

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:
STEEL CONCRETE REINFORCING BAR
FROM JAPAN, TAIWAN, AND TURKEY

) Investigation Nos.:
) 701-TA-564 AND
) 731-TA-1338-1340 (FINAL)

Pages: 1 - 213
Place: Washington, D.C.
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1 THE UNITED STATES INTERNATIONAL TRADE COMMISSION
 2 In the Matter of:) Investigation Nos.: 701-TA-564
 3 STEEL CONCRETE) AND 731-TA-1338-1340
 4 REINFORCING BAR FROM) (Final)
 5 JAPAN, TAIWAN, AND)
 6 TURKEY)

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Thursday, May 18, 2017

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Main Hearing Room

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U.S. International

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Trade Commission

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500 E Street, S.W.

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Washington, D.C.

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The meeting commenced, pursuant to notice, at

16

9:40 a.m., before the Commissioners of the United States

17

International Trade Commission, the Honorable Rhonda K.

18

Schmidtlein, presiding.

19

APPEARANCES:

20

On behalf of the International Trade Commission:

21

CHAIRMAN, RHONDA K. SCHMIDTLEIN, (presiding)

22

VICE CHAIRMAN, DAVID S. JOHANSON

23

COMMISSIONER, IRVING A. WILLIAMSON

24

COMMISSIONER, MEREDITH M. BROADBENT

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4 DAVID GUBERMAN, INTERNATIONAL TRADE

5 ANALYST

6 CRAIG THOMSEN, INTERNATIONAL ECONOMIST

7 DAVID BOYLAND, ACCOUNTANT/AUDITOR

8 PETER SULTAN, ATTORNEY

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11 INFORMATION OFFICER

12 SHARON BELLAMY, RECORDS MANAGEMENT

13 SPECIALIST

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1 APPEARANCES:

2 CONGRESSIONAL APPEARANCES:

3 The Honorable Sherrod Brown, United States Senator, Ohio

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

6 The Honorable Richard M. Nolan, U.S. Representative, 8th
7 District, Minnesota

8 The Honorable John Katko, U.S. Representative, 24th
9 District, New York

10

11 OPENING REMARKS:

12 Petitioners (Alan H. Price, Wiley Rein LLP)

13 Respondents (Matthew M. Nolan, Arent Fox LLP)

14

15 In Support of the Imposition of Antidumping and
16 Countervailing Duty Orders:

17 Wiley Rein LLP

18 Washington, DC

19 On behalf of:

20 The Rebar Trade Action Coalition

21 Burke Byer, President and CEO, Byer Steel

22 Barbara Smith, President and Chief Operating
23 Officer, Commercial Metals Company

24 Tracy Porter, Executive Vice President of
25 Operations, Commercial Metals Company

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2 Peter Campo, President, Gerdau Long Steel North
3 America

4 Marcelo Canosa, Director of Marketing, Gerdau
5 Long Steel North America

6 Don Barney, Director of Sales and Marketing --
7 Bar Mill Group, Nucor Corporation

8 Joe Crawford, Vice President and General Manager,
9 Steel Dynamics, Inc.

10 Amos Maillett, Executive Vice President, HarMac
11 Rebar & Steel Corp.

12 Jeff Veilleux, Vice President of Sales and
13 Marketing, PJ's Rebar, Inc.

14 Robert Webb, President, Southwestern Suppliers

15 Dr. Seth Kaplan, Senior Economic Advisor, Capital
16 Trade, Inc.

17 Alan H. Price)

18 John R. Sane) - OF COUNSEL

19 Laura El-Sabaawi)

20

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23

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

3 Arent Fox LLP

4 Washington, DC

5 On behalf of:

6 Turkish Steel Exporters' Association

7 The Istanbul Minerals and Metals Exporters Association

8 ("IMMIB")

9 Icdas Enerji Tersane ve Ulasim Sanayi A.S.

10 Namik Ekinici, Chairman, Turkish Steel Exporters'
11 Association

12 Ebru Dursun, International Relations Advisor,
13 Turkish Steel Exporters' Association

14 Kerem Vaizoglu, Steel Trader and Importer,
15 Intermetal Rebar

16 Matthew M. Nolan)

17) -- OF COUNSEL

18 Andrew Jaxa-Debicki)

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20 REBUTTAL/CLOSING REMARKS:

21 Petitioners (Alan H. Price and Laura El-Sabaawi, Wiley Rein
22 LLP)

23 Respondents (Matthew M. Nolan, Arent Fox LLP

24

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1 PROCEEDINGS

2 9:40 a.m.

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

5 VICE CHAIRMAN JOHANSON: Good morning. On
6 behalf of the U.S. International Trade Commission, I welcome
7 you to this hearing on Investigation No. 701-TA-564 and
8 731-TA-1338 to 1340 Final, involving Steel Concrete
9 Reinforcing Bar from Japan, Taiwan and Turkey.

10 The purpose of these investigations is to
11 determine whether an industry in the United States is
12 materially injured or threatened with material injury, or
13 the establishment of an industry in the United States is
14 materially retarded by reason of imports of steel concrete
15 reinforcing bar from Japan, Taiwan and Turkey.

16 Schedules setting forth the presentation of
17 this hearing, notices of investigation and transcript order
18 forms are available at the public available at the public
19 distribution table. All prepared testimony should be given
20 to the Secretary. Please do not place testimony directly on
21 the public distribution table.

22 All witnesses must be sworn in by the
23 Secretary prior to presenting testimony. I understand that
24 parties are aware of the time allocations. Any questions
25 regarding time allocations should be directed to the

1 Secretary. Speakers are reminded not to refer in their
2 remarks or answers to questions to business proprietary
3 information.

4 Please speak clearly into the microphones and
5 state your name for the record for the benefit of the court
6 reporter. If you will be submitting documents that contain
7 information you wish classified as Business Confidential,
8 your request should comply with Commission Rule 201.6. Mr.
9 Secretary, are there any preliminary matters?

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

13 VICE CHAIRMAN JOHANSON: Thank you. Will you
14 please announce our first Congressional witness?

15 MR. BISHOP: Our first Congressional witness
16 is The Honorable Sherrod Brown, United States Senator from
17 Ohio.

18 STATEMENT OF SENATOR SHERROD BROWN

19 SENATOR BROWN: Never come here when I didn't
20 know how to do the microphone. Thank you. The pressure's
21 on. Thanks so much, and thanks always for having me, thanks
22 for your promptness and especially thanks for your service
23 to our country and making our economy better. Thanks for
24 the opportunity to testify in this case regarding steel
25 concrete reinforcing bar from Japan and Taiwan and Turkey.

1 This case is critically important for Ohio
2 rebar producers, including Nucor and Byer Steel, and their
3 workers. I have visited plants of both those companies in
4 my state and I see a strong, productive, hard-working
5 workforce. It's important to understand who these companies
6 and their workers are as you prepare to make your final
7 determination, a determination that will affect families in
8 communities across my state and across the industrial
9 Midwest.

10 Nucor, the largest steel producer in the
11 United States has a facility in Marion, Ohio. It's been
12 producing rebar for 100 years. There's a worker in Marion
13 whom I've now met twice at that plant by the name of Roberta
14 McCullough, whom I had the honor of first meeting in October
15 of 2015. She's worked in the Nucor plant for more than 60
16 years. Think about that, more than 60 years. It was her
17 first job and she's worked there ever since.

18 She's a testament to how important the
19 facility is to families like hers and to the entire
20 community of Marion, Ohio. Byer Steel in Cincinnati is
21 family-owned, has been in the rebar business for four
22 generations. They make high quality steel reinforcing bars.
23 As I said, I've been to the facility and seen firsthand how
24 efficient and competitive their 90 employees are.

25 I offer my testimony today on behalf of all

1 four generations of the Byer family, on behalf of Roberta,
2 on behalf of all the Nucor and Byer Steel workers. They're
3 not looking for special treatment. They just want the
4 opportunity to compete on a level playing field. It's not
5 the first time I've testified before this Commission on
6 behalf of these rebar producers. The rebar industry, like
7 the entire steel industry, has faced a distorted global
8 market that undermines steel companies like Nucor and Byer
9 for years.

10 I hope the Commission will keep that in mind
11 as you make your final determination. In your preliminary
12 report, you identified the reasons why these companies have
13 filed this trade petition. They have lost market share in
14 U.S., their shipments declined even when demand increased.
15 They lost sales opportunities, price fell, their
16 profitability has begun to decline all because, all because
17 production in Japan, in Turkey were underselling in the U.S.
18 market and pushing U.S. prices down.

19 The best way to provide immediate and tangible
20 relief is to impose anti-dumping and countervailing duties
21 to level the playing field. I was pleased when the Commerce
22 Department announced its final determination in the rebar
23 imports from Japan and Turkey when that announcement came
24 earlier this week.

25 The Department of Commerce found that rebar

1 imports from those countries have been sold at unfair
2 prices, and that Turkey's rebar exporters have received
3 unfair subsidies. I ask the Commission to find in favor of
4 the U.S. rebar producers as well. I urge the Commission to
5 issue a final determination that the domestic rebar
6 producers are materially injured by rebar imports, so these
7 Ohio companies and their workers like Roberta can get the
8 relief they need to keep competing in the global market. I
9 thank you for your attention and thank you for you service
10 again.

11 VICE CHAIRMAN JOHANSON: Thank you Senator
12 Brown for participating in today's hearing. Do any
13 Commissioners have questions for Senator Brown?

14 (No response.)

15 VICE CHAIRMAN JOHANSON: Thank you again.

16 SENATOR BROWN: Thank you all.

17 MR. BISHOP: Our next Congressional witness is
18 The Honorable Peter J. Visclosky, United States
19 Representative from the 1st District of Indiana.

20 STATEMENT OF THE REPRESENTATIVE PETER J. VISCLOSKY

21 REPRESENTATIVE VISCLOSKY: I appreciate the
22 opportunity again to testify before the Commission. I
23 appreciate not only your consideration of this instance, but
24 the work you do on a daily basis. I would point out that
25 some organization declared this week National Infrastructure

1 Week. It is important to invest in our highways, our ports,
2 our rail system, but there are materials that go into each
3 one of those systems.

4 It is important that we have the ability to
5 manufacture those pieces of equipment. It's also important
6 that we maintain the intellectual ability mentally to engage
7 in that manufacturing opportunity. So I do believe cases
8 such as the one before you today are very important. I
9 would note that according to the Department of Commerce,
10 there are currently 191 anti-dumping and countervailing duty
11 orders on steel and steel-related products for 33 countries
12 in effect today.

13 It indicates two things to me. First, that
14 there is a diligent commitment not only by the Commission
15 but others to hold countries accountable, to ensure that
16 they abide by international trading norms. But it also
17 would indicate to me that we are beset by those who every
18 day look for ways to evade international trading norms to
19 export, not only goods but their unemployment to the United
20 States.

21 For those who work in this industry today,
22 this case is very important and do trust in your deliberate
23 consideration of the facts and the law before you, and again
24 thank you for this opportunity today.

25 VICE CHAIRMAN JOHANSON: Thank you

1 Representative Visclosky for being here today. Do any
2 Commissioners have questions for the Congressman?

3 (No response.)

4 VICE CHAIRMAN JOHANSON: Thank you again.

5 REPRESENTATIVE VISCLOSKY: Thank you very
6 much.

7 MR. BISHOP: Our next Congressional witness is
8 The Honorable Richard M. Nolan, United States Representative
9 from the 8th District of Minnesota.

10 STATEMENT OF REPRESENTATIVE RICHARD M. NOLAN

11 REPRESENTATIVE NOLAN: Thank you very much
12 Chairwoman Schmidlein and members of the Commission. I'm
13 going to be brief here, and if it's all right, I'd like to
14 ask unanimous consent that my -- the full text of my remarks
15 be made a part of the record. But I would like to begin by
16 just taking the members of the Commission for first of all
17 the preliminary determination that was made regarding the
18 dumping and subsidization of cheap foreign steel concrete
19 reinforcing bar, otherwise known as rebar from Japan and
20 Taiwan and Turkey.

21 And I'm here today, now that the Department of
22 Commerce has made its final determination, calling for
23 duties on the Japanese rebar totaling 209 percent and the
24 Turkish rebar of 24 percent. Make no mistake about it,
25 rebar is a fundamental ingredient in our infrastructure in

1 its entirety. Whether you're talking about roads or bridges
2 or docks at the ports or schools or hospitals or skyscrapers
3 or commercial facilities, our locks, our dams, you name it,
4 it's everywhere.

5 It's the foundation really of our nation's
6 infrastructure, and in that sense it becomes an essential
7 ingredient in the foundation of our economy and of our
8 national security as well. So it's vital that our rebar be
9 of the finest quality, and that it be produced under the
10 best standards for safety and quality, the health and the
11 well-being, as well as, you know, good environmental
12 standards.

13 We all know that the men and women in the
14 mining and in the steel and in this case particularly the
15 rebar industry can compete with anybody in the world, given
16 a level playing field. In this particular instance, it is
17 clearly not level and that's why these kinds of tariffs and
18 duties need to be placed, to create that level playing field
19 that is so essential, as I said, for our economy, our
20 national security and the good paying jobs that are so
21 vital and so important the working men and women and the
22 families here in the country.

23 So I'd like to thank all the members of the
24 Commission for the great work that you have done to continue
25 to ensure the strength of our national security and our

1 economy and our miners and mining companies, and the work
2 that they do are so vital, and I'm here today to strongly
3 urge you to make a final determination on this petition to
4 support the thousands of good-paying jobs that so critical
5 to our nation's economy, security, well-being and the rebar
6 industry in particular.

7 So thank you. Again, if I can submit the
8 entirety of my remarks it would be much appreciated, and
9 thank you for the work that you've done and thank you for
10 the opportunity to testify here today. I'd be glad to take
11 any questions if you have any.

12 CHAIRMAN SCHMIDTLEIN: Thank you very much
13 Congressman Nolan. Are there any questions for the
14 Congressman? And we'd be happy to submit your remarks for
15 the record.

16 REPRESENTATIVE NOLAN: Thank you very much.

17 CHAIRMAN SCHMIDTLEIN: Thank you.

18 MR. BISHOP: Our final Congressional witness
19 this morning is The Honorable John Katko, United States
20 Representative from the 24th District of New York.

21 CHAIRMAN SCHMIDTLEIN: Welcome Congressman
22 Katko.

23 STATEMENT OF THE HONORABLE JOHN KATKO

24 REPRESENTATIVE KATKO: Thank you Chairman
25 Schmidtlein and members of the Commission. I appreciate the

1 opportunity to testify before you today on behalf of U.S.
2 rebar producers. I understand that the Commission is
3 nearing a final determination on whether these unfairly
4 traded rebar imports from Japan, Taiwan and Turkey in
5 particular for my district, are causing harm to the
6 domestic steel industry.

7 I think it is abundantly clear that these
8 unfairly traded imports have had a devastating impact on our
9 country's rebar producers and their hard-working employees,
10 and I ask that the Commission give full consideration to the
11 facts presented today. I have the privilege of representing
12 New York's 24th District which includes Nucor Steel's rebar
13 facility in Auburn, New York in the adjoining county.

14 This mill has been making steel in my district
15 since 1974, and plays a vital role in the community in many
16 ways. Nucor Steel creates thousands of jobs nationwide, and
17 has made hiring veterans a priority, with 20 percent of
18 their workforce having formerly served in the military. The
19 Auburn plant uses environmentally friendly production
20 methods, and rebar produced at the plant contains a stunning
21 99.8 percent recycled content.

22 I can confidently say that the U.S. steel
23 manufacturers such as Nucor produce some of the best rebar
24 on the market, and given a fair opportunity our producers
25 can compete with any steel producers in the world. We just

1 want a level playing field. However, when foreign
2 competitors receive government subsidies and dump their
3 products into U.S. markets, American producers suffer.

4 Unfairly traded rebar from Japan, Taiwan and
5 Turkey has surged into U.S. markets, increasing by 160
6 percent over the past three years and as a result U.S. rebar
7 companies have suffered greatly. Domestic producers have
8 been forced to scale back investment, slash production, cut
9 pay and lay off workers.

10 The entire U.S. rebar industry has experienced
11 a sharp decline in revenue, profitability and production,
12 and without relief these conditions will continue and indeed
13 they will worsen. I have visited Nucor's Auburn facility on
14 many occasions to see firsthand the unparalleled level of
15 productivity, quality and efficiency and environmentally
16 sound practices that characterize our domestic rebar
17 industry. It has been an honor to get to know the more than
18 300 hard-working men and women who produce rebar at this
19 plant.

20 These workers are depending on the Commission,
21 all of you, to consider the impact the unfair trade is
22 having on their families and their communities. Since each
23 year local steel jobs support an additional seven jobs in
24 America -- let me rephrase that. Since each steel job
25 that's performed locally supports an additional seven jobs

1 in America, Nucor's economic impact ripples far beyond the
2 mill's property line.

3 We cannot sit idly by and watch while foreign
4 producers threaten much-needed jobs by taking unfair
5 advantage of U.S. trade practices. We must do all that we
6 can to hold the producers accountable and impose trade
7 remedies when foreign producers don't play by the rules.

8 In closing, rebar imports from Japan, Taiwan
9 and Turkey steal market share from U.S. producers, reduces
10 hundreds of high-paying jobs and puts the livelihoods of my
11 constituents at risk. I'm hopeful that you will recognize
12 the importance of the domestic rebar industry and I urge you
13 to support our American manufacturing workers who serve as
14 the backbone of our economy.

15 Like I said before I close, I've spoken to
16 these folks on many occasions, and not once did they want to
17 have an unfair advantage. They just want to have the
18 ability to compete with one arm tied behind their back, and
19 that's all they're asking for and that's all I'm asking from
20 the Commission. Thank you very much.

21 CHAIRMAN SCHMIDTLEIN: Thank you, Congressman.

22 MR. BISHOP: Madam Chairman. That concludes
23 Congressional testimony for today's hearing.

24 CHAIRMAN SCHMIDTLEIN: Thank you Mr.
25 Secretary. Will you please call the first panel?

1 MR. BISHOP: Opening remarks on behalf of
2 Petitioners will be given by Alan H. Price of Wiley Rein.

3 OPENING STATEMENT OF ALAN H. PRICE

4 MR. PRICE: Good morning Chairman Schmidlein
5 and members of the Commission. You as producers compete
6 with subject imports from each country across the full range
7 of grades, lengths and sizes and channels of distribution
8 and throughout the country. After imports arrive, they are
9 sold to distributors, they sit in distributor inventories
10 and they are distributed across very large distances.

11 The pictures in the slides were taken recently
12 in Denver, Colorado. They show imported rebar from Japan,
13 Taiwan and Turkey in the same mountain state distributor in
14 an area where Respondents claim that the products do not
15 compete. So this stuff travels very far and has no
16 geographic limitation once it hits the shores of the United
17 States. Rebar from each of the subject countries competes
18 in the same way in the U.S. market. There are no insulated
19 channels of distribution. It all ends up sunk in concrete
20 throughout the United States.

21 Subject imports should be assessed cumulatively for injury
22 and threat purposes.

23 Respondents themselves in the staff conference
24 inadvertently conceded that there were volume effects in the
25 U.S. market, as this quote from the Turkish respondent's

1 counsel at the staff conference shows, and it explicitly
2 states "I concede the volume part of this case." Their
3 admission was borne out by the data in this record, although
4 they've tried to walk it back in their briefs filed in the
5 final.

6 Between 2014 and 2015, imports increased by
7 850,000 tons, a stunning amount. At the same time, despite
8 improving demand, domestic production dropped by 550,000
9 tons and domestic shipments fell. U.S. producers lost 6.6
10 points of market share to the subject imports. Your
11 purchasers in this case confirm that they shifted enormous
12 volumes from the U.S. industry to subject producers, a total
13 of 1.4 million tons of volume due to price.

14 These purchasers were not shifting due to
15 shortage of domestic supply. It was price and price alone,
16 and the imports facilitated this surge by sharply increasing
17 the margins of underselling and sharply undercutting the
18 U.S. industry between 2014 and 2015. So I actually agree
19 with Mr. Nolan's statement here. The subject import volumes
20 are significant, absolutely and relatively, so you should
21 find that there was a volume effect.

22 In addition to the volume effect, you have
23 massive underselling throughout the POI. There is
24 overwhelming evidence of price suppression and depression as
25 we move from 2015 into 2016. In a newspaper article, the

1 Turkish respondents' own witness here conceded that Turkish
2 imports suppress and depress U.S. prices.

3 This is borne out, by the way, by numerous
4 pieces of data in the Commission record. First, you have
5 unanimous consent by the purchasers that price is very
6 important, and that there was uniform underselling. U.S.
7 producers reported they were forced to reduce prices to
8 compete with subject imports and unable to raise prices to
9 cover rising raw material costs.

10 Fifteen purchasers accounting for 63 percent
11 of the purchaser volume confirmed that U.S. purchasers were
12 forced to reduce their prices in response to subject imports
13 by an average of 13 percent. That's price depression and
14 suppression right there. The data shows that U.S.
15 producers' AUVs fell further than raw material costs from
16 2015 to 2016 as domestic producers were forced to slash
17 prices to stop hemorrhaging volume.

18 The Commission's price and net cost variance
19 analysis shows that prices declined by more than scrap in
20 2016, and U.S. mills were forced to provide foreign fighter
21 discounts in an attempt to compete with subject imports on
22 the basis of price. So this is overwhelming evidence,
23 including the Turkish respondents' witness' own concessions
24 from these statements.

25 It makes clear that this was just not scrap

1 cost affecting prices during the POI; it was the subject
2 imports that caused metal margins to collapse in 2016, and
3 many attempted price increases to fail. This is price
4 depression and suppression.

5 Obviously this had a massive impact, and we'll
6 discuss this impact more fully in our presentations today.
7 But here in a period of healthy and growing demand, we saw
8 domestic industry output decline, sales decline, market
9 share decline, profits decline, the ability to raise capital
10 investment was affected, capacity utilization was down, the
11 numbers of workers' hours and wages all declined, profits
12 all declined.

13 So finally, let's move on to threat, and while
14 I think there's overwhelming evidence of injury in this
15 case, I just want to address these threat points real
16 briefly. The subject imports threaten the domestic industry
17 with further material injury. Respondents have repeatedly
18 told the Commission that they were not interested in the
19 U.S. market, and that they could not increase their
20 shipments, or at least the Turkish respondents have said
21 that over and over again.

22 They told you this in the preliminary phase of
23 the last case in 2013, and the final phase of the last case
24 in 2014, and the preliminary phase of this case. Each time
25 they said it, it wasn't true. In fact, Turkish imports

1 increased by more than 500,000 tons following their claims
2 in the last case. Yet they are saying the same thing now in
3 their prehearing brief.

4 Like all of their prior statements that turned
5 out to be false, these are simply not credible. Even in the
6 first four months of 2017, Turkish imports increased by
7 another 100,000 tons over the same period in 2016.

8 CHAIRMAN SCHMIDTLEIN: Mr. Price, I'm sorry.
9 The red light has been on for a little bit.

10 MR. PRICE: Oh okay. Well thank you. I
11 appreciate it. I ask that the Commission render an
12 affirmative final determination.

13 CHAIRMAN SCHMIDTLEIN: All right. Thank you
14 very much.

15 MR. BISHOP: Opening remarks on behalf of
16 Respondents will be given by Matthew M. Nolan, of Arent Fox.

17 CHAIRMAN SCHMIDTLEIN: Welcome Mr. Nolan.

18 OPENING STATEMENT OF MATTHEW M. NOLAN

19 MR. NOLAN: Good morning, and ladies and
20 gentlemen of the Commission, this is Matt Nolan on behalf of
21 the Turkish Steel Producers Association. On behalf of the
22 Association, we appreciate the opportunity to be heard again
23 today, albeit it may get a little lonely up here given that
24 we seem to be outgunned on the other side as usual.

25 So I don't have any pictures for you today,

1 this morning. It's interesting that we kind of moved into
2 the affirmative argument in the opening statement phase.
3 That's a new one by me, but we'll run with it. So here we
4 are again to talk once more about one of the most popular
5 products in my arsenal, rebar.

6 One would have thought that such a basic steel
7 product would not generate so much activity and interest.
8 The Petitioners, including in particular Nucor, Gerdau and
9 CMC, dominate this market in just about every measurable
10 sense. They are the price leaders. They control the vast
11 majority of the domestic market. They are fully integrate
12 with massive upstream scrap operations and coast to coast
13 downstream fabrication operations.

14 They get the benefit of Buy America
15 protections for large infrastructure projects, and they say
16 that all of this does not insulate them from subject
17 imports. Why are they continuously integrating further if
18 that's the case, and why do they continue to compete for
19 large infrastructure projects which are reserved to
20 domestic producers? Petitioners allege that they are being
21 seriously injured by reason of subject imports principally
22 from Turkey. They are at least half right.

23 We agree, Turkish imports did increase during
24 the POI. It's obvious from the record, and if volume is all
25 that matters in this case, then this is going to be a short

1 proceeding. But increased volume is not enough by itself to
2 find injury. We of course disagree that subject imports
3 caused material injury or threaten injury. Subject imports
4 were not flooding the market. They are in fact the
5 inevitable consequence of U.S. producers' self-evident
6 strategy to raise prices wherever they can to increase
7 their quarterly profit numbers. They do this rather than
8 reduce prices in line with declining raw materials, which if
9 pursued would have resulted in increased volumes and larger
10 market share.

11 They made a choice to raise or maintain price
12 rather than to go for market share and volume. That is a
13 critical point in our presentations. I'm sure Petitioners
14 will again argue passionately this morning with tales of how
15 imports from Turkey and other countries have flooded the
16 market and threatened to destroy the U.S. industry. We've
17 already seen a slide with some photographs from Colorado,
18 which I don't put a lot of stock in a photograph of some
19 rebar. I can go to Home Depot and do that for you. So I
20 don't think that means a whole lot.

21 But this case has a Deja vu feel to it. The
22 domestic industry has been claiming injury from Turkish
23 imports almost continuously for 20 years now. It's like
24 that furniture you pass with the going out of business sale
25 sign, except these guys don't go out of business. What they

1 do do is keep getting larger and more integrated each time
2 we go through another case.

3 We now have three producers that control an
4 inordinately high share of the market. What we have here is
5 a classic oligopoly exhibiting classic oligopolitic price
6 and profit maximization behavior. The record shows that
7 U.S. producers will sacrifice volumes for profits, and will
8 favor internal downstream operations over commercial sales.

9 We've already seen two market shortage periods
10 during this POI, one in 2014 and one at the early part of
11 2017. The reports, if there's so much excess capacity in
12 this market, why are there press reports indicating domestic
13 mills have been telling customers they're sold out for
14 months? There's some disconnect going on here.

15 Turkish imports are in fact critical to the
16 U.S. market in this environment. They provide an
17 alternative, reliable source of supply and they keep an
18 otherwise price controlled market competitive. They enable
19 independent rebar fabricators to remain competitive with the
20 big guys, who give discounts their internal transfers to
21 their downstream operations.

