That brings us to our lunch hour. So, we

1 will take a full sixty minutes. So, let's reconvene at 1:35

2 -- I'm sorry. Let me dismiss this panel. I apologize.

3 Thank you very much for your testimony. This
4 panel is dismissed. Let me remind you that the hearing room
5 is not secure, so please take your documents and
6 confidential information with you, and we will stand in
7 recess until 1:35.

8 (Whereupon a lunch recess was taken to reconvene
9 this same day.)

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

2 CHAIRMAN SCHMIDTLEIN: For a moment I thought
3 I had a secret valentine, but I realized everyone got one,
4 so all right. All right. Good afternoon. Mr. Secretary,
5 are there any preliminary matters?

6 MR. BISHOP: Madam Chairman, I would note that
7 the panel in opposition to the imposition of the
8 anti-dumping and countervailing duty orders have been
9 seated. This panel has 60 minutes for their direct
10 testimony. I would also remind everybody that there's a lot
11 of witnesses here. Please state your name when you speak.
12 That means every time you speak, even if you're just saying
13 no. Please say your name so the court reporter can
14 attribute to. Thank you. There's no other preliminary
15 matters.

16 CHAIRMAN SCHMIDTLEIN: Very well. You may
17 begin when you're ready, Mr. Grimson.

18 MR. GRIMSON: Thank you very much. Jeff
19 Grimson from Mowry and Grimson. We have several panels here
20 today represented by six different law firms. Unlike this
21 morning's panel, we have many purchasers and end users here
22 representing an exponentially greater number of American
23 manufacturing jobs than the domestic foil industry. Our
24 panelists will address the three segments of the foil
25 market, converter, household and industrial or heavy.

1 It's important that the Commission understand
2 and appreciate how the market is organized in this way,
3 because if you do, you'll find the Petitioners' causation
4 case falls apart. We'll also hear from representatives of
5 the Chinese industry who will address the lack of any
6 threat. With that, I'd like to turn things over to Alison
7 Keane from the Flexible Packaging Association.

8 STATEMENT OF ALISON KEANE

9 MS. KEANE: Thank you. I am Alison Keane,
10 president and CEO of the Flexible Packaging Association, and
11 I will start the panel on the converter market. In the
12 United States alone, the flexible packaging industry
13 directly employs 80,000 people and has approximately \$30
14 billion annual sales. The flexible packaging industry
15 consists of 419 companies in 45 states, both publicly
16 traded and family-owned companies with thousands as well as
17 companies with less than ten employees.

18 The industry indirectly supports over 230,000
19 U.S. jobs. We are an American manufacturing success story.
20 We do rely on both domestic and imported foil. Our industry
21 is growing in the United States, and we want to keep it that
22 way. I recognize that it is not within the Commission's
23 mandate to weigh the social and economic importance of our
24 80,000 American manufacturing jobs against the jobs of the
25 three petitioners, which were put at 800 in the staff

1 conference.

2 But it is my understanding that it's wholly
3 within your mandate to listen to the expertise of the
4 companies that purchase and use this foil, take into account
5 their questionnaire responses and their testimony today.
6 Our member witnesses have divided up their testimony by
7 subject matter, and each of these witnesses is eager to
8 answer any questions about any of the issues collectively
9 presented today. Thank you.

10 STATEMENT OF STEVE CASEY

11 MR. CASEY: Good afternoon. I am Steve Casey
12 of Bemis Company. The flexible packaging we make is used in
13 a variety of industries, ranging from food packaging to
14 medical devices. It keeps the food you buy safe and fresh
15 through distribution and keeps patients safe during surgery.

16 Aluminum foil is a crucial component of these
17 packaging products because it provides a superior barrier to
18 moisture, oxygen and bacteria, extending shelf life,
19 preserving the freshness of food and ensuring sterility of
20 medical products. There is no other substrate that provides
21 equivalent properties to aluminum foil.

22 Aluminum foil ranges from 40 to 75 percent of
23 our raw material cost for these applications. Our customers
24 demand continued improvements in our packaging, with a focus
25 on lowering costs and improving sustainability. Gauge and

1 quality are the primary product characteristics that drive
2 purchase decisions for the aluminum foil that converters
3 use.

4 To meet these targets, we are using thinner
5 foils. The use of thin foil demands that the foil itself
6 must be produced with tighter tolerance and higher quality.
7 A product that does not meet our quality specifications
8 simply cannot be used by Bemis, regardless of the price.
9 This goes to the heart of the matter. A significant portion
10 of the volume of foil purchased by Bemis is below .003
11 inches thick.

12 Product this thin is like tissue paper, yet
13 runs on our machines in rolls up to five feet wide by 40
14 miles long weighing 3,000 pounds at speeds up to 800 feet
15 per minute. If the roll tears or otherwise disrupts our
16 production, the line can be down for hours resulting in
17 significant additional costs. These realities mandate a
18 very uniform, high quality product. We have found those
19 attributes in the import market.

20 Ultra-thin foil of the quality we require is
21 scarce in the domestic market for two reasons. First, we
22 are able to obtain a limited supply down to .000275 from JW,
23 but their stated preference is not to supply below .0003.
24 JW does not have the capacity to meet all of our packaging
25 foil requirements, much less all converter demand and the

1 product is of inferior quality.

2 Domestic producers have retreated from
3 production of the ultra-thin gauged foil and some have
4 exited the market while we were actively purchasing from
5 them with little notice, leaving us with minimal time to
6 find new supply. The primary reason for their exit from
7 the ultra-thin market is because they could not meet the
8 quality requirements and the inefficiencies of their old
9 assets made it economically infeasible to produce.

10 Second, the limited quantity available in the
11 domestic market is of lower quality than imported foils.
12 Domestic ultra-thin foil frequently has an unacceptably high
13 rate of tearing, bagginess, variations in thickness and
14 overall poor quality. This is all the results of outdated
15 equipment incapable of producing quality ultra-thin foil.

16 Quality issues like web breaks and tear outs
17 during conversion can cause extended periods of machine down
18 time, increased scrap and costly cleanup. Bagginess and
19 variations in thickness can cause wrinkles in finished
20 products, causing seal failures which compromise the barrier
21 of the package. These defects can impact the shelf life and
22 sterility of packaged products delivered to the consumers,
23 and can result in recalls and costly claims.

24 Because we are producing packaging for food
25 and medical products, are foil supply qualification process

1 is long and rigorous. Our suppliers must meet our needs,
2 the needs of our customers and the ultimate consumer, and I
3 cannot stress enough that converter foil is not a commodity
4 product. Because our customers have demanding requirements,
5 we cannot substitute just any foil from any supplier for our
6 final products.

7 Our qualification process has three phases
8 involving multiple iterations, including conducting shelf
9 life testing and operational trials, evaluating the
10 properties of the foil as well as the consistent quality of
11 the supplier. The qualification process often takes nine
12 months to a year, but for certain types of products it is
13 frequently longer than that. For medical products, the
14 process is more rigorous and could be more than two years.

15 Because of the limited domestic supply of
16 ultra-thin foil and the low quality that is available, we
17 rely on imported raw materials in order to support our
18 American manufacturing business. The imposition of duties
19 won't improve the quality of domestic foil, won't increase
20 the quantity of foil available and won't increase our
21 purchases of domestic foil. Thank you.

22 STATEMENT OF BRIAN NELSON

23 MR. NELSON: Good afternoon. My name is Brian
24 Nelson with Sunoco Products Company. We currently purchase
25 both domestically produced and imported aluminum foil in

1 gauges that typically range from .00015 to below Triple-03
2 inches. We make a point to try to maintain the supply
3 relationship with domestic suppliers, because it's important
4 for us to keep our supply base diversified.

5 The Petitioner argue that if the quality of
6 the Chinese ultra-thin product is so superior, it should
7 command a price premium. The problem with this claim is
8 that it completely ignores two main reasons: outdated
9 equipment and the Midwest premium. The domestic foil
10 suppliers we purchase from have machinery that we estimate
11 to be at least 50 years old, and it is incapable of
12 providing the quality of product we require.

13 Producers abroad have invested on newer,
14 highly engineered computer-controlled equipment that makes
15 ultra-thin foil in wider widths, larger OD rolls and
16 superior sheet flatness. All these attributes improve our
17 efficiency. The story of the domestic foil industry is one
18 of chronic under-investment, especially in machinery.

19 There is nothing new to the Period of
20 Investigation. Many U.S. mills can trace their last
21 significant equipment purchases to the 1970's, and many of
22 them are running on facilities even older than that. By
23 contrast, Chinese mills have invested heavily in modern
24 machinery to serve the needs of the U.S. converters.

25 These imports offer superior quality, product

1 selection and consistent volume. Chinese producers can
2 manufacture the gauges that converters need at a level of
3 quality converters can trust. The aging machinery in the
4 U.S. cannot produce thin-gauged foil efficiently. They are
5 pushing their machines to the absolute limit and rolling
6 down the .000275. The amount of waste is tremendous, both
7 in their factories and when we get substandard foil.

8 Thin foil cost is all about conversion
9 efficiency, how fast you can run, the waste generated and
10 the quality produced. Petitioners may tell you that they
11 can't afford to reinvest due to offshore competition, but
12 where were they 5, 10, 15 years ago when their equipment was
13 already old? They have shown no interest in investing and
14 serving the converter industry that demands higher quality
15 foil.

16 Under-investment has been prevalent for years,
17 and the suggestion that unfairly priced imports are the
18 cause of the industry woes rings hollow.

19 The second point I would like to make relates
20 to the Midwest premium and its role in the dynamics of foil.
21 U.S. foil is priced in three components: the LME price for
22 aluminum, the Midwest premium and the negotiated conversion
23 price. Two of these components, the LME ingot price and the
24 Midwest premium, are out of the control of the foil
25 producers.

1 The Midwest premium is intended to cover the
2 cost of freight and inventory of the metal within the U.S.,
3 and most imported foil is not subject to the Midwest premium
4 but instead priced with only two components, the LME price
5 per ingot and the conversion price. The Midwest premium can
6 fluctuate sharply based on factors entirely unrelated to the
7 use of the product, such as speculation by commodity
8 traders.

9 In 2014 and '15, commodity market factors
10 drove premium to a historic high, a historic high which
11 created significant disparity with imported product. The
12 result is a higher delivery price for finished product due
13 to artificially inflated ingot costs. Imports from any
14 other country can source their aluminum ingot through the
15 LME and avoid the Midwest premium. This is no small issue.

16 Historically, ingot is about half the price of
17 the finished product. The Midwest premium only applies to
18 the U.S. product. These factors bear directly on domestic
19 producers' ability to compete with imports from China and
20 other countries. Thank you.

21 STATEMENT OF DHUANNE DODRILL

22 MR. DODRILL: My name is Dhuanne Dodrill, and
23 I am the president of Rollprint Package and Products. I'm a
24 chemical engineer by training and have been in the industry
25 for over 30 years. Rollprint serves the medical device,

1 pharmaceutical and health care industries. The majority of
2 our products are for sterile applications.

3 Chances are if you've been to the hospital,
4 you've encountered products packaged in our materials.
5 Absorbable sutures, knee and hip implants, human bone and
6 tissue and drug delivery systems are just a few examples.
7 We touch well in excess of a billion patient lives every
8 year. It is absolutely critical, truly a matter of life and
9 death that our products meet the quality standards required
10 by our customers.

11 While we purchase the majority of our foil
12 from the U.S., because that is the source that many of our
13 customers have qualified, Chinese aluminum foil is important
14 to our business. The thickness of the foil that we employ
15 ranges from triple-aught 3 to double-02 inch. Much like the
16 other panelists, we've experienced significant quality
17 issues with our domestic supply.

18 By contrast, we have found suppliers in China
19 that consistently provide us with products that meet our
20 high quality standards. In addition to the tearing that
21 others have reported, we've also received a significant
22 amount of domestic material with poor sheet flatness. It's
23 baggy. When foil that is baggy goes through a nip point, a
24 wrinkle is created. We can handle a certain amount of
25 bagginess by putting more tension on the web, but there's a

1 point where so much tension is applied that the material
2 tears.

3 While no customer wants material with
4 wrinkles, for a packaging material that is supposed to
5 provide a sterile barrier, a wrinkle that might fall in a
6 sealed area of the package can create a channel that will
7 potentially allow microbes to pass into the package.

8 Unlike food, medical devices don't get moldy
9 or develop an off odor. There are no visible clues that a
10 product that is supposed to be sterile is in fact not
11 sterile. Wrinkles are reasons for recalls. More
12 importantly, a failure of the sterile barrier system due to
13 substandard product has a direct impact on the quality of
14 care that patients receive and their health outcomes. We've
15 presented hard data in the post-conference brief that
16 demonstrates the relative rejection rate between domestic
17 and Chinese suppliers over the past three years.

18 Elevated rejection rates for domestic foil
19 have not been limited to thin gauge. Some years, the
20 majority of our rejections have been with double 01 inch
21 foil. Since the hearing began this morning, I've been
22 informed that we've rejected another lot of domestic
23 aluminum foil because of sheet flatness, bagginess, and that
24 delivery of four other orders of domestic aluminum foil has
25 been delayed.

1 Supply, both volume and quality, is a real
2 concern for us. The vast majority of our customers are
3 single-sourced. If we do not supply them, they are shut
4 down. We have been advised by some of our customers that if
5 that were ever to happen, the FDA would declare a national
6 medical emergency.

7 Now keep in mind that our customers are in the
8 highly regulated medical device and pharmaceutical markets,
9 and that we're supplying the critical sterile barrier
10 system. To qualify a change in supplier requires extensive
11 testing and documentation to show that there are no
12 deleterious effects. We have applications which U.S.
13 aluminum foil has failed the qualification process, but
14 where the same thickness in alloy from China has passed.

15 Typically qualification can take two years,
16 and is a significant expense. Simply put, the quality of
17 the product that we're able to get from China far exceeds
18 the quality of domestic foil, and that quality is
19 mission-critical to my business. Our business is already
20 being severely impacted by this case. We are very concerned
21 about the continued supply to critical health care uses if
22 it becomes more difficult to source Chinese foil. Thank
23 you.

24 STATEMENT OF JIM SQUATRITO

25 MR. SQUATRITO: My name is Jim Squatrito, and

1 I'm the CEO of Oracle Packaging and LLFLEX. We use a
2 variety of foil alloys, widths, gauges and specifications
3 for our products. We source our foil from China and from
4 Europe. Oracle Packaging made its decision to source its
5 foil abroad for several reasons, and all of them have to do
6 with the lack of capability of the U.S. foil manufacturers
7 and the lack of reliability of U.S. foil.

8 The U.S. cannot produce the gauge, width and
9 alloy specifications of the various foil inputs needed for
10 our finished products. In other words, we look outside the
11 U.S. because what we need cannot be made here. You have
12 already about the differences in gauges. I'm now going to
13 discuss limitations of domestic supply in certain widths and
14 alloys.

15 Our packaging machines operate at widths up to
16 65 inches, and others in this room use width up to 78
17 inches. We cannot get domestic foil greater than 62 inches
18 in ultra-thin gauges. I am referring here to JW. They
19 state this maximum width right on their website. Knowing
20 this, we would not even approach JW if we need foil greater
21 than 62 inches wide. We know they can't make it, and others
22 have declined this business as well.

23 Even when we get supply from the U.S., the
24 quality is compromised, so much so that we have increased
25 waste, loss of product, lost production and products we just

1 can't sell. Their machines are very old, from a time when
2 the packaging industry was set up for narrower product
3 widths. By contrast, ongoing investment in modern machinery
4 allows Chinese producers to roll foil in widths we require.

5 Now we can run wider widths, giving us a
6 tremendous cost savings. It takes the same amount of labor
7 and close to the same amount of electricity to run a 60-inch
8 wide foil a 78-inch wide foil when making packaging
9 materials. But we get a 30 percent more -- we get 30
10 percent more output from the wide foil in the same amount of
11 time, and time is money.

12 Our foreign investors have grown with our
13 markets and have evolved as our products have evolved. The
14 domestic producers continue with their outdated machines and
15 they have declined to make the investments to meet
16 challenging or changing demand. They want to produce foil
17 at a certain sweet spot, producing heavier gauge products to
18 optimize their manufacturing operations. However, their
19 approach totally ignores our needs.

20 We cannot optimize our flexible packaging
21 manufacturing operations if we use domestic ultra-thin foil
22 which tops out at 62 inches in width. We would be wasting
23 capacity if we use less than optimal foil what's in our
24 process. In addition to widths, there are certain alloys
25 that are not available in the U.S.

1 Chinese ultra-thin aluminum foil is often
2 Alloy 8079, which is ideal for manufacturing packaging
3 materials because of its unique and superior mechanical
4 properties. This alloy is not commonly available from
5 domestic suppliers. Another difference I would mention is
6 lead times. Recently, a U.S. firm quoted a 25 percent
7 longer lead time than those of our foreign suppliers.

8 We purchase much of our foil based on
9 immediate need and firm customer orders, and we cannot
10 afford the loss of time caused by the longer lead times of
11 the U.S. producers. The primary advantage of domestic
12 producers was their shorter lead times, but orders that used
13 to take six weeks now take six months. I cannot justify
14 waiting longer for subpar foil.

15 As you may know, Oracle operated an aluminum
16 foil mill in the U.S. for many years. But we got out of
17 that business in order to focus on our core flexible
18 packaging products. That decision was not made because of
19 harm by Chinese imports, but rather a need to either invest
20 in our rolling mill equipment to raise the capabilities of
21 existing machinery, or sell the business.

22 Even when we were running the mill, we sourced
23 a significant amount of our foil needs from Europe and
24 China. Therefore, we made a decision to exit this business
25 and focus on our core packaging business. Thank you.

1 STATEMENT OF TIM FRENCH

2 MR. FRENCH: Good afternoon. I'm Tim French,
3 chief operating officer of ProAmpac. I'm here with Paul
4 Schabow, our VP of Procurement. We are a U.S.-based company
5 and leading supplier of ultra-thin gauged foil-based
6 packaging products. It's important for the Commission to
7 know that ProAmpac continues to enjoy a long-standing supply
8 relationship with Petitioner JW Aluminum. At one point, JW
9 and ProAmpac were owned by the same private equity fund. In
10 fact, it was JW that introduced ProAmpac to Chinese foil
11 suppliers.

12 Several years ago, JW approached ProAmpac and
13 asked if we would consider supporting them in their
14 initiative to import foil from China. They no longer wanted
15 to supply ultra-thin packaging foil, choosing to move their
16 capacity into heavier gauge products more suitability to the
17 capabilities of their equipment. Representatives from
18 ProAmpac and JW together traveled to China to meet with
19 potential suppliers. Initially, JW handled the
20 relationship and acted as intermediary between the Chinese
21 suppliers and ProAmpac.

22 In fact, ProAmpac paid JW for the Chinese foil
23 purchased and JW in turn paid the producers. This
24 relationship continued until JW asked if we would consider
25 handling the relationship with Chinese suppliers directly

1 for our ultra-thin foil. While all this transpired, other
2 domestic suppliers of ultra-thin foil exited the market,
3 some more abruptly than others, leaving ProAmpac and the
4 industry with a very serious supply issue.

5 From that point forward, ProAmpac continues to
6 purchase its heavier gauge foil from JW, while sourcing its
7 ultra-thin products from offshore suppliers. If ultra-thin
8 foil is not exempted from this case, the end result will be
9 higher costs for consumers and potential job losses in the
10 domestic packaging industry, not likely to be offset by
11 those created in the aluminum industry.

12 To avoid these unintended consequences, we ask
13 the Commission to make a negative finding. Thank you
14 Commissioners and staff.

15 STATEMENT OF DONNA WALTERS

16 MS. WALTERS: My name is Donna Walters. I'm
17 the Director of Aluminum Risk with Trinidad Benham
18 Corporation. Trinidad is 100 percent employee-owned
19 company. About 300 of our 750 employee owners work at our
20 production facility in LaGrange, Georgia, packaging
21 household foil for retail sale and stamping and packaging
22 disposal aluminum containers. You've probably never heard
23 of our company because we produce private label or store
24 branded aluminum products sold directly to U.S. consumers in
25 your local grocery or Club warehouse store.

1 This case is very important to Trinidad.
2 Without access to a reliable supply of quality household
3 foil, our plant cannot operate. In addition, if duties are
4 placed on the jumbo rolls that Trinidad relies on, Chinese
5 and non-subject producers will simply import small reels of
6 household foil and finished containers without AD CDD
7 duties, competing directly with our product and Trinidad's
8 employees. This competition is already a real threat and
9 will only increase.

10 According to the import statistics in the
11 public staff report, imports from China have risen by
12 approximately 42,000 short tons. Much of that increase is
13 Trinidad's imports of standard foil, and that number is
14 represented on the confidential exhibit you have in front of
15 you.