22 Turkey is in fact a significant and world
23 class rebar producers. We've never disputed that. It sells
24 into a vibrant home market and exports to dozens of
25 countries including the U.S., but principally the Middle

1 East and North Africa region. The U.S. is not their prime
2 market, but they're not going to ignore it either,
3 especially when prices are artificially inflated and
4 customers are crying out for alternative sources of supply.

5 We look forward to addressing these topics
6 during our presentations. Thank you.

7 CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Nolan.

8 MR. BISHOP: Would the panel in support of the
9 imposition of the anti-dumping and countervailing duty
10 orders please come forward and be seated.

11 Madam Chairman, all witnesses on this panel have
12 been sworn in.

13 CHAIRMAN SCHMIDTLEIN: Thank you.

14 Good morning, Mr. Price. You may begin when
15 you're ready.

16 MR. PRICE: Good morning, Chairman Schmidtlein.
17 Thank you again this morning.

18 As one just procedural bookkeeping matter, there
19 is a hearing on over capacity this morning going on over at
20 the Commerce Department. Unfortunately, Leo Gerard is --
21 well, fortunately, for the United States, Leo Gerard is
22 testifying at that, but he's unable to be here today. I'd
23 just like to ask that his written testimony be admitted to
24 the record this morning.

25 CHAIRMAN SCHMIDTLEIN: Yes, that's fine.

1 MR. PRICE: Thank you.

2 Thank you. I'd like to introduce our first
3 witness, Mr. Peter Campo, the President of Gerdau.

4 STATEMENT OF PETER CAMPO

5 MR. CAMPO: Good morning, Chairman Schmidtlein,
6 Vice-Chairman Johanson, Commissioners, and Commission staff.

7 I'm Peter Campo, President of Gerdau Long Steel
8 North America. I appreciate the opportunity to explain why
9 trade relief from Turkish, Japanese, and Taiwanese imports
10 is critical to Gerdau and to the U.S. rebar industry.

11 As you, yourselves, have found in multiple
12 proceedings, rebar is among the most basic of steel
13 products. It's largely made to ASTM standards and sold in a
14 limited variety of grades and sizes. Virtually, all rebar
15 is used in construction where it reinforces concrete in
16 roads, bridges, and buildings.

17 Because rebar is such a basic product, it's sold
18 on price. Customers have few, if any, special requirements.
19 They don't care where the rebar they purchase was made or by
20 whom so long as it meets the basic ASTM standards.
21 Essentially, whoever offers the lowest price wins the sale,
22 but don't take my word for it. Look at the information that
23 purchasers have supplied you confirming that they switched
24 to Japanese, Taiwanese, and Turkish imports because of the
25 low prices that were offered.

1 Because price is really the only distinguishing
2 factor in rebar sales, the domestic industry competes
3 directly with foreign-produced rebar throughout the market
4 and is particularly vulnerable to unfairly priced imports.
5 Lead times have no bearing on sales as Turkish material is
6 stockpiled at ports and in inland distribution points ready
7 for purchase at extremely low prices, just as Japanese and
8 Taiwanese product was before this case was filed. Once
9 imports land in the U.S., they're often sold to
10 distributors who move their product throughout the country
11 and to the same customers we supply.

12 As the Commission has repeatedly found Buy
13 America provisions do not insulate the domestic industry
14 from harm from unfairly traded imports. These provisions
15 affect a very limited portion of U.S. shipments. The
16 critical point is that our customers don't tell us when Buy
17 America requirements apply. Why should they? They simply
18 tell us the lowest price they see in the market and demand
19 that we meet it.

20 Price is the main deciding factor, whether we're
21 selling to affiliated or unaffiliated customers, to
22 distributors, or end users. We sell to them all and they
23 all buy the same way at competitive prices. As a result,
24 we've been forced to fight cheap, dumped imports for each
25 and every sale.

1 As we've reduced prices to remain competitive,
2 imports prices have only gotten cheaper. We continue to
3 reduce costs and operate with the highest productivity in
4 our history, but we just can't compete with dumped and
5 subsidized pricing.

6 Absent trade relief, subject imports will
7 continue to surge into the market regardless of improving
8 demand or other conditions, forcing us to meet ever lower
9 pricing. And make no mistake, it's subject imports that
10 have forced U.S. prices down.

11 Respondents have argued that U.S. prices are
12 only following scrap trends, but the fact is my rebar prices
13 fell far more than raw material costs in 2016. Scrap
14 influences rebar prices, but not so much as dumped and
15 subsidized imports. In a flooded market with unfairly
16 priced imports, it's the imports that determine my prices
17 and my profitability. Rebar purchasers don't care whether
18 or not I'm covering my raw material costs. They just want
19 me to meet or beat the lowest price out there and that is
20 the price of subject imports.

21 As I explained to the Commission staff in the
22 fall, unfairly priced imports have been disastrous for
23 Gerdau and importantly for our employees. Our production
24 sales and financial performance have all be significantly
25 impacted and our facilities are operating at far below their

1 optimal capacity utilization levels. Our margins continue
2 to suffer and we're unable to make necessary investments in
3 our plans.

4 Any claim that we lack the capacity to serve the
5 market is absolutely wrong. In 2016, without reason to
6 believe they would restart due to access import supply, we
7 concluded we had no choice but to sell our idle mills in
8 Perth Amboy, New Jersey and Sandy Springs, Oklahoma, nor
9 have our other facilities been spared the devastating
10 effects of subject imports. We've had to reduce crews or
11 even stop producing rebar at certain mills.

12 For example, we stopped producing rebar in our
13 St. Paul, Minnesota mill in 2015 and have also reduced
14 staffing at our California and Texas mills despite
15 reasonable demand. In the fourth quarter of 2016, we
16 reduced crews at our Charlotte facility and stopped rebar
17 production there altogether. We're continuing only limited
18 production in Sayreville, New Jersey due to the increase of
19 unfairly imported material in the Northeast market.

20 Without relief from subject imports our
21 hardworking, middle class employees will continue to find
22 themselves on reduced hours or laid off entirely. The
23 offshore producers in this case continue to expand
24 production capacity despite weak demand in their home market
25 and alternative export markets. It seems clear that they

1 will continue to direct their substantial quantities of
2 excess rebar to the United States, as they've been doing for
3 the past two plus years.

4 Any claims that the Japanese, Taiwanese, and
5 Turkish have no real interest in the U.S. market, that their
6 home markets are thriving or that they want to export to
7 other markets are dubious. In 2014, the Turkish industry
8 told you "There's no incentive for the subject producers to
9 price aggressively in order to expand exports to the United
10 States." They said "Turkey rebar production will continue
11 to be absorbed in Turkey's home market and its traditional
12 export markets."

13 Well, they lied. In 2015, U.S. imports of
14 Turkish rebar increased by more than 640,000 tons by
15 undercutting domestic prices. They're not responding to
16 unmet demand. They're underselling us at dumped prices to
17 capture volume and this wasn't a blip. Turkish producers
18 continued to ship enormous quantities of rebar to the United
19 States in 2016 and they're still doing so now.

20 Demand is improving, but demand won't save us if
21 unfair trade is allowed to continue. Demand has been
22 increasing slowly and steadily for several years, but
23 subject imports have taken all of the increased consumption
24 and more. Dumped and subsidized imports continue to
25 undercut domestic rebar prices and take greater and greater

1 market share. Without trade relief, we'll be forced to
2 further curtail production, lay off more workers. We're
3 operating at unsustainable levels today and I reiterate that
4 the fate of our workers and their families is directly tied
5 to this case and your decision here.

6 For the sake of Gerdau and its 9,000 hardworking
7 employees, we urge you to grant domestic industry trade
8 relief. Thank you.

9 STATEMENT OF MS. BARBARA SMITH

10 MS. SMITH: Good morning. My name is Barbara
11 Smith and I'm President and Chief Operating Officer of
12 Commercial Metals Company. I appreciate the opportunity to
13 appear before you today to explain why it's critical that
14 the Commission continue to find that dumped and subsidized
15 Japanese, Taiwanese, and Turkish rebar imports are harming
16 CMC and the U.S. rebar industry.

17 CMC is a global metals recycling manufacturing,
18 fabricating, and trading enterprise. Our corporate
19 headquarters are in Irving, Texas, but we operate at over
20 200 locations in more than 20 countries. Given the global
21 scope of our operations, CMC is well positioned to speak
22 about trends in the steel market, both here in the U.S. and
23 globally.

24 Global steel supply continues to grow as new
25 production comes online far in excess of the growth in

1 global steel demand. As it relates to this trade case,
2 Turkey has grown their steel-making capacity by 21 percent
3 since 2010. They are now able to produce 52 million metric
4 tons per year, nearly half the size of the entire U.S. steel
5 market, while Turkish domestic consumption is only 28
6 million tons per year. This amounts to 45 percent over
7 capacity.

8 Turkey's long production has increased 35
9 percent since 2010 and only 50 percent of their production
10 is consumed domestically. These statistics are alarming and
11 damaging to the U.S. domestic steel industry. During this
12 same period of time, rebar exports from Turkey to the U.S.
13 have risen from approximately 175,000 metric tons in 2010 to
14 1.6 million tons in 2015, a nine-fold increase. Regional
15 demands in the Middle East and North Africa, Turkey's
16 historic markets, has been shrinking during this same
17 period.

18 The United States is the only available open
19 market as many countries in the Middle East and North Africa
20 have built their own steel-making capacity and put up trade
21 barriers to protect their own domestic industry. The fact
22 that Turkey has continued to add capacity during this period
23 indicates its objective is to export products to attractive,
24 open markets such as the U.S.

25 As noted earlier, Turkey's domestic capacity has

1 grown faster than its internal consumption as well as that
2 of the MENA region. If we continue to allow Turkey, Taiwan,
3 and Japan to import rebar at levels we have experienced in
4 the past two years, it's clear that the U.S. domestic
5 producers will experience more dire consequences than what
6 we've seen thus far.

7 As argued in previous trade cases, subject
8 producers have claimed that their rebar does not compete
9 with domestic rebar, but this is simply not true. As the
10 Commission has repeated found, rebar is a highly
11 standardized product that is principally sold on the basis
12 of price. Rebar from the United States, Japan, Taiwan, and
13 Turkey is used for the same purposes and the same
14 applications. This means that there's nothing about rebar
15 itself or the structure of the U.S. rebar industry that
16 insulates us or the well being of our employees from the
17 harm caused by these unfairly traded imports.

18 CMC and the rest of the domestic industry
19 compete with each other as well as imported rebar from
20 Japan, Taiwan, and Turkey for each and every sale day in and
21 day out. Because CMC has affiliates at various stages of
22 the value chain we know firsthand that any claim that
23 vertical integration insulates domestic producers from
24 dumped and subsidized imports is wrong.

25 Every CMC entity is an independent business

1 enterprise whose sole objective is to operate as efficiently
2 as possible and to capture as much profit as we can. Our
3 transactions with affiliates are subject to the same market
4 conditions as our transactions with unaffiliated customers.
5 Any transactions with upstream scrap suppliers or downstream
6 fabricators or distribution are conducted at fair market
7 value regardless of affiliation.

8 Further, as the Commission recognized in prior
9 determinations, affiliated downstream fabricators and
10 related distributors do not preclude them from purchasing
11 rebar from other sources, including subject imports based
12 upon price. If CMC can offer the best price, we can get the
13 sale. If not, our affiliated customers, just like our
14 unaffiliated customers, will purchase cheaper product
15 available on the open market, which more and more often
16 means subject imports.

17 Our affiliates have to compete for sales just
18 like our mills do on the open market and on the basis of
19 price and we cannot force them to buy our rebar at higher
20 prices. Similarly, our affiliated scrap recycling
21 operations do not insulate us from competition either. CMC
22 would not be able to operate as one of the United States
23 largest scrap recyclers if we did not run our business
24 according to prevailing market conditions. Quite frankly,
25 there's nothing our internal scrap operations can do to

1 insulate our rebar mills from raw material price
2 fluctuations or competition with imports.

3 In fact, CMC mills can and do buy up to 100
4 percent of our scrap requirements from third parties. Scrap
5 is an internationally-traded product that is bought and sold
6 on the open market with complete transparency and in
7 competition with other producers and consumers.

8 The Respondents in this case purchase a
9 significant portion of their raw material requirements from
10 the United States, which has an abundant supply of scrap.
11 The Respondents certainly know that scrap prices are subject
12 to the forces of global supply and demand and global pricing
13 dynamics. It's unfathomable that a country like Turkey, who
14 purchases a significant amount of scrap in the U.S. at
15 prevailing prices, transports the scrap to Turkey for
16 conversion, and transports the finished product back to the
17 U.S., would enjoy a cost advantage over local producers in
18 the U.S. The fact is they don't enjoy a cost advantage.

19 Another argument presented by the Respondents is
20 that they have superior technology to U.S. producers. This
21 is also not factual. Turkey does not have better
22 technology. What they do have is a willingness to sell at
23 unfair, below market prices. CMC is a global leader with
24 regard to low cost production of rebar using our advanced
25 micro-mill technology. Clearly, Turkish producers recognize

1 this as they recently requested a technical visit to our
2 micro mill in Mesa, Arizona to learn about this advanced
3 technology. For competitive reasons, we denied such a
4 visit. Not only do we employ the latest technology, we
5 continue to invest heavily in our rebar-producing mini mills
6 utilizing the newest technology to lower production costs.

7 Unfortunately, despite significant investments
8 to improve our costs, we are still struggling to compete
9 with the illegally dumped product from Japan, Taiwan, and
10 Turkey. If unfairly priced imports continue to flood the
11 market and the tailspin of profitability continues, we may
12 never see a return on the investments we've made, let alone
13 be able to make further investments in rebar production. We
14 are proud to be an innovator in the rebar market, but
15 innovation requires ongoing investment. In order to make
16 such investment, we have shareholders to satisfy. Our
17 shareholders demand returns on their investments, such as
18 our most recent decision to invest in a second micro mill in
19 Durant, Oklahoma. We've made this investment decision
20 following the 2014 anti-dumping and countervailing duty
21 orders.

22 We hoped with the orders in place and modest but
23 steady demand growth this investment would allow us to
24 expand the use of our leading edged technology.
25 Unfortunately, with the continued surge of imports from

1 Japan, Taiwan, and Turkey, this investment and the jobs they
2 support are both at risk, as is the ability of the United
3 States and companies like CMC to continue the production of
4 products which are critical to our nation's infrastructure
5 and national security.

6 In closing, I'm here today representing
7 approximately 9,000 hardworking men and women of CMC who
8 work safely and diligently every day to produce high
9 quality, low cost rebar and related products, a critical
10 component to the backbone of our country. The hardworking
11 men and women of CMC depend upon these high quality jobs to
12 support their families. The communities where they live and
13 work depend upon these high quality jobs.

14 On behalf of CMC, our 9,000 plus employees and
15 their families, we urge you to continue to recognize the
16 harm caused by dumped and subsidized rebar from Japan,
17 Taiwan, Turkey, and to reach an affirmative final
18 determination. Thank you.

19 STATEMENT OF DON BARNEY

20 MR. BARNEY: Good morning. My name is Don Barney,
21 Director of Sales and Marketing, Bar Mill Group, Nucor
22 Corporation. I appreciate the opportunity to appear again
23 before the Commission and I thank you for all of your hard
24 work that you have put into this case so far.

25 For years Nucor has been sounding the alarm that

1 rising steel imports are inflicting significant damage on
2 the domestic steel industry. The rebar industry has been
3 particularly affected, and we are grateful that the
4 Commission recognized this in the preliminary phase of this
5 investigation. But the problem will only continue if the
6 Commission does not grant the domestic industry final
7 affirmative relief.

8 I won't be the only one to tell you this. In
9 fact, you have recognized it yourself multiple times.
10 Customers buy rebar from whomever has the lowest price. The
11 purchasers you surveyed have confirmed this, and they have
12 confirmed something else, as well: that the lowest prices in
13 the market are offered by dumped and subsidized Japanese,
14 Taiwanese, and Turkish imports, and they shifted purchases
15 to these imports because of it.

16 Import prices have forced our own prices into
17 free-fall. When I was here for the Commission staff
18 conference last fall, I heard the Respondents claim that
19 price changes in our market are all due to scrap. When
20 scrap goes down, so do rebar prices. When scrap goes up, so
21 do rebar prices.

22 But the record shows something different. When
23 the subject imports initially surged into the market in
24 2015, scrap was falling. While we tried to preserve prices
25 against the onslaught of subject imports, the falling scrap

1 prices at least gave us some room to maneuver without
2 crashing our profits entirely.

3 At the same time, we lost volume and market
4 share. In 2016, scrap prices actually went up
5 significantly, but subject producers didn't seem to care.
6 Their prices kept going down, and we had to chase them or
7 risk losing even more sales.

8 As a result, our profits collapsed, even as
9 subject imports were largely able to keep the market share
10 gains they made in 2015.

11 Over the years, foreign producers have repeatedly
12 claimed that we are insulated from the impact that they have
13 on market pricing and sales. They say that Buy America
14 protects us. They say that our affiliated fabricators and
15 scrap suppliers protect us. They say that they sell to
16 different types of end users through different channels of
17 distribution. They say that rebar imports are necessary to
18 fill a demand vacuum.

19 Thankfully, the Commission has repeatedly
20 rejected these claims. First, as you have found, Buy
21 America has little impact on the market. Buy America
22 provisions are relevant only in a small share of sales.
23 Plus, we generally have no idea whether a particular sale is
24 for a Buy America project.

25 Customers are not eager to share that information

1 with us because they fear it may limit their ability to
2 demand the lowest available price in the market, which is
3 almost always a subject import price.

4 Second, as you have found, affiliated customers
5 do not insulate U.S. producers from import competition.
6 Instead, our affiliates are market players in their own
7 segments and they need to make the best business decisions
8 for their bottom lines.

9 We sell to both affiliated and unaffiliated
10 customers according to market conditions, whether end users
11 or distributors. For example, we can't force our affiliated
12 fabricator, Harris Rebar, to buy rebar from us at elevated
13 prices because they need to be competitive for sales of
14 downstream products.

15 In fact, for the last couple of years Harris has
16 had to purchase subject imports because we just couldn't
17 compete with the unfairly traded subject import pricing.

18 It is the same case with our scrap processors.
19 They are separate, independent business centers with their
20 own profit motives, and we buy scrap from them in
21 competition with other buyers in the open market.

22 Finally, any claims that the domestic industry
23 cannot satisfy demand are completely contradicted by the
24 facts. U.S. producers have been operating at below-capacity
25 and would be able to fully serve the U.S. market absent

1 unfairly traded imports.

2 Apparent U.S. consumption remains well below U.S.
3 rebar capacity. We welcome the opportunity to sell any
4 customer at a fair price.

5 Dumped and subsidized imports have kept us from
6 doing so, and given the increasing volumes of subject
7 imports will likely continue to keep us from doing so.

8 When the Order on the Mexican imports took
9 effect, we saw the dumped Mexican product retreat from the
10 market and we were hopeful that we would be able to maintain
11 prices and increase sales. But Turkish imports continued to
12 soar. Imports from the same, the very same producers who
13 told you in 2014 that they had no interest in increasing
14 shipments to the United States. As if 600,000 additional
15 tons of unfairly traded Turkish material weren't enough,
16 Japanese volumes doubled seemingly overnight, and Taiwanese
17 volume grew five-fold.

18 And it isn't just increased volume. Subject
19 imports have gotten cheaper and cheaper to get those
20 volumes. They have grown their distribution networks. We
21 are seeing foreign mills increasingly sell directly to
22 customers instead of through brokers in customized lengths
23 rather than standard stock lengths. Competition from the
24 subject imports is becoming more pervasive and more
25 threatening in every way.

1 The steel industry is subject to business cycles.
2 Mills have to thrive when demand conditions are good so that
3 we can invest for the future and manage when conditions are
4 not so good. But the benefits of increasing demand have
5 been intercepted by Japanese, Taiwanese, and Turkish
6 producers.

7 All you need to do is look at what is happening
8 with our mill in Birmingham, Alabama, which serves the
9 Florida market. Construction there is booming, but we have
10 been largely priced out of the market by Turkish imports.

11 With the imposition of the 2014 Orders and the
12 growth in the construction market, we should be doing well,
13 but it is exactly the opposite. It has been incredibly
14 difficult to have to tell our team mates and their families:
15 despite improvements in the economy, and the hard-fought
16 battle that resulted in relief from Mexican imports in 2014,
17 they still won't be taking home as much pay as they should
18 be.

19 At Nucor we tie compensation to production. We
20 do this because it usually allows us to avoid large-scale
21 layoffs. However, this means that every sale we lose to
22 dumped and subsidized imports is money out of our team
23 mates' pockets.

24 For their sake, and for the sake of the U.S.
25 industry, we urge you to make an affirmative final

1 determination so that the domestic producers and their
2 workers can be provided with relief against unfairly traded
3 imports.

4 Thank you.

5 STATEMENT OF JOE CRAWFORD

6 MR. CRAWFORD: Good morning, Chairman Schmidlein,
7 Vice Chairman Johanson, Commissioners, and Commission Staff.
8 My name is Joe Crawford and I am Vice President and General
9 Manager of Steel Dynamics' Roanoke Bar Division in Roanoke,
10 Virginia.

11 I would like to thank you for the opportunity to
12 appear before you and explain why relief against dumped and
13 subsidized imports from Japan, Taiwan, and Turkey is so
14 critical to my company and to the U.S. rebar industry as a
15 whole.

16 I began my career almost 40 years ago with the
17 former Roanoke Electric Steel Corporation. Since then, the
18 U.S. rebar industry has changed immeasurably, becoming
19 leaner, more efficient, and more innovative, better able to
20 serve our customers, our shareholders, and our workers.

21 But our investments, health, and continued
22 improvement can easily be destroyed by dumped and subsidized
23 imports. In 2013 and 2014, we started to cut back on our
24 rebar production because it did not make sense to produce
25 what we couldn't sell profitably due to low-priced subject

1 imports.

2 More recently, with the prospect for trade
3 relief, we made the decision to upgrade our Roanoke plant.
4 But the viability of our investment depends on being able to
5 increase production and sales, thus reducing our costs.

6 We have seen how quickly Japanese, Taiwanese, and
7 Turkish imports entered the market, took share, and crashed
8 prices. Additional imports from these countries at
9 rock-bottom prices will significantly undercut the viability
10 of our investment.

11 I am told that Turkish producers are claiming
12 they serve a different market than domestic producers. This
13 is just flat-out wrong. Even where imports go into
14 distribution where we also sell, rebar is then sold to
15 fabricators. At the end of the day, almost all rebar ends
16 up sunk in concrete.

17 So this claim of separate markets does not make
18 any sense to me. Subject imports are sold in the same
19 lengths, including custom ones, the same sizes, and same
20 grades as U.S. producers. Simply put, there is no type of
21 rebar that they can't offer, and every type that they offer
22 is dirt cheap.

23 We should be experiencing a time of significant
24 sales growth and profitability, given demand levels.
25 Instead, it is just the opposite, with our performance

1 plummeting because of incredibly low priced dumped and
2 subsidized subject imports.

3 If we do not obtain relief from these imports,
4 the effects will not just be limited to past market share
5 losses, past lost sales, and past lost profits, instead the
6 effects will continue into the future permanently damaging
7 the U.S. rebar industry's ability to reinvest for the
8 future.

9 On behalf of Steel Dynamics and our 425 employees
10 in Roanoke, and all of our hard-working employees, I ask you
11 to please grant this industry the relief it so badly needs.

12 Thank you.

13 STATEMENT OF BURKE BYER

14 MR. BYER: Good morning. I am Burke Byer,
15 President and CEO of Byer Steel. Thank you so very much for
16 having us here today, and I thank the Commission and
17 Commission Staff for hearing this most critical matter.

18 Byer Steel is a small company, but one with a
19 long and strong tradition. We are a family-owned and
20 operated business located in Cincinnati. Byer Steel has
21 been in my family for over four generations, more than 100
22 years. The amount of pride that flows through our team
23 mates is greater than my words can express.

24 As you may already be aware, Byer Steel makes
25 rebar, and rebar only. I diversified our business several

1 years ago to go into the fabrication and warehouse services,
2 yet these channels are also impacted by unfairly priced
3 rebar from Turkey, Taiwan, and Japan.

4 Not that long ago, Byer Steel had more 188
5 workers. We are now down to just a single crew, less than
6 half of that workforce that I would ideally employ. This
7 situation has and will get worse unless the Commission
8 provides us with relief from these unfairly priced Turkish,
9 Japanese, and Taiwanese imports.

10 After the imposition of the Orders in 2014, we
11 obtained some relief from dumped Mexican rebar, and also saw
12 recovery in the construction market. We were hopeful that
13 conditions were finally improving for the domestic industry
14 and for our company.

15 Instead, producers in Turkey, Japan, and Taiwan
16 reaped all the benefits. As I explained in the Fall, since
17 late 2015 rebar from Turkey, Japan, and Taiwan has been
18 coming up the river from New Orleans pricing us completely
19 out of the market.

20 By the end of 2016, imports had driven prices so
21 low that we were forced to buy Turkish, Japanese, and
22 Taiwanese bar for both fabrication and stock sales. I let
23 more of our team go.

24 Simply put, we can buy it cheaper than we can
25 make it. It is incredibly difficult to have to do this, but

1 we truly have no choice. There is simply no place to hide.
2 Any size, grade, length that we can produce, so can the
3 subject producers put this product here and make it
4 available for distribution to any facility.

5 We have attempted to match subject import prices
6 because otherwise we don't get the sale. But subject prices
7 kept falling throughout the POI and the gap between our
8 prices and imports kept growing.

9 Even though demand has risen over the past two
10 years, we are not seeing any benefit. Low-priced subject
11 imports get the sale instead.

12 Most recently, we have had the slowest sales
13 start to the calendar year on our records. We see many jobs
14 and work in construction markets we serve, yet the rebar is
15 not moving off of our floor. We also experienced a scrap
16 cost run-up in the first part of this year, and Turkish,
17 Japanese, and Taiwanese rebar in Cincinnati didn't come up.
18 It took me no extra time out of my day when I drove by the
19 docks Tuesday night on my way home and I took pictures of
20 more than what is the equivalent of two months of my
21 production sitting on the ground. And just as they were
22 unloading another barge from Turkey, I thought to myself I
23 better get home. I've got to get ready for this hearing. I
24 also need to start evaluating who else I need to lay off
25 next month.

1 These conditions are not sustainable for my
2 company. If the U.S. rebar industry does not get relief
3 from these unfairly priced imports, it will not be
4 economically feasible for Byer Steel to continue to produce
5 rebar. I have gone so far as to halt any conversations over
6 processes of buying out my shareholders or my sisters
7 because basically I feel it makes zero sense to take one
8 ounce of extra risk in this industry today.