16 I understand this case hinges on allegations
17 of growing imports from China taking U.S. producer market
18 share, but those imports did not come at the expense of U.S.
19 production. Trinidad did not abandon U.S. producers and
20 begin purchasing Chinese imports during the POI nor before
21 the POI. As far back as 2005, before I joined Trinidad,
22 before Reynolds shuttered its Richmond mill and before
23 Novelis closed its household mill, Trinidad was importing
24 the majority of its household foil needs.

25 Those imports primarily came from Armenia and

1 Russia, not China. Between 2005 and 2010, Trinidad doubled
2 its household foil business. We grew the business by
3 providing superior service and high quality products that
4 satisfy retailers' demand for private label products. As
5 our business grew, we expanded imports from our long-term
6 international suppliers.

7 Those imports were not from China. Imports
8 from Russia and Armenia largely supplied that growth.
9 During this time, Trinidad's purchases from U.S. suppliers
10 remained relatively steady. In 2010, Trinidad shifted some
11 of its imports to Brazil and a smaller amount to China.
12 Moving forward throughout 2012 and 2013, Trinidad's
13 purchases from U.S. sources increased.

14 Nevertheless at the end of 2013, Novelis
15 announced it was ceasing household foil production, leaving
16 Trinidad to look for an alternate supply. All that back
17 story is a long way of saying Trinidad has been an importer
18 since well before the POI. For more than 15 years, we've
19 been importing the bulk of our supply. Before the POI, most
20 of those imports were not imported from China.

21 In 2014, we began shifting imports from Russia
22 and Armenia to reduce political risk. The situation in the
23 Ukraine put our supply at risk of sanctions or other
24 disruptions. We made a decision to diversify our sources by
25 expanding purchases from China. In 2015 and '16, in

1 response to political and economic difficulties in Brazil,
2 we decided to shift sourcing away from Brazil as well.

3 We are not a vertically integrated company
4 that rolls its own foil. Even without political and
5 economic risk, it's important for Trinidad to maintain a
6 diverse supplier base as a risk management strategy. As you
7 can see from the exhibit, Trinidad's overall purchases and
8 U.S. purchases remain fairly steady during the POI.

9 What changed is that we shifted from one
10 import source to another for risk management reasons. Our
11 sourcing decisions are responsible for a very large
12 percentage of the growth in Chinese imports. It should be
13 obvious from the graph that Trinidad's shift of household
14 foil imports to China did not cause injury to U.S.
15 producers.

16 There are important dynamics for you to
17 understand about competition in the retail household foil
18 market. Reynolds is Trinidad's primary competitor for sales
19 of packaged household foil to the retail market. Reynolds
20 does not sell large reels of foil to Trinidad. To my
21 knowledge, they do not sell to any external customers. All
22 production from their rolling mill is captively consumed for
23 their internal needs.

24 Thus, imported jumbo rolls do not compete with
25 Reynolds' foil production, nor do subject imports compete

1 with Reynolds' sales of household foil in retail packages.
2 Any competition that Reynolds faces for commercial sales is
3 in the small real market. It is difficult to imagine injury
4 to Reynolds during the POI.

5 To my knowledge, their branded product market
6 share remains steady and their retail prices have increased
7 over the POI. During the same time, the cost of a key
8 input, aluminum, fell sharply as did energy costs. Add to
9 that a period of low wage inflation and again it is
10 difficult to see injury. Currently, there is only one U.S.
11 roller that supplies household foil to Trinidad. This
12 roller supplies a small percentage of our needs, and
13 recently this roller has reduced our orders due to capacity
14 constraints.

15 Now I'd like to talk about disposable aluminum
16 containers. Like household foil, our end product is sold
17 directly to the U.S. consumer. At present, Trinidad sources
18 the majority of our foil for containers from U.S. rollers.
19 However, we are concerned about the long term viability of
20 these U.S. sources. A recent public statement by various
21 U.S. rollers suggests they might have a long term interest
22 in producing container stock. Rather, they are much more
23 interested in the growing markets for high technology, high
24 margin products such as automotive, beverage can, sheet and
25 aerospace products.

1 Rarely if ever do U.S. rollers mention
2 household foil and container stock as strategic markets. I
3 do not think anyone has talked about household foil in a
4 public statement for years. All of the recent announcements
5 of capacity expansion have been targeted mostly at the
6 automotive market. There are also technical hurdles to U.S.
7 roller mills supplying container stock to Trinidad.

8 Certain rollers do not produce the container
9 stock in the wide widths necessary for our modern stamping
10 equipment, limiting available U.S. suppliers. Additionally,
11 as discussed in our questionnaire response, one of our
12 suppliers recently has switched the alloy for their
13 container stock, such that their foil is no longer suitable
14 for all of our container lids and some of our container
15 products.

16 It is important to understand how jumbo rolls
17 of foil are priced. Typically, contracts are LME or Midwest
18 premium plus fabrication pricing. The U.S. rollers pass on
19 the LME and the Midwest premium costs to customers like
20 Trinidad. The rollers' revenue is the fabrication fee. As
21 you can see in this next slide, the same Chinese companies
22 that produce and sell jumbo rolls are already marketing
23 small reels and disposable aluminum containers along with
24 jumbo rolls.

25 We have already seen a loss of market share

1 for small reels and for finished containers due to imports
2 from China. The potential for further loss of market share
3 is not hypothetical. When the EU imposed anti-dumping
4 duties on household foil jumbo rolls, it had to institute a
5 new case and impose anti-dumping duties on small reel
6 imports from China to prevent further injury to the
7 competing EU industry.

8 In summary, Trinidad is a significant importer
9 from China and elsewhere. While our imports from China have
10 grown, they have not grown at the expense of U.S. producers.
11 It is difficult to see how U.S. rollers are injured by a
12 reallocation of volume among foreign supply sources. Only
13 one U.S. roller other than Reynolds was active in the
14 household foil market during the POI.

15 U.S. rollers have not been a supplier of
16 significant household foil volume to Trinidad for many
17 years.

18 STATEMENT OF DANIEL CANNISTRA

19 MR. CANNISTRA: Good afternoon. My name is Dan
20 Cannistra of Crowell & Moring. I am here today on behalf of
21 Valeo to discuss fin stock.

22 Before turning to Rogelio Garcia of Valeo and
23 Albert Wang of Yinbang, a supplier of fin stock, I will make
24 some preliminary comments.

25 At the conclusion of the preliminary phase of

1 this investigation, the Commission found that fin stock may
2 constitute a separate like product and sought additional
3 information in the final phase. Fin stock is not an obscure
4 product. Fin stock is expressly defined by the Aluminum
5 Association itself as coiled sheets or foil suitable and
6 intended for the manufacture of fins for heat exchanger
7 applications.

8 Fin stock specifications are again defined by the
9 Aluminum Association itself separate and apart from aluminum
10 foil. We submitted those specifications in Exhibits 2 and 3
11 of our prehearing brief.

12 The parameters of fin stock are also well known
13 by the Aluminum industry. In fact, every single quarter the
14 industry compiles separate statistics for fin stock and
15 foil. Separate reports are also prepared by the Association
16 on end use by fin stock and aluminum foil separately. These
17 reports go back to 2001.

18 In consideration of the like product inquiry, we
19 note that, first, fin stock is a thick gauge product that
20 has a single use. The manufacture of aluminum radiators and
21 heat exchange applications. In contrast, aluminum foil is
22 generally a thinner gauge product.

23 Second, fin stock is not interchangeable with
24 aluminum foil. Fin stock is an engineered product that is
25 manufactured at specialized mills that impart the necessary

1 mechanical properties and yield the tolerances necessary for
2 the manufacture of fin stock.

3 Third, while aluminum foil is sold to both
4 distributors and end users for a variety of applications,
5 fin stock is sold directly to end users that consume the
6 product only to manufacture radiators and other heat
7 exchangers.

8 Fourth, U.S. mills such as Novelis produces fin
9 stock at a completely different facility than it produces
10 aluminum foil. Specifically, its mill in Oswego, New York,
11 produces fin stock, while its mill in Indiana produces
12 common aluminum foil. Moreover, fin stock has distinctive
13 manufacturing processes due to the very precise mechanical
14 requirements needed to meet consumer demands for fin stock.

15 And finally, consumers and producers perceive fin
16 stock and aluminum foil to be separate products. A
17 manufacturer of radiators will not purchase common aluminum
18 foil to use in its operations. Similarly, a food container
19 will not purchase fin stock when a product with more basic
20 physical characteristics and properties will meet its needs.

21 These are not my words. Those were the words of
22 Consilium and Novelis from a few weeks ago at this
23 Commission setting forth the reasons for why cam stock and
24 common alloys should not be considered the same like
25 product. But I only substituted the word "fin stock" for

1 the word "cam stock."

2 One final note before I turn to my colleagues.
3 There have been two previous cases concluded concerning
4 aluminum. The first concerned aluminum plate from South
5 Africa. That case was specifically limited to individual
6 alloys. Namely, the 6000 series.

7 Second, aluminum extrusions from China. In that
8 case, similarly limited to specific alloys, in that case
9 1000, 3000 and 5000. And now we have yet another case
10 pending before the Commission concerning aluminum sheet.
11 And that case also concerns specific alloys 1000, 3000, and
12 6000. In each of the cases before the Commission to date,
13 the Commission has separate and distinct like products
14 individual grades looking beyond mere elements of
15 thickness.

16 STATEMENT OF ROGELIO GARCIA

17 MR. GARCIA: Good afternoon. My name is Rogelio
18 Garcia and the site purchasing manager for Valeo Thermal
19 Systems in North America.

20 I would like to thank the Commission for their
21 time and first I would like to state that the physical and
22 chemical properties of fin stock impart unique mechanical
23 properties and uses.

24 Aluminum foil, household foil, is much lighter
25 and used for preserving food and medicine which must be

1 removed from the foil packaging for the ultimate use and it
2 ends up in the garbage.

3 Fin stock, which is heavier, stronger, more
4 corrosion resistant, and less temperate than aluminum foil
5 is used in automotive heat exchangers, radiators, oil
6 coolers, heater coils, evaporators, condensers, just to name
7 a few. Fin stock is permanently incorporated into the
8 product.

9 In addition, the special processing may be used
10 to manufacture fin stock. This is to provide sag resistance
11 and gradient size control which are vital to the bracing
12 process. These differences are noted by the Aluminum
13 Association itself. There is a set of specifications for
14 fin stock, and a different set of specifications for foil.

15 If you look at the slide, you will see a sample
16 certificate that we obtain for every shipment of fin stock.
17 Each certificate documents the properties of the master
18 coil, for example, and is required by the Aluminum
19 Association. The certificate provides the mechanical
20 properties, which include tensile strength, yield, and
21 elongation. Without correct properties, it would not be
22 possible to manufacture a fin.

23 The certificate also confirms the thickness, and
24 even more importantly that it's within tolerance. The
25 thickness tolerance is of particular importance for us

1 because the fin forming process is performed by highspeed
2 equipment that will malfunction with inconsistent thickness.
3 In other words, without this document we don't use the
4 product in our facility.

5 If you look at this next slide, it's an example
6 of an invoice from Novelis. And I would like to make some
7 specific observations particularly around issues raised by
8 the Commission in the preliminary phase.

9 First, you will see that fin stock is sold based
10 on proprietary grades. In this case, it's nominated SS334.
11 That's their name.

12 Second, the price point for fin stock is very
13 different than the price point for common aluminum foil. We
14 will provide the Commission with the exact price in the
15 posthearing brief and you will see it is very different than
16 the price for commodity aluminum foil of a similar
17 thickness.

18 Third, fin stock is not marked as aluminum foil.
19 It is clearly called what it is, "outer fin" even on this
20 invoice.

21 And fourth, the alloying elements are unique to
22 each proprietary grade. This is the exact chemical
23 composition of the alloy SS334 as we obtained it from our
24 supplier at that time. You can see the specific levels and
25 content stuff of every element, silicone, iron, copper,

1 manganese, magnesium, zinc, and titanium.

2 In this particular case, this is a product base
3 captured by the product A definition of the questionnaires.
4 If you look at the box at the top right of the slide, you
5 will see a description. And I will walk you through to see
6 how this product meets that description.

7 Product 8 defines fin stock as aluminum, certain
8 fin stock 65 to 110 microns thick. You have the value in
9 inches so you can see that the gauge of this particular
10 product is 0039. So it's within the range. 15 to 100
11 millimeters wide. Again you have the values in inches. And
12 you can see that the width is within that range as well.
13 And contains between 1.2 to 2 percent by weight of
14 manganese. In this particular case we're at 1.6.

15 I note that this was an actual transaction, one
16 that I would expect is among those reported by Novelis in
17 the product data section of their submission.

18 I will now pass to my colleague, Albert Wang, who
19 will discuss some of the chemical and mechanical
20 specifications for fin stock.

21 STATEMENT OF ALBERT WANG

22 MR. WANG: Good afternoon. My name is Albert
23 Wang. I am representing Yinbang Material. Each specific
24 grade of fin stock is unique and not interchangeable with
25 each other. That along with common aluminum foil.

1 Each grade has specific corrosion resistance and
2 a grand orientation for use. For example, brazing things
3 --, tubes, or plate.

4 In this slide you can see packaging foil alloys,
5 felt 35 --, 8011, 8111. The process also started from CC
6 casting, foil loading, annealing, sleeving, and final
7 annealing. The alloys and the process are simple, with low
8 level of technical requirements compared with fin stocks.

9 Slide two, next one, you can see the fin stock
10 using proprietary alloys. They are 10 to 20 times higher in
11 zinc. Also, with copper and manganese for balancing
12 electrical potential and high corrosion resistance. It also
13 has added zirconium for post-brazing strengths. Next slide.

14 This slide show the proprietary alloys'
15 properties. The properties are designed and superior
16 mechanical properties before and after brazing for heat
17 exchanger mechanical strengths. The next one.

18 The brazing process is a complex process. This
19 process is the first process after they value purchasing --
20 the fin stock from us. It requires, the fin stock requires--
21 -the fin stock is very tight thickness tolerance, and the --
22 ratio for the highspeed fin making, assembling, and brazing
23 in the furnace with all the value --. Common foils will not
24 make it through this process.

25 MR. GARCIA: Rogelio Garcia again. I would like

1 to make one additional point on the fact manufacturing
2 facilities processes, equipment, and costs for fin stock and
3 aluminum defer. I personally visit our suppliers and I can
4 attest that I have never been to Novelis Aluminum Foil Mill
5 in Terre Haute, Indiana. I have, however, been to the
6 Oswego, New York, plant which is where all of their fin
7 stock originated from.

8 It is my understanding that fin stock is the only
9 foil product that originates in Oswego, which is generally
10 considered a sheet mill, not a foil mill. Thank you.

11 STATEMENT OF SEAN GALLAGHER

12 MR. GALLAGHER: Hello, and good afternoon. My
13 name is Sean Gallagher. I'm the owner of an all-American
14 company in Richmond, Virginia. It's name is Commodity Foil
15 and Paper. While I only have seven employees, I represent
16 countless family companies across the U.S. who make their
17 living through importing Chinese thin, ultra-thin aluminum,
18 to supply American factories and American workers.

19 Because of these tariffs, aluminum is now being
20 assembled into flexible packaging abroad and then shipped to
21 the United States, rather than American workers performing
22 those jobs and earning the money for their families.

23 We would like nothing better than to purchase
24 domestic foil from within the United States. It would solve
25 many supply chain and lead-time issues. But unfortunately

1 domestic capacity and quality are not available.

2 I say this, having tried unsuccessfully to
3 purchase the foil we need domestically, both in the past and
4 since the preliminary duties were imposed. There is simply
5 nowhere in America to buy the quality aluminum foil that our
6 small businesses need.

7 Domestic quality is so poor it consistently shuts
8 down Commodity's converting machine, and this caused
9 Commodity time and money to stop the machines and fix the
10 issue. Meanwhile, the tariffs are crippling us. Since
11 these tariffs were imposed, aluminum importers have been
12 forced to find other foreign sources of supply for thin and
13 ultra-thin gauges of aluminum foil, from 000216 to 0003 and
14 up to 78 inches wide, from countries other than China
15 because the aluminum foil is unavailable in the U.S. and
16 this only makes other foreign countries wealthier and
17 Americans poorer as we lose jobs here at home.

18 The U.S. producers that once manufactured
19 aluminum have failed to invest in their infrastructure and
20 product. It would take years for the U.S. mills to finally
21 invest in themselves to develop the technology needed to
22 supply aluminum that could compete with the quality levels
23 found in foreign aluminum.

24 It is unconscionable for some of those producers
25 now to claim foul because small businesses must import

1 aluminum foil. If you choose to impose permanent tariffs,
2 then you choose to cripple American companies. You choose
3 to ship American jobs overseas, and shut down small American
4 companies.

5 Thank you for listening.

6 STATEMENT OF XINDA MO

7 MS. MO: Good afternoon. I am Xinda Mo, Chief of
8 China Non-Ferrous Metals Industry Association. It is a
9 great honor to attend this hearing and present our views on
10 behalf of the Chinese aluminum foil industry.

11 First, China's rapid economic growth generated
12 the demand for aluminum foil in China and thus spurred the
13 development of the Chinese aluminum foil industry. In the
14 past 10 years, the annual growth rate of domestic aluminum
15 foil consumption in China is as high as 16 percent.
16 Satisfying China's domestic demand is the priority of the
17 Chinese aluminum industry. This increase was not because of
18 our desire to increase our shipments of foil to the United
19 States. The annual volume of Chinese exports to the U.S. is
20 only about 3 percent of total Chinese aluminum foil
21 production.

22 Second, China's aluminum foil producers operate
23 independently. Chinese companies succeed in the market
24 because of advanced technology and equipment, diversified
25 product range, stable product quality and supplies, customer

1 service excellence, and many other factors. We have firmly
2 believe that the foreign trade development of Chinese
3 aluminum foil products is the result of fair competition in
4 a market environment. Our success is not based on selling
5 aluminum foil at low prices.

6 Third, the establishment and development of the
7 aluminum foil industry in both China and the United States
8 have been caused by independent investment decisions and
9 market demand and supply changes which comply with market
10 principles. The different development stages of the
11 aluminum foil industry in China and the United States has
12 resulted in a highly complementary structure of aluminum
13 foil products between the two markets. We do not believe
14 that Chinese foil exports have injured the U.S. industry.
15 Rather, U.S. producers of certain downstream products
16 require China's aluminum foil because U.S. mills cannot
17 satisfy their needs.

18 Finally, we believe that trade protectionism runs
19 counter to the rule of free competition, not only damaging
20 the interests of Chinese exporters but also seriously
21 undermining the interests of U.S. importers, downstream
22 aluminum foil convertors and end users. We believe in a
23 fair and competitive international trade environment.
24 We do not believe that our exports have injured U.S. mills
25 in the past or that we threaten U.S. mills in the future.

1 We believe the Honorable Commissioners will make
2 a fair determination. Thank you.

3 STATEMENT OF JAMES P. DOUGAN

4 MR. DOUGAN: Good afternoon Commissioners and
5 staff. I'm Jim Dougan from ECS, appearing on behalf of
6 Respondents.

7 With respect to volumes effects, first, as
8 you've heard from the industry witnesses on this panel there
9 are distinct market dynamics at play in the different
10 segments of the aluminum foil market which can be
11 demonstrated by data regarding shipments based on product
12 thicknesses.

13 It's first important to understand that subject
14 imports and domestic producers were concentrated in
15 different segments. The slide shows the total domestic and
16 subject import shipments falling into each thickness
17 categories. These relationships are true, not only in terms
18 of percentage concentration, but also in absolute volumes,
19 as shown in the next slide. The actual numbers have been
20 removed from the chart to preserve proprietary information.

21 But what is clear from these charts is that the
22 only category in which there's arguably a significant amount
23 of competitive overlap is in the standard category, which is
24 primarily composed of household foil, but even this apparent
25 overlap is overstated because much of this domestic supply

1 is unavailable to the merchant market as noted by Ms.
2 Walters. This fact pattern is crucial because it is in the
3 standard category that most of the increase in imports
4 occurred, as you see on the next slide.

5 Of course, what you've heard from Ms. Walters
6 and what is shown in our pre-hearing briefs is that this
7 increase came at the expense of non-subject imports, not
8 domestic production. It did not and could not represent
9 volume injury to the domestic industry because domestic
10 producers did not have the supply available to satisfy this
11 demand. See the further discussion in our pre-hearing
12 briefs which analyze the capacity utilization of domestic
13 producers who are capable of producing this foil. The
14 remainder of any increase in subject imports of
15 standard-gauged foil cannot have caused injury to the
16 domestic industry, and not only for these reasons, but for
17 other confidential reasons discussed in detail in our
18 briefs.

19 Petitioners claim that subject imports are
20 responsible for the shuttering of domestic capacity to
21 produce household foil, but this claim is unsupported by the
22 record. As shown in Ms. Walters' confidential chart,
23 subject imports were a minor presence in the household fall
24 market until after 2014 when they simply replaced
25 non-subject imports; thus, they cannot have been

1 responsible for any reduction in the domestic industry's
2 household foil capacity.

3 The next largest share of the increase of
4 subject import volume based on questionnaire data was in the
5 ultra-thin segment. And as you've heard from the industry
6 witnesses on this panel, ultra thin and thin foil is not
7 available in sufficient quantity from domestic producers and
8 that which is available is frequently of unacceptable
9 quality. In addition to the testimony that you've heard,
10 this slide also summarizes purchasers' questionnaire
11 responses from the pre-hearing report.

12 With regard to the quality on the next slide, a
13 polarity, a majority of purchasers indicated that U.S.
14 produced foil was inferior to the foil from China with
15 respect to product consistency, quality meets industry
16 standards and quality exceeds industry standards. Similar
17 responses were given when comparing U.S. produced foil to
18 foil from non-subject countries.

19 Moreover, on the next slide, only 8 of 43
20 responding purchasers indicated that U.S. producers always
21 met minimum quality specifications compared to 19 of 37
22 purchasers regarding imports from China. Twelve purchasers
23 indicated that U.S. producers only sometimes met minimum
24 quality specifications and five purchasers indicated that
25 U.S. producers never did. By contrast, only one purchaser

1 indicated that imports from China sometimes met minimum
2 quality specifications and zero purchasers reported that
3 subject imports never did.

4 In my experience, this is an unusually complete,
5 consistent, and compelling record on this issue. However,
6 there is extensive, additional confidential evidence
7 presented at pre-hearing report Table 5-14, which details
8 purchasers non-price reasons for purchasing subject imports,
9 which include both quality and availability issues.

10 In addition, the post-conference briefs of
11 Flexible Packaging Association and Commodity Foil both
12 provide extensive, contemporaneous documentation about the
13 quality issues experienced with domestic ultra thin foil.
14 And I'll just point out this morning Petitioners said that
15 purchasers complaints about quality were antidotal, but in
16 Commodity's post-conference brief at Exhibit 5, Attachment 1
17 contains dozens -- dozens of pages of complaints, returns,
18 rejections. There are dozens more pages available at the
19 Flexible Packaging Association post-conference brief. This
20 is not a case of He Said/She Said. This is a case of He
21 Said/She Said. She got the documentation together. She
22 took the pictures and she put the evidence on the record.

23 So for all the foregoing reasons, subject
24 imports of thin and ultra thin foil didn't cause adverse
25 volume effect to the domestic industry. In conclusion,

1 considering that between standard thin and ultra thin foil,
2 we've accounted for the vast majority of the increase in
3 subject imports. These could not, overall, have caused
4 adverse volume effects to the industry.

5 Turning to price effects, in its preliminary
6 determination the Commission found that it couldn't conclude
7 that subject imports depressed the prices of domestic-like
8 product to a significant degree due to the linkage between
9 foil prices and raw material costs and similarly for similar
10 reasons that they did not prevent price increases that
11 otherwise would've occurred to a significant degree.

12 The final record supports the Commission's
13 preliminary determination with foil prices tracking raw
14 materials prices, both up and down over the period of the
15 POI, and stable COGS to Sales ratios. There's also little
16 evidence on the record that U.S. producers were forced to
17 reduce prices to compete with subject imports. Only 3 of 45
18 responding purchasers indicated that this happened. The
19 quantities involved were a tiny fraction of total reported
20 purchases over the POI and even these quantities were
21 overstated for reason described in detail in our
22 confidential briefs.

23 This morning Petitioners omitted 2017 from this
24 analysis, claiming that any increase in 2017 was due to the
25 case and preliminary duties, but if you actually look at the

1 data the record shows that pricing began increasing from the
2 end of 2016 into early 2017 before the case was filed in
3 March and before any duties were imposed in the third and
4 fourth quarter. Their analysis does not match the evidence.
5 Therefore, the Commission should make the same finding of no
6 price depression and no price suppression in the final
7 phase.

8 With respect to underselling, the Commission did
9 find that underselling was significant in the preliminary
10 phase, but close examination of the final phase record
11 should give you cause to reconsider this finding.

12 First, with respect to the traditional
13 underselling analysis in terms of instances the pattern was
14 mixed between underselling and overselling and virtually all
15 of the volume of subject import underselling was in product
16 segments accounting for only a tiny fraction of domestic
17 producer shipments, the thin and ultra thin segments.
18 Basically, all the underselling was in that little yellow
19 slice of the pie. As noted earlier, these products were not
20 available from domestic producers in sufficient quantities
21 and some of the quantity available was not of acceptable
22 quality; thus, this chart calls into question how this
23 underselling could've had any material adverse affect on
24 domestic producers' prices overall.

25 Petitioners argue that the Commission should

1 perform an underselling analysis using the pricing data for
2 direct imports for internal use. Again, and as discussed in
3 our pre-hearing briefs using confidential data, essentially
4 all of the underselling observed in these data too were of
5 products that weren't available in sufficient quantities or
6 of acceptable quality from domestic producers.

7 Notably, Petitioners, for the most part, have
8 not really tried to rebut Respondents' arguments and its
9 extensive documentation with respect to purchasers' quality
10 concerns about domestic foil. They don't address the
11 purchaser data, except to say that it's antidotal. In fact,
12 they almost seem to concede the point, instead arguing that
13 if subject imports are of a superior quality then they
14 should come in at a premium price, but there are several
15 reasons why this isn't necessarily the case.

16 First, as discussed by other witnesses on this
17 panel, import prices aren't subject to the Midwest Premium
18 charged by domestic producers; thus, if the imports
19 otherwise have the same underlying raw material costs and
20 conversion costs they would still be cheaper than domestic
21 merchandise.

22 Second, foreign producers and exporters have
23 more updated and efficient machinery than domestic producers
24 which allows them to produce and sell at a lower cost.
25 Third, subject producers are competing with one another as

1 well as non-subject suppliers; thus, any given subject
2 producer doesn't have the latitude in this competitive
3 market to charge a premium over a domestic supplier even if
4 their target customers would not seriously consider
5 purchasing from that domestic supplier. They would lose the
6 sale to another subject producer or to a non-subject
7 producer.

8 But again, to the degree that subject imports
9 may have had lower prices for certain products resulting
10 underselling observed on the record, it didn't cause adverse
11 price effects because subject import purchases were driven
12 by non-price factors. Table 5-14 of the pre-hearing report
13 provides three pages of confidential purchaser responses
14 indicating that while subject imports may have been lower
15 priced than domestic foil price was not a primary reason in
16 their purchase decision. This is consistent with other
17 evidence on the record.

18 Faced with these responses, Petitioners argue in
19 their brief that price doesn't have to be the primary reason
20 for the purchase so long as price is important at all in the
21 purchasing decision and it must lead to injury. I will
22 leave it to the attorneys to address the legal significance
23 of that argument, but what I can say is that based on the
24 record evidence Petitioners greatly overstate the importance
25 of price in purchasing decisions.

1 This next slide reproduces pre-hearing report
2 Table 2-7. And as Commissioners Johanson and Broadbent
3 already observed this morning, most purchasers did indicate
4 that price was a very important purchase factor, but there
5 were five factors that more purchasers ranked as very
6 important -- availability, product consistency, reliability
7 of supply, quality meets industry specifications, and
8 thickness specifications. Without revealing confidential
9 information, I can say that these non-price factors are
10 precisely the ones cited by purchasers in Table 5-14 as to
11 why they purchased subject imports instead of domestic
12 merchandise.

13 And as noted by staff at page 2-23 of the
14 pre-hearing report "Among these factors in which the U.S.
15 product was considered to be inferior were two of the
16 factors rated very important by all 45 purchasers,
17 availability and product consistency." Thus, the record is
18 consistent as to the reasons why purchasers would choose
19 subject imports over the domestic product before they
20 considered price.

21 Finally, with regard to impact, from the
22 analysis that I have presented the record is clear that
23 subject imports didn't cause adverse volume effects or
24 adverse price effects to the domestic industry. It then
25 comes as no surprise that there is no observable causal link

1 between subject imports and the condition of the domestic
2 industry. While the specific numbers are presented in our
3 confidential pre-hearing briefs, the public pre-hearing
4 reports notes the domestic industry's operating income
5 decreased from 2014 to 2015 and improved from 2015 to 2016;
6 thus, as shown in this slide, as subject import volume and
7 market share increased from 14 to 15, domestic industry
8 profitability declined substantially. But when subject
9 import volume and market share increased again from 2015 to
10 2016, industry profitability improved, also substantially.

11 These relationships hold in domestic producers'
12 results, both from the merchant market and in the total
13 market. Therefore, there is no causal link between the
14 subject import volume and market share and the condition of
15 the domestic industry. And Petitioners attribute this to
16 survivor bias, which I can't speak to here based on
17 confidential information, but we can get into our
18 post-hearing brief.

19 Given the fact pattern that's on the record for
20 the period of investigation, Petitioners have attempted to
21 bolster their injury and causation cases based on events
22 occurring before the POI. And while this can sometimes set
23 a helpful context, the degree to which Petitioners have
24 cited to long past occurrences as proof of injury by reason
25 of subject imports is unusual and speaks to the weakness of

1 their case on the record. In essence, they've claimed the
2 industry was already injured at the start of the POI and
3 that this was caused by subject imports. At the same time,
4 they have not argued specifically for an extension of the
5 POI where evidence would be gathered by the Commission and
6 analyzed to test these claims.

7 Respondents expect that the Commission will not
8 depart from its analysis of the record before it for the
9 relevant POI and we contend that there is ample evidence for
10 the Commission to make a negative determination on that
11 basis. Thank you.

12 MR. GRIMSON: That concludes our panel,
13 Commissioners. We are ready for your questions.

14 CHAIRMAN SCHMIDTLEIN: Alright, thank you very
15 much. I'd like to thank the witnesses on this panel as well
16 for being here today to help us understand the issues in the
17 case. We begin this afternoon with Commissioner Williamson
18 for the Commissioners' questions.

19 COMMISSIONER WILLIAMSON: Thank you Madame
20 Chairman. I do want to express my appreciation to all the
21 witnesses for coming today.

22 There has been a torrent of comments about the
23 domestic industry's quality and ability to produce. I
24 understand that in your post-conference brief -- you did
25 supply documentation, but I invite you to supply additional

1 documentation. We had testimony this morning about
2 rejection rates from some of the domestic producers. I
3 don't know whether you have similar documentation showing
4 the rates the products you're getting are being rejected.
5 I'll also be interested to know because the domestic
6 producers this morning did talk about some of their
7 state-of-the-art plants and whether you see any difference
8 in the product coming out of those plants compared to the
9 products that are maybe coming from older plants and is
10 there any correlation? What's the evidence that this is the
11 problem? And so that's -- I guess that most of that would
12 probably have to be done post-hearing.

13 MR. GRIMSON: I think the rejection rate
14 question will only be a problem in figuring out how to limit
15 the amount of material we can provide on rejections, but the
16 fact of will not be a problem to provide, but I think the
17 companies would like to do that in post-hearing.

18 In terms of the state-of-the-art facilities, I
19 will I guess just open it up to our folks who have been in
20 facilities, both in the U.S. and China if they could comment
21 on the differences. I've heard a lot of analogies to the
22 time of the steam engine versus Acela and such.

23 MR. CASEY: So all of the ultra thin foil or
24 really all of the convertor foil that we get for flexible
25 packaging comes out of one facility in the U.S. That is the

1 St. Louis mill of JW Aluminum and they have not invested in
2 any new assets in that mill for I don't know how many years.
3 We have had our quality manager has done audits of mills in
4 China as well as JW mill in St. Louis just this past year
5 and what his observations are is when you go into the mills
6 in China it's brand new assets, computer controlled. When
7 you're looking at the gauge variation, it's computer
8 controlled so that the machine automatically adjusts as it
9 sees variation engage.

10 When you go into the JW mill, they do not have
11 that type of gauge control. It's all manual with an
12 operator monitoring. And when they see something out, they
13 go and make an adjustment and then go back and look and see
14 if it made the right correction and they're going back and
15 forth to make those types of adjustments and so there is a
16 significant difference in the capabilities of the mill.

17 COMMISSIONER WILLIAMSON: Of course, they'll
18 have an opportunity to comment post-hearing on that, but any
19 documents -- that's one mill. By the way, where in St.
20 Louis is that mill located since I grew up in St. Louis.

21 MR. CASEY: I'll leave that up to them to tell
22 you. It's been years since I've been there.

23 COMMISSIONER WILLIAMSON: Okay, fine. I was
24 just curious. But again, post-hearing it would be useful to
25 --

1 MR. CASEY: You commented that that is only one
2 mill, but that is the only mill that supplies into our
3 industry.

4 COMMISSIONER WILLIAMSON: Okay. And Petitioners
5 can comment post-hearing on that. Thank you.

6 MS. MOWRY: I think if you look at -- I think
7 it's Exhibit 8. I can't remember the exact number of our
8 post-conference brief. There is a confidential affidavit
9 that also speaks directly to personal knowledge of the
10 machinery in that mill as well.

11 COMMISSIONER WILLIAMSON: Okay.

12 MS. MOWRY: I'll get the exact number for you
13 post-hearing.

14 COMMISSIONER WILLIAMSON: Okay, thank you. I'll
15 take a look at that.

16 MS. DODRILL: I can speak a little bit to the
17 level of rejections that we see domestically versus what we
18 see from China. We have had one rejection on Chinese
19 imports. That was a small rejection in 2014. We routinely
20 have rejections of material that we receive from domestic
21 producer. In addition to the actual rejections that we get,
22 we fight through a tremendous amount of material because
23 we're single-sourced or our customers are single-sourced if
24 we don't supply them they don't have material. S we do our
25 very best to work through what we've received and get as

1 much out as we can. It is a challenge.

2 MR. DOUGAN: Commissioner, the data from Ms.
3 Dodrill is presented at Exhibit 18 to the FPA's
4 post-conference brief.

5 COMMISSIONER WILLIAMSON: Okay, thank you. As I
6 said, whatever you could put together post-hearing would be
7 helpful. You can reference these submissions, of course.

8 So for the various purchasers have you increased
9 your purchases from the domestic industry since the
10 petitions were filed and have you made complaints or returns
11 since these petitions were filed? Ms. Dodrill, I noticed
12 you said you just got something contemporaneously I guess
13 today.

14 MS. DODRILL: Yes. So purchases have remained
15 basically constant. We have a contract that only allows a
16 certain amount or I guess ensures a certain amount of
17 purchases. And my understanding is they are at capacity and
18 it would be difficult to supply more; as for rejections,
19 yes.

20 MR. MICHALKIEWICZ: I would reiterate what she
21 just said. We have a contract with JW Aluminum that limits
22 us the specific quantity and yes, we have had rejects with
23 JW Aluminum recently.

24 MR. SQUATRITO: We buy very little domestically
25 and we haven't increased largely because we can't get what

1 we want domestically, so we've continued to buy offshore.

2 COMMISSIONER WILLIAMSON: Okay. Just one last
3 question on this, I mean we're a high tech society. I mean
4 this is supposed to be our competitive advantage. Why is it
5 that when domestic mills -- and some of them have talked
6 about doing new mills -- why isn't that -- they can't match
7 the Chinese in terms of quality? This may be getting beyond
8 our inquiry, but I'm curious about that.

9 MR. CASEY: I can't speak to why they didn't
10 reinvest even 10 or 20 years ago when their equipment was
11 already old, but the reason they can't match the quality is
12 because they haven't reinvested in new equipment.

13 COMMISSIONER WILLIAMSON: But they have said
14 they have done some reinvestment.

15 MR. CASEY: Not in the equipment that's
16 producing for our industry.

17 COMMISSIONER WILLIAMSON: Okay. Anybody else on
18 that?

19 MR. NELSON: I'll just maybe expand on what
20 Steve was saying. When he says our industry, we're talking
21 really about the thin and ultra thin foil gauges. And I
22 think some of the conversation from earlier today were
23 investments in newer mills maybe in some of the heavier
24 gauges perhaps, but certainly in the ultra thin and thin
25 gauges we have experienced or seen the effects of any new

1 equipment in that industry.

2 COMMISSIONER WILLIAMSON: Okay.

3 MR. FRENCH: I'd like to add to that as well. I
4 think one of the things that we can't ignore is the
5 progression within the industry for thin and ultra thin.
6 It's significantly wider now. Processes in our factories
7 are wider than they used to be. We've invested in wider
8 equipment and that investment hasn't occurred in the
9 domestic foil side of it to keep pace with advantages
10 created by that.

11 MR. MICHALKIEWICZ: I would like to also comment
12 on the speculation, and I would call it speculation, on the
13 investment in the foil industry in the U.S. We brought up
14 that Granges was investing \$110 million in the industry.
15 I've contacted Granges and they've told me straight out that
16 that investment is for automotive. It is not for
17 light-gauged foil or foil at all.

18 Ta Chen, while there's some speculation that
19 there will be foil in their investment, they have not
20 announced anything about any foil investment in the U.S.
21 The Alpha aluminum assets that they're talking about
22 restarting those assets are very old. They were shutdown
23 because they were inefficient. So it would take
24 significant investment as our speaker from Oracle had
25 mentioned earlier that choose not to make those investments.

1 So as far as even future investment in foil in the U.S.,
2 it's very unlikely.

3 MR. CASEY: I'd like to expand on the comment
4 that was made about how our industry has continued to
5 reinvest. Our equipment is not only wider, but faster. And
6 as I said in my earlier discussion, our customers are
7 demanding that we go thinner and thinner, both for
8 sustainability as well as cost reasons. And so as we go
9 thinner, run faster, and run wider the quality requirements
10 that we have continue to get more stringent.

11 COMMISSIONER WILLIAMSON: Okay.

12 MS. WALTERS: In the household foil market
13 there's been no new investment in capacity. Again, this is
14 a market that is very low margin. And also in the container
15 stock, we require wide widths as well and some U.S.
16 producers can't service the widths that we require because
17 of the size in their mills.

18 COMMISSIONER WILLIAMSON: Is the household foil
19 sort of a mature industry at this point?

20 MS. WALTERS: Yes, we would describe it as a
21 mature industry, very low growth. I mean almost every
22 consumer has a box in their kitchen draw already.

23 COMMISSIONER WILLIAMSON: And have for decades.

24 MS. WALTERS: Yes, exactly.

25 COMMISSIONER WILLIAMSON: Okay. My time has

1 expired. Thank you.

2 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

3 COMMISSIONER BROADBENT: Thank you. Mr.

4 Grimson, many purchasers have stated that they suffered
5 supply disruptions with U.S. producers over the POI, as you
6 have highlighted. Given that there are multiple U.S.
7 suppliers and given that the presence of excess capacity in
8 the domestic industry is it the case that purchasers
9 experiencing supply disruptions at one U.S. producer might
10 be able to shift supply to a different U.S. producer? In
11 other words, couldn't it be the case that there are domestic
12 supply disruptions, but also available domestic supply
13 elsewhere in the industry?

14 MR. GRIMSON: Yes, speaking for the Flexible
15 Packaging industry panel that I'm here for the answer is,
16 no, there's nowhere else to go in the domestic market.

17 Jump in and correct me if I'm wrong, but you
18 have one player with a mill commissioned I was told in 1937
19 in Louisville, I think that was the number that I heard, and
20 they don't like producing below triple odd three. And up
21 until a few years ago, if you want it below triple odd three
22 it would redirect it to their China sourcing regime. So you
23 know there is nowhere else for these folks to go. Either
24 it's here or it's imports and here has caused a lot of
25 problems because as these folks have improved their lines

1 and modernized to run larger substrates to coat on the foil
2 they are exceeding the width that JW can put out, so they're
3 just printing on air, essentially. It's wasteful.

4 MS. MOWRY: I'd like to invite our panelists to
5 talk at this time about the qualification process because it
6 goes exactly to your question of could they've switched from
7 one domestic producer to another and the same question is
8 that domestic producer to imports. And I think it's really
9 important that they each take some time now and talk about
10 what is involved in qualifying a new supplier.

11 COMMISSIONER BROADBENT: Okay, that's fine.

12 MS. DODRILL: And I'll start. So with most of
13 our customers we have a quality agreement in place that
14 requires us to notify them if we are going to make a change
15 from one supplier to another. It doesn't matter if it's
16 domestically or anywhere in the world. If we're going to
17 make a change, we need to notify them. That process of
18 making a change in a supplier is pretty involved. It begins
19 with assessing the supplier's quality system, making sure
20 it is appropriate, making sure that the product we're going
21 to buy is going to meet all of the regulatory requirements
22 that are out there.