9 In other words, I may be out of business unless
10 the Commission grants us relief. It is truly a scary time
11 for us because, even if demands grow subject imports have
12 already shown that they can enter the U.S. market at rates
13 faster than the growth in demand.

14 Just like the last several years, we will have to
15 cut prices even more, or cut production. Either way, our
16 margins and our workers will continue to suffer. I am truly
17 continually amazed that Byer Steel sits 7- to 8,000 miles
18 from Turkey, Japan, and Taiwan's mills, yet they are for
19 some reason able to continue to dump unpriced tons into our
20 markets with no apparent correlation to the scrap pricing.
21 As of today, I have been unsuccessful in selling one ton
22 back on any one of those barges that come to Cincinnati,
23 heading back towards Turkey, Japan, or Taiwan.

24 In short, if subject imports are allowed to
25 continue hammering our markets, very soon we will likely

1 reach a tipping point where we will no longer be able to
2 continue producing rebar.

3 On behalf of my family and my team mates, I urge
4 the Commission to continue to recognize the harm that
5 subject imports have caused U.S. companies like Byer Steel
6 and grant trade relief for the domestic rebar industry.

7 Thank you.

8 STATEMENT OF ROBERT WEBB

9 MR. WEBB: Good morning. I am Robert Webb,
10 President of Southwestern Suppliers. Southwestern is a
11 wholesale distributor of construction products, including
12 reinforcing bar, as well as an independent rebar fabricator.
13 We are based in Tampa, Florida, and service the State of
14 Florida and beyond.

15 Our company was founded nearly 60 years ago, and
16 we are family-owned and operated. In fact, I am the third
17 generation of our family in this business. Ours is an
18 extremely competitive business. Rebar is a simple commodity
19 like product and is sold mostly in a couple of grades and a
20 few standard sizes.

21 Our customers demand the best price and generally
22 don't care where the product comes from as domestic and
23 foreign rebar is virtually indistinguishable. Rebar is the
24 most price-sensitive product we sell. As a result, we have
25 to purchase it at the best pricing to remain competitive.

1 I testified here before you in 2014 regarding the
2 unfair pricing of rebar imports in the market. I am sorry
3 to say that our business has become even more challenging in
4 recent years due to another surge of low-priced imports,
5 this time from Japan, Taiwan, and Turkey.

6 While demand in our market is good, pricing seems
7 totally disconnected because the market is inundated with
8 extremely cheap subject rebar. Mountains of Turkish rebar
9 have been stacked on the docks in Tampa and other ports all
10 around Florida for several years. It is staged and ready
11 for purchase at aggressive cut-throat prices with no lead
12 time.

13 The flood of Turkish product especially has been
14 relentless. I have also seen unfairly priced Japanese rebar
15 in Florida showing that there is no geographic limitation to
16 where these imports are shipped. These imports are wreaking
17 havoc on the rebar market.

18 Despite decent demand, domestic prices have
19 actually been forced down considerably. As we press the
20 producers, the domestic producers, to eventually lower
21 prices to compete with imports, the importers simply cut
22 prices even further.

23 The domestic producers just cannot keep pace with
24 the downward pricing spiral and the difference in price
25 between domestic and subject rebar simply cannot be

1 overlooked by our customers.

2 Given the overwhelming availability of cheap
3 imports, more and more of my competitors have made the
4 decision to exclusively or at least primarily source from
5 foreign suppliers. It used to be that only a few
6 distributors sold Turkish bar, but more recently the Turkish
7 producers have developed their own downstream networks that
8 they use to aggressively feed material directly to the
9 market through distribution and fabrication.

10 While I wish we didn't have to, Southwestern now
11 purchases imported rebar, too. The prices are so low and
12 the market so competitive that there is simply no choice, as
13 our customers simply won't pay substantially more than our
14 competitors charge.

15 So we purchase the subject rebar at the lower
16 prices, and on the sales we've kept domestic we press our
17 domestic suppliers to meet those low prices. U.S. producers
18 have been forced to make nearly constant adjustments to
19 their pricing in reaction to the arrival of new subject
20 import shipments.

21 We do realize that the domestic suppliers can
22 only come down so far in their pricing, so some volume just
23 goes to the subject imports. In many cases, the subject
24 import price is so low we are forced to buy them because we
25 know the domestic industry just can't match the prices.

1 On some of the tonnage we buy, our primary
2 domestic supplier has given us a foreign fighter discount.
3 This is a discount from our normal transactional pricing
4 specifically designed to help us combat low-priced import
5 rebar in the market. But even these steep discounts are
6 sometimes not enough. They can reduce the price disparity
7 somewhat, but they often cannot eliminate it.

8 It will take a long time for the existing
9 stockpiles of subject importer rebar to work their way
10 through the market and end up buried in concrete, all the
11 while negatively and severely impacting my ability to
12 continue to purchase rebar from domestic producers.

13 In fact, last month Southwestern had its worst
14 month in terms of revenue in nearly four years. I believe
15 that this is a direct result of unfair subject import
16 competition. If this situation does not improve, we will be
17 forced to purchase even more imported rebar moving forward.

18 Thank you.

19 STATEMENT OF JEFF VEILLEUX

20 MR. VEILLEUX: Good morning. My name is Jeff
21 Veilleux, Vice President of Sales and Marketing for PJ's
22 Rebar. PJ's Rebar is a fabricator based in Fremont,
23 California. We serve customers on the West Coast and
24 beyond.

25 PJ's is a family-owned and operated business, and

1 I have been with the company for 21 years. We have good,
2 long-standing relationships with a number of domestic rebar
3 producers. But unfortunately it is getting to be more and
4 more difficult to purchase from them.

5 Low-priced imports from Japan, Taiwan, and Turkey
6 have flooded the market, driving down prices. This material
7 has been widely available at prices that are far lower than
8 domestic rebar. Without relief from this case, I have no
9 doubt that subject imports will continue to surge in even
10 higher volumes and lower prices.

11 We have seen these unfairly priced imports in the
12 market for several years, but their volumes seem to be
13 increasing each year. While subject imports have always
14 been low, subject imports affected pricing in the U.S.
15 market most drastically starting in 2015 and throughout last
16 year.

17 That left me with no choice but to go out to our
18 U.S. mill suppliers with the import prices and convince them
19 to lower their prices in response. The mills must respond
20 on price or they will not get the sale.

21 For example, we did make purchases of Japanese
22 and Taiwanese rebar in 2015 simply because their prices were
23 so low. Since then, I have had some success in getting my
24 domestic suppliers to lower their prices, but I'm not sure
25 how much longer the domestic mills can keep this up, or how

1 much further they can possibly chase import prices.

2 The domestic producers have a limit to how low
3 they can go and still maintain a viable business. Unless
4 things change, I will have no choice but to go and buy more
5 imports just to maintain my customer base.

6 Let me be clear. This is purely a matter of
7 price, and subject imports are depressing and suppressing
8 U.S. prices. Our domestic suppliers have always been able
9 to meet our supply needs. There is no shortage of rebar
10 domestically. We have never had to purchase a single ton of
11 imports because domestic rebar was not available, and that
12 is still true today.

13 But we have to compete with other fabricators and
14 distributors who buy the dumped and subsidized rebar, and it
15 really does not make a difference whether the imports are
16 sold to distributors, fabricators, or even directly to the
17 end users; virtually all rebar ends up in the same place:
18 sunk in concrete.

19 As a result, there are really no meaningful
20 distinctions between the channels of distribution. We
21 continue to see lots of import offers in the market for
22 Japanese, Taiwanese, and even Turkish rebar in the
23 California market. These subject imports are bad for
24 business, and I know they are bad for the domestic mills.

25 If subject imports continue to enter the market

1 at extremely low prices as have been coming in recently, we
2 are going to be left with no choice but to shift more and
3 more of our sales to cheap imports. Thank you.

4 STATEMENT OF AMOS MAILLETT

5 MR. MAILLETT: Good morning. My name is Amos
6 Maillett, and I'm the Executive Vice President of HarMac
7 Rebar, a distributor and independent fabricator of steel
8 reinforcing bar that has been in business for more than 34
9 years. HarMac is based in Fryeburg, Maine and we also have
10 a facility in Sayreville, New Jersey. We supply fabricated
11 rebar jobs throughout the Northeast United States, from
12 Philadelphia up to Albany, all the way to northern Maine.

13 Over the past several years, a surge of
14 low-priced rebar imports from subject countries has
15 saturated our market. The surge has been especially
16 pronounced since 2015, and it has not let up. These
17 unfairly traded imports are having a profound effect on the
18 market and on our business.

19 We generally do not purchase imports. We have
20 well developed and long-standing relationships with a number
21 of domestic suppliers. These relationships are important to
22 our business, and we don't want to source overseas if we can
23 help it. However, this is changing, as many of our
24 competitors have moved from domestic sourcing to much
25 cheaper foreign sourcing. This has left even HarMac with no

1 choice but to purchase some imported rebar in recent years.

2 With our competitors buying the cheap foreign
3 product, it means that the imports are quickly penetrating
4 the market and that we have to compete with the dumped and
5 subsidized pricing. The cheap imports are driving domestic
6 prices down and compressing margins on all sides, for both
7 our fab shops and our distribution operation. We're having
8 to battle imports for each and every sale, and because of
9 this we have to push our domestic suppliers to lower their
10 prices.

11 We frequently quote subject import prices to
12 our U.S. mills to get them to lower the prices so that we
13 can compete. While we have had some success in doing this,
14 we have also lost a ton of business to subject imports and
15 fabricators that use them, as their prices just seem to get
16 lower and lower.

17 I would like to emphasize a few other points
18 about the competition in the U.S. rebar market. First, the
19 domestic industry supplies independent fabricators and
20 distributors. Domestic producers will sell rebar to
21 customers, independent or affiliated at a fair price. They
22 have to; otherwise, there's no way that we as an independent
23 can stay competitive.

24 Second, the subject imports also supply both
25 distributors and fabricators in the United States. Subject

1 rebar may pass through a distributor, but directly or
2 indirectly U.S. fabricators are buying unfabricated subject
3 imports.

4 Thirdly, any claim that there are different
5 markets for different lengths or sizes of rebar is just
6 wrong. Domestic producers make and sell number threes,
7 fours, fives, sixes, just like subject producers do.
8 Finally, there's no separate for 20, 40 or 60 foot rebar.
9 It is simply a matter of convenience in terms of the rebar
10 length that we chose to buy. If the price is right, we'll
11 certainly buy a 30 footer instead of a 60 footer.

12 For the sake of HarMac, its workers and the
13 entire U.S. rebar industry, I urge you to grant trade relief
14 from Japanese, Taiwanese and Turkish imports. Thank you.

15 STATEMENT OF SETH KAPLAN

16 MR. KAPLAN: Good morning. I'm Seth Kaplan
17 here on behalf of the Rebar Trade Action Coalition, to
18 discuss the economics of the industry. I'll first summarize
19 my findings, then discuss the conditions of competition, the
20 statutory injury analysis. I will then rebut certain of the
21 economic arguments put forward by respondents, and if time
22 permitting discuss threat.

23 So let me begin by an overview and summary.
24 Subject imports have increased absolutely and as a share of
25 both domestic consumption and production over the Period of

1 Investigation. Subject imports consistently undersell
2 domestic rebar and have suppressed and depressed domestic
3 prices. I'm going to spend some time talking about the
4 price suppression and depression that is occurring in this
5 market despite declining scrap prices, and discuss new types
6 of evidence the Commission has to analyze this, and I think
7 find in this investigation price suppression and
8 depression.

9 The surge in low priced subject imports caused
10 material injury to the domestic industry trade, financial
11 and employment indicia. I want to point out that with
12 respect to the employment indicia, employment fell in this
13 investigation despite rising demand and the fall in
14 employment in this investigation is different than in the
15 last three investigations involving rebar dating back to the
16 1990's.

17 So now let me turn to the conditions of
18 competition. These are conditions the Commission has found
19 in previous cases. I will run through them quickly.
20 Nothing has changed and your findings from past
21 investigation should stand. Subject imports and domestic
22 rebar are highly substitutable. Rebar is purchased
23 primarily on the basis of price. Demand for rebar is
24 inelastic. U.S. demand for rebar increased over this Period
25 of Investigation.

1 U.S. producers have the ability to supply all
2 of the U.S. market. There is now and you will see more
3 excess capacity in the domestic rebar industry than at any
4 time in the three previous investigations dating back to the
5 1990's. And there are significant inventories of subject
6 rebar throughout the U.S. distribution system. If they are
7 not in importer inventories, they are in distribution
8 inventories, as you've seen from the pictures of rebar
9 sitting at the docks.

10 Rebar is domestic and subject rebar are highly
11 substitutable. I have two quotes from the previous
12 investigations where the Commission found this. Nothing has
13 changed. Similarly, rebar is purchased on price. The
14 Commission has found this in 2008, in 2013, in 2014.
15 Nothing has changed. The demand for rebar inelastic. Once
16 again, the Commission found this in 2008, 2013 and 2014.

17 The reasons are the same. Rebar is a very
18 small share of the final product it is in, and there are no
19 good substitutes for rebar. Both of these factors will make
20 demand inelastic.

21 Demand for rebar increased over the Period of
22 Investigation, and you could see and hear and feel the
23 stress of this on the domestic producers and distributors on
24 this panel. This is a time they should be selling more and
25 prices should be rising. They have survived the Great

1 Recession. They have come out of the Great Recession. The
2 economy has recovered slowly. It is now rising at a gradual
3 pace.

4 Nonetheless, they have not participated in
5 this increase in demand, and in fact not only have they not
6 garnered their proportional share of the increase or a share
7 less than proportional to the increase, but production and
8 shipments have actually declined. Rising demand, declining
9 production.

10 The domestic industry can supply the market.
11 The left graph shows domestic rebar capacity, and on the
12 right bar of the left graph -- boy, that's confusing. Let's
13 look at the left graph. It shows U.S. apparent domestic
14 consumption and the larger bar shows U.S. domestic rebar
15 capacity. There's excess capacity in this market. The
16 right side puts this in terms of domestic excess rebar
17 capacity relative to the subject imports, and you could see
18 the domestic industry again supplying all the imports, all
19 the rebar supplied by the subject producers and still have
20 capacity remaining.

21 And there are significant inventories of
22 subject rebar throughout the U.S. distribution system. They
23 overloaded the system in 2015. This overhang exists into
24 2016 and nonetheless they continue to ship.

25 So let's go through the statutory indicia.

1 Subject imports increased significantly over the Period of
2 Investigation, an 8.5 percentage point increase from a
3 little over ten percent to now over 20 percent of the U.S.
4 market. That is significant, both absolutely and as a share
5 of production and consumption.

6 As you've seen and I've stated earlier, U.S.
7 consumption increased and U.S. production fell. This is the
8 increasing demand and yet shipments and production
9 declining, a sign of injury in the volume.

10 Subject imports' underselling margins
11 increased over the POI. Subject imports undersold U.S.
12 producers in over 99 percent of comparisons. The
13 underselling margins increased from 2014 to 2016, from 10 to
14 20 percent for Turkey. The margins increased from Japan
15 from 7.2 to 18-1/2 percent, and from Taiwan from 6 to 11
16 percent. Consistent and ubiquitous underselling increasing
17 from all three producers.

18 Subject imports depressed and suppressed
19 prices, and I would like you to take note of the new
20 evidence you have here relative to some previous cases,
21 where there were cost price squeezes like there are '15 to
22 '16, but there were also large declines in scrap prices.
23 The Commission determined that there was uncertainty as to
24 what caused the price declines and what caused the
25 depression.

1 The new information in this case comes from
2 the questionnaires that the Commission collected, and what
3 the questionnaires tell you is that the domestic producers
4 were forced to reduce prices. This is not indirect evidence
5 of price suppression you get when you look at a cost-price
6 squeeze and then say what caused it.

7 This is prices falling where the record that
8 you collected tells you why. I had -- I asked for a lower
9 price with imports as my lever. Fifteen purchasers from
10 your own record accounting for 63 percent of the purchases
11 of all purchasers' questionnaires confirm that U.S.
12 producers had to reduce prices to compete with lower priced
13 subject imports, and they had to lower them by an average of
14 13 percent.

15 There is no confusion about the scrap price
16 effect here and the cost-price squeeze it caused, and I can
17 understand that confusion. It's indirect inference you're
18 asked to make there, and there is judgments that have to be
19 made about that inference. Here, however, you have people
20 telling you that the prices came in below and that's why
21 domestic prices were lowered.

22 So I'd ask you to look at this evidence. I
23 think it's different than what you've seen in recent cases
24 where you've discussed price suppression and depression, and
25 I think in this circumstances with this record and this new

1 type of evidence, it comes from your newly designed
2 purchaser questionnaires, that you could see direct evidence
3 now and reach that finding with no ambiguity.

4 Scrap prices do not explain the price
5 declines. This is another way of saying it. If they did,
6 you would expect to see metal margins the same. You would
7 expect to see as scrap prices fell, prices for the product
8 fell and the metal margins stayed the same.

9 In fact, what you see is the metal margin
10 rising, and you can see this in the profitability.
11 Profitability was very low in '14. It went up in '15 and
12 went down in again in '16. That is the effect of the price
13 suppression of these subject imports, and evidence that
14 prices do not -- are not lock step with the scrap prices, as
15 each of the witnesses have testified to and have
16 experienced and have evidence of and will be happy to
17 discuss with you why there is not that lock step pattern.

18 The next slide shows the same thing. From
19 2015 to 2016, with a very large decline in profitability.
20 U.S. net sales average unit values fell substantially more
21 than raw unit material costs. A cost-price squeeze during
22 this period, price suppression, price depression during this
23 period and direct evidence of that depression found in your
24 questionnaires.

25 The negative impacts of subject imports are

1 self evident. I could ask you to look at the Appendix 3
2 summary. I'll summarize it for you here in a table. Output
3 decline, capacity utilization, sales decline, market share
4 decline, return on investment, cash flow, profits, ability
5 to raise capital, investment, growth. The dumping margin's
6 significant this time, greater. A new CVD margin of 16
7 percent on some Turkish producers.

8 Factors affecting domestic prices all tend
9 toward an affirmative finding, and employment and wages
10 fell, and once again employment and wages fell in a time of
11 rising demand. Employment fell in this investigation when
12 it did not in the previous three full investigations, where
13 you reached an affirmative determination. So the employment
14 effects in this case are worse despite the rising demand and
15 the growth in the economy that's becoming healthier.

16 Revenues fell over the POI by 27.7 percent.
17 This illustrative of the table that I just discussed, and
18 operating income is at its lowest level since 2016. So all
19 the impact indicia are there. The volume says what is
20 causing this arm, the price suppression and the price
21 depression are evident from the record.

22 This is a relatively straightforward and
23 simple case. There is not a lot of ambiguity in the data,
24 there's not a lot of ambiguity in the indicia. There's not
25 a lot of surprises and ambiguities that you have to parse

1 out. It's pretty straightforward, and that's why my
2 presentation on this isn't very long.

3 So let's look at what the Respondents said in
4 certain cases. They said the industry's doing pretty well
5 here relative to last cases, so I looked at the last cases.
6 This is the lowest market share of the U.S. industry in any
7 original investigation. You could look at the three periods
8 ^^^^ the four Periods of Investigation and compare the last
9 data point as the U.S. industry, slightly over 70 percent.

10 That is below where they were in all three
11 years of all three previous investigations, despite the fact
12 that they could ply the home market with no imports of
13 either subject or non-subject variety.

14 The next slide shows that the operating margin
15 is the lowest of the final year of any of these three
16 original investigations that we're making a comparison to.
17 So to the extent that you are considering how poorly this
18 industry is operating, the industry is operating at levels
19 below the three previous affirmative findings, despite the
20 fact that the economy is doing better and demand is rising.

21 Let's look at the timing of price and quantity
22 effects. We see that during the largest increase during the
23 period is 2014 and 2015. Domestic producers tried to hold
24 the line on prices and what you will see if you look at the
25 market share data is this is where they lost the greatest

1 share. This created a large overhang of imports despite the
2 decline in U.S. domestic production and them trying to hold
3 the line on pricing.

4 By 2015 and 2016 period, the overhang was too
5 great, the underselling was too large and the imports
6 continued to flow at about the same level, slightly less,
7 and the U.S. industry was forced by subject import prices to
8 lower their prices. So there was a volume effect in 2015.
9 That volume effect continued into 2016, and the price effect
10 occurred and profits plummeted.

11 So you have volume effects that you could find
12 in the first factor of the injury test, price effects from
13 the second factor and import effects throughout. With
14 respect to other arguments the Commission has rejected them.
15 I submit them in a paper along with the prehearing brief
16 that discusses the economics of vertical integration.
17 Essentially what the economics tell you is if the markets
18 are competitive and the scrap market is and the rebar market
19 is, and the fabrication markets are, then there could be no
20 advantage to vertical integration in terms of gaining any
21 kind of market power.

22 In this case, all three of those markets are
23 competitive, and economic theory is definitive on this
24 point. There is no -- vertical integration does not
25 insulate the industry. You had previously found that Buy

1 America delivery times and availability are not significant
2 conditions of competition.

3 In fact, the availability situation has become
4 worse for domestic producers, as there are now direct
5 importers of Turkish material and warehousing in the United
6 States, making the lag times that previously existed no
7 longer an issue.

8 Finally, the threat factors are consistent in
9 showing that there is threat. The evidence of cumulation is
10 there. Alternative market conditions have deteriorated,
11 particularly for Turkey and the fact that they've been shut
12 out of other markets, and the overhang of rebar on the docks
13 still continue. Thank you very much.

14 MR. PRICE: We'd like to reserve our remaining
15 time. Thank you. That concludes our direct presentation.

16 CHAIRMAN SCHMIDTLEIN: Alright. Thank you
17 very much. I'd like to thank all the witnesses for being
18 here today. We do appreciate your time in helping us
19 understand this case. This morning, I'm actually first in
20 line to begin the questioning. So I'm going to pick up with
21 this topic of scrap prices, and maybe -- and Mr. Campo, and
22 I just, you know, obviously heard your testimony.

23 But I'd like to hear, I guess, from a few of
24 the fact witnesses, and Mr. Campo you in particular
25 mentioned scrap prices in your testimony, and that scrap

1 prices influence rebar prices, but not so much as dumped and
2 subsidized imports is what you said.

3 So I wonder if you could elaborate on what you
4 view as the influence of scrap prices. How do you
5 determine, can you determine how much scrap prices are
6 influencing the price?

7 MR. CAMPO: I think the simplest way to think
8 about it is scrap's a significant import cost for us, and
9 supply and demand conditions in the marketplace determine
10 our -- the price of what we're able to sell. The influence
11 of scrap is it affects profitability, and when profitability
12 becomes impossible because of a combination of high scrap
13 prices and low selling product prices, we have no choice but
14 to try and defend prices in the outsell market in order to
15 remain profitable.

16 So that indirect influence is there, and
17 certainly we attempt to recover our import costs however we
18 can. But ultimately, the availability of other material in
19 the marketplace determines the selling price.

20 CHAIRMAN SCHMIDTLEIN: So what did you mean
21 when you said "scrap influences rebar prices"?

22 MR. CAMPO: Well, I think if you see it in the
23 -- scrap prices move up and down and selling prices move up
24 and down. Both are relatively volatile, and as an input
25 cost we have to make sure that we're -- as we evaluate what

1 business is profitable to pursue, that we understand those
2 costs.

3 CHAIRMAN SCHMIDTLEIN: I'm just looking at
4 your company, Gerdau. Are you a -- I'm sorry. We have so
5 many witnesses here. So where are you on the supply chain?

6 MR. CAMPO: We're a producer.

7 CHAIRMAN SCHMIDTLEIN: You're a producer,
8 okay.

9 MR. CAMPO: We have 14 steel mills in the
10 U.S., five or six dedicated to rebar.

11 CHAIRMAN SCHMIDTLEIN: So do you have people
12 quoting the scrap prices to you in terms of when you're
13 negotiating to sell your product? In other words, I'm
14 trying to get a sense of in the market are people cognizant
15 of what scrap prices are doing and this is part of the
16 negotiating for establishing sales prices?

17 MR. CAMPO: So the scrap market is very
18 transparent and liquid. There are a lot of players in that
19 market and so scrap prices are visible. Certainly, when
20 scrap prices decline, customers have an expectation that as
21 our input costs go down, that we will be able to reduce
22 prices for them as well. So yes, in that context we hear
23 from customers that they're aware of scrap prices and have
24 expectations about what that means for finished goods
25 price.

1 CHAIRMAN SCHMIDTLEIN: Okay, all right. That
2 doesn't surprise me, given how transparent scrap prices are.

3 MR. CAMPO: Right.

4 CHAIRMAN SCHMIDTLEIN: Would the other
5 witnesses agree with that? Is that your experience?

6 MR. BARNEY: Yes. Don Barney with Nucor, and
7 that is our experience. It's a significant component to the
8 cost side of the business, but supply and demand is really
9 what's drives it. What's driven the market price lower is
10 the subsidized and dumped imports from subject countries.
11 That's what's driven the price lower. So similar to my
12 colleague here.

13 CHAIRMAN SCHMIDTLEIN: All right. Actually,
14 let me follow up with you Mr. Barney on something you said
15 in your testimony, which was related to the scrap prices,
16 that you said in 2016, scrap prices actually went up
17 significantly, that subject producers didn't seem to care.
18 Their prices kept going down and we had to chase them or
19 risk losing even more sales.

20 So my question is when I look at the pricing
21 tables in the staff report, and I recognize this is
22 something you might not have focused on up until now, but
23 Mr. Price you probably have, when you look at the price of
24 the United States product in each of those four pricing
25 products, the price is going up in those four products from

1 the first quarter of 2016 to the second quarter to the third
2 quarter.

3 So I guess my question is number one, why are
4 U.S. prices of those pricing products going up in that
5 instance, given the competition with subject imports, and if
6 you look at the beginning of that chapter, which is Chapter
7 5 in the staff report, you see the chart with the scrap.
8 This is the monthly price of number one heavy melt scrap
9 Chicago, and as you testified, the price of scrap goes up
10 significantly in 2016.

11 So when you look at it and you look at the
12 pricing table, it looks like there's a correlation there
13 between suddenly you see prices going up in 2016, at the
14 same time that scrap prices turn upward.

15 (Pause.)

16 MR. PRICE: So actually if you look at the
17 actual individual pricing, you actually see -- and I'm
18 looking at the U.S. prices weighted average. For example,
19 you see prices go up and down in between the first and the
20 fourth quarter. You see --

21 CHAIRMAN SCHMIDTLEIN: Where are you exactly?

22 MR. PRICE: I'm on Table 5 through, which is
23 product, 2 at the top. I pulled that one out first.

24 CHAIRMAN SCHMIDTLEIN: You have Product 1.

25 MR. PRICE: Yeah. I always start on Product

1 1.