23 Then we begin by sampling the material, tests
24 for its performance. We will run it on our equipment and
25 make sure that it processes well. If that goes well, we

1 will work on developing a specification. Then we will go to
2 sort of a qualification process where we will run up
3 finished material. We will assess it against all the
4 properties that it has to meet, make sure we can show
5 functional equivalence or not. We then send it to a
6 sterilizer. We're going to ETO sterilize it. We'll gamma
7 sterilize it. If it's something that can be steamed
8 sterilized or autoclaved we'll do that or if it's dry heat
9 sterilization we will do that.

10 Then we do accelerated aging studies, real time
11 aging studies to see if we see any change over time and that
12 we can still show functional equivalence. That data gets
13 presented to our customer and then they're going to start
14 their qualification process. They're going to do an
15 operational qualification and a process qualification on
16 their equipment. It all has to be documented. They will do
17 their own aging studies, both accelerated and real time.
18 They'll do distribution testing. It is an extensive
19 process. It's expensive. It is required by the FDA. We
20 don't just get to say we, you know, are confident it'll be
21 the same. We have to prove that it's the same. So changes
22 aren't easy.

23 -- takes two years as a normal time period. We
24 have an application right now that we should be making that
25 change and we're in year 12.

1 MR. CASEY: This is Steve Casey from Bemis. And
2 I think you did a very nice job of explaining the
3 qualification process. As I said earlier for us, we have
4 both food and medical. The food qualifications are quicker,
5 but when I say quicker, it's still nine months to a year
6 typically. And then for our medical applications, it would
7 be very similar, a two-year process.

8 I think you raise an interesting question,
9 though. The petitioners have stated that this -- all these
10 foil mills are equivalent, they can all produce the same
11 products, they can flip a switch and produce whatever
12 products they want. If you look at the respondents here in
13 the room, we are all continuing to import foil from China
14 and pay the duties, because there is not domestic foil and
15 not domestic capacity available to meet our needs. If it
16 was so easy to just to flip a switch and be able to supply
17 our needs, it would have been done already.

18 MR. NELSON: This is Brian Nelson with Sonoco
19 and I can't say much more than what's already been said on
20 the subject, other than we produce packaging for powdered
21 infant formula. And it's considered a pharmaceutical. And
22 we have some of the similar requirements.

23 We also manufacture food packaging. So the food
24 packaging, as Steve indicated, was perhaps a little bit less
25 in that 6 to 12 months qualification, multiple iterations.

1 But with powdered infant formula as a pharmaceutical, it has
2 regulations around the globe that we ship to, that we have
3 to manage to, that requires multiple qualification runs and
4 could take up to a year and a half to two years.

5 COMMISSIONER BROADBENT: Okay.

6 MR. SQAUTRITO: This is Jim Sqautrito for Oracle
7 Packaging. Similar story, we probably have a broader
8 product range overall. It's not all in the traditional
9 flexible packaging space. Some of the things that we make,
10 we can qualify relatively quickly.

11 But in general, as some of the other
12 participants have stated, we've all moved to wider, faster
13 machines. And we still need something that's wide and thin
14 and high quality.

15 So even if a new mill were to come on, a new
16 capacity run, it doesn't mean it can make that product that
17 we need. So we have looked for alternate sources, but the
18 qualification process is significant in all of our
19 businesses.

20 COMMISSIONER BROADBENT: Okay. Let's see, I had
21 a general question for respondents for the post-hearing
22 brief. Please look at the market share of the domestic
23 product and subject imports in each of the five product
24 thickness categories and explain the trends of that market
25 share data. For purposes of this question, I'm more

1 interested in what drove trends in the market share as
2 opposed to the absolute volume of shipments in these
3 various market segments.

4 MR. DOUGAN: We'll do so.

5 COMMISSIONER BROADBENT: Yeah, that'd be great.
6 And Mr. -- is Mr. Marshak here? He's -- yeah. Thank you.

7 MR. MARSHAK: Yes, in our post-hearing,
8 absolutely.

9 COMMISSIONER BROADBENT: Perfect. Thank you
10 very much.

11 I had a question, has the rising use of aluminum
12 in the automotive sector affected the aluminum foil market
13 either directly or indirectly?

14 MR. GARCIA: Rogelio Garcia, Valeo. Yes, there
15 is a lot of capacity now that's indicated what they call
16 body panels. I'm sure you've heard that some of the Ford
17 pickup trucks, the doors are now made of aluminum. That's a
18 lot of material, it takes up a lot of capacity.

19 COMMISSIONER BROADBENT: Okay. And then this is
20 also for post-hearing, please respond to a concern that
21 petitioners have raised with respect to whether an
22 individual company's reported pricing data should be
23 included in subject import pricing data as detailed in
24 brackets on page 33 to 34 of their pre-hearing brief.

25 For the FPA respondents, you point to production

1 differences between Chinese and U.S. industries starting on
2 page 26 of your pre-hearing brief. Are you asserting that
3 the industry's lack of investment in itself is the result of
4 poor management or are we looking at an industry that has
5 experienced decades of underinvestment due to increasing
6 competitive pressure from highly subsidized foreign
7 entities?

8 MR. GRIMSON: So obviously, we can't put
9 ourselves into the heads of the folks that have made these
10 decisions over the last 10, 20, 30, 40, or 50 years. But
11 they have not kept pace with their customer's investment.
12 That's clear and you had just heard that from the Bemis
13 folks.

14 And that's despite the fact that they at least
15 in the packaging market segment, we see demand growing. So
16 if they were able to put out the quality that they say, then
17 they would have no problem selling the volume that they
18 could produce right now today.

19 The problem is that the quality is just
20 substandard. And it -- on top of the price that you pay to
21 a JW, for example, you pay an additional multiplier down the
22 road in your production because of things like you saw on
23 the screen in terms of the inefficiency, the breaks, the
24 inability to produce to the width that you can all your
25 other coating materials.

1 So I would say I don't know if they are just bad
2 decision makers, but I for one was wondering this morning
3 why they would close down their newest mill. That was what
4 they talked about this morning. We had a state-of-the-art
5 mill that we had to close down. So what's left running, the
6 old ones?

7 So I don't really know to answer that we're the
8 ones to answer that, but certainly, the folks here would say
9 that they would very much like better product coming out of
10 these producers and can't get it.

11 COMMISSIONER BROADBENT: Thank you.

12 CHAIRMAN SCHMIDTLEIN: Okay, so I'd like to get
13 a better understanding if what each of the purchasers that
14 are appearing here today are importing, the types of
15 aluminum foil. And so it might be just easy to sort of go
16 down the line and start with Ms. Dodrill from Rollprint
17 Packaging.

18 MS. DODRILL: Uh-huh.

19 CHAIRMAN SCHMIDTLEIN: So are you importing
20 ultra thin and thin or is it something else?

21 MS. DODRILL: We import .0003, .00035, 1 mil.
22 and a little bit of 2 mil.

23 CHAIRMAN SCHMIDTLEIN: And so would that be
24 characterized in our staff report, we break it down into
25 what's called ultra thin, thin, standard.

1 MS. DODRILL: I believe that covers the whole
2 range.

3 CHAIRMAN SCHMIDTLEIN: So you're importing ultra
4 thin and what's called standard?

5 MS. DODRILL: Uh-huh.

6 CHAIRMAN SCHMIDTLEIN: Okay.

7 MS. DODRILL: And heavy, I believe.

8 CHAIRMAN SCHMIDTLEIN: And heavy?

9 MS. DODRILL: Uh-huh.

10 CHAIRMAN SCHMIDTLEIN: And all of those gauges
11 used in the medical field?

12 MS. DODRILL: Correct.

13 CHAIRMAN SCHMIDTLEIN: Okay. And do you have a
14 -- I mean, I -- I think you filed -- Roll brand filed a
15 questionnaire. So I don't know --

16 MS. DODRILL: Yes, we did.

17 CHAIRMAN SCHMIDTLEIN: -- did you break it down
18 in the questionnaire in terms of --

19 MS. DODRILL: Did you ask us to?

20 CHAIRMAN SCHMIDTLEIN: I don't know if we did or
21 not. We can check and see, but if we didn't, would you mind
22 breaking that down in a post --

23 MS. DODRILL: I believe yeah, we did do it.

24 CHAIRMAN SCHMIDTLEIN: -- hearing question. I'm
25 trying to put it into context what we're talking about here.

1 MS. DODRILL: Okay.

2 CHAIRMAN SCHMIDTLEIN: Okay. And then just
3 going down the line, Mr. -- or Mr. Casey from Bemis?

4 MR. CASEY: Yeah.

5 CHAIRMAN SCHMIDTLEIN: What do you all import?

6 MR. CASEY: So we -- the vast majority of the
7 ultra thin we use, we import -- we -- if we look at the thin
8 requirements, there's probably a mix of imports and
9 domestic. And if we go to the standard, it would be all
10 domestic. So the thinner we go, generally, we want imports,
11 because of quality. As we get thicker, the quality we can
12 -- it's easier for them to make and also because it's
13 thicker, we don't see the effects of poor quality as much.

14 CHAIRMAN SCHMIDTLEIN: Okay. So the vast
15 majority of your imports are ultra thin and thin?

16 MR. CASEY: Yes.

17 CHAIRMAN SCHMIDTLEIN: For Bemis? Okay. Oh,
18 I'm sorry, if you could also put that in the post-hearing as
19 well, that would be helpful.

20 Okay, now there's someone sitting -- the -- and
21 I do want to mispronounce your name, but from Barrier. Is
22 this -- are you a purchaser as well? Gary? I'm sorry --

23 MR. MICHALKIEWICZ: Oh.

24 CHAIRMAN SCHMIDTLEIN: -- I don't want to
25 mispronounce your name. if you can say it for the record?

1 MR. MICHALKIEWICZ: It's easy. It's
2 Michalkiewicz.

3 CHAIRMAN SCHMIDTLEIN: Okay. That's what I
4 said.

5 MR. MICHALKIEWICZ: And I'm with Bemis.

6 CHAIRMAN SCHMIDTLEIN: Oh, you're with Bemis.

7 MR. MICHALKIEWICZ: Steve answered that question
8 already.

9 CHAIRMAN SCHMIDTLEIN: Okay, so why -- okay.
10 Maybe on our -- we've just got a little chart here that has
11 Barrier, but maybe that's a --

12 MR. MICHALKIEWICZ: Oh, that's my title, global
13 category manager, Barrier products.

14 CHAIRMAN SCHMIDTLEIN: I see, okay.

15 MR. MICHALKIEWICZ: For Bemis.

16 CHAIRMAN SCHMIDTLEIN: But you're with Bemis?

17 MR. MICHALKIEWICZ: I'm with Bemis.

18 CHAIRMAN SCHMIDTLEIN: Okay, all right. Good,
19 I'm glad we cleared that up. Okay, and then Trinidad,
20 starting on the back row, are you importing standard
21 basically?

22 MS. WALTERS: Yes. This is Donna Walters from
23 Trinidad. We import for the most part the standard gauge,
24 because we're importing household foil. And remember,
25 there's only one roller in the United States that sells

1 externally to the household foil market. And they've
2 recently cut back our orders. So we import the standard
3 gauge of household foil. And then for the containers, the
4 aluminum containers that we form, that would be in the heavy
5 duty category.

6 CHAIRMAN SCHMIDTLEIN: And do you import that as
7 well?

8 MS. WALTERS: The majority of that is purchased
9 from U.S. suppliers, but we do import some.

10 CHAIRMAN SCHMIDTLEIN: Some, okay.

11 MS. WALTERS: Yes.

12 CHAIRMAN SCHMIDTLEIN: And I guess you direct
13 import as well? So you --

14 MS. WALTERS: Correct.

15 CHAIRMAN SCHMIDTLEIN: -- buy from importers,
16 but you also directly import? Is that right? Because it
17 looks like you filed a purchaser questionnaire and an
18 importer questionnaire or no?

19 MS. WALTERS: No, we did file a purchaser, yes.
20 Well, wait.

21 MS. FOX: They import from -- they import and
22 then they also purchase from U.S. supplier.

23 CHAIRMAN SCHMIDTLEIN: Okay, but are you
24 directly importing it yourself or do you go through an
25 importer?

1 MS. WALTERS: For the most part, we directly
2 import it ourselves.

3 CHAIRMAN SCHMIDTLEIN: You do? Okay.

4 MS. WALTERS: Yes.

5 CHAIRMAN SCHMIDTLEIN: And why do you do that?

6 MS. WALTERS: Because mostly because of volume
7 that we do. And we like to form direct relationships with
8 our suppliers. I mean, we've been buying from these
9 suppliers for 15 or 20 years. So we have very good
10 relationships with -- and we don't need somebody in the
11 middle.

12 CHAIRMAN SCHMIDTLEIN: Okay. And so have you
13 been directly importing for all of that time or was there a
14 point in time when you switched from buying from importers?

15 MS. WALTERS: I've only been there a short
16 period. I'll let Linda answer that.

17 CHAIRMAN SCHMIDTLEIN: Oh, okay.

18 MS. WALMSLEY: I'm Linda Walmsley with Trinidad
19 Benham. We entered this segment in 1977 and we began with
20 domestic. And we began -- and then we imported. And we've
21 been importing the majority of our requirements, because of
22 availability.

23 CHAIRMAN SCHMIDTLEIN: So my question is really
24 going to how you import, if you -- when did you make the
25 switch from buying from an importer to directly importing

1 the product yourself whereas you're acting as the importer
2 of record?

3 MS. WALMSLEY: Relationships that were formed
4 with importers.

5 CHAIRMAN SCHMIDTLEIN: Can you give me a time
6 frame for that, like when you switched to --

7 MS. WALMSLEY: Sure.

8 CHAIRMAN SCHMIDTLEIN: -- over and started doing
9 that?

10 MS. WALMSLEY: I'm trying to think. I think
11 that's for post-hearing.

12 MS. WALTERS: We can put that in the
13 post-hearing.

14 CHAIRMAN SCHMIDTLEIN: Okay.

15 MS. FOX: I don't think -- .

16 MS. WALTERS: It's been --

17 MS. FOX: -- over 10 years so it's been --

18 MS. WALTERS: -- pre -- before --

19 MS. FOX: Sorry, this is Lynn Fischer Fox. It's
20 -- Donna's been with the company for 10 years and I think
21 you've been direct importing --

22 MS. WALTERS: Uh-huh.

23 MS. FOX: -- for the entire time she's been
24 there. But to get back further than that, we would -- to
25 give you an accurate answer, we'd want to put it the

1 post-hearing.

2 CHAIRMAN SCHMIDTLEIN: Okay, okay, that's fine.

3 All right, going further down the row, Mr. Nelson from
4 Sonoco?

5 MR. NELSON: Yes.

6 CHAIRMAN SCHMIDTLEIN: Yes. Okay.

7 MR. NELSON: This is Brian Nelson of Sonoco.

8 CHAIRMAN SCHMIDTLEIN: Right.

9 MR. NELSON: And we -- primarily what we import
10 from the subject countries would be ultra thin foil below
11 that .0003 gauge.

12 CHAIRMAN SCHMIDTLEIN: Okay.

13 MR. NELSON: Now from some non-subject
14 countries, we've been importing probably for 10 plus years.
15 Many years ago, we looked to diversify our supply base away
16 from the domestic. We were buying almost all domestic a
17 number of years ago. And so we have some imports of some
18 heavier gauge foils from non-subject countries as well.

19 CHAIRMAN SCHMIDTLEIN: I see. But for subject,
20 it's ultra thin?

21 MR. NELSON: It's almost all ultra thin. I
22 wouldn't say there might not be a few thin --

23 CHAIRMAN SCHMIDTLEIN: Okay.

24 MR. NELSON: -- specifications that fall in the
25 just slightly above the ultra thin.

1 CHAIRMAN SCHMIDTLEIN: Okay. Thank you.

2 MR. NELSON: Sure.

3 CHAIRMAN SCHMIDTLEIN: All right. And then next
4 to you, we have Oracle and LLFLEX. First, can you tell me
5 what the difference is between Oracle and LLFLEX? Are they
6 two different companies?

7 MR. SQUATRITO: Well, they're two different
8 legal entities that we acquired to form Oracle Packaging.
9 So I think we filed under each of the legal entities.

10 CHAIRMAN SCHMIDTLEIN: Okay.

11 MR. SQUATRITO: But it all rolls up to Oracle
12 Packaging.

13 CHAIRMAN SCHMIDTLEIN: Okay. And it doesn't
14 look like you submitted a purchaser questionnaire?

15 MR. SQUATRITO: No, we import. I mean, we
16 import 95, 98 percent of the foils we use across all ranges.
17 Most of it's in the thin and ultra thin.

18 CHAIRMAN SCHMIDTLEIN: For subject product?

19 MR. SQUATRITO: For subject and --

20 CHAIRMAN SCHMIDTLEIN: Okay.

21 MR. SQUATRITO: -- but we also do some heavy as
22 well.

23 CHAIRMAN SCHMIDTLEIN: But you are using that.
24 Are you -- you're producing -- I mean, it looked like from
25 the slides, are you -- you're not just an importer, right?

1 You're -- you are a converter or processor of this?

2 MR. SQUATRITO: Yes.

3 CHAIRMAN SCHMIDTLEIN: Okay.

4 MR. SQUATRITO: But I would -- yeah, yes.

5 CHAIRMAN SCHMIDTLEIN: So you're directly
6 importing, that's what you're saying?

7 MR. SQUATRITO: Yes, we're directly importing.

8 CHAIRMAN SCHMIDTLEIN: Okay.

9 MR. SQUATRITO: Correct, yeah.

10 CHAIRMAN SCHMIDTLEIN: Okay, okay. Okay, great.

11 Okay, and then I think -- well, on the next row behind, I
12 assume Valeo, Manakin, and then we have another -- number of
13 the, you know, couple of -- well, three it looks like, four
14 Chinese? I guess one's an association. Are you all
15 importers?

16 MR. GARCIA: Rogelio Garcia for Valeo. We
17 import directly 100 percent fin stock. Gauges range from
18 50 microns to 100 microns.

19 CHAIRMAN SCHMIDTLEIN: Okay. And are you
20 processing those or --

21 MR. GARCIA: Yes.

22 CHAIRMAN SCHMIDTLEIN: -- or produce -- okay.

23 So you --

24 MR. GARCIA: We process them in our facility in
25 Greensburg, Indiana.

1 CHAIRMAN SCHMIDTLEIN: Okay, but you're -- so
2 you're also directly importing?

3 MR. GARCIA: Yes.

4 CHAIRMAN SCHMIDTLEIN: But it's fin stock?

5 MR. GARCIA: Fin stock, 100 percent.

6 CHAIRMAN SCHMIDTLEIN: 100 percent, okay. Okay,
7 Manakin?

8 MR. LUTTERBEIN: Todd Lutterbein with Manakin.
9 We're subcontract manufacturers and importers. We do not
10 convert here in the country.

11 CHAIRMAN SCHMIDTLEIN: You don't. So you're an
12 importer? Okay. And what do you --

13 MR. LUTTERBEIN: Correct.

14 CHAIRMAN SCHMIDTLEIN: -- what do you primarily
15 import? What gauge?

16 MR. LUTTERBEIN: All gauges.

17 CHAIRMAN SCHMIDTLEIN: All?

18 MR. LUTTERBEIN: Heavily, very heavily into
19 ultra thin, but we cover the whole range.

20 CHAIRMAN SCHMIDTLEIN: Okay, so for -- and you
21 did submit a importer questionnaire. If you could indicate,
22 and I don't know if you have, if you have, then you don't
23 need to redo it, but if you could indicate in the
24 post-hearing. I'd like to see the breakdown of what you're
25 importing, at least for 2016? You can focus on the last

1 full year of the POI, that would be helpful.

2 Okay. And then Mr. Gallagher from Commodity
3 Foil?

4 MR. GALLAGHER: Hello. Sean Gallagher,
5 Commodity Foil.

6 CHAIRMAN SCHMIDTLEIN: Way back there, yeah.

7 MR. GALLAGHER: I'm way back here, yes. Cheap
8 seats.

9 CHAIRMAN SCHMIDTLEIN: Yeah. There's -- they're
10 all good though, right?

11 MR. GALLAGHER: Ultra thin, we probably import
12 25 percent. Thin gauge, probably 50 percent. Standard,
13 probably another 20 percent of that. And then oh, here's
14 JW, probably 5 percent domestic.