2 CHAIRMAN SCHMIDTLEIN: Right, okay, yeah.

3 MR. PRICE: So actually -- it actually goes
4 slightly up and then down, and prices go down. Actually, if
5 you look at the fourth quarter, if you look at the published
6 data, the prices --

7 CHAIRMAN SCHMIDTLEIN: Yeah, the price drops
8 back down in the fourth quarter of 2016. But it goes up
9 from, you know.

10 MR. PRICE: Yeah. There is -- so you -- so
11 what's going on in this period, we're actually seeing scrap
12 prices escalate heavily in the fourth quarter in the
13 published data.

14 CHAIRMAN SCHMIDTLEIN: Right.

15 MR. PRICE: You can look at the published data
16 out there, and they can't meet the numbers of what's going
17 on. So you see the tremendous cost-price squeeze and prices
18 for the U.S. producers are actually going down while their
19 scrap costs are going up in this period. One of the things
20 --

21 CHAIRMAN SCHMIDTLEIN: So what about the first
22 part of 2016? Why are the prices going up in the first
23 part? Let's just take the first six months of 2016, in the
24 pricing products?

25 MR. BARNEY: You know, looking at -- Don

1 Barney with Nucor. But when you look at the information, we
2 did get a significant run up in our scrap prices, and yet we
3 had the low price imports coming in. We have to, from a
4 cost push perspective, to what my colleague Mr. Campo
5 expressed is well, there comes a point in time where you
6 just cannot keep selling steel at the levels that, you know,
7 to generate sales. You have to push that through. You have
8 to push that through.

9 So when you get to that point, we attempt to
10 raise prices to get some portion of those increases.

11 CHAIRMAN SCHMIDTLEIN: I see.

12 MR. CANOSA: This is Marcelo Canosa with
13 Gerdau. Just to add to the comments, yes scrap was going up
14 in the first part of 2016, but the selling price was not
15 going up enough to cover the scrap cost that was going up,
16 due to the imports that was coming in the first part of the
17 year.

18 Another thing I would like to add is scrap is
19 a global commodity, and it goes here, it goes up for the
20 importers as well. So their prices were going up as well,
21 but not enough to cover the scrap cost as well. So you see
22 the dumping import price coming in the first part of the
23 year, and we couldn't compete with those prices.

24 So you see our metal margin actually going
25 down in the first part of 2016, even though the selling

1 price was going up.

2 CHAIRMAN SCHMIDTLEIN: Okay.

3 MR. KAPLAN: Commissioner, there is a
4 correlation between scrap and rebar prices, because scrap is
5 a major component of the cost. The Respondents' argument is
6 that correlation is one, so that the price of rebar moves up
7 and down exactly the amount, by the amount of scrap. What
8 this chart shows is that that's not the case. The metal
9 margin, the margin above the scrap price to the actual
10 selling price varies, and it got compressed in 2016.

11 So because scrap and prices move in the same
12 direction, doesn't mean there's not an effect if the
13 correlation isn't one. They don't have to be moving in
14 opposite directions. I mean that means like a real big mess
15 that's going on in the market if the costs are rising and
16 then the prices are falling.

17 I mean that's just, you know, catastrophic.
18 This is near catastrophic, if they don't move by as much as
19 the costs. And what you see on the next graph is exactly
20 that. You see that the scrap prices were falling, but the
21 actual prices fell by more. The question I would pose to
22 you, and I question I pose to myself is why did prices fall
23 by more than scrap prices, or why did prices not rise by as
24 much as scrap prices?

25 That's the demand side, and what's going on on

1 the demand side. Big increases in the low-priced Turkish,
2 Japanese and Taiwanese imports that don't allow for that
3 full pass-through of costs. That's the squeeze in
4 profitability and that's the decline in the industry, and in
5 a human sense that's the laying off of shifts going on in
6 Cincinnati and a family business in desperate straits, and
7 from large corporations reconfiguring their mills, laying
8 off workers, shifting to different products, because they
9 have the ability to.

10 But as you can see from their financials,
11 incredibly stressed and you can see from smaller companies
12 that have less ability to do this, beyond incredibly
13 stressed. That's why we're here today, and that is the
14 effect of the imports. We see no other cause. I have
15 econometric evidence and simulation evidence if you're
16 interested I can provide, but I think it's almost apparent
17 on its face.

18 CHAIRMAN SCHMIDTLEIN: Is there any
19 disagreement in this case that this, that rebar is a
20 commodity or commodity-like product?

21 MR. PRICE: I would say that it is
22 commodity-like. I'm not sure I would call it a commodity.

23 CHAIRMAN SCHMIDTLEIN: Right. Commodity-like,
24 I agree. Is there any disagreement? Has there been a
25 dispute? I mean I'll ask the Respondents this afternoon

1 about that.

2 MR. PRICE: I don't think so. I realize the
3 light's flashing. The one other thing I would in this is
4 actually, you know, the one interesting thing, you have a
5 20-year history. You see the profitability of this industry
6 vary all over the place over the 20 years. So there isn't
7 this one to one lock of scrap and pricing and profitability.

8 It is the subject imports and their effect on
9 the marketplace that is ultimately having a big impact on
10 profitability here.

11 CHAIRMAN SCHMIDTLEIN: Okay, thank you. Vice
12 Chairman Johanson.

13 VICE CHAIRMAN JOHANSON: Thank you Chairman
14 Schmidtlein, and I would like to thank all the witnesses and
15 their attorneys for appearing here today. I had -- I
16 visited Gerdau's Sayreville, New Jersey plant on August
17 12th, 2013, and I'd like to thank Gerdau for educating
18 further ITC staff and me on rebar production.

19 I remember this visit as well as I hesitated
20 going on it, given my very busy schedule, but I was glad
21 afterwards that I visited the plant, as I learned much on
22 rebar production while in Sayreville. So thank you again
23 Mr. Campo and others at Gerdau.

24 Now to my first question. Profitability
25 varies widely among U.S. producers. How should such a

1 variance impact our assessment of the impact of subject
2 imports on the domestic industry? Does it suggest
3 company-specific causes of poor or good performance,
4 separate and apart from subject imports?

5 MR. KAPLAN: Let me discuss the general matter
6 before turning it over to individual companies. And you
7 know certainly this information is confidential as well,
8 given the product line information. But in pretty much
9 every steel product and almost every multi-company case that
10 I've been part of there are differences in the profitability
11 of the domestic producers for a variety of reason.

12 Some has to do with equipment. Some could have
13 to do with efficiencies. Some have to do with locations.
14 Some have to do with the serendipity of having certain
15 customers that are doing well or not at any given time. So
16 the fact that there is differences among the producers in
17 profitability is something that's seen in almost every
18 investigation.

19 But what you have seen, generally, in this
20 industry is that the level of profitability has varied in
21 similar fashion among the companies. That people have been
22 hurt, as a whole, although some might start out from a
23 higher or lower level. So yes, there's firm, specific
24 differences as there are in every industry, but what is
25 driving this market are the general demand and supply

1 drivers, the cost of scrap, the subject imports, and overall
2 demand in the market, which is increasing.

3 MR. PRICE: Let me just continue here quickly.
4 A lot of this is confidential information, which you know
5 our clients and industry members don't have an opportunity
6 to see.

7 The statute asks you to take a look at the
8 industry as a whole. The industry as a whole, the majority,
9 a substantial majority of the industry is losing money.
10 It's that simple. There's always variation of it within an
11 industry. There's always you know some people doing a
12 little better or doing better than other people. At the end
13 of the day, the statute asks you some very simple questions.
14 You know what are the volume affects of the imports? What
15 are the price affects of the imports and what is the impact
16 on the industry?

17 A lot of this discussion of there's differences
18 of different performance indications of different producers
19 I don't think is actually of much relevance under the
20 statute, given the overall patterns we're really seeing here
21 and given the statutory question that's being asked here.

22 MR. KAPLAN: From a confidential point of view,
23 if you'd like us, we could discuss some of the difference in
24 the post-hearing if you think that's relevant to your
25 determination.

1 VICE CHAIRMAN JOHANSON: Yes, I'd appreciate it
2 if you'd delve into this a little bit, at least, just to
3 give us some more background. But I realize again that this
4 is proprietary, but I do think it would help me get a better
5 view of what's happening in the domestic industry.

6 MR. KAPLAN: Be happy to.

7 VICE CHAIRMAN JOHANSON: Thank you Mr. Kaplan
8 and Mr. Price.

9 Respondents argue that domestic shipments and
10 capacity utilization rates increased between 2011 and 2013
11 and that by 2014 domestic producers were sold out for
12 months. And this can be seen at page 14 of Respondents'
13 brief. Were there any domestic supply constraints to any
14 part of the market during the period of investigation?

15 MR. CAMPO: There were none.

16 MR. BARNEY: We had none either.

17 MR. WEBB: As a purchaser and independent
18 fabricator, I can tell you that we never had any supply
19 interruptions.

20 MS. SMITH: We had no problem supplying the
21 domestic industry.

22 MR. PRICE: I just want to add it's interesting
23 that they made these claims. There's actually -- again,
24 your staff did a good job of gathering a lot of data and you
25 can look at pages 2-7 and 2-8 of the staff report. And I've

1 been to a lot of investigations, there's nothing here to
2 really support any kind of claim that there pervasive
3 shortages at any point in this investigation period.

4 The biggest fault noted, by the way, was
5 occasionally imports arriving late and that would be -- you
6 know that would be sort of the biggest thing that was noted
7 out there. Yes, there may be a time when a customer's
8 limited because they hit the credit ceiling. Yes, there may
9 be a time when a mill incident happens, but there's nothing
10 material in this industry indicating any type of shortage.

11 And I just want to go back to one other thing.
12 And again, you know we have a lot of factual record in this
13 case, so the last time -- and I like to use 2008 -- 2007 as
14 an interesting benchmark. It was the last period before the
15 great recession, last full-year period you have before you.
16 The industry produced about 8 million tons. The assets
17 happened in terms of capability and capacity haven't really
18 changed that much since then. If anything, it's actually
19 increased a little bit and so there's actual proof not only
20 there's capacity data, capacity utilization data, but these
21 assets have produced a lot more. You have people on
22 layoffs. You have plants that are not operating. This is
23 not a situation of lack of supply and your purchaser data
24 shows that you had 1.4 million tons shifted because of
25 pricing. It's not because of a lack of capacity.

1 I mean in all of the steel cases that we've been
2 in that is the largest number, by far, you have seen, 1.4
3 million tons. That's three quarters of a billion dollars of
4 lost revenue due to import prices. It's not lack of supply
5 capability.

6 VICE CHAIRMAN JOHANSON: Thank you, Mr. Price
7 and others.

8 Following along after that question, could you
9 all please write in your post-hearing brief or at least
10 respond to any alleged supply constraints reported by
11 purchasers. And these are found at Table 2-4 and 2-8 of the
12 staff report and also on Table 5-9 and 5-20 of the staff
13 report.

14 MR. PRICE: We'll be happy to address those.

15 VICE CHAIRMAN JOHANSON: This is all BPI that's
16 why not I'm not getting into --

17 MR. PRICE: I know. We'll be happy to address
18 those in the post-conference.

19 VICE CHAIRMAN JOHANSON: That would be good. I
20 would appreciate that.

21 As I noted earlier, I had the opportunity to
22 visit a rebar plant back in 2013 and we voted on that
23 investigation 2014, so I have some memory of what was
24 happening to the industry at that time. How, if at all, has
25 the structure of the domestic industry changed since the

1 2014 Commission investigation of rebar from Mexico and
2 Turkey?

3 MR. CAMPO: I can certainly confirm for you that
4 we saw fair lower imports from Mexico.

5 VICE CHAIRMAN JOHANSON: Lower imports?

6 MR. CAMPO: Much lower imports from Mexico
7 following that case. Conversely, we saw much higher imports
8 from Turkey, who were also I think a party to that case.
9 Those are the most obvious and dramatic affects in terms of
10 import flows. The domestic industry has lost shares, we've
11 shown you, since that time.

12 MS. SMITH: I would confirm what Mr. Campo said.
13 We did see a reduction in Mexican imports, but there was a
14 corresponding increase in Turkish imports and that is also
15 the timeframe when we saw the surge of imports from Taiwan
16 and Japan. So overall, in a growing market, domestic
17 producers saw our output decline.

18 MR. BARNEY: I would confirm what was stated as
19 well. We saw a surge. You know Mexico dropped down and
20 basically was eliminated; however, we did see a significance
21 increase in Turkish, Taiwanese, and Japanese rebar coming
22 into the country.

23 MR. BYER: We also saw a major slowdown from
24 Mexican material and then starting to think about making
25 some serious investments based upon Turkey's commitments not

1 to increase their production coming in this way and it went
2 the opposite way in our market and we saw more Turkish and
3 major league Japanese and Taiwanese material come in and it
4 was not only more volume, but in more places.

5 MR. PRICE: Let me just put some factual context
6 into this. Using the official import data since the actual
7 data was confidential from the last report because the boss
8 was non-subject in the last case from Turkey.

9 In 2013, there was 689,000 tons of Turkish
10 exports to the United States and that's overstating the
11 subject amount, for example. By 2015, there's 1.6 million
12 tons of Turkish exports. I mean I've never -- you know in a
13 market this size I mean that's dramatic. It's profound.

14 VICE CHAIRMAN JOHANSON: Thank you all for your
15 responses. My time has expired.

16 CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

17 COMMISSIONER WILLIAMSON: Thank you. And I too
18 want to thank all the witnesses for coming today.

19 I want to start off with a question on Buy
20 America. On page 2-22 of the staff report, their report
21 appears to indicate that one-third of the rebar purchases in
22 2016 was subject to Buy America requirements. This is a
23 higher figure than the 10 percent figure from the 2014
24 investigation. What explains this difference and do you
25 believe there's been an increase in reach of the Buy

1 America statutes in 2014?

2 MR. VEILLEUX: It depends on the market. It
3 depends on the region. California, for example, is a lot
4 more private work is underway and has been for the last
5 three years, whether it's housing -- you know high density
6 housing, new campuses for some of the high tech companies
7 and all of that is not Buy America. That is lowest price.
8 That's a ripe market for imports.

9 COMMISSIONER WILLIAMSON: Yes, okay, but has
10 anybody seen any increase since 2014 in the Buy America
11 provision?

12 MR. BARNEY: We have not seen any increase
13 really in Buy America to speak of. And the reality is, as
14 we stated in our testimony, that the Buy America our
15 customers do not share with us anyway, so we really don't
16 know and can't differentiate during the negotiation process
17 what is Buy America; but we have not seen a significant
18 increase in that area.

19 COMMISSIONER WILLIAMSON: Okay.

20 MR. PORTER: The one thing I was going to say
21 about the Buy American Program is that it has been a
22 diminishing part of our business portfolio, if you will, for
23 many years. But in addition, there's always been this
24 misconception or this -- I don't know -- assertion that
25 somehow we have visibility of this. Even through our own

1 affiliates if there's a Buy American that we would know and
2 the reality is in the bid market on that project we are
3 bidding against independents as well, sometimes our own
4 customers. And price, which is determined, that low price
5 is what drives that competitive bid.

6 So to think that we were going to get some
7 advantage through our affiliated company in a bid situation
8 in the Buy American Program is just ludicrous and I think
9 the data will show that, but Buy American and despite the
10 Fast Act and all the discussion about an infrastructure bill
11 none of that has materialized in our portfolio business.

12 MR. PRICE: One last comment on it, in fact, if
13 you look at where the growth is in the U.S. economy, it's
14 actually been in the non-government sector, so there's no
15 Buy America and Buy American Act because -- you know.

16 COMMISSIONER WILLIAMSON: If you're in
17 Washington, you're aware of -- but still, isn't it true that
18 if it is covered by Buy America in the end the domestic
19 producers are going to have to get that business even if the
20 actual producer doesn't know that what he's bidding is
21 something covered by Buy America?

22 MR. PORTER: The one thing that we have is a lot
23 of the independent fabricators have inventories of material
24 available, so when that Buy America sort of called Buy
25 American job is left for bid they're pulling from their

1 existing inventory. We had to meet the import prices to get
2 inventory into their systems, so the supply chain itself has
3 a way of covering or excluding us from the marketplace in
4 terms of a premium on Buy America. And again, most times we
5 don't even if that's a Buy America Program that we're
6 bidding. Am I making that clear?

7 COMMISSIONER WILLIAMSON: You're making it
8 clear. It's almost like there's a part of the market that's
9 sort of reserved for you, but because of the way that market
10 operates you really don't get any benefit of that.

11 MR. PORTER: That's exactly true and that's why
12 I called their assertion earlier ludicrous. It's not real
13 when you're in this business every day.

14 COMMISSIONER WILLIAMSON: Okay.

15 MR. BYER: Here's a perfect example of how it'll
16 happen. A client will call us and ask for I need a quote on
17 a 100 tons of these sizes and these lengths and grades of
18 material and our salesperson will provide them that price
19 and we are pricing -- we have to meet whatever the lowest
20 number in the market is, so we're priced and committed to
21 that.

22 Now they might give us an order and at the time
23 of order they might say, hey, can you make sure a few of
24 these tons are you know domestic. The deal is already done,
25 but that doesn't even happen because they're pretty

1 confident that they're going to get some portion of domestic
2 through us because they're calling us, a domestic mill. If
3 they wanted foreign material, they would call a broker
4 usually. So it's hidden underneath what they're asking.

5 COMMISSIONER WILLIAMSON: Okay, so they squeeze
6 and then you might find out. Okay. This is helpful
7 because I wasn't quite sure how the mechanism was working.

8 By the way, I forgot. Does Buy America have
9 sort of a like there has to be a certain minimum? I mean if
10 the price is less than a certain amount they can buy
11 foreign?

12 MR. PRICE: Yes, absolutely. And we can detail
13 this is our post-conference brief, but the way the Buy
14 America/Buy American Programs work -- and again, there're
15 different programs is that they're preference programs. For
16 some of the programs for -- I forget which one the Buy
17 America or Buy American. I will say at least the Japanese
18 and perhaps the Taiwanese are actually eligible -- fully
19 eligible and equivalent to the U.S.

20 COMMISSIONER WILLIAMSON: Because of the
21 procurement code?

22 MR. PRICE: Because of the government
23 procurement. That would be something like if this was a
24 government-owned building I'd be building this building.
25 For some of the other things, again, it's a preference. If

1 the price difference is more than a certain percentage, then
2 it goes offshore. And as we've seen with things like the
3 Bay Bridge and so forth, people can be in San Francisco.
4 People can be very creative in working around the Buy
5 America/Buy American Act requirement. So it's out there,
6 but it's only a preference program. It's not a strict
7 requirement and we're happy to provide details.

8 COMMISSIONER WILLIAMSON: Okay, good. Thank
9 you.

10 I'm going to turn to another subject. The staff
11 reported before refers to an association of purchasers
12 called the Independent Steel Alliance, which was started in
13 2016. Can you explain what the Alliance is and whether your
14 company participate in or sell to the Alliance and how it
15 affects the rebar market? It seems like there was a lot
16 more talk about this the last time we had a case.

17 MR. CAMPO: In simple terms, it's a buying co-op
18 and we certainly do business with members of the co-op and
19 they negotiate on behalf of a collection of buyers the best
20 possible commercial terms that they can achieve, basically
21 combining their market power.

22 Our observation would be that they -- shortly
23 after they established, their organization spent a lot of
24 time finding arrangements with importers and traders in
25 order to -- and they ended up facilitating the supply chain

1 for imports, but certainly, domestic producers sell to them
2 as well.

3 COMMISSIONER WILLIAMSON: Okay.

4 MR. WEBB: I'm actually an independent
5 fabricator and distributor and a member of ISA and we are
6 blind to -- it's a blind co-op. It's a rebate program
7 that's structured and we are blind to those rebates.
8 They're not considered in what we purchase. We consider the
9 relationship that are formed in that co-op and that
10 incentivizes us to you know try to work with some of the
11 member suppliers in that organization, but it's a buying
12 club and we're blind to the rebates, so we don't really know
13 what's going on. We just reap an annual benefit from the
14 program.

15 COMMISSIONER WILLIAMSON: Okay.

16 MR. BYER: I'm proud to say I was actually one
17 of five people that was one of the architects of ISA before
18 it got going and as much as I respect and appreciate
19 everybody that is still a member, we got out as a member
20 because we sold exactly two truckloads in three years
21 through the co-op and bought exactly zero truckloads through
22 the co-op.

23 Co-ops, in their nature, have very valuable
24 abilities in certain times and spaces in industries.
25 Although the co-op is still together, they have found what's

1 valuable for them to potentially go out and collectively get
2 foreign tons together. They have not, unfortunately, had
3 enough gravity to make the domestic market work.

4 COMMISSIONER WILLIAMSON: In other words, if
5 anything, the market is even more competitive of them
6 because of them it helps push price down more.

7 MR. CAMPO: The ISA is essentially and
8 effectively function as a demand aggregator. They've taken
9 a lot of relatively small purchasers and been able to
10 combine their buying power and assemble orders of a size
11 that make them even more interesting for importers or
12 offshore providers to supply.

13 COMMISSIONER WILLIAMSON: Okay, good. Thank you
14 for those answers and my time is about to expire.

15 CHAIRMAN SCHMIDTLEIN: Thank you. Commissioner
16 Broadbent.

17 COMMISSIONER BROADBENT: Thank you very much,
18 Commissioner Schmidtlein and thanks to the witnesses for
19 appearing today. I think this is the third rebar case that
20 I've worked on since I was a Commissioner and I started here
21 in 2012.

22 We did a review in '13 and I think I went with
23 Chairman Johanson when we visited Gerdau's facility in
24 Sayreville. I think I recognize Mr. Canosa from that trip.
25 This was my first trip to a steel mill as a Commissioner and

1 I still remember the big, electric arch furnace, so that was
2 quite impressive.

3 I guess this would be a question for Mr. Byer.
4 Why did you decide to diversify your company to downstream
5 fabrication operations?

6 MR. BYER: Thank you for the question. What I
7 saw was the market was changing as far as who our customer
8 base was. For the better part of 85 to 100 years, we
9 supplied the greater 300 to 400-mile range of concrete and
10 masonry supply companies and we had a diversified book of
11 customers that we'd sell upwards of 900 to 1100 different
12 customers a year and be able to move our materials
13 successfully.

14 Every single year we were losing significant
15 percentage of our book of business and as I started to look
16 at where it was going what I learned was these companies
17 weren't going out of business. That they basically had
18 started to enter into this more direct channel of buying
19 imports directly from at the time it was Turkey. Taiwan and
20 Japan were not as major a factor back then, so I went to
21 insulate myself and say I've got to control my destiny and I
22 can't rely on these people to buy everything we have and I'm
23 very thankful that I made that decision. It's been very
24 challenging, but my book of business that we sell stock to
25 is upwards of up to 350 clients a year now. We're down to a

1 third of the number of people -- clients.

2 COMMISSIONER BROADBENT: Good. How do you
3 decide how much of your production you route towards
4 downstream fabrication operations?

5 MR. BYER: We internally make that decision upon
6 basically where the opportunity is that we can hopefully
7 have some assurance that we can produce the most profitable
8 return on our investment. So as for example today, the
9 stock consumption market is abysmal for us. I have over
10 12,000 tons sitting on the ground, which is many, many
11 months of my production and another 8,000 tons of raw
12 materials sitting in front of my mill and I can't move the
13 sticks out to the stock market because the imports continue
14 to come in at more volume and cheaper prices, so we are
15 pushing as much as we can to the fabrication market. And
16 albeit, that market is massively impeded too because it's in
17 one way, shape, or form it's consuming foreign material and
18 the margin in that space is grotesquely lower than it has
19 been for the history of that industry. That's how we make
20 decisions.

21 MR. PORTER: I think what Burke is saying is
22 that there is no insulation provided by the mill/fabricator
23 relationship. And I will tell you that, as Barbara
24 testified; we do buy imported rebar from time-to-time enable
25 to allow ourselves to compete in the fabricated marked

1 against subject imports. It's just a fact of life today and
2 it is -- we're eking out -- well, we're not making much
3 money in the fabrication business because of that, but it
4 does allow us to be more competitive in the fab bid market
5 because we have import in our portfolio of raw material.

6 MR. PRICE: I want to bring you to a data point,
7 which is actually the domestic shipments to both,
8 unaffiliated -- first of all, the domestic industry ships a
9 majority of its production to unaffiliated fabricators.
10 Domestic shipments to both affiliated and unaffiliated
11 fabricators are down in this period. It's not like they're
12 shifting production to their affiliates, as the insinuation
13 is. As the offshore imports are taking over the market, you
14 know it's impacting all elements of the business,
15 ultimately.

16 There isn't an insulated, separate you know some
17 how or other pile of cash somewhere sitting somewhere else.
18 These imports have affected everything. Domestic production
19 is down everywhere. The volume affects are pervasive
20 everywhere. The price affects are equally transmitted
21 everywhere.

22 MR. KAPLAN: I'd just like to point out the
23 Commission has made these findings in the past two cases and
24 I think what the testimony here certainly is that those
25 findings have continued into this case. And as Commissioner

1 Williamson has ferreted out information about both the
2 buying co-ops and the direct relationships to importers, if
3 anything, it's become less insulated.

4 When there was also none in the first place,
5 based on your past records and your past determinations. So
6 once again, I think the testimony here confirmed your past
7 determinations that there was no insulation either from the
8 vertical integration or from Buy America and that because of
9 certain structural changes regarding the buying co-ops and
10 direct imports from Turkey and direct relationships, the
11 price transmission mechanism has become faster and more
12 pervasive than it was in the three earlier affirmatives that
13 I've discussed.

14 MS. SMITH: I think the financial evidence is
15 pretty compelling as well because, at least in our case, we
16 do report by segment throughout our value chain and we have
17 seen significant degradation in the profitability and
18 throughout the entire value chain, which supports what
19 everyone is saying here that on the fabricated side of the
20 business we also have to be competitive on price and match
21 the lowest price in the marketplace regardless of what our
22 own internal cost is. So we've seen significant
23 degradation in our fabricating profitabilities that
24 continues on through today.

25 COMMISSIONER BROADBENT: Okay. I guess I'm

1 trying to understand why your vertically integrated firm
2 would not have a preference for selling to your fabrication
3 shops so that they can have a steady supply of product.

4 MS. SMITH: Of course, the preference is there,
5 but at the end of the day the fabricated product is going to
6 have to be sold based upon market price and if an
7 independent fabricator is quoting based on import price we,
8 as an integrated fabricator, have to quote based upon an
9 import price. Whether we use our own internal rebar or
10 whether we go out and buy imported product, the fabricated
11 price is going to be the lowest price in the marketplace.