15 CHAIRMAN SCHMIDTLEIN: To buy -- buying you
16 mean?

17 MR. GALLAGHER: Yes, uh-huh.

18 CHAIRMAN SCHMIDTLEIN: Okay.

19 MR. GALLAGHER: We buy it -- we also do some
20 processing. We make big rolls into smaller roles, but not
21 like Donna does, not that small, but different sizes and
22 things like that. So not only do we sell to people, maybe
23 like Bemis or to Sonoco or, you know, when they run short on
24 metal, to help supply their supply chain.

25 CHAIRMAN SCHMIDTLEIN: Okay.

1 MR. GALLAGHER: But we also process. So we're
2 on both sides.

3 CHAIRMAN SCHMIDTLEIN: And you're in Richmond,
4 right? You are the Richmond, Virginia?

5 MR. GALLAGHER: Richmond, Virginia.

6 CHAIRMAN SCHMIDTLEIN: Okay, right. Local,
7 okay.

8 MR. GALLAGHER: Yes, ma'am.

9 CHAIRMAN SCHMIDTLEIN: All right, and then the
10 last here I think is ProAmpac.

11 MR. SCHABOW: Yes, Paul Schabow for ProAmpac.
12 We 100 percent ultra thin is imported. A majority of thin
13 is imported. And a small portion of the standard is
14 imported. Most of the standard we purchase domestically
15 with JW.

16 CHAIRMAN SCHMIDTLEIN: Okay.

17 MR. SCHABOW: We are an importer of record now.
18 At one time, JW was our importer of record for a lot of our
19 --

20 CHAIRMAN SCHMIDTLEIN: Okay.

21 MR. SCHABOW: And it's our strategy to get
22 direct relationships with our suppliers. And that's why we
23 prefer to be the importer of record.

24 CHAIRMAN SCHMIDTLEIN: And is there -- do you go
25 by a different name? Does the -- is ProAmpac?

1 MR. SCHABOW: Well, we're --

2 CHAIRMAN SCHMIDTLEIN: Or?

3 MR. SCHABOW: Yeah, ProAmpac was created through
4 a number of acquisitions. The first being Prolamina and
5 Ampac. That's created ProAmpac.

6 CHAIRMAN SCHMIDTLEIN: Okay.

7 MR. SCHABOW: So we have many different entities
8 that we import under.

9 CHAIRMAN SCHMIDTLEIN: And did you submit a --

10 MR. SCHABOW: We submitted both a purchaser --

11 CHAIRMAN SCHMIDTLEIN: -- questionnaire? You
12 did?

13 MR. SCHABOW: -- as well as an importer.

14 CHAIRMAN SCHMIDTLEIN: So what name would the --
15 okay, I see the importer. I guess I don't see the
16 purchaser, but we'll check into that.

17 Okay, all right, I appreciate you taking me
18 through this. This was a bit tedious, but it's very helpful
19 for me to understand the context for all the witnesses. So
20 my time is up. So we'll come back to the questions.

21 Vice Chairman Johanson?

22 VICE CHAIRMAN JOHANSON: Thank you, Chair --
23 thank you, Chairman Schmidtlein and thanks to all the
24 witnesses and their counsel for appearing here today.

25 And my first question will probably best be

1 answered by Ms. Keane, but any of the other witness or
2 counsel are of course welcome to discuss it as well. On
3 page 33 of the Flexible Packaging Association's brief, it is
4 argued that purchasers responded that they're -- that there
5 are reasons to think of imports from China as superior in
6 some attributes. But I would just point out that the
7 numbers there seem to show that about half of responding
8 purchasers made to the judgment.

9 I would ask whether that is a strong indication
10 of the asserted superior quality of the subject imports?

11 MR. GRIMSON: So I'm looking at the -- at that
12 part of our brief just to first make sure there's nothing
13 confidential on the page, because Ms. Keane not have seen
14 that.

15 VICE CHAIRMAN JOHANSON: Okay.

16 MR. GRIMSON: Yeah, that's this part here.

17 VICE CHAIRMAN JOHANSON: Uh-huh.

18 MG: Getting up to speed. I think that, I mean,
19 we were talking yesterday during the prep day with the other
20 respondent's counsel that we can't remember coming in here
21 in a Chinese case arguing that the domestic product is bad.
22 So we're in a bit of an unusual position here.

23 Even those figures that are quoted in our brief
24 and then also in the staff report are, I think, out of the
25 norm when comparing domestic quality to Chinese quality in

1 almost every case that you see. And you have also heard the
2 testimony of all these folks around on the table here today
3 backing up that very point, that they can't get the quality.
4 The quality is inferior, all the domestic product. And I'm
5 speaking specifically to the ultra thin segment right now.

6 VICE CHAIRMAN JOHANSON: Okay. Thank you, Mr.
7 Grimson, I appreciate it. And sorry, Ms. Keane, for posing
8 a question to you that you don't have access to the material
9 for.

10 I now have a question for Trinidad. If you are
11 arguing that the U.S. producers have abandoned the household
12 foil industry, and this is at page 25 of your brief, can you
13 present any evidence that shows that this abandonment was
14 for reasons unrelated to subject imports? In other words,
15 if not due to imports, why would this be the case? Why
16 would the domestic industry leave this segment of the
17 market?

18 MS. FOX: Well, I think if you take a look --
19 this is Lynn Fischer Fox from Arnold & Porter, if you take a
20 look at the confidential slides that we show, you can see
21 kind of -- I mean, Trinidad is the biggest importer of
22 household foil. And you can kind of see where their imports
23 have been coming from over from long before the POI.

24 And it was -- there's only one supplier of
25 household foil that Trinidad buys from now. So they really

1 have a very limited access to a domestic supply. And as
2 Donna just pointed out, even that supplier often cuts back
3 the supplies available. They can't get more from that
4 supplier.

5 So if they did abandon it, it was many, many
6 years ago when Chinese imports to Trinidad weren't a factor,
7 when there were no import from China to Trinidad.

8 MS. WALTERS: This is Donna Walters. I'd just
9 like to add one point. At the time that Novelis told us
10 that they were closing their household foil operations, we
11 were buying from them. So it wasn't like we had stopped
12 buying from them. But again, when they told us they were
13 closing them and told us this was our last chance to buy
14 Novelis household foil, we had to go to the other U.S.
15 supplier, who we now do business with in very small volume.

16 VICE CHAIRMAN JOHANSON: Okay, thanks. I
17 appreciate your response, Ms. Walters. And this is a follow
18 up that might be redundant, and I think I know what the
19 answer is, but I'm going to ask it anyway. Has Trinidad
20 contacted domestic producers to supply the aluminum foil you
21 need? And if so, were they able to offer to you?

22 MS. WALTERS: Really, I mean, household foil is
23 a very low margin product. And so again, there's only one
24 roller, other -- I mean, Reynolds does it for themselves,
25 but there's only one roller active in the market that will

1 make it and sell it to external customers and so we do
2 business with them.

3 VICE CHAIRMAN JOHANSON: Okay. Thanks for your
4 response.

5 Ms. Dodrill, this question's for you and it
6 comes out of your testimony earlier today. I believe that
7 you stated that U.S. produced thin foil -- U.S. producers of
8 thin foil have not qualified for use in medical devices?

9 MS. DODRILL: On specific applications.

10 VICE CHAIRMAN JOHANSON: Okay. Do you have any
11 sources that would show this such as --

12 MS. DODRILL: And this is when we've been trying
13 to qualify a product. We've evaluated the U.S. source and
14 the Chinese source.

15 VICE CHAIRMAN JOHANSON: Right.

16 MS. DODRILL: Chinese has worked.

17 VICE CHAIRMAN JOHANSON: And it works -- do you
18 have to go -- I don't know the process here. Do you go
19 through FDA?

20 MS. DODRILL: So what we were looking at is
21 performance. Try to take care with our information, but I
22 think it has to do with maybe some ductility differences.
23 When the aluminum foil sees stresses, what we are seeing is
24 that the domestic foil fails much more quickly than the
25 Chinese foil, allowing the Chinese foil to work in

1 applications that are going to see a lot of stress. So
2 that's -- those applications we use the Chinese foil and we
3 cannot -- we haven't been able to also qualify the domestic
4 foil.

5 VICE CHAIRMAN JOHANSON: Okay. Is this an
6 internal qualification or is this -- does FDA evaluate this?

7 MS. DODRILL: This would be with us and with our
8 customers.

9 VICE CHAIRMAN JOHANSON: Okay. Do you have any
10 sources which would back all of this up and --

11 MS. DODRILL: We can review the data, sure.

12 VICE CHAIRMAN JOHANSON: Yeah, if you could do
13 that in the post-hearing --

14 MS. DODRILL: To give you some numbers that'll
15 show you what the differences are.

16 VICE CHAIRMAN JOHANSON: That would be helpful,
17 any original documentation would be particularly helpful.

18 MS. DODRILL: Very good.

19 VICE CHAIRMAN JOHANSON: And it would, of
20 course, be proprietary, I assume. Okay. On page -- pages
21 22 and 49 to 50 of the petitioner's brief, it is argued that
22 the various new investments in the domestic industry are
23 directly related to the filing of this petition and that the
24 analysis were not made until after Commerce imposed
25 provisional relief. And you also heard that this morning

1 with the petition witnesses. Do you have a response to
2 this?

3 MR. MICHALKIEWICZ: If you're -- I had spoken
4 earlier about what I would call speculation on the new
5 investments, particularly Granges' investment. When they
6 announced that investment, I contacted them and spoke to
7 them directly about that investment. And the response I
8 received from Granges was it was not for foil. It was for
9 automotive and they were not investing in any foil or light
10 gauge foil assets in that announced investment.

11 I also talked about the Ta Chen investment.
12 Were also engaged with Ta Chen and asked them directly
13 about what their investment meant for light gauge foil
14 production in the U.S. And I received a similar response
15 that there is some consideration, but right now, there is
16 nothing specific planned for light gauge foil production in
17 the U.S. Not saying it couldn't happen, but again at this
18 point, you know, it's purely speculation that there will be
19 any investment in light gauge foil from either of them.

20 And I talked about the -- you know, the --
21 bringing back the assets from Alpha. Alpha assets are old.
22 They would need significant investment. As was mentioned by
23 the previous owner, Oracle, they didn't want to make that
24 investment and that's one of the reasons why they sold those
25 assets in the first place.

1 And even -- I would even challenge JW's talk
2 about \$255 million in investments and I would ask how much
3 of that really is right now is -- it would be in light gauge
4 foil. You know, most of the investment that we've heard
5 even the Novelis investment that was admitted, it was for
6 automotive. That's where most of the investment here in the
7 United States is headed is in automotive sheet, because
8 that's where -- that's the hot market.

9 VICE CHAIRMAN JOHANSON: Thank you.

10 MR. GARCIA: This is Rogelio Garcia from Valeo.
11 I can confirm the situation with Granges. They're one of
12 our global suppliers. They purchased the Noranda facility
13 in Tennessee for automotive purposes. What they've told us
14 is they expect that facility to be qualified and ready to
15 produce for the automotive market until 2019, late 2019. So
16 there's still some time before that capacity is even in the
17 market.

18 MR. GRIMSON: Commissioner Johanson, I would
19 just -- I'm not sure if that was exactly the point of your
20 question. I think the Commission gets into perilous waters
21 when you have an industry that files a petition, then
22 announces investments, then comes here and says the fact
23 that we announced this investment -- announced investments
24 because we filed the petition is proof that we were injured
25 before we made the announcement and the petition. I think

1 that, you know, there -- they have to be judged on our POI
2 and what happened during that time period.

3 MR. CASEY: The other thing I would add is in
4 our conversations with Granges, they indicated to us that
5 they were planning to announce that investment well before
6 the investigation.

7 VICE CHAIRMAN JOHANSON: Okay, thanks all of
8 you. And I have just two quick follow up questions for Mr.
9 Michalkiewicz and Mr. Garcia. You all mentioned that
10 there's -- from what you understand this investment will be
11 for automotive purposes, would that include thin?

12 MR. MICHALKIEWICZ: -- I'm going to let the fin
13 stock people answer that question, because I don't know
14 that --

15 VICE CHAIRMAN JOHANSON: You don't know?

16 MM: -- specifically.

17 VICE CHAIRMAN JOHANSON: Okay.

18 MR. GARCIA: Yes, it will include fin stock.

19 VICE CHAIRMAN JOHANSON: Okay.

20 MG: As well as other version sheets we use.

21 VICE CHAIRMAN JOHANSON: Okay, thanks to both of
22 you. My time has expired.

23 COMMISSIONER WILLIAMSON: Okay. Thank you.
24 This is a question for Trinidad. How should the Commission
25 analyze small reels when considering whether to expand the

1 domestic-like product to include them? And think about the
2 six factor test and --

3 MS. FOX: I mean, we provided some detail in our
4 brief and we're happy to provide more in a post hearing, but
5 I mean, just briefly, I think, you know, it seems like the
6 petitioners want to have it both ways. This morning, I
7 think I heard that the gentleman from Reynolds say we have
8 to import to be competitive with other spoolers that import
9 because we're losing market share to other spoolers, I think
10 alluding to Trinidad, who are importing Chinese jumbo rolls.

11 And this kind of illustrates the dilemma that
12 the Commission faces with this case. For a big chunk of or
13 big segment of the industry, domestic foil in jumbo rolls
14 doesn't compete with Chinese foil. And jumbo rolls at all
15 only competes head to head in the small reels. And I don't
16 know how you evaluate the statements that you heard this
17 morning about losing market share to other spoolers unless
18 you can look at the small -- at the small reels. So that's,
19 I mean, I think that's kind of the setup for how do you do
20 that analysis?

21 And then I think the sort of wire rod analogy of
22 semi finished products are, you know, intermediate product
23 doesn't really hold true. The foil in the jumbo roll and
24 the foil that you have in your kitchen that Trinidad sells,
25 it's exactly the same foil. It's not slit. It's not

1 treated. It's not re-rolled. It's not made thinner. It's
2 exactly the same thing. It's just in a smaller quantity and
3 it's in a box with a name on it. Is -- there's no
4 difference. That's -- we're -- you know, that applies to
5 the small reels. We're not talking about stuff that turns
6 into apple sauce packages and et cetera. Thank you.

7 COMMISSIONER WILLIAMSON: So you sort of say
8 it's the same -- I guess they pointed out they were
9 different end users. I mean, the large roll as opposed to
10 small reels, which go to the ultimate consumer. Is there
11 any validity on that?

12 MS. FOX: Well, yeah, that has to do with the
13 size, but the foil, there is no difference in the foil. The
14 large reel is the same width as the small reel. It is the
15 same foil. There has been no change. There's been no
16 change to the foil.

17 COMMISSIONER WILLIAMSON: Okay, other than it
18 being slit?

19 MS. FOX: Other than it being in a smaller
20 quantity. It's not slit, it's just made smaller. It is a
21 -- it's the same width. There's no slitting or other
22 treatment that goes on. I mean, I would argue that again
23 they're trying to have it both ways in a couple different
24 situations. With regard to the ultra thin, I think, other
25 folks can speak more to what additional processing goes into

1 making ultra thin foil that can be used by the converters.
2 And in that case, they're telling you to pay no attention to
3 the additional processing. And in the case of small reels,
4 they're making an enormous deal out of the additional
5 processing that's required to make a reel smaller.

6 COMMISSIONER WILLIAMSON: Okay. Now what would
7 be -- if we were to go their smaller reels, what would be
8 the result? I mean, would you -- I guess because would you
9 be arguing that we should make that a separate like product,
10 the smaller reels or --

11 MS. FOX: No, we're not arguing --

12 COMMISSIONER WILLIAMSON: -- just expand the
13 scope?

14 MS. FOX: We're not arguing for a separate like
15 product. We're arguing that for you to do a full evaluation
16 on the impact of the domestic industry in this case, you
17 need to include data for smaller reels to have a real sense
18 of what's going on. And like I said, that, you know, that
19 was illustrated by the comments by the Reynolds gentleman
20 this morning when he was alluding to the lost market share
21 and the competition that he's suffering from other U.S.
22 spoolers who purchase Chinese subject merchandise in the
23 jumbo rolls. How can you evaluate that competition? How
24 can you validate what he's saying without seeing evidence of
25 that -- of what's going on in that small reel?

1 COMMISSIONER WILLIAMSON: Okay.

2 MS. FOX: In that small reel market?

3 COMMISSIONER WILLIAMSON: Okay, thank you.

4 Post-hearing, maybe you could tell us what difference that
5 would make in terms of our results?

6 MS. FOX: I mean, I think you have your staff
7 after the -- in the staff report, you do have data on
8 operations on small reels that you can take a look at. And
9 I think it's interesting, but that's about all I can say
10 here.

11 COMMISSIONER WILLIAMSON: Okay, that's why I
12 said post-hearing, thank you. Good.

13 For Valeo, does your definition of fin stock
14 match that used by the Aluminum Association and if not, why
15 not?

16 MR. GARCIA: Rogelio Garcia for Valeo. Yes, it
17 does. We actually refer to as the definition from the
18 Aluminum Association. Coil sheet or foil suitable and
19 intended for the manufacturer things for heat exchanger
20 applications.

21 COMMISSIONER WILLIAMSON: Okay. Thank you.

22 Okay, so we don't need to get this question
23 about manganese content and all that, because it's -- okay,
24 okay. For FPA, you argue that the domestic industry is
25 unable to produce products in certain widths. And so I was

1 just wondering, how large is the market for those larger
2 widths? I mean, what percentage of the market is --

3 MR. SCHABOW: It's Paul Schabow of ProAmpac.

4 COMMISSIONER WILLIAMSON: Yeah.

5 MR. SCHABOW: I couldn't give you a definition
6 of the market, but I could say that a majority of our
7 spending is above 65 inches.

8 COMMISSIONER WILLIAMSON: A majority of your?

9 MR. SCHABOW: Our purchases.

10 COMMISSIONER WILLIAMSON: Okay.

11 MR. SCHABOW: Our imported foil is above 65
12 inches. Our largest roll is probably close to 74 inches
13 wide.

14 COMMISSIONER WILLIAMSON: Okay, are you typical
15 or atypical in terms of that need?

16 MR. SCHABOW: Um --

17 COMMISSIONER WILLIAMSON: Or --

18 MR. SCHABOW: -- I would say that we've talked
19 about investments. We may have been ahead of the curve, but
20 we know that our competition is making investments to get
21 just as wide as we are. It's basically a costing. The more
22 we can throughput at a wider width, the better we are. And
23 I think a lot of people are making investments in the same
24 equipment that we have to compete with us.

25 COMMISSIONER WILLIAMSON: Yeah.

1 MR. SCHABOW: So if we can go wider, and you can
2 get foil offshore at those wide widths.

3 COMMISSIONER WILLIAMSON: Okay, I don't know if
4 Paul, sure, you might want to give an indication of what
5 percentage the actual demand is at -- has been on the POI or
6 is going to be in the near future?

7 MR. SCHABOW: Okay. We'll do that.

8 COMMISSIONER WILLIAMSON: You see why I'm asking
9 that question --

10 MR. SCHABOW: Yeah.

11 COMMISSIONER WILLIAMSON: -- just to --

12 MR. SCHABOW: Understood.

13 COMMISSIONER WILLIAMSON: -- see how significant
14 that is.

15 Also, for FPA, you argue that the domestic
16 industry doesn't make product with certain alloys. How
17 large is the market for these products, the products that
18 are not made with the alloys that the domestic industry
19 doesn't make? Does anyone have? If not, if there's
20 something --

21 MR. LUTTERBEIN: This is Todd Lutterbein.

22 COMMISSIONER WILLIAMSON: Oh, good advice off --

23 MR. LUTTERBEIN: Manakin. I testified in the
24 preliminary hearing, but I've been industry a long time,
25 manufacturing engineer, a long time employee of Reynolds

1 Metals and Alcoa. I was a member of Reynolds Global
2 Corporate Foil Committee. They're a foil costing and one of
3 their process experts on that panel.

4 So to answer your question, in this market,
5 there's not a big difference between alloys and price. 8079
6 has much better mechanical properties for some applications.
7 The 1235 has got different or different attributes, which
8 are better for different applications.

9 COMMISSIONER WILLIAMSON: Now are those numbers
10 refer to aluminum with a certain alloys in it?

11 MR. LUTTERBEIN: Yes.

12 COMMISSIONER WILLIAMSON: Okay, good.

13 MR. LUTTERBEIN: Yeah, and I think you asked is
14 there a difference in pricing and margin?

15 COMMISSIONER WILLIAMSON: Actually, I was really
16 asking how important -- the question was a condition that
17 FPA is making that they -- or their imports contain certain
18 alloys that the domestic -- aluminum with certain alloys
19 that the domestic industry doesn't provide? And we said the
20 products with those alloys are not something the domestic
21 industry produces. And so I was just trying to figure out
22 how significant is that -- shall we say that segment or does
23 that -- those products?