12 COMMISSIONER BROADBENT: Okay.

13 Mr. Price, can you, just out of curiosity, how
14 does the captive production provision factor into this case?

15 MR. PRICE: Interestingly, it does not apply in
16 this case.

17 COMMISSIONER BROADBENT: Yes, I was wondering.

18 MR. PRICE: No, we haven't asked for it to
19 apply. We've never, unlike pretty much all the other cases,
20 because, in fact, there are no clean lines of distribution.
21 So this one fails -- I forget -- on the first or second
22 factor because, in fact, the affiliates resell and
23 redistribute the product because they, themselves, often act
24 not only as fabricators, but they also act as distributors.
25 So it doesn't apply here and it is what it is. That's the

1 simple answer.

2 COMMISSIONER BROADBENT: Okay.

3 The staff report indicates that 23 of the 29
4 purchasers reported that Nucor is a price leader in the
5 market. CMC and Gerdau were also frequently reported as
6 price leaders. The staff report indicates that Nucor sets
7 prices using price announcements followed quickly by CMC and
8 Gerdau. Can you describe how this leads to prices
9 increasing or decreasing? Mr. Barney?

10 MR. BARNEY: We do have published price
11 announcement. Typically, when we see seasonality picking up
12 and there's a little bit of pickup on the demand side, we
13 will work to get some price increases in there as our order
14 books pick up. That's our attempt. At times, I mean, we're
15 unsuccessful. And the spring of this year we actually were
16 unsuccessful. We attempted to raise prices, but due to the
17 subject imports we had to subsequently rescind that price
18 increase because the flood of imports continued.

19 March was one of the higher months that we've
20 seen in a long time and we had to rescind that price
21 increase. So as we're gearing up for spring construction
22 season, we hear about improving demand and we want to
23 recover a little bit of margin in the product. We were
24 unable to do that.

25 We will make published price announcements as our

1 order books pick up and as demand improves.

2 MR. WEBB: Rob Webb, Southwestern Suppliers. I
3 can tell you that in my market in Florida the Turkish import
4 pricing is the market leader. That's who sets the price in
5 Florida. We are constantly beating on the domestic
6 suppliers to help us compete with those numbers.

7 COMMISSIONER BROADBENT: Okay. I think my time
8 has lapsed. Thank you.

9 CHAIRMAN SCHMIDTLEIN: Alright, thank you.

10 So I wanted to follow up on this question of
11 whether the internal transfers are insulated from
12 competition and how that works. And I know, Ms. Smith, you
13 just talked about this a few seconds ago, but you also
14 testified in your presentation that affiliated downstream
15 fabricators and related distributors do not preclude them
16 from purchasing rebar from other sources, including subject
17 imports, based on price.

18 So I just wanted for the record if this is also
19 the case with the other vertically integrated producers?

20 MR. BARNEY: Yes --- Don Barney, Nucor--our
21 downstream Harris affiliate has purchased subject import
22 pricing--or imported product just based solely on having to
23 compete in the market with the subsidized and dumped
24 imports. So we have, our affiliate, has purchased imported
25 product.

1 CHAIRMAN SCHMIDTLEIN: Okay. And, Mr. Campo, I
2 assume that's the case for--

3 MR. CAMPO: Yes. Peter Campo. We prefer not to
4 import material, and we generally don't do that unless
5 there's exceptional circumstances. We have so much domestic
6 supply from our own mills that it's certainly easy for us to
7 take care of the needs of our downstream component.

8 A consequence of that is there are circumstances
9 where we are not able to compete in that downstream market
10 simply because we can't match prices when we're competing
11 against independent fabricators who have access to imported
12 rebar.

13 CHAIRMAN SCHMIDTLEIN: Okay. So are there any
14 terms or conditions in terms of the sales to your affiliates
15 that give them a preference? I mean I know you said there
16 is a preference for them to buy it, but are the transactions
17 structured, or are there any policies in place that that
18 would affect the price because they're getting an actual
19 preference?

20 MR. CAMPO: This is Peter Campo with Gerdau. We
21 simply match the market price that we're selling to the
22 external market for our internal affiliate.

23 CHAIRMAN SCHMIDTLEIN: Okay.

24 MR. BARNEY: Don Barney with Nucor. We actually
25 do the same thing. We have to sell at the market price in

1 order for them to be successful. More often than not, the
2 market price is the subject imports.

3 CHAIRMAN SCHMIDTLEIN: Okay.

4 MR. PORTER: Tracy Porter with Commercial Metals.
5 It's the same with our company. I want to add one little
6 thing on the fabrication side, too. As these subject
7 imports come into the marketplace, and we've seen the growth
8 in many areas of fabricators that have exploited this
9 pricing to the market, and we are often faced with why we
10 would make the decision between using our own products
11 versus imports. And in some cases, it is just to keep
12 people employed.

13 We have had to go to the import pricing and
14 availability of that material to keep a fab shop in business
15 for some period of time, always and perennially hoping for
16 relief in trade. I can cite several shops that we've done
17 that in, deliberately. Unfortunately, we've had to close
18 several shops because we could not continue to operate that
19 way.

20 MS. SMITH: Barbara Smith, Commercial Metals. But
21 as Tracy's describing, that's not sustainable. So if we
22 can't generate a profit and a sufficient return to our
23 shareholders, this kind of proposition is not sustainable.
24 And, you know, that's why we're here on behalf of, in our
25 case, 9,000-plus employees, great middle class jobs that the

1 communities depend upon our company and the impact that it
2 has in that community.

3 So for short periods of time we will make that
4 decision and we will sacrifice profit, but that is not a
5 long-term viable proposition for any one of us sitting here
6 today.

7 CHAIRMAN SCHMIDTLEIN: Okay. So my next question
8 has to do with a chart, a data that's in the staff report at
9 Roman numeral VI-9. So, Mr. Price or Mr. Kaplan, I assume
10 you would have access to this. It's confidential.

11 So this shows--you might be anticipating my
12 questions, Mr. Price--so this shows the unit value between
13 commercial sales and transfers to related firms for each of
14 the integrated producers.

15 `And it shows that the transfers to related firms
16 are almost uniformly. There's one that's not. That's less
17 than the commercial sales. So that's what I was trying to
18 get at, and if you could comment on it now, why do you see
19 this premium for commercial sale versus transfers to related
20 firms if there's no preference in place, there's nothing at
21 these companies that they're providing to their affiliates
22 that would affect the price in that way, that the price is
23 supposedly based entirely upon the market conditions? Why
24 is there such a discrepancy in those unit values?

25 MR. PRICE: So--

1 CHAIRMAN SCHMIDTLEIN: I'd like to hear your
2 comment now, and then I would invite you to expand on this.

3 MR. PRICE: The real answer has to be confidential
4 in the post-hearing brief--

5 CHAIRMAN SCHMIDTLEIN: Right.

6 MR. PRICE: --but as we submitted in the
7 prehearing brief, we actually submitted information for the
8 major large customers for each of the three largest domestic
9 producers, comparing those prices to other large customer
10 pricing.

11 CHAIRMAN SCHMIDTLEIN: And these are unaffiliated?

12 MR. PRICE: Unaffiliated. And in fact, you will
13 see that all of those prices are competitive. For example,
14 with some of the companies it's straight formulaic.

15 CHAIRMAN SCHMIDTLEIN: So why are we seeing this
16 in this chart?

17 DR. KAPLAN: It's confidential, but I think some
18 of the things that Alan was saying, hinting at, were--you
19 talked about large customers. So the size of shipments have
20 to affect pricing, and we'll go into it in detail, but you
21 could think of when you go to Costco versus when you go to
22 7-11, the same product might have different pricing having
23 to do with the size of the sale and things like that.

24 CHAIRMAN SCHMIDTLEIN: So you're referring to the
25 unaffiliated customers are so large that the volume would

1 affect--

2 DR. KAPLAN: I would say that what we put in was
3 data on large customers' affiliated versus nonaffiliated to
4 see the pricing, and then we'll discuss why the average
5 overall may be different.

6 CHAIRMAN SCHMIDTLEIN: Okay. Okay, well I invite
7 you to comment on that.

8 DR. KAPLAN: You know, I'm hinting that maybe this
9 is not the best way to go about it.

10 CHAIRMAN SCHMIDTLEIN: Right.

11 MR. BYER: Burke Byer from Byer Steel. I can
12 speak to that from our standpoint. So if somebody comes to
13 me and wants to buy five truckloads, they're going to get
14 basically the price that they're going to have to pay for
15 foreign because I'm going to meet that, most likely.

16 If you want to come to me for a quarter
17 truckload, or perhaps your destination I'm going to ship to
18 is a little further, well I'm going to bring my price up
19 per-unit. So in my world, it all averages out; that the
20 average price per total units we've sold to the outside
21 market ends up being at a better price than what we sold to
22 the internal, But once again--

23 CHAIRMAN SCHMIDTLEIN: Well that's not what's
24 happening here. The data is the opposite, right, if I'm
25 understanding what you all are saying. So what the chart

1 shows is the opposite of that.

2 MR. PRICE: Right. So we can explain it more in
3 the post-conference brief, but the bottom line is that
4 similar customers are getting similar pricing. And we can
5 explain that more, but this has come up before. This is the
6 same analysis we've presented to the Commission in the
7 post-conference of the last investigation when this question
8 came up, and the Commission found that the affiliated or
9 unaffiliated customers were getting similar pricing.

10 There are other factors that enter in pricing.
11 You know, you can literally come into these guys and buy a
12 couple of sticks of rebar. So it becomes an issue of
13 averages, and analytically it has some impact. So I'll
14 leave it there.

15 CHAIRMAN SCHMIDTLEIN: Okay, well I look forward
16 to that answer in the post-hearing. I--oh, somebody else?

17 MR. WEBB: Yes. Rob Webb, Southwestern Suppliers.
18 I'm an independent fabricator in Florida. I think I'm one
19 of the larger independent fabricators. And I can speak to
20 the fact that we have been able to successfully compete
21 against the mill downstream fabrication operations for
22 decades.

23 Our challenges more recently are competing
24 against the independent fabricators who source from the
25 subsidized and dumped subject rebar.

1 CHAIRMAN SCHMIDTLEIN: Okay. Thank you. I have
2 no further questions, so we will move to Vice Chairman
3 Johanson.

4 VICE CHAIRMAN JOHANSON: Thank you, Chairman
5 Schmidtlein.

6 My last question to the panel dealt with any
7 changes to the domestic industry following the last
8 investigation, which concluded in 2014. And you all spoke
9 of changes in the market with regard to imports from Mexico,
10 but I was also wondering are there any internal changes that
11 occurred in the domestic market from 2014 through now?

12 MR. MAILLETT: Amox Maillett, HarMac Rebar. I've
13 been in the industry over 20 years, and as an independent
14 fabricator one of my major responsibilities in our firm is
15 managing the risk. When we step out and commit to supply
16 the rebar for a particular project, the timeline on these
17 projects may last years, and oftentimes we are forced to
18 hold our price firm.

19 So I spend a lot of time kind of looking at scrap
20 prices and what the overall global rebar market is doing.
21 And over the last six to nine months, you asked some of the
22 changes over the last couple of years, in 20 years, fourth
23 quarter and the first two of this year is the first time I
24 have ever seen the market scrap costs staying flat or going
25 up, and the transaction price for our domestic rebar going

1 down, if you kind of follow.

2 So, you know, for 20 years things have moved
3 together, and this time I'm convinced that the ratio of our
4 domestic rebar supply being so high for imports has kind of
5 affected the market for the first time in my experience.

6 MR. PRICE: So--Alan Price. I will add a couple
7 of data points. I found the Respondents' comments about the
8 big three kind of humorous. First of all, there isn't a
9 "Big Three." I won't go into the attempts to try to use
10 language like that.

11 But if you actually look at the Turkish volumes
12 of imports, for example in 2015, and compare those to the
13 top three producers of rebar in the United States, it might
14 be interesting whether or not they include themselves in the
15 "Big Three."

16 There is a profound change in what's happened. I
17 mean this is, if you go--if you go back to the slide which
18 shows rebar on the docks over there, this was just taken.
19 There's hundreds of thousands of tons. It never shows up in
20 anyone's inventory. We have always found this interesting
21 in rebar. It never shows up in anyone's inventory. We are
22 constantly trying to figure out where that inventory is
23 showing up. Is it a distributor inventory? Is it like not
24 recognized by someone since it's held out on the docks?

25 We have pictures from October that are identical

1 when we filed at the preliminary hearing. This is profound.
2 I mean, you don't see this in the other steel products.
3 This is weighing down the marketplace. This is enormous.

4 So if you ask what's changed? The situation has
5 just gotten worse, and worse, and worse in terms of the
6 import supply and the impact on the marketplace.

7 DR. KAPLAN: I would say there are three things
8 that have changed. Demand has increased gradually, which
9 should increase prices, profitability, and sales for
10 domestic producers; it has not.

11 There has been some restructuring internally that
12 has been discussed in the testimony about layoffs and things
13 like that. That's another effect. And then of course the
14 increase in subject imports as the cause of both of those.
15 So those are the three changes--two changes over the period.

16 MR. BARNEY: Don Barney with Nucor. Another
17 change that we've seen from the surge in 2015 is a deepening
18 of the impact in the markets that had historically been
19 maybe a little bit insulated from imports.

20 We are now seeing bar directly discharged onto
21 barges going up the river system ending up in St. Louis,
22 Paducah, Kentucky, Cincinnati, Ohio, Minneapolis, Minnesota.
23 Product is getting railed into transload, or reload centers
24 and stored. And in some of these pictures you'll see
25 there's actually inventory of subject imports in Montana,

1 Colorado, Salt Lake City.

2 So we've seen it be very pervasive in the market,
3 and that is something that historically we didn't see but
4 now it's everywhere.

5 MR. PORTER: This is Tracy Porter with Commercial
6 Metals. I'll just give you a little scale of context here,
7 or a context of scale.

8 The estimates--and this is per the dock operators
9 in the Port of Houston, alone, just the Port of Houston, not
10 Philadelphia, not any of the other import ports--there's
11 well over 200,000 tons of subject rebar on the dock.

12 Put in context, today, literally today as of this
13 morning at seven o'clock, CMC had less than, well relatively
14 close to half of that in our inventory at four domestic
15 mills. So the availability of this product and the cycles
16 that this product goes through as another ship is coming and
17 the stuff continues to stockpile, is depressing the heck out
18 of our prices because it is fire-sold off the dock when more
19 material is on its way.

20 But that is one port in this country, and there
21 are five to six ports that have equal if not greater
22 quantities of rebar from subject import.

23 VICE CHAIRMAN JOHANSON: Thank you all for your
24 responses.

25 And, Mr. Maillett, I have a follow-up to your

1 question. How much are U.S. producers competing for scrap
2 with the subject countries? The U.S. export scrap, is that
3 correct, and that drives up prices?

4 MR. CAMPO: Out of the mills, but probably.

5 VICE CHAIRMAN JOHANSON: Okay.

6 MR. CAMPO: This is Peter Campo from Gerdau. We
7 all, I think my colleagues as well as producers, buy scrap
8 as it's traded in the U.S. market. And those same people
9 we're buying from, oftentimes buying from one another where
10 it makes sense for logistics' savings. We are all also
11 buying from the exporters who are sending material offshore.

12 So it's literally one market, and the market
13 movements in scrap are the same off the coast as they are
14 inland.

15 VICE CHAIRMAN JOHANSON: Okay, thanks. Ms. Smith?

16 MS. SMITH: Yes. Barbara Smith, Commercial
17 Metals. I just want to add, Turkey, one of the subject
18 importers here, they purchase a lot of their raw material in
19 the U.S. So not only are we purchasing and paying market
20 price against one another, Turkey is also purchasing scrap
21 in the U.S. for a significant portion of their raw material
22 need.

23 They are transporting that to Turkey, converting
24 it, transporting it back, transporting as you heard earlier
25 throughout the system in the U.S., and then discounting that

1 product into the marketplace. And, you know, it's hard to
2 imagine that they have a cost advantage given all that
3 movement in raw material and all the costs associated with
4 that. They simply do not.

5 But we are all buying that same body of scrap at
6 the same market prices.

7 VICE CHAIRMAN JOHANSON: Thanks for your
8 responses. U.S. export average unit values declined
9 significantly during the Period of Investigation, and this
10 can be seen in the staff report at Table C-1.

11 Why did this occur? Did the same factors that
12 drove down export prices drive down U.S. prices?

13 MR. PRICE: So--this is Alan Price--I will just
14 take a quick run at this. So the principal export market
15 for the United States is Canada. As you may know, there is
16 a--we just completed a dumping investigation in Canada
17 against some of the same countries, and so, yes, it is the
18 exact same issues.

19 VICE CHAIRMAN JOHANSON: Thanks, Mr. Price.

20 Respondents argue at pages 13 to 16 of their
21 prehearing brief that subject import volume has essentially
22 resulted from domestic industry's preference for price
23 premiums over sales volume.

24 Could you all please respond to this argument?

25 DR. KAPLAN: I would say that with the exit of

1 Mexico and a return to more normality of the market, when
2 Turkey came in the domestic producers tried to hold on to a
3 profit rate that was more than slightly above zero.

4 And they did this by ceding volume to the
5 undersold unfairly traded imports to keep their prices up,
6 as best they could. The notion that it is wrong in some way
7 for the domestic industry independently trying to maximize
8 profits against unfairly traded imports, that that should be
9 held against them, is kind of an odd notion to me.

10 That happened for a while. And as you saw from
11 the record, while volumes fell profits strengthened in 2015,
12 given the overhang in the continued imports and the loss of
13 share there was no other choice but to lower prices.

14 I think a really telling number was on one of the
15 graphs I had earlier that showed that U.S. market share in
16 2016 was lower than in any period in the investigations, the
17 previous investigations going back to the 1990s.

18 So, yeah, they gave up share trying to hold on to
19 profitability for a while. And then that profitability
20 dissipated as they head to lower prices, and then it
21 regained back the share. So they lost volume and they lost
22 price, and you see that in the last year of the
23 investigation. The lowest profitability in any third year
24 of any of the previous investigations, the lowest market
25 share in any of the years in any of the previous

1 investigations. The largest single country increase in
2 subject imports, eight percentage points of market share, in
3 any of the investigations.

4 And that's why I said it's a pretty
5 straightforward case. There is this--in all these steel
6 cases, even the flat-rolled cases and other products--there
7 is typically a lag between the import volumes and the
8 domestic prices falling. I have estimated in previous rebar
9 cases, Dr. Hausman has estimated in a bunch of the
10 flat-rolled cases, this happens in this industry. Six
11 months, could be nine months, this happened again. But you
12 saw a deleterious effects to volume in 2015, and then prices
13 and profits in 2016, a pattern that has occurred over and
14 over and over again with unfairly traded imports in steel,
15 and particularly severe given the high level of
16 substitutability and the fungibility of this product in
17 rebar.

18 VICE CHAIRMAN JOHANSON: Thank you, Mr. Kaplan.
19 Mr. Barney, my time has expired but you have been waiting
20 patiently so why don't you go ahead and respond. Thank you.

21 MR. BARNEY: It was on my face, huh?

22 VICE CHAIRMAN JOHANSON: Yes, it was.

23 MR. BARNEY: Thank you. Don Barney, Nucor. When
24 the Order was imposed against Mexico and we took the Turkish
25 mills for their word that they would not increase exports to

1 the United States, we anticipated the opportunity to
2 actually return to some more favorable margins so that we
3 could continue to reinvest in our operation.

4 Unfortunatly, as 2015 went on we continued to
5 see imports surge from Turkey. Imports from Taiwan and
6 Japan. And, frankly, we sacrificed market share to the
7 point where it was really affecting our teammates, our
8 production teammates at our mills.

9 And we had to get--I mean, as I said in my
10 opening testimony, you know, our teammates are paid on
11 production bonus. And for every lost sale, it impacts their
12 ability to earn. So we made a decision in late 2015 to go
13 back and claw back that market share so that our teammates
14 could get more bonus hours so that they could earn a more
15 reasonable wage. And that sacrifice--that came with a
16 sacrifice of profitability that was significant.

17 And frankly, throughout 2016 we continued to see
18 the import price drop spread throughout the country, and we
19 stayed with it to take care of our teammates at our rebar
20 mills.

21 MR. PRICE: I'll just add the really simple point.
22 It's obtuse logic from the Respondents. Essentially what
23 they have said is their volume forced our prices down in
24 2016. We have suppressed and depressed pricing.

25 That is the core of what that argument is. They

1 have confirmed it. You know, they've confirmed it with
2 their statements from the Turkish Exporters Association. If
3 you impose duties, prices will go up. This is price
4 suppression and depression. It was transparent, and it was
5 transmitted, and this is probably the strongest case I have
6 seen in a long time. And they are trying to explain it away
7 and say ignore the statute.

8 VICE CHAIRMAN JOHANSON: Thank you, Mr. Barney and
9 Mr. Price. My time has expired.

10 CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

11 COMMISSIONER WILLIAMSON: Thank you. I have
12 several questions.

13 Most of the commentary about the inventory has
14 been kind anecdotal, so I was wondering if there is any
15 available data on inventories of rebar held by distributors
16 or by fabricators. If so, you might want to--

17 MR. VEILLEUX: Jeff Veilleux, PJ's Rebar. I can
18 speak to a local competitor in my market that I know has
19 over 50,000 tons of rebar in various locations. Of that, 75
20 percent is subject import bar, of which I purchased around
21 14 loads of subject import bar from them at a price about 13
22 percent less than I could buy it from a domestic mill.

23 COMMISSIONER WILLIAMSON: Thank you. Actually, I
24 was thinking about something kind of aggregated.

25 MR. PRICE: Yeah. So it's been really

1 interesting, because this goes back to the multi-country
2 case in 2000 where Bill Silver, and for those of us who have
3 been practicing long enough in this bar, came in and said
4 there was no inventory. We had literally 200,000 tons
5 sitting on the dock in Houston with pictures of it.

6 We don't know where the data is. We can't figure
7 out--you know, it's all over the place. You can see it.
8 It's a phantom. You know, there are pictures that are
9 phantom. I'm not that good with Photoshop, I hate to say.

10 COMMISSIONER WILLIAMSON: Good. Okay, so there's
11 no recognized series of--

12 MR. PRICE No, it's like CI data.

13 COMMISSIONER WILLIAMSON: That's all I need to
14 know.

15 DR. KAPLAN: There was an association that kept
16 track of certain inventories and distribution, and they no
17 longer keep track of it as well. So--but the--

18 COMMISSIONER WILLIAMSON: I mean, if that's the
19 answer, that's the answer. Thank you. Because I've got
20 some more questions.

21 On fabrication. Is fabrication further
22 processing as identified in the scope such as cutting,
23 grinding, galvanizing, or is it the manufacture of
24 downstream articles? And one reason why I ask this question
25 is I think the last time we had a rebar case there was a lot

1 of talk about more and different shapes. It wasn't just the
2 straight rebar that goes into the highway, but it was much
3 more.

4 And, also a hotel was being constructed over
5 here, and I could walk by and see rebar and all kinds of
6 fancy shapes and designs. So I wanted to get that
7 clarification.

8 MR. PRICE: So we've had a series of issues with
9 rebar from one of the countries where it had been folded,
10 and they claimed it was somehow or other different, that
11 it's a standard transportation issue. So we took that
12 language out of the scope to avoid future fights over this
13 stuff.

14 We have seen the Chinese drop rebar in paint and
15 claim it was somehow or other a downstream product; it
16 wasn't. So the scope really is just reflecting the
17 unfortunate change of chasing these guys in circumvention
18 all over the place. And it isn't just China, by the way.
19 It's China. It's Mexico. We've had a number of folks out
20 there try to do very creative things to work around scopes.

21 We have had, in Latvia they dropped boron in it
22 until we figured out that they were trying to call it
23 something other than rebar and work around it. It was still
24 rebar. It was subject to the scope, ultimately.

25 COMMISSIONER WILLIAMSON: So what is--is there

1 something that is genuinely a re-fabrication?

2 MR. PORTER: Tracy Porter with Commercial Metals.
3 When we talk about fabrication of rebar, that's the cutting
4 to length and bending, and oftentimes adding a coupler or
5 something to attach one rebar to another.

6 So the fabrication process is basically a
7 non-engineering process that says we need this many pieces
8 of this length, of this bar size, of this grade, with these
9 kinds of bends on it, to fit into a column, to fit into a
10 truss, to fit into whatever it may be. It's just
11 configuring the rebar to fit the construction application.

12 MR. PRICE: So let me just continue. We'll
13 address this more in the post-conference brief. But what
14 you have is this is specifically designed and engineered for
15 a specific building, or a specific you know, and so that's
16 what the fabricators do. They take these stock lengths and
17 they'll push it. They'll meet a design spec so that it can
18 go right into the construction job.

19 MR. CAMPO: Yeah, this is Peter Campo with Gerdau.
20 I don't know if there's a subtle legal argument here, but in
21 layman's terms as I explain to my mother, fabricator rebar
22 is the Tinker Toys that you drive by when you go down the
23 freeway and you see those intricate columns of rebar stacked
24 up. Bending each individual bar that's in that assembly is,
25 in layman's terms, "fabrication."

1 We start with a 60-foot or a 40-foot or a 20-foot
2 stock bar as it's produced at the mill, bend it, cut it to
3 length, bend it into the proper configuration, bundle it in
4 a way that it can be assembled in the field.

5 COMMISSIONER WILLIAMSON: Is the percentage of the
6 market, the consumption of rebar, is that a large or growing
7 percentage? Is there any shift there?

8 MR. CAMPO: As a rough rule of thumb, I don't have
9 exact statistics. We think something like 75 percent of the
10 market, 80 percent of the market is fabricated in a formal
11 construction like this building. Another 25 percent goes
12 into sort of informal construction, sidewalks, and pools,
13 and is consumed that way, in round numbers.

14 COMMISSIONER WILLIAMSON: Now do the people who--
15 do you sell fabricated rebar to the same customers that
16 purchase rebar in coils and straight length?

17 I see Mr. Webb shaking his head--

18 MR. WEBB: I'm sorry, could you repeat the
19 question?

20 COMMISSIONER WILLIAMSON: I'm sorry. The question
21 was: Is fabricated rebar sold to the same customers that
22 purchase rebar in coils and straight lengths? In other
23 words, will a customer come and say I want so much of this
24 fabrication--

25 MR. WEBB: At my level, yes. As a distributor--

1 I'm a distributor and a fabricator, so some of my customers
2 are both fabricators and--well, some of my customers may
3 purchase stock length and coil rebar to fabricate themselves
4 for their projects, and then leave some of the more
5 intricate fabrication to us to do. They might do some of
6 the more basic shapes and lengths and sizes, and some of the
7 more complicated bends and shapes they may leave for us.
8 And we'll sell them those, as well.

9 COMMISSIONER WILLIAMSON: So they're the same
10 customers. Mr. Campo?

11 MR. CAMPO: Yes. This is Peter Campo from Gerdau.
12 I think in simple terms the fabricators buy what we call
13 stock material, which is either in straight lengths or
14 coils, and they use that to fabricate materials which they
15 ultimately will sell to a contractor if they're doing a
16 formal building such as this one.

17 So while a supply chain may be fragmented and
18 there may be specialization with that and there may be
19 materials exchanged across the supply chain, basically a
20 fabricator buys stock material and creates from it custom
21 material that's going to go into a specific building that it
22 supplies to the contractor.

23 MR. PRICE: I think from past cases folks can
24 correct me if I'm wrong, but a certain portion of material
25 will go out to a job site often in just straight length

1 also. And, so, you know, it can.

2 MR. CAMPO: It may. And there may be some minimal
3 amount of fabrication that is done at a job site, a
4 construction site.

5 DR. KAPLAN: You could think of it as two
6 differently industries. There's the steel mills that make
7 the straight lengths, and then there's the guys that buy it
8 and, either on site or near site, bend it into all kinds of
9 stuff to fit the shape of the column or whatever the
10 concrete is going to be.

11 So one guy has a furnace, and it's a steel mill
12 that you visited. The other guys doesn't have that
13 capital-intensity and they're bending the stuff at a
14 regional place to make it. So that's why the guys that make
15 the steel ship it all over, but the fabricators are pretty
16 local because they're fabricating it on-site or near the
17 job.

18 COMMISSIONER WILLIAMSON: Just like working with
19 Tinker Toys. Some parts are straight, and others are not.

20 DR. KAPLAN: There you go.

21 COMMISSIONER WILLIAMSON: Okay, thanks.

22 Mr. Webb, you mentioned something about I guess
23 the last month was the worst ever for you. I was wondering
24 if you might want to explain that in terms of what's
25 happening in the market.

1 MR. WEBB: Well we're seeing a tremendous amount
2 of the dumped and subsidized rebar stockpiled on the docks.
3 And our competitors, the other distributors who own that
4 material, are effectively having fire sales because they
5 eventually run out of free storage on the docks where that
6 material is, and they are pushing it into the market at
7 submarket pricing.

8 So--and they're feeding that to some of my
9 fabrication competitors at these submarket pricing, which
10 allows them to undercut the market for the fabrication--for
11 fabricated jobs, as well.

12 So that's resulted in a lot of bids for jobs that
13 are just unsustainable and just unprofitable sales. So we
14 just have to abstain from them.

15 COMMISSIONER WILLIAMSON: Okay. I started to ask
16 you earlier why are you here? Because often distributors
17 don't want to have sources from everywhere, but I think I
18 now understand why you would be here.

19 MR. WEBB: We are--we are red-blooded Americans.
20 We want to support the domestic industry for the long-term
21 health of our business, as well. It's ingrained in our
22 culture.

23 COMMISSIONER WILLIAMSON: Thank you. A couple of
24 other quick questions.

25 This is the first steel case I think I can

1 remember where people aren't talking about the Japanese
2 product being superior, specialized, and all that, and
3 therefore not competing. So I'm kind of surprised to see
4 Japanese rebars. Any explanation for that?

5 MR. PRICE: Poor demand in Japan. I mean, I was
6 waiting for the infamous it sinks in cement slower or
7 something like that.

8 (Laughter.)

9 MR. PRICE: But even the Japanese didn't come up
10 with that. It's really just poor demand and they decided to
11 move volume and dump it in here.

12 COMMISSIONER WILLIAMSON: Okay, fine. Thanks. I
13 can understand that. Another quick question. Is there any
14 lag--this goes back to one of Commissioner Schmidtlein's
15 questions--is there any lag in the scrap price and the
16 finished product in rebar prices? Any significant lag
17 that's worth noting?

18 (Pause.)

19 From the blank faces, I suspect there's not.

20 DR. KAPLAN: It's not long, and we'll actually
21 bring you the econometric results, because we have monthly
22 series and we look at scrap pricing and the lag prices of
23 scrap as well as the lag effect of imports.

24 There is some.

25 COMMISSIONER WILLIAMSON: But it's not significant

1 in terms of what we're looking at?

2 DR. KAPLAN: Yeah, it's not going to be like a
3 year or something like that. But, you know, it's not
4 instantaneous either. I don't know if anybody else wants to
5 comment on that?

6 MS. SMITH: This is Barbara Smith, Commercial
7 Metals. We turn our scrap inventory two times per month.
8 We don't stockpile, and that's where I think you might see a
9 lag. However, there is some time between you purchase it
10 and it is produced into the finished product and fabricated
11 and shipped to the ultimate customer. But in general
12 there's really no lag.

13 COMMISSIONER WILLIAMSON: Just checking. Thank
14 you.

15 It's getting close to lunch time, but I can't
16 help but ask this. Mr. Byer, maybe briefly, because you are
17 a family-owned manufacturer. We see a few of those, but
18 not--is there anything about that, being a relatively small
19 producer, that makes it harder for you to compete versus the
20 big guys in this market?

21 MR. BYER: Good question. Thank you. You know,
22 we've had a competitive advantage for at least the first 100
23 years of being in Cincinnati where we were landlocked with
24 all these other rebar mills all around us, and the people we
25 had to compete with was the people that you see here.

1 That competitive advantage is gone, because we
2 see material coming from Japan and whatnot. And other than
3 that, being gone, the ability for us to provide these
4 services that we can do at a smaller, lower level, we were
5 warehouses for people for the majority of our time. We
6 provided the holding of the inventory. We could get it to
7 you the same day, partial truckloads, all kinds of things.

8 That is gone, also, because the Turkish,
9 Taiwanese and Japanese material can come off of the dock.
10 It's sitting there, and you can buy a partial truckload, or
11 a broken up truckload. So I would say there are really more
12 headwinds than there are advantages today. That's where I'd
13 leave it.

14 COMMISSIONER WILLIAMSON: Okay, thank you for
15 that. I was just wondering.

16 Mr. Barney, my other colleagues here have talked
17 about their visits to plants back in 2013, and I remember my
18 first steel mill was going to your--one of my first tours
19 was rebar, a plant in Alabama. And one of the operators in
20 one of the booths showed up here as a witness, and then five
21 years later he was back again, and he was talking about how
22 things had changed for the workers and all.

23 So I was just wondering, since Mr. Gerard is not
24 here, could you briefly say anything about what the impact
25 has been on workers in the last five years?

1 MR. BARNEY: Don Barney, Nucor. Yes, thank you,
2 and I appreciate you visiting our plant. We have an
3 exceptional team at Nucor. We're a production drive, you
4 know, bottom-up management. It's just an outstanding
5 culture.

6 But I'm going to tell you right now that our
7 teammates have been impacted. I spent the first 21 years of
8 my career at operating divisions. I was in our Jackson,
9 Mississippi, facility, our Marion, Ohio, facility, and our
10 Plymouth, Utah, facility. And it's very difficult, when you
11 see the market demand improving and you're having to sit
12 down with your teammates in the crew meetings, and going
13 into the different pupas visiting and having those
14 conversations that, despite the improving demand, we still
15 don't have the hours available that we would like to have to
16 run full so that we can maximize our teammates' earnings.

17 And it really is attributed to the import
18 situation, the underselling that occurs in all these
19 markets. So, you know, the rebar mills have been
20 dramatically impacted in Birmingham, Alabama, Jackson,
21 Mississippi, Juet, Texas, you know, more recently because
22 of the flood of imports hitting the West Coast, our Plymouth
23 in Seattle location. So it has absolutely impacted our
24 teammates from an earnings' standpoint. And thank you for
25 that concern.

1 COMMISSIONER WILLIAMSON: Thank you, because, as I
2 said, it was very dramatic when you see somebody in the
3 factory, and then you see him here testifying.

4 MS. SMITH: If I may add to what Don had to say?

5 COMMISSIONER WILLIAMSON: Yes.

6 MS. SMITH: Our workforce has a significant
7 component of fair compensation that is also variable-based.
8 And so the description that Don gave is no different in our
9 facilities. And over the last five years, we have
10 significantly reduced our workforce just to try to lower
11 costs and remain competitive.

12 We have consolidated and closed many different
13 operations, again to try to remain competitive with the
14 subsidized and dumped product that comes into this country.
15 But I think all of us, Peter, could also say the same thing.
16 We all have a significant variable component to our
17 compensation. And when we are in these types of
18 environments, that goes away.

19 MR. BYER: Burke Byer from Byer Steel. I would
20 give my own personal perspective, because when many of you
21 here have seen me for many years now, and our world is
22 drastically different.

23 I have laid off my brother-in-law. I helped my
24 sister leave the business. I didn't pay my father for the
25 last two years before he passed. I have--most of the people

1 we work with I've known since I was born, and I've laid them
2 off.

3 So the count of people that are there, it's a
4 different--the sparkle in their eye is not as strong as it
5 used to be, and it is challenging to keep them understanding
6 why they need to keep coming to work, and why they don't
7 need to go find another industry to go work in. It is
8 challenging to get up every day and put a smile on and tell
9 these people this is the right place to be. We've got
10 something here that you and your family should commit to.
11 It is hard to tell them that over and over. So it is
12 substantially different now.

13 COMMISSIONER WILLIAMSON: Thank you for those
14 answers. I have no further questions.

15 CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent?

16 COMMISSIONER BROADBENT: No further questions. I
17 just want to thank the panel for appearing today.

18 CHAIRMAN SCHMIDTLEIN: Vice Chairman Johanson?

19 VICE CHAIRMAN JOHANSON: Thank you, Chairman
20 Schmidtlein. I had one more question. The staff report at
21 page 220 notes that less than one-third of responding
22 purchasers require suppliers to become certified.

23 Why don't we see more supplier certification
24 requirements, given the nature of this product? Is there
25 less of a requirement for certification because this is a

1 base commodity product?

2 MR. PRICE: So with things like rebar and
3 structural steel beams, actually they're produced to very--
4 to certain set standards so that if you know when you're
5 engineering a building you have certain force loads it will
6 take, and essentially the ASTM certs tell you exactly what
7 you need for it. So again, it is very commodity-like. I
8 won't say it's a commodity product because I don't think it
9 is, but it is very commodity like in a lot of respects. But
10 you see this in several of the different construction
11 products which you don't necessarily see in the sheet
12 products and the flat products.

13 VICE CHAIRMAN JOHANSON: Thank you, Mr. Price, for
14 clarifying that for me. That concludes my questions. I
15 appreciate you all being here today.

16 CHAIRMAN SCHMIDTLEIN: Alright, that concludes
17 questions from the Commissioners. Do the staff have any
18 questions for this panel?

19 MR. THOMSEN: Good afternoon. Craig Thomsen,
20 Office of Economics, staff has no questions.

21 CHAIRMAN SCHMIDTLEIN: Okay. Do Respondents have
22 any questions for this panel at this time?

23 MR. NOLAN: No.

24 CHAIRMAN SCHMIDTLEIN: No? Okay. Alright, thank
25 you. I would also like to thank all the witnesses for being

1 here today. We very much appreciate it, and I will dismiss
2 you at this time.

3 We will move to our lunch hour, and so I think I
4 will just make it an even 1:45 when we will return to the
5 hearing room to reconvene for this afternoon's panel. So we
6 stand in recess until 1:45.

7 (Whereupon, the hearing was recessed for lunch,
8 to reconvene at 1:45 p.m., this same day.)

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

2 MS. BELLAMY: Will the room please come to
3 order?

4 CHAIRMAN SCHMIDTLEIN: Good afternoon.
5 Welcome, Mr. Nolan. Are there any preliminary matters?

6 MS. BELLAMY: No, Madam Chairman.

7 CHAIRMAN SCHMIDTLEIN: All right. Mr. Nolan,
8 you may begin when you're ready.

9 MR. NOLAN: All right. Thank you,
10 Commissioner Schmidtlein. So we're going to probably not
11 take our entire lot of time, which I'm sure you'll
12 appreciate.

13 CHAIRMAN SCHMIDTLEIN: Okay, always do.

14 MR. NOLAN: Save it more for questions. I'm
15 just going to introduce the panel very quickly and let them
16 speak. To my right is Kerem Vaizoglu, who is an importer
17 and trader of rebar. Next to him is Namik Ekinici, the head
18 of the Steel Exporters Association from Turkey. Namik does
19 not speak great English, so we will probably have a little
20 delay answering questions and getting translations, but we
21 were able to manage that the last time he was here so I
22 figure we'll be okay.

23 Next to him is Andrew Jaxa-Debicki, a
24 colleague of mine from the law firm who is working on the
25 case, and of course Ebru Dursun, who is the International

1 Relations Advisor to the Turkish Steel Exporters
2 Association. Given the English language skills, Ebru is
3 going to read Namik's statement for him, to make it a little
4 easier because her English is better. But he did draft a
5 statement and it was translated into English yesterday. So
6 Ebru.

7 STATEMENT OF NAMIK EKINCI (Read by Ebru Dursun)

8 MS. DURSUN: Thank you. Ladies and gentlemen
9 of the Commission, good afternoon. My name is Namik Ekinci,
10 and I'm here today on behalf of the Turkish Steel Exporters
11 Association. I'm the president of the Steel Exporters
12 Association and a board member of Ekinci. They are a
13 producer and exporter of rebar.

14 I have nearly 40 years of experience in this
15 business, and I know the Turkish industry very well. Our
16 lawyer will present our technical arguments later. I just
17 want to take a few minutes of your time to share my point of
18 view. It has been over 20 years since the first
19 anti-dumping investigations were filed by the domestic
20 producers. Their arguments have not changed much since
21 then.

22 For 20 years, we heard the same thing. Turkey
23 is flooding the markets, and how can Turkey buy the scrap
24 here, send it to Turkey and sell at a price lower than ours?
25 They must be subsidized. These goods are dumped. We have

1 heard similar arguments frequently today.

2 Domestic producers could not have been more
3 wrong. This is indeed proven by dozens of investigations
4 and reviews conducted by the Department of Commerce. Until
5 the order was terminated in 2008, Turkish companies were
6 found not be dumping in 23 new segments. Only a few years
7 ago, Department found no dumping for both Respondents and
8 only a minor subsidy margin for one respondent. The only
9 way dumping and subsidized can be found is by changing the
10 rules during an investigation, which has in fact happened
11 over the last several cases.

12 Turkey plays by the rules of fair trade, but
13 if the U.S. constantly change the rules, how is that fair
14 trade is the object? Over the course of these 20 plus
15 years, in spite intense protection efforts by the domestic
16 industry imports from Turkey have been present in the U.S.
17 market in varying levels. And guess what? The U.S.
18 industry in fact became much stronger.

19 Of course, market caps are past \$20 billion
20 this year. In 2005, Nucor's market cap was under five
21 billion U.S. dollars. Over ten years, Nucor quadrupled its
22 market value, all the while competing with imports from
23 Turkey and other markets. Now I want to redirect their
24 questions. Producers buy scrap here, ship it to Turkey,
25 melt and roll the rebar and ship it back to U.S., and still

1 sell at very profitable prices and without subsidization.

2 If domestic producers still complain about
3 price undercutting and injury, maybe the problem with not
4 with imports but their expectation to maintain their
5 excessive profits. They care more about the increasing
6 prices, profits and quarterly earnings than they do about
7 supplying U.S. consumers, the only exception being their own
8 internal fabrication operations.

9 Consider also gas and electricity prices are
10 much higher in Turkey compared to U.S. Turkish government
11 imposes extra taxes and costs on our industry because we are
12 profitable. Just recently, a \$15 per ton duty was imposed
13 on imports of steam coal further challenging the Turkey
14 steel industry. But instead of seeking protection, the
15 Turkey steel industry continues to produce the highest
16 quality products and delivers these products throughout the
17 world with its advanced logistic infrastructure.

18 Indeed, Turkish producers still produce rebar
19 primarily for the home market in Turkey, by the construction
20 infrastructures projects are still robust. This accounts
21 for over half our production, and Turkey still exports rebar
22 to over 150 countries. In 2016, we shipped over one million
23 tons to United Arab Emirates, 846,000 tons to Egypt, over
24 700 tons to Israel and over 600 tons to Yemen. The Middle
25 East is still our primary market.

1 But we also ship to U.S. and our exports to
2 the U.S. did increase over the past three years, driven by
3 U.S. consumers of rebar who either could not get U.S. means
4 to deliver on the timely basis, or who are intent to raise
5 price even when scrap prices were falling. We also follow
6 the current rhetoric in the U.S. against imports very
7 closely. Much has been said about the trade deficit of the
8 U.S. and the intention to review trade with partners with
9 which U.S. reports a trade deficit.

10 Since 2007, the U.S. has reported consistently
11 a trade surplus with Turkey. In fact, Turkey is the largest
12 importer of the U.S. scrap, the very raw material for the
13 subject products here. We are confident that the Commission
14 will remain objective and confirm that our exports did and
15 will not cause injury to the domestic producers. Thank you
16 for your attention. I will do my best to answer any
17 question you may have.

18 MR. NOLAN: Thank you, Ebru. Kerem, would you
19 like to make your statement?

20 STATEMENT OF KEREM VAIZOGLU

21 MR. VAIZOGLU: Ladies and gentlemen of the
22 Commission, good afternoon. My name is Kerem Vaizoglu. I
23 am an importer and trader of rebar, wire rod and PC strand
24 from various countries, especially from Turkey. I have been
25 involved in the steel business for over a decade, and have

1 over 12 years' experience in trading rebar in Turkey, the
2 United States and many other international markets.

3 I would like to share some observations about
4 the U.S. rebar market and my experience in competing this
5 market. When we sell to U.S. market, we base our sales on
6 long-standing relationships with U.S. customers,
7 distributors and independent fabricators. Our customers'
8 primary requirements include quick timing, availability and
9 consistency of product. Since about 90 percent of our sales
10 are made to order, we need to provide prompt and reliable
11 delivery.

12 In general and depending upon the U.S.
13 destination, it takes us anywhere from three weeks to two
14 months to ship from Turkey to the U.S. port of entry for the
15 customer. Plus 30 to 60 days from order to production.
16 Thus, the total time from order to delivery can easily
17 exceed four months. This is a big advantage for U.S.
18 producers, who can sell out of inventory or respond to
19 orders more quickly and have lower transportation costs.

20 Because of our lead times, U.S. customers
21 generally require some discount to account for the increased
22 risk of extended delivery in such a volatile market. Today,
23 we've been discussing that imports increased in the period
24 under review. Well, they increased in my opinion for
25 several reasons.

1 First, U.S. consumption increased between 2014
2 and 2016, as U.S. construction activity increased. Second,
3 Mexico largely exited the U.S. market as a result of the
4 dumping case in 2014. This represented over 200,000 tons of
5 rebar per annum. Third, from time to time we saw shortages
6 of certain categories of rebar products. Even today, I can
7 tell you that in some regions, there are shortages in some
8 sizes. Finally, U.S. prices remain high relative to prices
9 in most other countries despite falling scrap prices.

10 The U.S. prices, I can say, are always
11 relatively high. In large part this is due to the Buy
12 America requirement, which gives domestic producers a
13 significant price cushion relative to the commercial market.
14 They also have advantages of being able to sell out of
15 inventory and in smaller lots to serve customer
16 preferences.

17 In my experience, pricing in the U.S. market
18 is controlled by the three main producers. When one
19 announces a price change, the others soon follow. In
20 setting prices, the domestic industry always seeks to
21 maximize profit and therefore price, even when other
22 indications suggest prices should be lower.

23 On the other hand, Turkish producers do not
24 have the advantage of price leadership in the U.S. market.
25 Instead, Turkey prices rebar on the basis of international

1 scrap prices, with a margin to cover processing costs and
2 reasonable profit. Their pricing tracks scrap prices very
3 closely.

4 In my view, to say imports are hurting the
5 market in the U.S. or hurting the market, the U.S. needs to
6 show that domestic producers are losing both sales tonnages
7 and profit margins at the same time. In fact, their
8 tonnages shipped in the commercial market remained
9 relatively constant, and their overall profit margins
10 increased. They did not increase sales volumes because they
11 elected to maintain high prices despite the falling costs.
12 That is their choice, but it should not be considered a
13 cause of injury. Thank you very much for this opportunity
14 to speak, and I would be happy to answer any questions you
15 might have.

16 STATEMENT OF MATTHEW M. NOLAN

17 MR. NOLAN: All right. Thank you, Kerem. All
18 right. I'm going to follow up now with some comments, and
19 we'll be referring to the slides that are coming up now.
20 You should hopefully have copies of them in front of them,
21 and I assume they'll also be on the screen.

22 So let's talk for starters about how this
23 market in the U.S. is set up. It's no surprised that we
24 have argued again that there is a high degree of industry
25 concentration in this market. It absolutely controlled by

1 three major plays, Nucor, CMC and Gerdau. Without getting
2 into the specifics in the staff report, which has the actual
3 detailed amount on the market levels, it is safe to say that
4 they are the absolute dominant players in this market, and
5 they are not just rebar producers.

6 They are scrap operators, they are downs.
7 They have downstream affiliated scrap operations. Nucor has
8 17 rebar mills, 56 scrap recycling centers and 70, 70
9 downstream fabrication operations. CMC has five rebar
10 mills, 42 scrap recycling operations and 52 downstream
11 fabrication operations. Similarly, Gerdau has 56 downstream
12 fabrication operations. Why is that so significant?

13 You heard this morning them talk about the
14 fact that it really doesn't help them at all to have
15 integrated operations. I'm sorry, but I'm not buying that.
16 Why do you go through all the trouble of integrating your
17 operation top to bottom if you don't think there's an
18 economy of scale associated with doing that?

19 It is in fact the case, and Commissioner
20 Schmidlein pointed to it, that there is a price
21 differential between internal transfers and commercial sales
22 prices. It is in fact the case that they may say that we
23 really don't know whether somebody is buying for Buy America
24 purposes, but the fabricators sure do because they're the
25 ones bidding on those projects.

1 And guess who owns the fabrication operations?
2 The rebar producer, CMC, Gerdau and Nucor. It's entirely
3 disingenuous to me to say that we don't know if we're
4 selling into a Buy America context when you're selling,
5 internally transferring to your own people, who are then
6 bidding on that very Buy America project.

7 There is a reason why they are vertically
8 integrated. It's great for business, it's great for
9 insulating them from competition, it puts them ahead of the
10 game. That's great, but you can't say that they're not
11 insulated from competition as a result of doing this. I
12 will also say that this drives a behavioral tendency which
13 we have emphasized in our brief.

14 When an industry is as concentrated as this
15 is, there is a tendency for it to exhibit classic
16 oligopolitic behavioral tendencies, and if you understand
17 and remember your economics classes, an oligopoly is defined
18 by a very few producers who control a very large part of the
19 market, and whose profit maximization tendencies overwhelm
20 their efficiency of production tendency.

21 In other words, they seek to maximize prices
22 and profits over volume. They don't care so much about
23 selling the mill out to capacity. They care more about
24 their short-term quarterly profit numbers, and that's
25 exhibited here in spades in this case. I will show in

1 subsequent slides that it is absolutely clear that this
2 industry on the domestic side is more interested in how much
3 price they can maintain, rather than how much volume they
4 sell.

5 So if you're totally fixated as an oligopoly
6 on your price, you will sacrifice volume and market share in
7 order to maintain price. I submit to you that is what has
8 happened in this case. I was curious, and I'm not trying to
9 cast aspersions here because this has nothing to do with --
10 there's no price fixing, there's no allegation of that in
11 this case.

12 But there was an article yesterday in
13 Washington Post on three popular tuna brands which have
14 alleged to be conspired to fix prices on tuna fish. These
15 three producers controlled 80 percent of the market. Now
16 there's no collusion. We're not saying anybody's talking
17 about prices here. But the fact of the matter is when there
18 are three parties dominating the market, it impact prices
19 and it causes prices to be elevated.

20 Whether or not they're talking about it,
21 that's part of this case. I'm just using that as an
22 illustration that this isn't the first time this type of
23 activity has occurred, where concentration leads to higher
24 pricing. This market is dominated by parties in an
25 oligopoly structure. They have vertical integration. They

1 have captive downstream operations with higher value added.

2 I want to emphasize the higher value added
3 point, because the testimony today was pretty clear that
4 well, you know, when you get the downstream fabrication
5 operations, they bring it to us because there's more
6 sophisticated work they need done. The engineering work
7 they need done, the bending, the special production or
8 preparations they need done by our fab operations.

9 Those are higher value added industries. They
10 make more money on those downstream operations, which is why
11 they have them. So it seems perfectly logical that you
12 would show a distinct preference to use your rebar at a
13 slight price discount to your fabrication operation, which
14 then gets the benefit of a higher margin value added product
15 going out the door.

16 Again, it makes perfect logical sense, but it
17 also means they have the opportunity to shift profits. And
18 where are the profits going but to the downstream side of
19 things. By the way, that's also where the Buy America
20 premiums exist, in the downstream fabrication part of this
21 business.

22 They have the ability to serve local markets,
23 you know. We've heard about all the plants that are located
24 around the United States, and it is true, this is a heavy
25 product. Transportation costs are a significant factor

1 here. If you are close to your customer, you have an
2 advantage and you can charge an additional amount to reflect
3 the cost it would take somebody to bring that product from
4 outside.

5 Counter to that is the idea that somehow
6 Turkey can't possibly shift rebar from -- scrap from the
7 U.S. to Turkey and ship product back to the U.S. The most
8 efficient, cheapest way to ship steel is by water. If you
9 make product interior to the United States, it has to be
10 shipped by rail, it has to be shipped by truck or it has to
11 be shipped by barge if it's on a river.

12 If it's shipped by barge, it's subject to
13 something called the Jones Act, which means a U.S.-crewed,
14 U.S.-flagged vessel must be used, which costs quite a bit
15 more than an international shipping company. Turkey's
16 advantage just happens to be that they're on international
17 waters, and they can ship to their port to our port very
18 cheaply.

19 But U.S. producers have a different advantage.
20 While we can get the product -- Turkey can get the product
21 quickly to the Port of Galveston, they can't get it from
22 Galveston to the interior very far without suffering the
23 same problems that U.S. producers would have shipping over
24 land or by barge.

25 So therefore, what you see is a high

1 concentration of imports going into port areas, and not in
2 the interior, where a lot of the U.S. mills are located.

3 U.S. mills enjoy shorter delivery lead times.
4 That's a given. Their mills are local, they have inventory,
5 they have local production and they enjoy the ability of
6 satisfying the customers very quickly. Of course, that's a
7 higher cost. You have to carry inventory to do that. You
8 have additional costs you incur to do that. But by
9 incurring those additional costs, you also get the benefit
10 of higher prices.

11 Let's talk about Buy America for a minute, and
12 Commissioner Williamson you commented on this earlier in the
13 day. 23 percent. In the staff report they say 23 percent
14 of reported purchases are subject to Buy America, and
15 another 11 percent more require domestic rebar, which we can
16 only assume must be a Buy America component to it. The
17 Petitioners spent a great deal of time saying ahh, it really
18 doesn't make a whole lot of difference. It doesn't help us
19 very much. It's not a significant factor.