24 MR. LUTTERBEIN: Well, the U.S. market hasn't
25 made 8079 alloy since the early 1970s. But anyway, the

1 alloys available in Europe and as the current converting
2 operators in this country have been able to purchase it out
3 of Europe and China, their awareness to the specifications
4 and its possibilities has increased. And as is the widths,
5 they're available overseas, are not available. The
6 domestic suppliers or converters initially have been very
7 reticent to buy overseas. They're more comfortable buying
8 at home, but as they realize these foreign suppliers, the
9 Europeans and the Chinese are reliable, they're willing and
10 have been willing to invest in wider lines than the U.S.
11 manufacturers are capable of producing.

12 COMMISSIONER WILLIAMSON: Okay, you're talking
13 about -- I'm talking about now the product with the
14 different alloys in it.

15 MR. LUTTERBEIN: Well, when --

16 COMMISSIONER WILLIAMSON: What I'm trying to do
17 is ask --

18 MR. LUTTERBEIN: -- they're available, the not
19 too distant past, and now it is. So it's growing as more
20 and more converters are aware of it. So to ask or to answer
21 the exact percentage, I couldn't tell you, but I'd say it's
22 so -- I don't know, our sales maybe 30, 40 percent are 8079
23 alloy versus 1235.

24 COMMISSIONER WILLIAMSON: Okay, thank you.

25 MR. CASEY: This is Casey from Bemis. And to

1 speak to the alloy question, so historically, you know, we
2 -- our business grew up in the U.S. And 1235, 1100, 1145
3 were common alloys.

4 As we started to go thinner and we started
5 moving offshore because of quality, we were able to find
6 those alloys in China. As we do use some 8079, which isn't
7 readily available in the U.S., but what we've really
8 struggled with is since the duties have come into place, and
9 we start looking at what are our alternatives because we
10 can't buy it in the U.S., where else can we go? As we start
11 looking beyond the U.S. and China, we can't find 1235, 1100,
12 and 1146. So we are really struggling to find capacity
13 outside of the U.S. and China to meet our needs.

14 COMMISSIONER WILLIAMSON: And your needs are for
15 those alloys?

16 MR. CASEY: For those -- the --

17 COMMISSIONER WILLIAMSON: The products with
18 those alloys?

19 MR. CASEY: -- specific -- yes.

20 COMMISSIONER WILLIAMSON: Okay. And I was just
21 trying to get an idea of how large a segment of that market
22 are -- I take it it's a growing segment, but I'm just trying
23 to get some proportion here?

24 MR. CASEY: So the 8079 that's not readily
25 available in the U.S. --

1 COMMISSIONER WILLIAMSON: Yes.

2 MR. CASEY: -- is relatively small for us. What
3 I'm saying is the alloys we do use, which are available in
4 the U.S. and China, as we start to look for where else can
5 we buy foil, if we can't get it in the U.S., and we're not
6 going to be able to buy it from China, we struggle once we
7 get outside of those two areas to buy the 1235, 1100, and
8 1145 that we do use.

9 COMMISSIONER WILLIAMSON: Okay. Okay, thank
10 you. My time has expired. Thank you for those answers.

11 COMMISSIONER BROADBENT: Let's see, this would
12 be for Mr. Cannistra. This morning we heard the beginnings
13 of petitioner's argument that the Commission should find
14 threat of injury on any separate like product consisting of
15 fin stock. They suggested that if the Commission were to
16 vote affirmative on all aluminum foil other than fin stock,
17 then there would be a funneling effect as the Chinese
18 industry diverted substantial exports to fin stock. How
19 would you respond to that argument?

20 STATEMENT OF DANIEL CANISTRA

21 MR. CANNISTRA: Thank you, and thank you for the
22 opportunity to I hope clarify fin stock. And if I could
23 begin by answering that question and why funneling is not at
24 all possible.

25 There are three basic categories of aluminum

1 that we're talking about here. We've got aluminum foil, and
2 these are specifications sent out by the Aluminum
3 Association. So let's just use that as a framework for a
4 moment.

5 We then have sheet thicker than foil within the
6 parameters, the thickness parameters of the common alloy
7 sheet. But then there's a third category. It's called fin
8 stock. And so when you say fin stock to the industry, they
9 think in terms of the third category.

10 Now with respect to thickness, there are some
11 fin stock that sits in the foil range and there are some fin
12 stock that sits in the sheet range. But when you speak
13 about fin stock collectively, you're getting answers. And I
14 think part of the confusion's being caused by the fact that
15 the industry responds to questions about fin stock as fin
16 stock is known in the industry, sheet and plate all the way
17 up. That's all -- its own set of parameters.

18 And to come back just for a moment to the
19 magnesium content, that is the fin stock that generally sits
20 in the foil space. It's not talking about fin stock
21 collectively, because fin stock expands all of the way well
22 into the sheet category. What we're talking about with the
23 magnesium content of fin stock again is just that small
24 segment.

25 But more generally, what makes fin stock fin

1 stock and why is funneling not possible? It's not just
2 grades that make fin stock fin stock. And it's not just
3 tempers that make fin stock fin stock. It is the defined
4 mechanical properties set out by the Aluminum Association
5 itself that make fin stock fin stock. It's a combination of
6 those three things.

7 You need to have the grade, the right grade, the
8 right chemistry, the right tempering, and the right
9 mechanical properties. And you need to be able to certify
10 as to each one of those.

11 And that's why Mr. Garcia put on the screen of
12 the certificate that's provided with every shipment of fin
13 stock, here's the mechanical properties that this material
14 meets. It has a certain tensile strength. It meets a
15 certain elongation standard. It meets a certain thickness
16 tolerance. These are the things that make it fin stock.
17 They're not incidental to aluminum and they don't come with
18 any other types of aluminum. You need each of those three
19 in order to make it.

20 And that's why I think the funneling is just
21 nonsensical. Why would you spend all the money to make a
22 product that meets the mechanical standards for fin stock
23 and then sell it as a common alloy? If that could be done,
24 it would have been done a long time ago and Valeo would
25 gladly have purchased that material if such a material could

1 actually be produced.

2 And if I could make just one more point. This
3 is a -- not a new question in the aluminum industry. This
4 is basically the exact same question that came up in
5 aluminum extrusions as well with heat sink. It's exactly
6 the same question and it's really fundamentally mechanically
7 the same type of material as well.

8 And it's just a question of certificates. And
9 the way the Commission resolved it and identified the
10 separate like product for heat sink as well, and I'm not
11 quite sure how this was missed in this morning's
12 presentation, because we raised heat sink because it's
13 virtually identical in what's doing heat syncs in aluminum
14 extrusions is the same thing as fin stock and foil. We
15 raised this in a brief. This is how the separate like
16 product was clearly defined in aluminum extrusions.

17 Finished heat sinks are fabricated heat sinks
18 sold to electronic manufacturers and designed and production
19 of which are organized around meeting certain specified
20 thermal performance requirements which have been fully,
21 albeit not necessarily individually tested, to comply with
22 such requirements.

23 That was heat sinks for aluminum extrusions.
24 Those are exactly the same elements that are relevant in fin
25 stock in this case. And that's why funneling is -- it's

1 impossible unless the exporters are suddenly going to make
2 material in accordance with the fin stock specifications.
3 Hopefully, that answers your question.

4 COMMISSIONER BROADBENT: This is for the Chinese
5 respondents, Ms. Mo? Thank you. Petitioners assert on
6 pages 22 to 23 of their pre-hearing brief that China has
7 driven global overcapacity of aluminum foil and that Chinese
8 industry continues to grow despite the presence of
9 substantial excess capacity in China. Do you agree that
10 this has occurred? And if not, can you explain more about
11 what you think is happening in China with respect to demand
12 for aluminum foil and capacity growth?

13 MS. MO: Okay, and thank you for your question.
14 And I think China has already made a effort to make the
15 supply reform action and we have to do so many things to
16 action the material. And the development of China aluminum
17 industry, I think it is focused and based on meeting the
18 domestic demand. And the consumption of the China aluminum
19 always goes faster than the output that goes right. And at
20 the same time, that China has already paid more attention to
21 promoting the aluminum application. We have to do so many
22 things to meet them.

23 So the capacity that China has already done
24 manufacturers, just as the morning meeting, China has do the
25 actions to give more days of the blue sky. So we have shut

1 down so many capacities. Also, shut down so many output.

2 Thank you.

3 COMMISSIONER BROADBENT: But my sense is there's
4 still a lot of excess capacity in China?

5 MR. XU: This is Raymond Xu with Dingsheng
6 Aluminum. I would like to explain that the excessive
7 capacity actually is not so-called excessive. All these
8 capacities in general in China build based upon the demand.
9 A large portion of this demand coming from China domestic
10 market.

11 Just give you example of Dingsheng's capacity,
12 we build the capacity, but all of those capacities are used.
13 They have no idle capacities for under the market. And most
14 of our capacity used in China domestic market and I would
15 think over 70 percent, we can give exact number later on,
16 but I think over 70 percent of our foil capacity goes to
17 China domestic.

18 And all of those China domestic volume and
19 applications cover from the flexible packaging market,
20 household foil market, and also the container market,
21 something like Trinidad Benham is doing in the U.S., but we
22 are supplying China domestic market.

23 In terms of household foil and the container
24 foil market, if you take a airline in China, go domestic
25 flight from any city between two cities, if between the --

1 within the meal time, airline will give you a full meal.
2 And that meal, either the rice with chicken or beef with
3 rice is all packed in a small container. And on top of that
4 container is a piece of foil to cover. And so the airline
5 will -- can cook them in the oven. So the number -- the
6 usage, the volume over there is huge.

7 MR. MARSHAK: This is Ned Marshak. I think we
8 talked before that the U.S. industry is a mature industry
9 for foil. The China industry developing world industry is a
10 growth market for foil, as countries urbanize and people use
11 aluminum foil and in light of different applications, and
12 new applications, tremendous growth in China and around the
13 world. The Chinese capacity was built to service China and
14 China exports to, you know, hundreds of countries around the
15 world that a lot of developing countries where there's going
16 to be tremendous growth.

17 COMMISSIONER BROADBENT: Right, Mr. Marshak, I
18 guess China's the largest global exporter. How much of
19 China's global exports grown over the period of
20 investigation?

21 MR. MARSHAK: We -- I believe we have that data
22 in our brief. I just don't have on the top of my head.
23 We'll definitely put it in our post-hearing brief also.

24 COMMISSIONER BROADBENT: Okay, thank you.

25 CHAIRMAN SCHMIDTLEIN: All right, so I'd like to

1 understand one of the graphs in the presentation, it's at
2 page 48, this was the one with the big purple circle and the
3 yellow sliver of it. Can you tell me what the purple -- is
4 this U.S. shipments of all other foil, but not based on the
5 pricing data?

6 MR. DOUGAN: No, this is based on -- and hang
7 on. I believe -- okay, so the -- this is based on correct.
8 So this is the total -- so the circle represents all of U.S.
9 shipments of all different thicknesses. And --

10 CHAIRMAN SCHMIDTLEIN: Based on shipment data
11 and --

12 MR. DOUGAN: Based on shipment data.

13 CHAIRMAN SCHMIDTLEIN: -- 3A?

14 MR. DOUGAN: That is correct.

15 CHAIRMAN SCHMIDTLEIN: Okay.

16 MR. DOUGAN: And so the ultra thin and thin is
17 the small sliver of the shipment data. It's a relatively
18 small percentage of total U.S. shipments and so when --

19 CHAIRMAN SCHMIDTLEIN: So this is the U.S., not
20 -- and then you're just showing the type of U.S. shipments
21 where subject imports undersold them?

22 MR. DOUGAN: That is correct.

23 CHAIRMAN SCHMIDTLEIN: Okay.

24 MR. DOUGAN: That's correct.

25 CHAIRMAN SCHMIDTLEIN: So this is not meant to

1 represent the proportion of subject imports? It's just the
2 type. You're picking that back as the --

3 MR. DOUGAN: That's right. So if the --

4 CHAIRMAN SCHMIDTLEIN: Okay.

5 MR. DOUGAN: -- and the intent there, and you
6 probably understand this already, but the intent there was
7 to say, okay, from an instances perspective, it's a mix of
8 under and overselling. From volume, most of the volume in
9 the pricing data is underselling. And we're not arguing
10 that, but that volume as much as it may seem within that
11 universe of pricing data, is -- I mean, almost entirely
12 concentrated in products that the U.S. industry produces
13 very little of.

14 CHAIRMAN SCHMIDTLEIN: Okay. And it's just so I
15 understand the argument, and when you look at Table 3A,
16 which is the source for part of that chart, it shows you the
17 U.S. shipments in thin and ultra thin where the underselling
18 is according to the pricing data, most of the underselling.
19 There is other -- a little bit other underselling in other
20 sizes, but -- and in both of those gauges, U.S. shipments
21 dropped quite a bit over the POI, right? So they started
22 with producing much more relatively speaking than what they
23 ended up with.

24 And so is it the respondent's argument, though,
25 that all of those, that entire decrease in thin and ultra

1 thin is all due to quality?

2 MR. DOUGAN: Well, I think yeah, I mean, the --
3 I have to be careful about the answer is yes and the
4 specific reasons behind that yes, I think, I have to be
5 careful about talking about in public because it involves
6 the management decisions of particular companies and their
7 ability to manufacture this product at any kind of quality
8 or efficiency.

9 And I just really -- so there was -- there were
10 exits from this segment of the market that weren't related
11 to being undersold, but rather management decisions having
12 to do with other factors.

13 CHAIRMAN SCHMIDTLEIN: Yes, okay. And I guess
14 if you've already expanded on that in your briefs, you can
15 either point to that in the post-hearing, or if you want to
16 further --

17 MR. DOUGAN: Yeah, I will address the --

18 CHAIRMAN SCHMIDTLEIN: -- elaborate on that in
19 the --

20 MR. DOUGAN: Sure, I want to be very careful
21 about what I say here. So the answer is yes, but we'll
22 handle it more in confidential --

23 CHAIRMAN SCHMIDTLEIN: Okay.

24 MR. DOUGAN: -- parties.

25 CHAIRMAN SCHMIDTLEIN: Okay, and so -- and then

1 you anticipated obviously one of the questions, which is you
2 know why a product that is supposedly inferior is being sold
3 at a higher price, right? Typically in a market that's
4 functioning according to normal market dynamics, you would
5 see the higher quality product, especially one that's
6 reclaiming as being pulled into the market, because the U.S.
7 can't supply it, would command a higher price that you
8 wouldn't see consistent underselling, right?

9 And so your all's response to that is basically,
10 well, they make it cheaper and there's this Midwest premium,
11 which of course ignores market dynamics, although you then
12 address market dynamics. You acknowledge that market
13 dynamics do play a role in this, but that it's only with
14 regard to competition among the Chinese producers that's
15 keeping prices below U.S. prices, right?

16 So are we supposed to -- we're just supposed to
17 ignore in terms of how these products are being priced the
18 quality issues, that all of these sales are being lost to
19 quality, even though the U.S. is still making sales of, you
20 know, in the millions of pounds over the three years at
21 higher prices?

22 MR. DOUGAN: I'll start and I think Jeff will
23 want to continue. I mean, I think the -- part of the reason
24 is, and the purchasers can perhaps to this to the degree
25 that they're willing to do so in public, not all of what is

1 -- clearly someone is still buying the domestic merchandise,
2 right?

3 COMMISSIONER BROADBENT: Right, right.

4 MR. DOUGAN: And they're buying it at a higher
5 price when other options are available. Some of that may
6 have to do with they have a contract, they have an existing
7 supply relationship. They are qualified to make a
8 particular thing that they haven't yet qualified an
9 alternative supplier for. So there is a reason for them to
10 continue purchasing even at a higher price.

11 But there's also situations in which if it's not
12 available, and it is -- sometimes it has to do with quality.
13 Sometimes it has to do with availability. You heard Mr.
14 Squatrito say that, look, I need to run my mill at this
15 certain width. And the U.S. producers don't make that. And
16 so even if the prices were the same, I wouldn't be buying
17 from them. Even if the U.S. price was lower, I wouldn't be
18 buying from them because I can't get it.

19 And I think what's helpful and maybe what some
20 of the comparisons in the pricing data glaze over is that
21 some of those differentiations are masked.

22 For example, if you look at the pricing product
23 definitions, product 1 and 2 which are really where all the
24 underselling is, the widths range -- so it's not just
25 thickness that's important, right? It's the width range.

1 And the width range here is from between 30 and 70 inches.

2 Now for some of the purchasers, there's a big
3 difference between being able to buy a foil at 70 inches and
4 being able to buy it at 30 inches. But what's being
5 reported here kind of all falls into the same category, but
6 you know, maybe there isn't really competition between the
7 products if you need a 70 and you can only get a 45 or a 50
8 or whatever. I don't know what the right numbers, but if
9 you can't get what you need, are you comparing the prices
10 here of two different products that may not actually
11 compete?

12 And so the idea if you can get a higher quality
13 product at the width that you need it, and it happens to be
14 sold at a lower price per pound, that's going to look like
15 underselling when the domestic equivalent as reported in
16 this pricing product is of a narrower width.

17 And you're not actually making that purchase --

18 CHAIRMAN SCHMIDTLEIN: I guess you're trying to
19 say that the product descriptions are so broad that there's
20 a price differential within the product description of this
21 -- of these particular products?

22 MR. DOUGAN: I'm saying there could be. That
23 could be part of what's going on.

24 CHAIRMAN SCHMIDTLEIN: Okay.

25 MR. DOUGAN: In addition to the other factors we

1 discussed, but it's a representation of why a higher quality
2 product might be priced lower when you compare them. I
3 mean, is -- there is no price comparison at the wide width
4 ultra thin between domestic and import, because there's no
5 domestic ultra thin at the wide width. So you don't have
6 that price comparison. But what you have in those data are
7 the imports of the wide width ultra thin versus the domestic
8 narrower width ultra thin. And that's being perceived as
9 underselling, when it's not.

10 MR. GRIMSON: I just want to add one simple
11 point. The domestic product is higher priced than the
12 Chinese yet it's still selling -- why? Why is it still
13 selling -- because they have to buy it. They do not have
14 anywhere else to turn for this and I think you're hearing
15 that from one after another person here. They will take --

16 CHAIRMAN SCHMIDTLEIN: But they have to buy
17 domestic?

18 MR. GRIMSON: They have to buy domestic and the
19 price is higher.

20 CHAIRMAN SCHMITLEIN: And why is that? Why do
21 they have to buy domestic?

22 MR. GRIMSON: Well, Rollprint for example has
23 only qualified certain alloys and domestic sources to serve
24 medical device production and to change suppliers it's going
25 to take two years.

1 That was one reason why. Another reason why is
2 that there might just not be sufficient quantity in other
3 countries in the world which is what Bemis talked about here
4 today to meet the needs of the alloy that they want.

5 So I guess I'll just take a much more simple
6 answer to Mr. Dougan's detailed one -- the reason why you
7 buy lower quality for a higher price is because you have to.

8 MR. MICHALKIEWICZ: Gary Michalkiewicz with
9 Bemis.

10 CHAIRMAN SCHMIDTLEIN: Okay.

11 MR. MICHALKIEWICZ: I think I can simplify this a
12 little bit more for you.

13 CHAIRMAN SCHMIDTLEIN: Okay.

14 MR. MICHALKIEWICZ: We do buy domestic product
15 and we buy domestic products -- one of the reasons why is it
16 has a shorter lead time. We have smaller requirements that
17 where we're not buying full containers, they're not
18 repetitive needs where we can stand the longer lead times so
19 there are -- there's a fairly significant amount of our
20 volume that we've sourced domestically, you know, and I
21 don't know that we're always paying a higher price for it
22 either, but -- that we source domestically so that we can
23 service our customers.

24 So are we going to pay a little bit more for
25 that? Yes we would be willing to pay for that because, you

1 know, because we get the service. We also make a conscious
2 decision that domestic volume is very important to Bemis so
3 we make a conscious decision to support the domestic
4 business and we're not subsidizing it by any means or
5 anything, but we make a conscious decision to continue to
6 source from them to make sure that they are, you know, able
7 to continue to supply us.

8 We also run a lot of that smaller business that
9 we buy from them -- smaller run business is run on equipment
10 that runs slower, it doesn't require -- it doesn't quite
11 have the requirements that the wider web and other products
12 that we buy in ultra-thin may have so we may have -- we just
13 may have less quality issues with that because we can run it
14 on different equipment that isn't as demanding.

15 MR. FRENCH: Tim French from ProAmpac. We also
16 source domestically and have for a long time. We buy from
17 J.W. We have every intention of continuing to source what
18 we're buying from J.W. domestically and there are a couple
19 of reasons.

20 One -- lead times as were mentioned,
21 qualification is another to. But we're also buying products
22 that fit their capabilities. We're buying the heavier gauge
23 products for us, not the ultra-thin that's being referred to
24 here.