20 That's a third of the market for commercial
21 shipments. That is not an insignificant number, and just to
22 remind them, without going into too much detail, in our
23 prehearing brief we do have a copy of the Congressional
24 Research staff study on what Buy America provisions exist
25 under U.S. law and how they operate. I would commend that

1 your consideration.

2 Some Buy American laws have 100 percent U.S.
3 content requirements in them. Others have a 25 percent
4 price preference in them, and the price preference isn't in
5 the rebar. It's in the project. So unless you can show the
6 project has a 25 percent differential as a result of the
7 product you're putting in, then you get -- you have to buy
8 U.S.

9 I see you're furrowing your brow. What I'm
10 saying is if the rebar is 20 percent of the project and 80
11 percent of the project is other things, the 25 percent
12 differential is on the 100 percent, not the rebar part. So
13 if the rebar's \$10,000 and the project is \$100,000, \$25,000
14 is the delta you're looking at in terms of the price
15 differential before imports can take over in that type of
16 preference scheme.

17 No matter how you slice it, there is at least
18 a significant 20 plus percentage point preference under Buy
19 America for U.S. made products, and when 33 percent of the
20 market is Buy America reserved, your overall average unit
21 prices are going to be significantly higher for U.S.
22 producers than for importers or foreign producers, who
23 cannot by definition for the most part, particularly from
24 Turkey, participate in those markets.

25 Petitioners complain of unused capacity, which

1 has been a recurring theme. Increased imports volumes,
2 which is a recurring theme. Lost market share, a recurring
3 theme and price suppression, which is a recurring theme.
4 But prices are high, have been high relatively speaking this
5 market. I will get to that in a moment, and profit margins
6 actually increased.

7 In just looking at the public version of the
8 staff report, without going into the details of individual
9 producers, the gross profit margins for U.S. producers was
10 over 13 percent in 2015. Now it did go back down again in
11 2016, but that's because of what happened with scrap prices.
12 We'll get to that in a minute as well.

13 The behavior here indicates again price
14 maximization, profit maximization by a small group of
15 players in the market. So when the opportunity presents
16 itself to capture market share and increase utilization
17 rates and increase your volume, what happens? U.S.
18 producers invariably opted to increase prices. They stated
19 this morning that no, there were no price shortages, no
20 product shortages, no allocations for 2014 nor in 2016.

21 I commend that you read our brief and the
22 supporting documents in that brief, because all of the
23 reporters are wrong or in fact in 2014 there was a shortage
24 of rebar. There was people being put on allocation. There
25 were people that were being told you're going to have to

1 wait six months to get rebar, and by the way you can't do
2 your building unless you give us a better price, and maybe
3 we'll consider taking some out of our internal operations
4 and giving it to you instead for the right price.

5 This happened in 2014, based on all the
6 reported evidence, and it happened again in late 2016-2017,
7 where in the brief I report or we report multiple price
8 increases in short order by the U.S. industry in the
9 presence of subject imports. Why? Price and profit
10 maximization behavior.

11 This chart, we talked a little bit or you
12 talked a little bit this morning about the correlation
13 between scrap prices and rebar prices. Without giving the
14 details on the price levels, the exact price levels, this
15 charts exactly what scrap prices did. That's number 1,
16 heavy melt from Chicago on the blue line, and Products 2 and
17 3 from the Commission's pricing series, which were the two
18 most volume products that you measured for price purposes.

19 I took the quarterly unit values and this we
20 graphed out against scrap prices. As you can see, there is
21 a very strong correlation between scrap prices and rebar
22 prices. No, it is not perfect. It is not one to one. It
23 is quite strong and it is quite relevant, but indeed it does
24 show a significant correlation.

25 But let's talk for a little bit about why, in

1 what ways they're not correlated, because the U.S. industry
2 this morning told you well, we couldn't maintain prices. We
3 had to reduce prices faster than scrap prices could be
4 reduced, and so therefore we had price suppression, price
5 depression and injury.

6 This chart indexes the price of rebar reported
7 in the staff report against Chicago heavy melt scrap, rebar
8 versus scrap. It's indexed so that both start at 100 and
9 then the prices start to vary from there and it shows you
10 the effect of it. What this effect shows you quite simply
11 is that the delta between scrap prices and rebar prices
12 didn't go negative.

13 It was actually positive and increased for
14 most of the POI particularly during 2015, where you see a
15 massive gap developing, which indicates that prices were
16 being maintained in the face of decreasing, rapidly
17 decreasing scrap prices, and that U.S. producers were able
18 to enjoy a price advantage. Not surprisingly, that
19 corresponds with the time when their gross profits were
20 highest. What this tells you is that they're able to
21 maintain prices in the face of falling scrap prices, and in
22 the presence of increasing subject imports.

23 That is contrary to what was testified today,
24 this morning. It is absolutely clear from the record
25 evidence that scrap prices fell more quickly for the most

1 part than rebar prices, except when you get to the very end
2 of the POI, when what actually happened was customers
3 finally rose up and said you guys are taking too much profit
4 away from us. The delta has got to get narrowed to back
5 where it was at the beginning, because scrap prices are
6 related to the rebar prices and they are transparent, and
7 you've had enough of your (audio interruption) apart.

8 So now it's going to come back together some.
9 And yet even then, at the very end of the POI, if you look
10 at this data, scrap prices drop again at the very end; rebar
11 prices did not go down. So they were able to maintain
12 prices.

13 Now I want to contrast this with the next
14 chart. This is the import prices versus scrap. Again, a
15 high degree of correlation. But look how much closer they
16 are and how much more consistent the gap is between the two,
17 relative to U.S. prices. Again, look at import, go back to
18 U.S. Look at import, go back to U.S.

19 You see how the delta changes here? Imported
20 rebar, principally Turkish rebar, follows a pattern of scrap
21 plus processing costs plus a reasonable profit margin. It's
22 a tighter correlation between scrap prices and rebar prices
23 than the U.S. Quite simply what you have here is the
24 Turkish and other subject imports maintaining that price
25 spread the way they always do, and the U.S. industry

1 increasing the price spread.

2 This is not a case of price suppression or
3 depression. This is a case of the U.S. increasing prices in
4 the face of countervailing raw material reductions. That is
5 my point. Another way to look at this is to put the graph
6 side by side and take two points in time and look at the
7 deltas, the relative deltas.

8 These are on the same scale. On the left
9 side, you have scrap versus import, and on the right side
10 you have domestic rebar price versus scrap. The two sets of
11 arrows are just indicators of in the same point in time or
12 what the difference is or what the delta or the differential
13 is between scrap price and rebar price.

14 Look at the difference between the U.S. and
15 the import. There's always a delta and it actually
16 increased even for imports, but not nearly at the level the
17 U.S. did. You can see from our prehearing brief and the
18 data in the staff report how quickly scrap prices fell
19 during the POI. U.S. prices did not fall at that rate.
20 Talk a little bit about Turkey's other markets.

21 There was discussion this morning about how
22 exports to the Middle East North African region have waned,
23 that they no longer have strong markets in those areas. Mr.
24 Ekinici's statements countervailed that quite nicely because
25 it shows a very robust market. Half of Turkish product is

1 consumed still in Turkey. Thirty percent is consumed in the
2 Middle East/North Africa region.

3 The number of countries that it goes to varies
4 over time. If you were to look and see the last
5 investigation, you'll see a different component listing of
6 Middle Eastern countries that are dominating the landscape.
7 But the fact is that within MENA, that region, it's still
8 over 30 to 35 percent is being consumed in that region.

9 In this particular snapshot from 2016, United
10 Arab Emirates took eight percent. Egypt took 5.8 percent.
11 Israel took 4.8 percent of their exports and on and on and
12 on. What Turkey is really good at is going into the region
13 that it lives in and supplying, in a very nimble way, a
14 number of different places, and it will change over time.

15 But that's what they're really good at.
16 Turkey's a super-efficient producer. All of the mills that
17 export are literally on the water. So the scrap comes off a
18 ship on a conveyor belt, goes into the plant, gets made into
19 rebar, comes out of that plant and goes back on that ship
20 and leaves. There is no more efficient way to produce this
21 stuff, which is why they are so good at it.

22 Turkey's construction sector value. It was
23 said this morning that Turkey is losing its demand for rebar
24 in the domestic market. That is untrue. The construction
25 in sector value indices, as most recently reported, continue

1 to show positive trends, and if you were to go to Turkey and
2 Istanbul, and I would commend the Commission staff to take a
3 visit there if you can at some point because it's a
4 beautiful place, but you'll see a lot of cranes. A lot of
5 building going on.

6 This is quick snapshot of the mega-projects
7 that are on books right now for Turkey and ongoing. It's a
8 very robust market. You'll see that they have over \$120
9 billion U.S. committed to infrastructure. I dare say we
10 would like to have some more of that going on here, and the
11 U.S. industry would greatly benefit from it. I think that
12 would really do a lot more to the health of this industry
13 than anything else, is improving our infrastructure
14 spending, and I sure hope the U.S. government does it.

15 Major mega-projects in Turkey, another bridge,
16 a brand new giant set of skyscrapers, the third airport that
17 they're building, new power plants. Just a few of the many,
18 many projects that are going on there.

19 So there's a lot going on in Turkey to
20 indicate that they're there. I'm not going to tell the
21 Commission that imports didn't increase a lot. They did,
22 and as I said at the opening statement, if all we're talking
23 about is volume, then the outcome of this is pretty much
24 evident.

25 However, it's not just about volume. It's got

1 to be price effects. It has to be some other set of
2 indicators that go along with that volume, and if the volume
3 issue is a result in part or largely because of the
4 Petitioners' own behavioral tendencies, then I think that
5 there's an alternative causation issue here.

6 I will start at the very end. The Petitioners
7 spend a great deal of time talking about their margins.
8 This chart shows their margins went up during the precise
9 time when imports were at their apex. Which pretty much
10 corroborates what I just told you on the scrap price index
11 charts. I'm not sure how I understand this becomes price
12 suppression when this is going on.

13 It doesn't correlate. It doesn't make sense
14 to me. With that, we will cease speaking and let you ask
15 whatever questions, because I know you are going to give us
16 some hard balls.

17 VICE CHAIRMAN JOHANSON: I would like to thank
18 you for participating today. Chairman Schmidtlein has
19 stepped out for a moment, so I'm going to take over as
20 chairman of the hearing for right now. I'm going to begin
21 the questioning, and first of all I would like to thank all
22 of you for appearing here today, especially those of you who
23 came all the way from Turkey.

24 Mr. Nolan suggested that we all go to Turkey
25 at some point. I've been there twice, once on vacation when

1 I was like 25. I got in a bus in Istanbul and went all over
2 the place for about three weeks and saw a whole lot. I
3 absolutely enjoyed it very much. I went back a second time
4 representing soybean producers, because you all have a lot
5 of chickens that you have to feed. That was a very useful
6 trip.

7 So thank you all for being here today. I'm
8 going to begin with this question. According to the staff
9 report, purchasers identified price as the most important
10 factor in purchasing decisions, and price was also the most
11 frequently mentioned factor in purchasing decisions, and
12 this can be seen in the staff report at pages 217 and Table
13 2-9.

14 The staff report also notes that the majority
15 of purchasers reported that they usually purchase the
16 lower-priced rebar, as shown in the staff report at page
17 217. With this as context, why shouldn't we view the near
18 universal underselling of domestic product by subject
19 imports on the record as significant?

20 MR. NOLAN: I will start us off and then you
21 all can jump in. So on the underselling part, first there's
22 going to be some built-in pricing issues, differentials no
23 matter what you do, because we have large volumes of Turkish
24 rebar coming on a ship. They're not selling in smaller
25 lots. They're not selling in small groups. They're selling

1 large combination shipments, which only makes sense when you
2 fill the ship and you sell at an advanced rate of three to
3 four months out.

4 Whenever a customer is buying rebar with a
5 three or four month lag time for delivery, there's risk
6 built into that shipment that prices are going to change,
7 because we've all seen, even just based on the staff report
8 evidence, that prices were pretty volatile during this
9 period. They did go up and down. They were moving. They
10 weren't sort of flat.

11 So in that environment, a bit of a discount
12 gets built into it just because you have to. That's one.
13 Two, the prices that the rebar is being sold at by Turkish
14 producers is being sold at the port, right? If you want to
15 get it from port to the interior of the United States,
16 you've still got to move it.

17 That freight cost isn't going to be built in,
18 so there's part of the market which has to be reflected in
19 the fact that when they're delivering, they're delivering at
20 Port of Houston. They're not delivering Cleveland, right.
21 They're not delivering Rocky Mountains. They're delivering
22 at the port. How you get it from there to the Rocky
23 Mountains is your business, your concern as the buyer. So
24 there's again there could be a discount built into that.

25 Third point, part of the price differential

1 here and prices does matter. I'm not going to say that it
2 doesn't. This is rebar. This is a near commodity product.
3 Price is important here, right? Having said that, price is
4 important to different components. When you're in Buy
5 America land, a third of the projects, the competition is
6 among the domestic producers for that business.

7 That's a higher different level of pricing
8 than you would have in a commercial market. If you start
9 blending those prices together, you're going to find that
10 those Buy America prices are naturally going to have a
11 higher average price rate. By definition, if a third of the
12 market is reserved to Buy America, and that Buy America has
13 let's say a 20 percent price preference, your average unit
14 values across the board for all sales are going to be skewed
15 upwards.

16 So part of this is built in, baked in in the
17 nature of the way this market operates. The last component
18 that I will mention is again going back to the behavioral
19 tendencies of an industry that is into profit maximization
20 in advance of volume of market share. They have quarterly
21 earnings reports. They have shareholders. They've said it
22 repeatedly this morning that they have to satisfy their
23 shareholders.

24 I get that. But in satisfying your
25 shareholders, your driver is short term profit maximization.

1 That leads you down the path of higher price at the expense
2 of volume. Your profit margins will be higher, but your
3 volume of sales will not be as high as you would want.

4 VICE CHAIRMAN JOHANSON: Thank you Mr. Nolan.
5 In sticking with the issue of price, what are we to make of
6 the underselling data, which in the prehearing report shows
7 underselling by subject imports in 112 out of 113 quarterly
8 comparisons, and this is mentioned in the staff report at
9 Table 5-7?

10 MR. NOLAN: I would say that the underselling
11 goes back to my comments earlier and to the fact that again,
12 if you look at this index pricing chart, that Turkish
13 imports or imports, subject imports in general react much
14 more quickly, more price sensitively to changes in scrap
15 price than the U.S. industry did, at least on the down side.

16 When prices are going down, Turkey tends to
17 maintain as close to the same processing gap as you can see
18 from this chart, relative to the U.S. But you're much more
19 inclined to enlarge that gap wherever possible. You know,
20 you can call it price suppression or you can call it a price
21 premium. That's the flip side of this coin.

22 I submit to you that what's going on here is
23 the U.S. were charging a price premium, because they figured
24 they could do it. That price premium is what's accounting
25 for a lot of the underselling you're seeing.

1 VICE CHAIRMAN JOHANSON: Thanks, Mr. Nolan.
2 If availability and delivery time limit competition from the
3 subject imports, as you all mention in your brief at page
4 nine, how do you explain subject imports increasing volume
5 and market share during the Period of Investigation? Again,
6 you also might want to refer to Table C-1 in the staff
7 report.

8 MR. NOLAN: I'm going to let Mr. Ekinici try to
9 answer this. I want to get him to speak for a second.

10 VICE CHAIRMAN JOHANSON: Okay.

11 MR. VAIZOGLU: (translating for Mr. Ekinici)
12 Turkey is a country who is exporting to nearly 150 different
13 countries around the world. All those when you consider our
14 export to all those countries, we never export any material
15 which is dumped or subsidized and we as a country are
16 against anti-dumping and government subsidies.

17 Our pricing is changing daily, both in our
18 domestic market and for all the international countries that
19 we export. And according to the prices that we get from
20 those countries, whichever country is more profitable our
21 tonnages tend to slide that way. Usually, our sales are
22 done against inquiries. So when we receive more inquiries
23 from U.S. because there's a better price in this market and
24 the customers are profiting more with our international
25 prices, then more tonnage comes to U.S. So it's not our

1 preference as producers, but it's the customers'
2 preferences.

3 MR. NOLAN: So what you'll find is -- I mean
4 we're just being honest about it, the price in the U.S. is
5 higher, as this would show you, and that when that happens
6 there's a tendency to want to ship to the place where the
7 price is higher. You also have a couple of other factors.
8 Obviously, Mexico pretty much departed the market in 2014,
9 based on the last case. That's a couple of hundred thousand
10 tons disappearing from the U.S. market.

11 That's a big hole to create. Those customers
12 didn't stop buying rebar because Mexicans left. Now the
13 U.S. industries say yeah, but if you just us have it, we
14 could have taken that over. If during that gap phase that
15 could have happened, there's no evidence that there was even
16 an attempt to do that because the second the opportunity
17 arose to raise prices or maintain prices in the face of
18 falling scrap, you maintained the price.

19 I would have submitted to you that if I was
20 trying to get that market share and steal that tonnage away
21 once the Mexicans left, I would have kept my margins as thin
22 as possible between scrap and rebar prices in order to
23 capture that market. That's not what they did. That's not
24 the behavior that's being exhibited on the graphs or in the
25 data.

1 VICE CHAIRMAN JOHANSON: Thank you, Mr. Nolan.
2 My time's about to expire. So we will now turn to questions
3 from Commissioner Williamson.

4 COMMISSIONER WILLIAMSON: Okay, thank you
5 very much, and I do want to express an appreciation for
6 coming today to present your testimony. I guess the first
7 question I want to -- it was Buy America, and particularly
8 the question I'm interested in is the staff report seems to
9 indicate that, you know, and you repeated it also that a
10 third of U.S. -- a third of the market is Buy America.

11 Whereas I think earlier in the 2014, the
12 figure was like 14 percent. So what's changed? Why such a
13 higher percentage? It's not because government's spending
14 more money on infrastructure.

15 MR. NOLAN: No. I actually think we've got a
16 more accurate read on the market this time around than we
17 did the last time. I was actually surprised in the last
18 rebar case that that number came in as low as it did,
19 because you think about it. I mean the testimony this
20 morning because we're talking about building roads, we're
21 talking about building bridges, we're talking about, you
22 know, building large infrastructure project items.

23 Even if the market's not great, we are still
24 building roads. We are still repairing things, you know.
25 You go out, good Lord going up New York Avenue the other

1 day, it was just -- it was a joyous occasion trying to get
2 through the construction going on over there. But the
3 reality --

4 COMMISSIONER WILLIAMSON: And the Jersey
5 Turnpike is now six lanes all the way down to --

6 MR. NOLAN: Okay, but those infrastructure
7 projects, while they're not as robust as you might like,
8 they're still going on and I think we actually have a more
9 accurate read on what the market is really like here.
10 Because those -- rebar is used in buildings and
11 infrastructure, right? And buildings, okay. You can see
12 the number of commercial construction ^^^^ the rise in the
13 construction index, in the ABI construction statistics. You
14 can see what's going on with residential and non-residential
15 construction.

16 The rest of it's infrastructure, and that's
17 the part that's reserved under the Buy America rules.
18 That's not an insignificant number. We can quibble about,
19 you know, is it 20, is it 30. I think it's closer to 30-33
20 percent as the staff report indicates. That's a big number.
21 That's a big chunk of the market that isn't available.

22 COMMISSIONER WILLIAMSON: What about the
23 argument about that, you know, you have lots of shall we say
24 holes in the Buy America. I mean whether or not government,
25 the government pyramid agreement, the margin factor -- a lot

1 of times if the imported product is a certain percentage
2 below the domestic product.

3 MR. NOLAN: And that is true. But that does
4 build an automatic price preference into the U.S. product.
5 So if the product would otherwise be a thousand and there's
6 a 25 percent price preference built in, you wouldn't think
7 that the U.S. could get 124 and then stop per ton, right,
8 the price preference. To overcome a price preference, if
9 the imports are so much lower in a price preference that
10 they would be preferred at that point or would be equal,
11 that's fine.

12 But you've just built a 25 percent pricing
13 cushion into the pricing pattern under the Buy America
14 rules. By the way some of it, like the American Recovery
15 Act stuff when we were coming out of the recession, that was
16 100 percent U.S. origin steel. There was no exception in
17 there. It was 100 percent. There was no 50 percent, 25
18 percent. It had to be U.S. origin stuff.

19 That's pretty much subsided now because we're
20 out of the Recovery Act thank God. But the other Buy
21 America rules are still there, and I would commend, if you
22 really are interested, to go take a look at that
23 Congressional Research staff report, because they detailed
24 the numbers, the percentage preferences that exist there.

25 But they're across the board in that fashion,

1 and so it's either an absolute U.S. all or nothing, or it's
2 a distinct price preference built into the bidding process.
3 Which means there's an automatic ability to increase the
4 price up to that level of that preference, and not be facing
5 import competition.

6 That creates a natural incentive to build the
7 price increase into your project budget, because you know
8 you can get it. That means what the competition is for
9 those projects is not imports versus U.S., but U.S. versus
10 U.S., CMC versus Gerdau versus Nucor, against their own
11 mills across the board.

12 That's the price competition in that section
13 of the market, and it's a higher level of price. I actually
14 think we're operating at two different market shares here,
15 and our unit prices are skewed on the wrong side because the
16 U.S. domestic industry has the Buy America staff built in.
17 It's baked into their average unit values, which by
18 definition makes them higher priced.

19 COMMISSIONER WILLIAMSON: If you have
20 anything post-hearing in terms of either studies or things
21 like that that would substantiate your view on this it would
22 be helpful, and also the Petitioners if they have something
23 they want to add that would substantiate the theories that
24 each side presents.

25 MR. NOLAN: Will do.

1 COMMISSIONER WILLIAMSON: Thanks. A question
2 about the Independent Steel Alliance and you heard the
3 testimony of the domestic -- the panel this morning. Do you
4 disagree with it in any way about the significance of it in
5 terms of this case?

6 MR. NOLAN: Not really. Not really. I mean
7 my personal opinion is it was a good idea that didn't, just
8 didn't execute and it just didn't get much traction. You
9 would have thought that the independent rebar fabricators
10 would have been more, I can't say more organized about it.
11 I don't know exactly what happened with that. I'm not an
12 expert in that area.

13 I think it started out with the right idea,
14 but the independent fabricators just didn't seem to get
15 behind it enough. I actually think the parties that are
16 most at risk right now are those independent fabricators,
17 because if you're not an integrated operation and you can't
18 get material for whatever reason, you're dead in the water.

19 The next time we have any kind of an uptick in
20 activity, I think the independent fabricators are going to
21 suffer greatly, because I just don't believe the organized
22 integrated mills are going to treat them first. I think
23 they're going to satisfy their own internal needs first.
24 That would be natural. That would be my -- if I were a
25 corporate executive that's what I would do.

1 COMMISSIONER WILLIAMSON: But to what extent
2 is the presence of the imports in the market and does that
3 give the independent fabricators or let's say members of the
4 Steel Alliance or cooperatives more shall we say bargaining?

5 MR. NOLAN: Oh, I think it does on the
6 commercial side, not on the infrastructure side. But on the
7 commercial side, it certainly does give them more
8 bargaining. I mean part of what we're trying to tell you
9 today is that in a market that's dominated the way this one
10 is, the price competition isn't coming from them; it's
11 coming from the imports. You could say it's unfair or not,
12 but the fact of the matter is it's providing some discipline
13 in pricing to keep prices at a reasonable level.

14 I know it's not this Commission's purview to
15 look at whether, you know, on the issue of what's unfair or
16 not unfair. If you wanted to get into a discussion of what
17 I think of the most recent decisions of the Commerce
18 Department, I will be honest with you. I think they're
19 scandalous. I think what they did is patently illegal and a
20 violation of the WTO rules. But that's for another day.

21 COMMISSIONER WILLIAMSON: That's for another
22 year, you know. That's not for here.

23 MR. NOLAN: Exactly.

24 COMMISSIONER WILLIAMSON: Okay, okay. So
25 okay. So basically you don't really disagree with the

1 analysis that was presented this morning?

2 MR. NOLAN: No, I don't disagree.

3 COMMISSIONER WILLIAMSON: Let's see. The
4 domestic producers face no competition from subject imports
5 for their sales to affiliated rebar fabricators. What about
6 the argument presented this morning that the domestic
7 producers have to ensure that their fabricators can't
8 compete with independent fabricators?

9 MR. NOLAN: That's true. That's true. They
10 do have to compete with independent fabricators. But just
11 as the big three dominate the rebar market, if you look at
12 the numbers, they also dominate the -- they also operate and
13 control a pretty big chunk of the downstream fabrication
14 market. I mean we are talking about 70, let's see, 100, 183
15 fabrication facilities in the United States being controlled
16 internally by the Big Three? More if you add the other
17 integration operations that some of the smaller companies
18 have. That's a pretty big number.

19 COMMISSIONER WILLIAMSON: Do you know how
20 many facilities it might be total?

21 MR. NOLAN: I can't give the exact number for
22 all of them, but just based on the Top Three, this is from
23 their annual report last year, we're talking 108 plus 70.
24 That's one hundred and -- nearly 180 across the United
25 States. I find that to be a substantial number, and it's

1 only going to go up from there.

2 So do the independent fabricators compete with
3 them? Yes. Do they have the advantage of being able to
4 internally transfer material at a discount? No. Can they
5 have the benefit of buying imports as opposed to domestic?
6 Yes. Is that a competitive advantage theoretically? Quite
7 possibly if imports are lower priced.

8 But then the integrators charge less on their
9 internal transfers. So each side has a benefit. There's an
10 advantage.

11 COMMISSIONER WILLIAMSON: Okay. You argue,
12 of course, that the domestic industry's price declined in
13 2016 were a natural result of reductions in scrap prices.
14 Is it possible that the increasing quantity of subject
15 imports at falling prices was also a factor that forced the
16 domestic industry to reduce prices in light of the scrap
17 prices?

18 MR. NOLAN: I would say that the overriding
19 cause of any price reductions, the principle cause, the
20 significant material cause was the falling scrap prices.
21 You can't have scrap prices drop over \$200 a ton and not
22 expect rebar prices to fall likewise.

23 COMMISSIONER WILLIAMSON: Yeah. But what
24 about --

25 MR. NOLAN: Subject imports came into this

1 market. Some of those imports replaced Mexican imports.
2 Some of those imports did indeed take the growth that was
3 occurring in the market. That's entirely true. We're not
4 going to dispute that. U.S. commercial shipments didn't
5 really get affected that much during the POI. They went
6 down a little bit. But if you look at the commercial sales
7 volumes, they didn't go down that much.