25 So we're buying products that GW likes to run and

1 so it fits our market and that's why we have every intention
2 to continue to buy those products from domestic supply.

3 MR. NELSON: I'm sorry --

4 CHAIRMAN SCHMIDTLEIN: Go ahead, Mr. Nelson.

5 MR. NELSON: Yes, thank you, Brian Nelson with
6 Sunoco. Very similar to what some of the other conversation
7 has been but in my opening testimony I did state that you
8 know, Sunoco does value supplier -- diversity in our supply
9 base.

10 And so it wasn't until probably five years ago
11 when we started buying off-shore. We bought 100% of our
12 material was coming from domestic suppliers. And as some
13 domestic suppliers disappeared, we continued to work with JW
14 Aluminum and plan to continue to work with JW Aluminum just
15 because we do value having that diverse supply base and
16 there are certain specifications that JW can supply to us
17 and we're willing to work through some of the issues that we
18 have to just because of the value of having that domestic
19 supplier for the reasons that Gary just spoke about.

20 CHAIRMAN SCHMIDTLEIN: Okay, already, thank you
21 my time is up. Vice Chairman Johanson?

22 VICE CHAIRMAN JOHANSON: Thank you Chairman
23 Schmidtlein. When we read that the Chinese industry has
24 newer and better production equipment such as on -- such as
25 discussed at pages 26 to 28 of the Flexible Packaging

1 Association's brief -- is it relative to our analysis that
2 Commerce may have found countervailable subsidies?

3 Would it be fair to hold it against the domestic
4 industry that they did not have access to the same subsidies
5 to purchase the latest equipment that advantages the Chinese
6 industry in this respect?

7 MR. GRIMSON: I'll take the first crack at that
8 and I'll be happy to provide more in the post-hearing but I
9 would invite the Commission to look at the actual subsidy
10 programs that Commerce found here and you will not find a
11 single one of them that confer to benefit on building an
12 aluminum factory.

13 You're going to find Commerce making an adverse
14 inference on certain things that have nothing to do with
15 importing machinery, that have nothing to do with their
16 plant. No grants, this is not a situation like paper or
17 lumber where you have cash infusions happening so I would
18 just say to be cautious of assuming that the aluminum
19 industry is propped up by massive government grants in
20 China because so far at least Commerce just hasn't found it.

21 VICE CHAIRMAN JOHANSON: Thank you Mr. Grimson.
22 And following up to that question, do any of the witnesses
23 have any insight on whether products within this sector are
24 among the strategic industries that the China government has
25 sought to nurture?

1 MR. MARSHAK: This is Ned Marshak, we'll address
2 that in our post-hearing brief.

3 VICE CHAIRMAN JOHANSON: Okay, thank you Mr.
4 Marshak, I look forward to reading that. Now I'd like to
5 get back to the issue of the Midwest premium -- this is a
6 topic which I discussed this morning with the Petitioner
7 witnesses.

8 How should the Commission look at the factor of
9 the Midwest premium in its decision?

10 MR. GRIMSON: Yeah, I'll lead off and I think
11 that there's a lot of people that will want to talk about
12 this. This is an artificiality imposed on the U.S. market
13 and not on the rest of the world.

14 These -- this pricing data that was referred to
15 this morning gathered by Platz -- I mean it's not right to
16 think about that like random links in lumber unless you
17 imagine Goldman Sachs and J.P. Morgan buying up half the
18 lumber supply at any one moment and holding it in warehouses
19 and cartooning it around the city to generate shipments that
20 feed into that data.

21 So weird things happen in the Midwest premium
22 that don't happen in other regional indices so with that
23 I'll invite our witnesses to talk about why that matters to
24 them.

25 MR. MICHALKIEWICZ: Gary Michalkiewicz with Bemis

1 Company. I can just maybe comment a little bit more about
2 what drives the premium and I think that's important to
3 understand.

4 It was described as a means of covering the costs
5 of transportation and storage and I think that was the
6 original purpose of the premium. Well what's happened with
7 the premium is it is now being driven almost strictly by
8 speculation. There's probably a base amount of that that
9 still is in there to cover the cost of care and storage.

10 But it relatively is now a profit center for
11 investors. They go out and buy metal, they hold the metal
12 -- and in fact, if you look at the LME, most of the
13 purchases from the LME are not by consumers but by
14 speculators.

15 Speculators buy the metal, they hold it and they
16 can hold it for as long as they want with the low interest
17 rates that have been around in the U.S. for the last number
18 of years. Storage is very cheap, you can actually -- ingot
19 is stored, you can store it outside in a field it doesn't
20 need to be in a building or anything so it's very cheap to
21 store so they can hang on to it for long periods of time.
22 They drive the premium. They basically make offers to
23 people and say well I'll sell you this aluminum if you're
24 going to pay me, LME plus this price and that's what drives
25 the premium.

1 So the premiums -- right now the premium is
2 almost 13 cents so it's a significant number. So that's
3 what really drives this premium. It isn't really production
4 costs. And to compare as was made this morning, the
5 comparison to compare freight costs from China to here is a
6 premium. There are freight costs here and that would mean I
7 guess that the U.S. suppliers have two premiums.

8 They have the Midwest premium and their own
9 freight costs would be another premium so I don't think that
10 was a fair analogy either.

11 MR. CASEY: Just expanding a little bit more on
12 what Gary was talking about. This is Steve Casey from
13 Bemis. If you look back at the premium and what's happened
14 over the last three years it's been as low as 7 cents and as
15 high as 24 cents.

16 It hit 24 cents in 2015 and the spike in the
17 premium that high -- Gary referred to speculators being able
18 to hold metal -- there was actually metal being held by
19 investors and at the time there were rules around how long
20 the metal could be held in the LME warehouses.

21 They would actually take it out of a warehouse,
22 drive it around the block and return it. So they were
23 holding the metal to drive the price up and that's what
24 drove the premium to such high levels.

25 MR. DOUGAN: This is Jim Dougan. I think there's

1 a couple of ways that it can inform the Commission's
2 analysis. One is the fact that because as the last few
3 speakers have said, the premium is not driven by the supply
4 and demand dynamics of the people who actually use aluminum
5 to make things, therefore there's a volatility associated
6 with it that adds that element of uncertainty for
7 purchasers.

8 Now we understand it's a pass-through for the
9 producers but for purchasers there's an element of
10 volatility to it, whether it's high or low or whatever that
11 is absent from aluminum source elsewhere.

12 The other is, you know, part of the question is
13 well why is -- it's a contributor, one factor, in how can a
14 product that is higher quality sell at a lower price if it's
15 sourced from outside the U.S.? And that is one of the
16 factors that contribute to a differential with aluminum
17 sourced from elsewhere.

18 But those are two of the reasons that, you know,
19 we're not -- Petitioners set up sort of a straw man this
20 morning as if we were trying to use this as an alternative
21 cause of injury and this explains why the domestic producers
22 are you know, maybe not doing well.

23 We're not arguing that. We're not arguing that
24 but we are saying it's a condition of competition but is
25 unique to domestically sourced aluminum that would explain

1 at least some of the things that you're seeing on the
2 record.

3 MS. WALTERS: This is Donna Walters from Trinidad
4 Benham. They're talking about when they say the survey
5 that's done really for spot purchases. But in the past year
6 there has been set up a futures exchange for trading this
7 Midwest Premium so back to Gary's point -- there's just
8 more and more speculative money in this market.

9 I mean if there was a future's exchange there's a
10 trader out there willing to trade it.

11 VICE CHAIRMAN JOHANSON: There's a future's
12 exchange for everything now it seems.

13 MS. WALTERS: Um-hmm.

14 MR. CASEY: And this is Steve Casey from Bemis.
15 The volatility is really a concern for us and in volatility
16 in really any of our materials as you look at how we pass
17 through to our customers -- there's a leg in our ability to
18 pass through price changes to our customers.

19 So the more volatility there is -- whether it's
20 in the LME itself, in the Midwest premium, or in other
21 materials we buy that creates a significant drain on our
22 company so we'd prefer it to buying things that are more
23 stable and avoid the volatility if we can.

24 VICE CHAIRMAN JOHANSON: Mr. Dougan, getting back
25 to your comments. Would you state that the Midwest premium

1 leads to underselling? I mean it's a factor -- is it a
2 factor or not?

3 MS. FOX: Jeff do you want me to -- okay, I think
4 it you -- Miss Walters alluded to this how metal is priced.
5 When she buys a jumbo roll whether she buys it from Russia
6 or China or a U.S. producer, her price that she pays and
7 that she has negotiated in the contract is for China, for
8 example, is LME plus a fabrication fee.

9 If she buys it from a U.S. producer it's LME plus
10 Midwest premium plus a fabrication fee. The fabrication fee
11 is kind of what she negotiates and the rest can fluctuate on
12 a daily basis throughout the year and so she's got some risk
13 if that Midwest premium gets volatile or gets kind of crazy
14 throughout the year that can affect how her pricing goes.

15 But also if there's a high Midwest premium like
16 when it was in 2015 when it was very high, that's going to
17 drive a wedge between -- even if the fabrication price and
18 the LME price is the same it's going to drive a wedge
19 between exactly the same product whether it's sourced from
20 China or from the U.S. or from Russia for that matter, it's
21 going to drive the same wedge with regard to Russia or
22 Brazil or Armenia.

23 MR. DOUGAN: Commissioner if I can just answer
24 the question. I'm glad that we got that answer first but to
25 the degree -- does it cause underselling? Does it cause a

1 purchase decision? Does it cause someone to buy from
2 somewhere else because there's a lower price available?
3 That's not really the question that we're attempting to
4 answer although the volatility does, I'm sure, contribute to
5 purchase decisions as you've heard from Mr. Casey.

6 But if the answer is -- if the question is will
7 you say the China stuff is of higher quality so why does it
8 cost less than the domestic stuff this is at least part of
9 the reason for that.

10 VICE CHAIRMAN JOHANSON: Okay, thanks for your
11 responses my time is about to expire.

12 COMMISSIONER WILLIAMSON: Good, thank you just
13 two other questions. This is for the Chinese Respondents.
14 You argued that any analysis should be by market segment,
15 but the Commission must consider the industry as a whole.

16 How could we reconcile any differences across
17 segments if these are not considered as separate like
18 products or separate industries?

19 MR. MOSHAK: This is Ned Marshak and I assume the
20 other attorneys are going to want to have their two cents in
21 this also. It's just the normal Commission analysis the
22 first thing you do is there a separate like product?
23 Assuming there's no separate like product then you're going
24 to look at the industry as a whole.

25 But when you look at the industry as a whole one

1 of the factors you always look for, you know, is there
2 attenuation of competition within that industry? And here,
3 assuming there aren't separate like products, when you look
4 at the industry you're going to look at just distinctly
5 different segments within the industry -- different supply
6 and demand conditions between the ultra-thin if fin stock
7 is part of the industry between the fin stock, the
8 standard, with the household foil is totally different.

9 You can't just lump in everything together
10 because you lose what's really going on and I'll let others
11 go.

12 COMMISSIONER WILLIAMSON: But if you have
13 domestic product in all of those different segments then the
14 question about attenuation becomes not so clear. I mean
15 there is competition in all of the different segments. Can
16 you make that attenuation argument?

17 MR. MARSHAK: We believe we can and the
18 competition is just totally different. When you look at,
19 you know, the degree of competition in the ultra-thin
20 compared to what's going on in the heavy, it's just night
21 and day.

22 And the standard, you know, is totally, totally a
23 different animal from the other two. In this industry
24 they're so distinct within the segments. If you lumped
25 everything together you lose what's going on in the industry

1 -- you lose the whole analysis.

2 COMMISSIONER WILLIAMSON: There was an argument
3 that maybe there was more competition at the beginning of
4 the period than the end in those different segments.

5 MR. DOUGAN: Commissioner Williams, if we can
6 talk for one minute.

7 COMMISSIONER WILLIAMSON: Sure.

8 MR. DOUGAN: A perfect example is the standard
9 segment right or the standard thickness because -- and, if
10 this is even, well this goes to attenuation, it also goes to
11 causation. Why are we here -- because there was an increase
12 in imports right?

13 Well where did most of that increase in imports
14 come from? At least the majority if not a vast majority of
15 it -- where did it come from? It came in standard
16 thicknesses. Why? Who's responsible for it? Why did they
17 purchase it?

18 Well you've heard that from witnesses and it
19 wasn't coming at the expense of domestic producers. But the
20 mere presence of domestic volume in that thickness as you
21 saw in one of my charts, doesn't mean that there's
22 necessarily competition, especially when that domestic
23 volume isn't available to the merchant market.

24 So there can be domestic volume and import volume
25 in the same thickness and there can still be attenuated

1 competition. It doesn't mean there's direct competition if
2 that domestic volume is not available to the merchant
3 market. So that's just one example, but it's actually a
4 very important example because it's what drove all of the
5 increase in imports you're seeing.

6 COMMISSIONER WILLIAMSON: Well not all of it and
7 there is still the other segments.

8 MR. DOUGAN: The majority of the increase in
9 imports.

10 COMMISSIONER WILLIAMSON: Yes, I understand yes.
11 Okay, anything else on that, sure?

12 MS. FOX: I think I'll just -- I don't want to
13 belabor this because I think that Jim just gave a great
14 answer but I think you still need to examine each of the
15 segments to look at the conditions of competition to those
16 segments individually and if you -- you can't just lump them
17 all, that's what we mean by attenuation.

18 We're not asking you to make a separate like
19 product -- well, I'm not asking for a separate like product
20 or if you decide not to do that you still need to look at
21 the different factors of competition ever happening in those
22 different segments.

23 And if you look at each segment individually and
24 find what's happening here is the causation in the standard
25 segment is nothing to do with imports -- okay if there's

1 even injury.

2 Then you have to look at the other one and say
3 what's the causation there and you need to bring all that
4 together. You can't just say there's an extra supply on
5 hand and therefore there's injury.

6 COMMISSIONER WILLIAMSON: Fair enough.

7 MS. FOX: We're finding that.

8 COMMISSIONER WILLIAMSON: Okay. Anything else on
9 that -- otherwise just the last question is there evidence
10 of price suppression in the interim 2017 period? I just
11 want to ask the Chinese?

12 MR. DOUGAN: Yeah, well for one I think what I
13 can say publicly is that prices went up and they went up
14 along with what I understand the raw materials and premiums
15 were so that was -- were imports preventing price increases
16 that otherwise would have occurred to a significant degree
17 -- it doesn't seem so.

18 And the -- and I want to be careful because it's
19 confidential but the cost to sales ratio doesn't seem
20 dramatically different than it was in 2016 so I would argue
21 no and I'll just stop there before I get into anything
22 confidential.

23 COMMISSIONER WILLIAMSON: Okay if you want to add
24 anything post-hearing that's fine too.

25 MR. DOUGAN: I'd be happy to.

1 COMMISSIONER WILLIAMSON: Good, I'd like to thank
2 everyone for their answers.

3 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent?

4 COMMISSIONER BROADBENT: Yes, okay for users of
5 heavy and extra heavy gauge foil -- I think we are seeing a
6 lot of competition between subject imports and the heavy and
7 the extra heavy gauge aluminum foil competing directly with
8 the domestic production, can you disagree with me on that?

9 MS. FOX: I think that there's a lot of different
10 products within that range.

11 COMMISSIONER BROADBENT: Right.

12 MS. FOX: Without providing too many details that
13 I'll let Donna speak to it but I think within the extra
14 heavy -- the Trinidad purchases, there are constraints where
15 the U.S. supplier that they're buying from can't provide
16 certain products that they need and it's not because of
17 price it's because of other decisions that that U.S.
18 supplier made not to provide the product that Trinidad need
19 which is part of the reasons why they shipped it to imports
20 for some of that extra -- or extra heavy, extra heavy gauge
21 foil.

22 MR. DOUGAN: And if I can -- sorry to interrupt
23 if I can just add to that too. Again, to be careful in
24 public, but look at the underselling data with regard to the
25 thicker products and you know, there may be competition but

1 there certainly doesn't seem to be injury by reason of.

2 CHAIRMAN BROADBENT: Okay Miss Walters, what
3 gauge of aluminum foil do you use for container stock? Is
4 this a different gauge from what we have defined in our
5 questionnaire as standard gauge foil which is 10 to 25
6 micron?

7 MS. WALTERS: Yes, from my memory. Household
8 foil is really -- we buy from triple 039 up to double 01
9 which was the same maximum that I heard Reynolds talk about
10 this morning.

11 And our minimum on container stock would be
12 double 024, maybe double 022 -- it depends up to double 06,
13 so that's our range for container stock.

14 COMMISSIONER BROADBENT: Okay as a factual matter
15 have your subject imports from China enabled Trinidad to
16 price your downstream products lower than Reynold's prices
17 for those products?

18 MS. WALTERS: In general the biggest impact on
19 our price would be the LME market which has risen
20 considerably so I can't say that -- again we've gone to
21 China and to other regions, other non-subject imports
22 because the product wasn't available here in the U.S.

23 So we still buy 70-75% of our product from the
24 United States for container stock.

25 MR. DOUGAN: If I can -- I can't speak to their

1 price competition but I think one of the things to note is
2 that when it comes to what's being sold in that market --
3 remember again that they are producing private label for you
4 know, other vendors as opposed to someone whose brand name
5 is one of the strongest brand names in the country if not
6 the world.

7 So in terms of a pricing differential, you might
8 almost naturally expect there to be one given the investment
9 made in that brand and how it's a household name. And the
10 other thing is take a look at the operations on small reels
11 and see if that seems like there's, you know, injury or
12 intense competition in that segment.

13 COMMISSIONER BROADBENT: Okay thank you, I have
14 no further questions. I appreciate the panel coming today.

15 CHAIRMAN SCHMIDTLEIN: Alright I have no further
16 questions at this time, Vice Chairman Johanson?

17 VICE CHAIRMAN JOHANSON: Thanks Chairman
18 Schmidtlein. Getting back to the whole Midwest premium
19 issue I have just one more question for you and this is
20 something that was alluded to by the Petitioners this
21 morning.

22 Are there any regional premiums for primary
23 aluminum in China that are similar to the Midwest premium in
24 the United States and if so would this premium be included
25 in the price of aluminum foil from China that is in the U.S.

1 market?

2 MR. GARCIA: Rogelio Garcia, Valeo. There are
3 premiums in China, we're not being asked to pay for them.
4 We price the metal strictly based on the LME, the London
5 Metal Exchange.

6 VICE CHAIRMAN JOHANSON: Thank you Mr. Garcia.

7 MS. FOX: We might be able to try to provide --
8 like we'll go look at our contracts and maybe provide more
9 in the post-hearing with regard -- I'm sorry this is Lynn
10 Fischer Fox with Arnold and Porter.

11 We can have Trinidad look at its contracts and I
12 don't think there's a premium but we can confirm that for
13 you.

14 MS. WALTERS: I'm sorry this is Donna Walters
15 again. Most of our purchasers are as the fin stock guy
16 said, just LME based, so yeah there is no premium on top of
17 the LME other than the application fee.

18 VICE CHAIRMAN JOHANSON: Okay thank you.

19 MR. MICHALKIEWICZ: This is Gary Michalkiewicz of
20 the Bemis Company. If you recall the testimony this morning
21 talked about other regional premiums that were out there --
22 there's a European premium, there's a Japanese premium,
23 there's a -- I think there might be an east Asian premium,
24 there's a Brazilian premium and they spoke about the Chinese
25 premium as their cost to ship material from China to the

1 U.S.

2 So at this point I'm not aware of any Chinese
3 premium and like the others have said, what we pay for
4 aluminum from China, the aluminum portion is LME.

5 VICE CHAIRMAN JOHANSON: Okay thanks for your
6 responses.

7 MR. XU: And this is Raymond Xu with Dingsheng
8 Aluminum. We sell for all the exports they are based upon
9 the LME. There's no premium in China but for China domestic
10 matter there is a Shanghai Index which people buy the metal
11 from the warehouse in China and then they sell it
12 domestically. It's a metal price but it's not a premium.

13 VICE CHAIRMAN JOHANSON: Okay thank you for your
14 responses on that and that ends my questions on the premiums
15 which I find a little confusing obviously.

16 MS. FOX: We'll just give you the Midwest in the
17 fact finding.

18 VICE CHAIRMAN JOHANSON: No, I'll do without that
19 but this is very helpful, I appreciate it and I look forward
20 to reading any more that you all have to contribute on this
21 matter.

22 And I have just one final question -- it's kind
23 of more of a 30,000 foot question. But how has the rising
24 use of aluminum in the automotive sector affected the
25 aluminum foil market either directly or indirectly?

1 This comes in part because I visited the Ford
2 F-150 plant in Detroit about two years ago and I know
3 they're now using a lot of aluminum in auto body
4 manufacturing. I'm just wondering if this impacts you all
5 in anyway?

6 MR. GARCIA: This is Rogelio Garcia from Valeo.
7 We are in the automotive industry and I can attest that we
8 feel that impact. The availability of capacity becomes a
9 more and more important factor.

10 Roll aluminum is a global commodity and you see
11 that even -- we're going to have to look for new and newer
12 markets to secure that capacity. And we are within that
13 industry and we have seen the availability of such capacity
14 is limited for our kind of products because it's dedicated
15 to the newer, thicker gauge body panel as they call it.

16 VICE CHAIRMAN JOHANSON: Thank you Mr. Garcia.

17 MR. CASEY: This is Steve Casey from Bemis. In
18 terms of availability of converter foil that we would buy we
19 don't see any impact on the availability of the foil because
20 they are distinctly different operations that supply our
21 industry versus that industry.

22 You know, it could have an overall impact on the
23 price of aluminum if it drives up overall demand but that
24 would drive the LME price. But in terms of supply and
25 impact on the foil we buy there's really not an impact.

1 VICE CHAIRMAN JOHANSON: Okay thanks Mr. Casey.
2 Yes, Miss Walters?

3 MS. WALTERS: Yes this is Donna Walters from
4 Trinidad Benham again. We only have one U.S. manufacturer
5 of household foil that will sell to us and just recently
6 both in January and in February we've been put on allocation
7 because they would rather service other markets than
8 household foil.

9 In my testimony I said no one is talking about
10 we're going to make household foil and make a lot of money
11 on it -- that's just not a market that they're interested
12 in. They're going to go for higher value markets.

13 VICE CHAIRMAN JOHANSON: Okay, thanks. And Mr.
14 Garcia all those cans which won't be exported now to China
15 that might benefit you all right -- if China's reducing the
16 importation of scrap?

17 MR. GARCIA: Could you repeat the question
18 please?

19 VICE CHAIRMAN JOHANSON: Okay this is kind of an
20 ancillary question but from what I understand China is, is
21 prohibiting large imports of scrap into China such as cans
22 which we used to export to China. Now apparently there's
23 nothing people in the United States have excess scrap --
24 wouldn't that benefit you all?

25 MR. GARCIA: Well, from our perspective I think

1 in our supply base Novelis is the only one that uses
2 recycled can stock for making some of our products. The
3 rest of our supply base they use just prime aluminum.

4 VICE CHAIRMAN JOHANSON: Okay, okay that's it for
5 my questions. I appreciate you all being here today, thanks
6 for coming in.

7 CHAIRMAN SCHMIDTLEIN: Commissioner Williamson?
8 Oh, okay. That concludes the Commissioner's questions. Do
9 staff have any questions? Oh I'm sorry -- you have another
10 one.

11 COMMISSIONER BROADBENT: If anyone could point
12 out what we should be gleaning from this display of --

13 CHAIRMAN SCHMIDTLEIN: Oh does somebody want to
14 discuss the display or was that just for our snack
15 enjoyment?

16 MS. KEANE: I wouldn't snack on them, this is
17 Alison Keane from FPA. I think some of them might be
18 expired but the treats we gave you were not, I can assure
19 you. That really is just to show you the breadth of the
20 different types of products that are packaged and the
21 different types of package that use aluminum.

22 And in some cases if you look at for example the
23 pouch in the back you see a little bit of what you would
24 consider the aluminum on the outside -- that's probably 5 to
25 7 different layers and the aluminum is just one.

1 So there's a lot of technology and complex
2 engineering that goes into packaging and we wanted to show
3 that here. It's not a simple decision to make. They work
4 with the producers of the food products and the packagers
5 and they make sure that they can get a package that's going
6 to preserve the food or preserve the sterility of a medical
7 device or pharmaceutical.

8 And as we've attested here today it's not an easy
9 thing and it takes a lot of time when you want to substitute
10 something out because these are very, very detailed
11 decisions to make before that package is made in the food
12 processor or the medical device or pharmaceutical company
13 then puts their product in it and sells it to us.

14 CHAIRMAN SCHMIDTLEIN: Okay, thank you very much.

15 MS. KEANE: Thank you.

16 CHAIRMAN SCHMIDTLEIN: Okay, alright. I think
17 that concludes our questions at this point. Do staff have
18 any questions for this panel?

19 MS. HAINES: Elizabeth Haines, staff has no
20 questions.

21 CHAIRMAN SCHMIDTLEIN: Alright thank you. Do
22 Petitioners have any questions for this panel?

23 MR. ROSENTHAL: Yes we do.

24 CHAIRMAN SCHMIDTLEIN: Okay.

25 MR. ROSENTHAL: This first question is for one of

1 the representatives from Trinidad. Novelis recently offered
2 to restart its idled household foil rolling equipment at
3 Terre Haute, Indiana and offered you volumes from that
4 shipment -- from that facility.

5 But you turned them down because their price was
6 above your current importer's price, is that correct?

7 MS. WALTERS: This is Donna Walters from Trinidad
8 Benham. I will say that that idea was thrown out to us but
9 certainly I don't believe that was a firm offer at that
10 point in time.

11 I mean everybody is awaiting the outcome of this
12 case before they make any investment or expansion decisions.
13 So I wouldn't say it was a firm offer and I wouldn't say we
14 firmly denied it.

15 MR. ROSENTHAL: Would you consider a firm offer?

16 MS. WALTERS: Of course.

17 MR. ROSENTHAL: Thank you. The next question is
18 for the representative from Valeo who expressed concern over
19 losing full capacity to other more profitable products such
20 as auto body sheet. Isn't it true that Novelis has offered
21 reputedly to supply you and to this point you have not
22 accepted any offer from Novelis?

23 MR. GARCIA: Actually Novelis was our largest
24 supplier for all of our aluminum, whether it's thin-stock or
25 abrasion sheet. And I believe it was in the year 2015 they

1 told us they could not offer the capacity anymore because it
2 was dedicated for other segments of the automotive market.

3 That forced us to basically re-evaluate a lot of
4 our products and at that point although it was more intended
5 for the bracing sheet that was just tied up with it. So in
6 2016 -- at the end of 2016 we basically exited Novelis.

7 We did approach them after this investigation
8 started but I don't believe we got past the non-disclosure
9 agreement stage so that didn't go very far.

10 MR. ROSENTHAL: No further questions.

11 MS. WALTERS: Sorry this is Donna Walters from
12 Trinidad Benham. I wanted to add one other point that I
13 just thought of. We've already contractually committed for
14 all of our supply for 2018.

15 Again, most of us sign annual contracts for fab
16 prices and for fab volumes so again really I don't have any
17 additional purchases until I'd look forward into 2019 so I
18 couldn't act on anything right now anyway. And that's
19 sourced from non-subject imports now that we're out of
20 China.

21 CHAIRMAN SCHMIDTLEIN: Okay thank you very much.
22 I'd like to thank this panel for your time today and your
23 testimony and I will dismiss you at this time.

24 While we are transitioning to closing
25 statements, we're just going to take a five-minute break.

1 (Brief recess is taken.)

2 MS. BELLAMY: Will the room come to order, please.

3 CHAIRMAN SCHMIDTLEIN: Alright. Thank you. As we
4 prepare for closing statements, Petitioners have eight
5 minutes from direct, less one minute for questions, plus
6 five for closing, for a total of twelve.

7 Respondents have no time left from direct, plus
8 five for closing, for a total of five.

9 So we will begin with Petitioners' counsel.
10 Thank you.

11 MS. BELLAMY: Closing remarks on behalf of
12 Petitioners, Paul C. Rosenthal of Kelley, Drye & Warren.
13 Mr. Rosenthal, you have 12 minutes.

14 CLOSING STATEMENTS OF PAUL ROSENTHAL

15 MR. ROSENTHAL: Thank you. I want to start by
16 just trying to clarify some of the confusing issues that
17 were discussed earlier. And I will not talk about the
18 Midwest Premium, or even the Southwest Premium, which you
19 may be more familiar with, Commissioner Johanson.

20 First on the question of fin stock, I think of
21 the reasons why there is some confusion is that the trade
22 and financial data reported in the C Table deals with
23 certain fin stock, and those account for half of the total
24 fin stock that's produced by the domestic industry.

25 So if you go back to your prehearing report at

1 Table 3-9, page 3-15, you'll see that these data show that
2 the certain fin stock is merely a subset of all the fin
3 stock produced in the U.S. So the C Table is confusing in
4 that respect because it doesn't cover everything.

5 As we describe in our prehearing brief, certain
6 fin stock varies only by a matter of degree from other fin
7 stock, and it's part of a continuum. All the data collected
8 by the Commission are for fin stock within one percent or
9 more of manganese, and this distinction really provides no
10 clear dividing line within the fin stock category or within
11 the overall fall category.

12 And one more bit of clarification. The
13 Respondents rely on the analysis by product thicknesses, but
14 they fail to acknowledge that the data in the report only
15 account for roughly half of the total imports of foil from
16 China. That's very important.

17 Some of the major importers who reported in the
18 preliminary stage of this proceeding did not report in this
19 final phase. So please take a look at page 4-10 of the
20 staff report.

21 Commissioner Johanson asked a very telling
22 question, which is: Is there any other reason why the
23 industry would cease producing the product other than the
24 imports? And the Respondents really had no good reason.
25 And in fact if you go back to the Respondents' brief--and we

1 talked about this, Ms. Landa did--if you act like a
2 reasonable investor, a reasonable producer, you're going to
3 put your money where you can make a profit. And you're
4 going to get out of those lines of business where you can't
5 make a profit.

6 Well that is exactly what has happened here. The
7 industry has shrunk. You saw that map. They have shrunk.
8 They have gotten out of the product lines that have been
9 most under attack by the Chinese, and have invested in
10 things like automobile products where they can make a
11 greater profit.

12 And by the way, contrary to what was said by
13 Respondents, Novelis didn't stop producing their household
14 foil many, many years ago. They got out of that business in
15 2014. And as you heard from my question, they are ready to
16 get back in the business if they will have a willing
17 customer willing to pay a reasonable price.

18 And contrary again to what was said about lack of
19 investment in this industry, or 40 or 50-year-old equipment?
20 That's not true. In many instances, the industry has
21 invested much more recently. The Terre Haute facility we
22 just talked about earlier that produced household foil and
23 lighter gauge specifications, that was completed in 2002.
24 And the reason why they got out of that business was
25 because of the inability to earn a reasonable rate of return

1 on that investment.

2 And by the way, all this discussion about JW and
3 failure to invest in their St. Louis facility, JW has put
4 into their investment--their facilities just in the last six
5 years almost \$40 million in its foil plants. That's not
6 "lack of investment."

7 You heard the witnesses say that they would have
8 liked to have invested more, and they're prepared to invest
9 more, but it's not like they haven't invested at all and
10 tried to stay modern, et cetera.

11 And by the way, they are producing and selling
12 very competitive, very high-quality product with very, very
13 low reject rates, which we'll talk about some more in a
14 minute. There's some confusion, or I'd say misstatements
15 about the announcement concerning Granges and their
16 announced investment. They are not investing in other
17 things other than foil. In fact, their Tennessee operation
18 will meet the, quote, "growing demand for light-gauge foil,
19 automotive heat exchange" for materials, et cetera, et
20 cetera, exactly the kinds of products we're talking about
21 today.

22 In fact, the light-gauge foil is the first
23 investment or product that they mention. All this talk
24 about quality and availability reminds me of the movie
25 "Annie Hall" and the line that Woody Allen ascribed to these

1 two women having dinner at a Catskill Mountains Resort. And
2 one of them says: You know, the food here is not very good.
3 And the other one says: Yeah, and the portions are so small

4 Well that's exactly how the Respondents approach
5 the availability and quality of the product that they're
6 talking about today. One the one hand they say we're buying
7 this product, and on the other hand they say well it's not
8 good quality. And by the way, we want some more.

9 If you take a look--and we will supply some more
10 information--there is so much that we can supply and have
11 supplied in the record on this quality question--you will
12 see that the reject rate and the other issues raised by the
13 Respondents are let's just say overstated.

14 Is the U.S. industry perfect? No. Neither is
15 the Chinese. And you will see time and again the reason for
16 the decision by purchasers not purchasing from the U.S.
17 producer has nothing to do with quality; it has to do with
18 price.

19 As I said, we will supply more in our posthearing
20 brief.

21 The Trinidad witnesses say that imports of Jumbos
22 from China don't injure Reynolds because there's no
23 competition for them, but that's not really true. As you
24 heard, Reynolds produces private-label products that compete
25 directly with the products manufactured by Trinidad. There

1 are some claims about JW is not willing--unwillingness to
2 produce thinner product. That's not true, either. They can
3 and do produce thinner product.

4 The question is: Can they produce that thinner
5 product at a price that matches the Chinese price? And time
6 and again they are told by their purchasers, or would-be
7 customers, that no, no, no, don't even bother because your
8 price is not going to meet the price we can get from the
9 Chinese. By the way, I noticed the testimony of Oracle
10 today. If nothing else, I view Oracle as the poster child
11 for the injury that's occurred to this industry. They were
12 once a domestic producer--at least their predecessor entity
13 was.

14 They ceased domestic production and they became,
15 as far as I can tell--and I can be subject to rebuttal on
16 this one--as far as I can tell they got out of the business
17 of producing in the United States, and they became total
18 importers.

19 Now you don't see their injury data in your
20 profitability analysis, but that loss of production, the
21 loss to production workers in this industry, is injury. But
22 you do not see that in the database. That is just one of
23 the subtitles of the survivor bias that we talked about
24 before.

25 Commissioner Williamson asked earlier about why

1 we rely in our emphasis on the history leading up to this
2 particular investigation. And we're not asking, as Mr.
3 Dugan suggested or pointed out, to expand the period of
4 investigation. That's not what we're doing here.

5 We're asking you to understand how the industry
6 began the Period of Investigation in a state of injury, and
7 how that has continued throughout the Period of
8 Investigation. We ask you to understand why there is less
9 supply of certain of the products and not as much as there
10 were at the beginning of the period even a few years ago.

11 There is a quote that I remember, and I had to
12 use at a funeral of a former staff member of my firm, and
13 the quote says: We all die in media rez, the Latin term for
14 in the middle of the story, of many stories. Well every
15 investigation really has a period of investigation, but it
16 is often in the middle of the story. And we wanted to tell
17 you the beginning of the story. We are hoping that as the
18 Commission makes an affirmative determination that this
19 won't be the end of the story of the foil industry in the
20 United States.

21 The question is--and you have heard a number of
22 people say this: Is this industry going to be around to
23 invest and have enough certainty to be able to make
24 long-term investments? Are you going to get customers who
25 are willing to say we will buy from you if you have this

1 product to offer.

2 That is really what is at stake in this case
3 right now. And if you don't believe there's current and
4 persistent injury, you must believe that there is the threat
5 of injury.

6 Ms. Brock made a statement earlier in her
7 statement that was unbelievable. It is really worth
8 dwelling on for a second. In the last seven years, the
9 Chinese aluminum industry has produced as much tons of
10 aluminum as the entire--in the entire history of the U.S.
11 industry over the last 124 years.

12 That is incredible. And not all of that is foil,
13 to be sure, but you saw the data about the excess capacity
14 in China. Despite claims to the contrary, the Chinese are
15 not reducing their capacity in foil; they're growing that
16 capacity in foil. And where is it going to go?

17 The U.S. has been the number one market. Europe
18 has been closed off. India is closed off. There is only
19 one place for it to go, and that is the United States.

20 So we urge you, based on this record, to make an
21 affirmative determination in this case. We think without
22 doubt that there is present material injury, and that has
23 been the case for a long, long time. But if you don't agree
24 with us on that, we urge you to make an affirmative
25 determination of threat.

1 Thank you.

2 CHAIRMAN SCHMIDTLEIN: Thank you.

3 MS. BELLAMY: Closing remarks on behalf of
4 Respondents, Jeffrey S. Grimson of Mowry & Grimson. You
5 have five minutes, Mr. Grimson.

6 CLOSING STATEMENT OF JEFFREY S. GRIMSON

7 MR. GRIMSON: Thank you very much, Commissioners
8 and staff, and Mr. Rosenthal, for so honorably presenting
9 your side of the case today.

10 From our panel you heard purchasers of aluminum
11 foil and the packaging industry, household foil industry,
12 and the domestic industry producing heavier components such
13 as fin stock. What you did not hear was a single purchaser
14 testifying for the Petitioners. And that is not entirely
15 unprecedented in trade cases, as Mr. Rosenthal pointed out.

16 But here you have something more going on in the
17 questionnaire data. You received a large volume of
18 purchaser data. You asked for those because it's important
19 because they are the ones who can tell you why they bought,
20 and from where.

21 You don't ask for them only for answers that
22 support the Petitioner's side of the case, which I think is
23 what Mr. Rosenthal would like. Those questionnaires fell
24 almost entirely in support of points that we made today, as
25 were shown in Mr. Dugan's charts earlier.

1 Those purchasers and our witnesses today
2 testified that markets generally divide into three segments:
3 the converter, household, and heavy gauge. And, that there
4 is little appreciable overlap across those segments; and
5 that there's unique market dynamics in each one, which is
6 why you should look at them separately rather than as a
7 whole.

8 The converter segment principally consumes
9 ultra-thin foil, and that domestic industry has not been
10 significant in that segment for long before the POI, decades
11 even. And as stated in our brief, ultra-thin foil and the
12 converter segment should be treated as a separate like
13 product for purposes of your analysis.

14 We showed in our brief how the domestic foil is
15 barely present in this segment, and declines in volume were
16 explained in confidential questionnaire responses. And we
17 would urge you to look particularly at one of those, which
18 we will point out posthearing. You heard today from the
19 witnesses that the quality of foil is real. Life and death
20 consequences. And again, I know Mr. Rosenthal would like
21 you not to listen to the purchasers, but I for one as a
22 recipient of a rebuilt left shoulder would ask you to
23 believe Mrs. Dodrill when she says that they need the foil
24 to make medical components that are safe and perform,
25 because they're made of modern technology.

1 The folks testified that ultra-thin is scarce to
2 begin with, and what is available is not in all the widths
3 that our folks want. If you set up your packaging facility
4 and invest in millions of dollars to roll 78-inch foil
5 through there with 78-inch packaging material on top of it,
6 and up to seven layers and you can't get bigger than 62-inch
7 foil, you're printing on air. That's a big waste.

8 Every purchase they make from JW costs them
9 inefficiency down the road. The prehearing report's
10 underselling that is apparent in the converter market is not
11 evidence that Chinese imports are causing injury.
12 Petitioners criticized us in their prehearing brief for
13 having no explanation for underselling, and I think we
14 covered it today fairly well in terms of the Midwest premium
15 and the efficiencies of having modern technology.

16 And by "modern," I think I'm speaking of the
17 color television age here for some of these factories.

18 Household segment has two principal players, both
19 of whom were here today. Reynolds argues that there's
20 injury downstream, but you shouldn't look at it because you
21 shouldn't be analyzing the 25-pound role or less segment.
22 And that's just wrong.

23 Trinidad Benham's witness testified their volume
24 change, which is very important, was on one of the slides we
25 highlighted was not due to subject imports. And industrial

1 foils and fin stock, that should clearly should be treated
2 as a separate like product. And the transaction documents
3 you heard today really confirm it.

4 So in closing I would say this is not a case that
5 you should look at in the simplistic view of a single slide
6 showing volume up. Volume up, bad. There's a lot more
7 going on underneath the data, which we hope that you will
8 look at. You've gathered the data we asked you to. We
9 thank you for it. And now is the time to use it, and we
10 hope you see it the same way we do. And especially Mr.
11 Dugan's Purple Packman Slide is a very important thing to
12 keep in mind when looking at everything else in this case as
13 the real indicia that you would normally look at.
14 Underselling or lost sales are tiny, tiny, tiny here and
15 they're not in the places where the biggest domestic volume
16 exists.

17 So for that reason on behalf of the five other
18 law firms and all our clients here, we thank you for your
19 time and ask you to make a negative final injury
20 determination.

21 Thank you.

22 CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Grimson.
23 Alright, posthearing briefs, statements responsive to
24 questions, and requests of the Commission, and corrections
25 to the transcript must be filed by February 15th, 2018.

1 Closing of the record and final release of data to parties
2 will be March 9th, 2018. And final comments are due March
3 13th.

4 Again, thank you to all the witnesses who
5 testified here today. And with that, this hearing is
6 adjourned.

7 (Whereupon, at 4:58 p.m., Thursday, February 8,
8 2018, the hearing in the above-entitled matter was
9 adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Aluminum Foil from China

INVESTIGATION NOS.: 701-TA-570 and 731-TA-1346

HEARING DATE: 2-8-18

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 2-8-18

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
Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

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