8 COMMISSIONER WILLIAMSON: Well, I think
9 you've been arguing that basically the domestic producers
10 are, shall we say, sacrificing volume to --

11 MR. NOLAN: For profit.

12 COMMISSIONER WILLIAMSON: For profit.

13 MR. NOLAN: Yes.

14 COMMISSIONER WILLIAMSON: Is that
15 sustainable? How long is that sustainable?

16 MR. NOLAN: It depends on how much market
17 power you have. If you have enough market power to skew the
18 market for periods of time because you're concentrated
19 enough, the answer is that strategy can work, particularly
20 if one or two companies exercise as price leadership and the
21 others quickly follow suit. Without being an antitrust
22 issues involved in it, that's a behavioral tendency, where
23 one market leader causes the other, because there's only a
24 few participants. All you have to do is get the buy on from
25 two other people and you can keep the prices higher.

1 Until the market reacts in some other fashion
2 to cause you, to force you to drop your prices some, and
3 that factors was imports. Price discipline was brought back
4 into this market, competition was brought back into this
5 market by virtue of those imports. You have two ways of
6 looking at this.

7 You can either look at this as underselling
8 and stealing market share, or the U.S. industry is
9 maximizing price and profit, overselling the market, and is
10 being brought back into some kind of pricing discipline by
11 virtue of imports.

12 COMMISSIONER WILLIAMSON: And then the prices
13 fell more than the price of raw materials? Okay. I think
14 that's -- my time --

15 MR. NOLAN: I would dispute that. Rebar
16 prices did not fall faster than raw material costs.

17 COMMISSIONER WILLIAMSON: Oh, so you disagree
18 with that chart --

19 MR. NOLAN: This chart tells you they did not.

20 COMMISSIONER WILLIAMSON: Okay. Okay, fine.
21 Let me -- my time has expired. Thank you.

22 CHAIRMAN SCHMIDTLEIN: All right, thank you.
23 Commissioner Broadbent.

24 COMMISSIONER BROADBENT: Okay, thanks. Mr.
25 Nolan, you've focused heavily on the argument that the

1 industry is an oligopoly, and I'm not sure that's really
2 contemplated in our statute one way or the other, right?
3 Our inquiry is to examine whether the industry has been
4 injured by subject imports, and we're not given much
5 guidance on making an adjustment based on the structure of
6 the market.

7 Wouldn't the introduction of a rising
8 alternative source of supply in the imports inherently cause
9 prices, market share and profits to decline for those firms
10 that are strong in the market or dominating the market as
11 you would say? Why is that not injury under the statute?

12 MR. NOLAN: And I'll be honest with you.
13 That's what you found in the 2014 investigation, and I'm not
14 fooling myself that, you know, we don't have a tough road to
15 hike on this one for you. What I'm submitting to you is
16 that the structure of this industry, of the conditions of
17 competition in this industry limit the impact of subject
18 imports, and that there are other causes to be evaluated
19 beyond the volume effect. Whether we cross that bridge, can
20 get over that hump with you, I'm not going to say. That's
21 tough. That's why you guys get paid the big money up there.

22 But that's our argument, and I think it has
23 some legs on it. Yes, oligopoly per se is not contemplated
24 in the statute. But concentration, industry concentration
25 is a factor. Conditions of competition, that is what those

1 -- that's part of that rubric. Does that constitute a
2 oligopolitic behavioral tendency and in that market
3 structure, does that provide insulation?

4 Does the insulation allow you to make price
5 changes independent of subject imports? That says yes.

6 COMMISSIONER BROADBENT: Okay.

7 Mr. Nolan, you've spoken about the various
8 advantages that U.S. producers in selling to their
9 affiliates. Looking at this market and the market share
10 lost by the U.S. industry, is it basically your argument
11 that all of the demand growth occurred in a segment that
12 could not be served by the affiliated fabricators? Why
13 would we not see U.S. sales to affiliates grow at around the
14 same pace as demand growth?

15 MR. NOLAN: And I don't have a good answer to
16 that question. There might've been softness in the parts of
17 the market on the fabrication end.

18 If you look at the data without getting into the
19 specifics, you'll see some softness, I believe, on the
20 internal transfer cycle which suggests that there was some
21 softness in the fabrication end of the market towards the
22 end. You know I wish I could explain that behavior to you
23 overall. All I can say is when you're in the mode of trying
24 to maintain prices and that overrides other considerations
25 you're not so concerned about whether or not you're losing

1 some volume.

2 COMMISSIONER BROADBENT: Okay.

3 If U.S. producers have access to vertically
4 integrated facilities which provide them a stable supply of
5 scrap, how does this serve to insulate the domestic industry
6 from competition in the market for rebar?

7 MR. NOLAN: Obviously, number one, it gives you
8 a guaranteed source of supply. It can be a two-edged sword.
9 I'm not going to say it's 100 percent positive all the time.
10 I mean suppose scrap prices drop very quickly and you're
11 stuck with a lot of scrap inventory where you've got
12 higher-priced inventory on your hands to work off for your
13 raw material and that can be a problem.

14 If scrap prices rise quickly and you've got a
15 lot of inventory at the low level, then you've got a huge
16 benefit from it. What it does is it guarantees your supply
17 of scrap over time. You know a couple of countries like
18 Turkey you're subject to whatever availability there is in
19 the international market. You can benefit or you can get
20 hurt by it. I think having guaranteed sources of supply and
21 having that scrap closer to you is a benefit because you
22 have less transportation costs to deal with.

23 COMMISSIONER BROADBENT: Okay.

24 Given the importance of price in this market,
25 how is it that underselling can even occur on a sustained

1 basis as it appears to be in this case? Wouldn't purchasers
2 simply choose the lower-priced product on most occasions?
3 How is it that the domestic industry is able to retain
4 substantial market share in the face of significant
5 underselling, given that they sell to both affiliates and
6 unaffiliated companies?

7 MR. NOLAN: Well, clearly, as we earlier said,
8 there's a significant part of the market which either has to
9 buy domestic or has a significant domestic preference
10 associated with it, whether it's Buy America or just a
11 domestic preference. We said it could be a third of the
12 market. That's one factor. Proximity to the mill is
13 another factor. As I said before, all imported rebar comes
14 in to port facilities and then must travel over land or by
15 barge to get wherever it's going in the interior of the
16 United States.

17 If you have a mill in the interior of the United
18 States, you're right there. You can supply your local
19 requirements much more quickly. You could supply them much
20 more efficiently and your transportation costs are much
21 lower, so you either do one of two things. One, you charge
22 a lower price because you don't have that transportation
23 cost or two, you factor in what it would cost for our
24 nearest competitor to reach that place. You raise your
25 price to just below that number and you capture the added

1 profit. I think that's what they've been doing.

2 COMMISSIONER BROADBENT: Okay, Table 5-12 of the
3 staff report indicates substantial numbers of purchasers
4 said that U.S. producers have been forced to lower their
5 prices due to competitively-priced subject imports. What'd
6 you make of this data?

7 MR. NOLAN: That observation can be made on the
8 basis of subject imports coming and providing price
9 discipline to the market or a reflection of the fact that
10 the differential in the scrap to rebar price rate is lower
11 for those imported products and therefore again we come back
12 to sort of the price discipline question over is it that the
13 imports are coming in too cheaply or is it that the U.S.
14 industry is trying to capture too much profit in this
15 equation and is being forced back down and the customers
16 are saying, well look, the imported rebar is being brought
17 in because they're reacting quicker to scrap price changes
18 than you? It's still an import issue. You're still
19 labeling the import as the cause, but the import's doing it
20 because the import is lower priced because scrap prices are
21 going down and they're following it more closely.

22 So indeed, to me, this comes back to a function
23 of scrap pricing, right? How quickly are you reacting to
24 the scrap price change? And if the scrap price goes from
25 400 to 100, 160, are you reacting to that and who's reacting

1 more quickly? And these charts indicate that imports are
2 reacting more quickly to it. Subject imports just reacted
3 faster -- .

4 MR. VAIZOGHU: Well, earlier today there was a
5 discussion about 2016 when the scrap prices were going up
6 and imported rebar coming in cheaply and pressuring the
7 prices. Actually, this is quite normal because when you
8 consider that from order to delivery it takes four months
9 for the material to arrive and shipment time can take up to
10 two to three months, depending on how many ports does that
11 vessel have until the final port.

12 So when you order the rebar that current scrap
13 price, the current cost and the current export price of
14 Turkey becomes very cheap four months later when the
15 material hits the U.S. borders. And when you consider in
16 2016 the rebar prices increased internationally, more or
17 less, 60 to 65 percent then I think that explains why
18 sometimes you see much cheaper prices with the imported
19 rebar than when you compare it with the domestic rebar
20 which are being sold at the same time in the market.

21 COMMISSIONER BROADBENT: Thank you very much.

22 Mr. Nolan, again, profitability varies widely
23 among U.S. producers. How does such a wide variance impact
24 our assessment of the impact of subject imports on the
25 domestic industry? That is, does this variance suggest

1 company-specific causes of poor or good performance separate
2 and apart from subject imports?

3 MR. NOLAN: Without getting into the APO
4 specifics of it, I think there is clearly a dividing line
5 among more efficient and less efficient producers in the
6 market. Some of the producers clearly showed much higher,
7 much better financial health than others and it's not just
8 random variability as suggested this morning. If you look
9 at the differentials between some of these companies, it's
10 pretty big. And in fact, if you factored out the worst
11 performer, you might find that the numbers are a lot better
12 than they're suggesting. But the fact is, there is a wide,
13 varied degree of variation in performance and I think it's
14 truly due to the efficiency of production of individual
15 companies. Some companies are just really good at this and
16 others have higher cost structures and that's called
17 regular, old competition among firms. Some build a better
18 mousetrap.

19 COMMISSIONER BROADBENT: Okay.

20 Mr. Nolan, do you have any comment on the
21 Section 232 investigation on steel imports that the Commerce
22 Department initiated in April that covered many of the same
23 products?

24 MR. NOLAN: Wow, that's a really good question
25 to ask. The President has authority under Section 232 to

1 conduct national security investigations through the
2 Commerce Department. He has requested that be done. He has
3 complete discretion over what happens as a result of that
4 investigation.

5 I personally find it very hard to believe that
6 steel production is threatened under national security
7 prerogatives right now. Should we be spending money on
8 infrastructure? Absolutely. Should they be pretty busy
9 building new things for us? Absolutely. Is it a national
10 security issue when the Defense Department uses maybe 2
11 percent of our capacity of steel? I don't see that, but
12 that's not my job. There's a whole group of people over at
13 the Commerce Department working on this study right now.

14 What concerns me more than anything else is the
15 possibility of some across-the-board leveling of import
16 restrictions either in the form of tariff quotas or
17 something that we haven't even thought of yet which causes a
18 significant change in the volume of steel brought into this
19 country. It's not as simple as it used to be. I have
20 clients that make raw material in the United States, the raw
21 steel product, ship across to another country. Makes
22 something into it, ship it back to this country and it goes
23 to a finishing mill in this country before it gets sold.
24 So it goes through a couple of roundtrips before it's done.

25 It has a U.S. component in it, it has a foreign

1 component in it, but the supply chain has been revised to
2 the point where international transactions of intermediate
3 products is quite common. You know if you take a meat
4 cleaver approach to this, we could find ourselves in a great
5 deal of hurt quickly because what does it do to the
6 downstream industries?

7 You had a little taste of this in the wire rod
8 case. I know the staff is running that, but the Wire
9 Producers Association came it -- and I was actually
10 surprised at this. They came in and argued don't put the
11 controls on wire rod. Don't penalize the wire rod industry
12 because by doing that you're going to hurt us because we
13 have to compete with foreign wire producers and now we're
14 not going to be able to do that if we can't get the
15 material cheaply to make the wire. That doesn't cut a whole
16 lot of ice with the Commission based on your traditional
17 criteria, but it does go to the doctrine of be careful of
18 unintended consequences when you put a restriction in place
19 because the U.S. economy is fully integrated in the world
20 economy and if you hit one part of it are you saving 500
21 jobs to kill 5,000?

22 COMMISSIONER BROADBENT: Okay, thank you very
23 much. Appreciate it. Thank you very much.

24 CHAIRMAN SCHMIDTLEIN: I'd like to thank the
25 witnesses for being here today, for taking the time to

1 travel to be with us. We really do appreciate it.

2 So Mr. Nolan, I want to make sure I understand
3 your theory of the case. And I believe, when I was out of
4 the room, that you commented that you agree that this is a
5 commodity-like product, the rebar is.

6 MR. NOLAN: Yes. I mean we don't make anything
7 special. This is rebar.

8 CHAIRMAN SCHMIDTLEIN: Okay.

9 MR. NOLAN: It gets sunk in concrete. Let's go
10 back to that.

11 CHAIRMAN SCHMIDTLEIN: Right. It's hard to
12 argue that it's not, which means it's a price sensitive
13 product, right?

14 MR. NOLAN: It is. Yes, it is price sensitive.

15 CHAIRMAN SCHMIDTLEIN: Right. Okay, so in
16 trying to determine here what's causing price movements, do
17 you disagree that supply and demand in the market affects
18 the price of rebar?

19 MR. NOLAN: Supply and demand in the market
20 affects rebar. That is true. I think the industry
21 structure, the way the conditions of competition are set up
22 in this particular industry affects it. I think scrap
23 prices have a huge affect on it. And I think what, in my
24 gut reaction to when I see this case, I think what you've
25 got here is a normal industry that normally reacts to scrap

1 prices, but because of the conditions of competition there
2 is an interference in that pricing which is being used to
3 increase the prices wherever possible in the domestic market
4 and what's causing it to go back into equilibrium are
5 subject imports. I'm not sure if I'm being clear about
6 that.

7 CHAIRMAN SCHMIDTLEIN: No, okay, so the
8 structure of the market -- so one question I have about that
9 is in prior determinations here the Petitioners have pointed
10 this out. The Commission has addressed many of those
11 arguments. The integrated nature of the domestic industry,
12 the Buy America provisions and so forth. Has something
13 changed in terms of the structure of the market from that
14 determination to today or is your position more the
15 Commission got it wrong in 2014?

16 MR. NOLAN: I'd like think I did a better job of
17 arguing it this time around.

18 CHAIRMAN SCHMIDTLEIN: Well, you see my
19 question. Is there a factual change in the circumstances
20 now?

21 MR. NOLAN: I think industry concentration
22 levels have gotten higher. I think the impact and the --
23 the impact on pricing has gotten more pronounced as a result
24 from the prior periods.

25 CHAIRMAN SCHMIDTLEIN: From the concentration of

1 the industry?

2 MR. NOLAN: Yes. So I think those are
3 differentiating factors, but I'm not kidding myself. I mean
4 I know which way you guys ruled the last time. We've been
5 on this rodeo before together and I'm asking you to do
6 something that isn't in your traditional arsenal, right? So
7 what I'm asking you is to consider the impact of a highly
8 concentrated industry structure and what that can do to
9 prices. And if you didn't have import competition, what
10 would happen? Would prices go up? Absolutely, they would
11 go up. Would they go up to the point of excess? I think
12 the think the answer is yes because of the way price
13 leadership operates in this market.

14 If you look at the articles that we put in the
15 pre-hearing brief, it is almost an instantaneous one. When
16 one bounces, the other two go with it within a day.

17 CHAIRMAN SCHMIDTLEIN: Okay.

18 Alright, so let me just probe a little bit. The
19 argument that you're making that the domestic industry chose
20 to keep its prices high and that's why they lost market
21 share. So we're talking about a price-sensitive product.
22 There's underselling on the record and you're saying the
23 domestic industry kept its prices high and therefore lost
24 those sales to the subject imports. And the question in my
25 mind is isn't that injury?

1 MR. NOLAN: Okay.

2 CHAIRMAN SCHMIDTLEIN: We found in many cases
3 where loss of market share due to underselling equals -- you
4 know not looking at the impact side of it yet, but we do
5 have, I think, some evidence of --

6 MR. NOLAN: You have here a product that is --

7 CHAIRMAN SCHMIDTLEIN: Isn't that causation I
8 guess is really my question? Isn't that injury in this
9 case? How do we --

10 MR. NOLAN: And obviously, I disagree with that
11 conclusion. What you have here, in my mind, is a
12 price-sensitive product, but also a literalistic product.
13 If you're building a building, you want to finish the
14 building. You want to finish the bridge. You want to build
15 the item, right? You need rebar to do that.

16 Now the more concentrated an industry is the
17 fewer options you have to get that rebar. And if those
18 industries or if those participants in that industry have
19 their own downstream operations that they're feeding, then
20 your options are becoming fewer and fewer as time goes on
21 because they're feeding themselves before they feed you on
22 the commercial side, right?

23 So while this product may be price sensitive,
24 overall, that's assuming a perfectly competitive
25 environment. That assumes open competition where price is

1 being determined by the actors acting in a rational,
2 competitive, I'm going to raise/lower my price to meet or
3 beat you whenever possible.

4 CHAIRMAN SCHMIDTLEIN: Well, let's put aside the
5 question of price depression and price suppression for a
6 minute. Just the concept that they lost market share to the
7 subject imports of a price-sensitive product because the
8 subject imports were priced lower. I mean isn't that the
9 flip side of your statement that they voluntarily chose to
10 maintain their prices of -- ?

11 MR. NOLAN: That is the flip side.

12 CHAIRMAN SCHMIDTLEIN: Right. So if they've
13 lost sales because the price was the lower to the subject
14 imports, the Commerce Department has made preliminary
15 findings, doesn't that equal injury under the statute?

16 MR. NOLAN: I didn't say this was going to be
17 easy. What I'm saying is, is it a discount or is it a
18 premium that the other side was charging? I mean you're
19 saying that the imports are undercutting, right? That
20 there's price -- not price suppression.

21 CHAIRMAN SCHMIDTLEIN: No, I'm not talking about
22 price suppression.

23 MR. NOLAN: The imports are coming in and
24 causing -- because it's price sensitive, they're coming in
25 and undercutting the market; is that right?

1 CHAIRMAN SCHMIDTLEIN: Well, I'm just taking
2 your argument that the domestic industry chose to maintain
3 high prices and chose to lose market share as a result.

4 MR. NOLAN: Right.

5 CHAIRMAN SCHMIDTLEIN: And we've all agreed this
6 is a price sensitive product, so isn't the flip side of that
7 that ^^^^ or another way to say that, in other words, is the
8 industry lost those sales because the subject imports were
9 priced lower?

10 MR. NOLAN: If that is in fact -- if you take
11 the flip side of that and say that's the structure, then we
12 have just bought into the idea that reduced competition is
13 good for the U.S. economy because you're saying an
14 oligopolistic structure where you can actually drive prices
15 to go in a direction will cause injury. You can manufacture
16 an injury at that point, theoretically.

17 CHAIRMAN SCHMIDTLEIN: Okay, I confess I'm not
18 sure I follow your point. Alright, let me shift a little
19 bit.

20 We also have on the record here 15 purchasers
21 that have confirmed that the domestic industry lowered its
22 prices in response to subject imports, right? That's in the
23 staff report. And we see in the pricing products where
24 prices are going down. Is that enough for us to reach a
25 finding of price depression in this case?

1 MR. NOLAN: I don't believe so in light of the
2 record evidence that's elsewhere on the record,
3 particularly, when you look -- again, going back to the
4 correlation between scrap prices and rebar prices. If those
5 two are acting in tandem, and everyone has admitted that
6 that's a prime driver in rebar pricing. If they are
7 following that pattern, are the imports -- you know can you
8 say the importer is causing it or can you say that scrap is
9 actually causing it because the importer is more closely
10 correlated to the scrap price?

11 I go back to the concept of you can say you've
12 got lost sales due to import, okay, fair enough; but are you
13 losing the sales because you're not lowering your price to
14 meet the change in scrap price? If scrap prices go down a
15 hundred and you only lower your price 20 relative to that
16 and imports raise them 40 or lower them 40, is that an
17 import issue or failure to match prices with scrap?

18 CHAIRMAN SCHMIDTLEIN: And we did have testimony
19 this morning that the scrap prices affect the price of
20 rebar, although it wasn't clear exactly -- you know the
21 price of scrap is transparent, so everyone's aware of it,
22 how do we separate out, how much it's affecting it or not.

23 Mr. Kaplan had an approach based on the margin,
24 the metal margin. When you look in the staff report, we
25 have 30 out of 35 purchasers reporting that prices do not

1 change based on published scrap prices, which is at V-2. So
2 how should we consider that in this analysis of trying to
3 ferret out how much scrap prices are affecting or driving
4 the price of rebar? I mean if you've got -- that's 30 out
5 35 purchasers saying that they don't believe that prices are
6 affected by scrap prices?

7 MR. NOLAN: I guess my only response to that is
8 if you look up the way price changes occur in the market,
9 then you look at the price announcements that they put out
10 whenever prices are going up the first thing that gets cited
11 is increasing raw material costs. That's scrap.

12 Now the U.S. industry is never going to say
13 we're going to drop our price because scrap went down.
14 That's not in their interest. If you're a profit-maximizing
15 company, you're never going to drop the price until somebody
16 forces you to. You're going to raise the price in a
17 nanosecond when scrap goes up, but if scrap goes down and
18 you can capture that additional differential, you're going
19 to take it until somebody forces you to take it down. Who's
20 forcing you to take it down in this market? Imports.

21 Now you may say, well, because of that there's
22 injury. And if that's the way that the Commission looks at
23 this, then we're done, quite frankly. But what I'm telling
24 you is that the U.S. industry's behavior clearly indicates
25 that when scrap prices go down they're not dropping prices

1 because they're feeling good about that. They're keeping
2 the price there until something else forces them to lower
3 their price to get it back in line.

4 CHAIRMAN SCHMIDTLEIN: Well, we had increase in
5 demand here across the POI.

6 MR. NOLAN: There was some increase in demand,
7 modest, modest increase in demand, but I still submit that
8 if you look at the way the pricing patterns work, the way
9 the behavioral activity, the indices of behavior that occur
10 based on the record evidence they're not dropping that price
11 unless they're forced to. And if the demand is going up
12 that just gives them another reason to raise the price even
13 more to create more of a differential between scrap and the
14 price of the rebar.

15 But over the long haul, over the long term there
16 is going to be pressure to bring that margin back in line
17 with scrap, whichever it goes, it's going to want to go back
18 into that pattern and so the market is going or force it
19 back down; but the only market actor that is there to cause
20 that to happen are the imports.

21 CHAIRMAN SCHMIDTLEIN: Okay, my time has
22 expired, so I will yield the floor to Vice Chairman
23 Johanson.

24 VICE CHAIRMAN JOHANSON: Thank you, Chairman
25 Schmidtlein.

1 Could you all please describe any domestic
2 supply constraints during the period of investigation that
3 you believe impacted market conditions and pull subject
4 imports into the United States? This morning I asked the
5 question of the Petitioners regarding supply constraints and
6 the witnesses all stated that there were none. There were
7 no major ones. Could you please address this issue?

8 MR. NOLAN: I'll let them speak up.

9 MR. VAIZUGLU: Well, actually, during that
10 period we have had a lot of inquiries from our clients
11 because, as I explained before, our company pre-sells most
12 of their cargo and we don't bring in cargo unsold to be
13 sitting on the port and supplying from there, but during
14 that period we have had a lot of phone calls from our
15 clients to see if we have any material on ground because
16 they had some shortages on certain sizes, so that, from
17 time-to-time, happens in the market. And even right now I
18 can tell you that in some areas there are some shortages in
19 particular sizes, so this is what we witness here from
20 time-to-time.

21 It's not happening every month. It's not
22 happening every two, three months, but there are periods
23 that as the market is getting affected from those kinds of
24 situations.

25 MR. NOLAN: I would also comment in our

1 pre-hearing brief we went through one of the premium
2 publications that tracks metal information and there's
3 copyright issues with us saying exactly what the source is
4 and what they were saying, but clearly, from what the
5 reporters are saying and what was discovered about going in
6 the market in 2014 there was a shortage. There were
7 reports of sold out mills and people not getting material
8 and prices increasing rapidly, and we had a similar
9 phenomenon occur at the end of 2016 and 2017. I just went
10 through six months worth of price announcements and we had
11 rapid -- five, six, seven price announcements in the space
12 of three months that occurred. Why? What was driving that?
13 You don't raise prices if you don't think that you've got
14 the upper hand of the market at that point and it doesn't
15 seem like scrap pricing were driving that. So I really
16 can't tell you, other than the fact that, well, imports may
17 not be coming in as much now because we've got a pending
18 case, which is part of what the Petitioners will tell you
19 and because of that we have more market leverage and because
20 of that we can jack up the price over \$100 a ton. Okay, if
21 that's where we're going to take this and the Commission
22 finds injury that's the natural result of what's going to
23 happen here until somebody else comes into the market to
24 provide that pricing discipline and somebody else will come
25 into the market to do that.

1 VICE CHAIRMAN JOHANSON: Thank you, Mr. Vaizoglu
2 and Mr. Nolan.

3 Why is there an expansion of capacity in Turkey
4 as Petitioners have argued, particularly, with any weakening
5 of demand in the Turkish market?

6 MR. VAIZOGLU: I will translate to Mr. Ekinici,
7 if you don't mind.

8 VICE CHAIRMAN JOHANSON: Right. And just to let
9 you all know this is at page 71 of the Petitioners' brief.

10 MR. EKINCI: Well, Turkey's overall capacity for
11 many years has been 50 million tons, but of course, it's not
12 possible to use that 100 percent capacity. It's a way of
13 mathematical calculation considering that you produce a
14 certain size all the time with no problems occurring in the
15 mill. Nobody can actually achieve the maximum capacity that
16 they have in their mills, so over the years the highest
17 capacity utilization we had was 36 million tons and right
18 now we don't even do those numbers. It's a little bit over
19 30 million tons, but what we have heard is there were two
20 mills that were being mentioned. One of them was Kopdan
21 coming in with a new mill and Kardamir coming in with a new
22 mill.

23 That information is not quite accurate. What
24 the mill that they were referring for Kopdan was actually a
25 mill that they already had existing, but was in maintenance

1 for over a year and that mill reopened last year. So it
2 wasn't a new capacity. It was a renovation for the mill was
3 not working for a year. It was a big renovation.

4 And about Kardamir that plant is a wire rod
5 plant, which is built for domestic market to produce high
6 carbon, high quality wire rods. It's not commercial quality
7 wire rods. So those mills are not relevant to this case or
8 U.S. market. Kopdan wasn't a new mill and Kardamir is not
9 rebar. It's wire rod and it's a different quality.

10 And also he wanted to state that Turkey imports
11 around 20 million tons of semi-products and different
12 products into their domestic market. So the mill from
13 Kardamir was built to subsidize that imported, high quality
14 wire rod.

15 VICE-CHAIRMAN JOHANSON: Thank you, Mr.
16 Vaizoglu.

17 MR. VAIZOGLU: You're welcome.

18 And I'm wondering have markets in the Middle
19 East not been as strong due to softening of oil prices?

20 (Mr. Vaizoglu translating for Mr Ekinici:)

21 MR. VAIZOGLU: Well at the moment, yes, this is
22 correct. But this is not the first time this is happening.
23 We have witnessed this a couple of times earlier in past
24 years, and we look at this similar to a seasonal effect.
25 The oil prices picks up and they're going to become more

1 active again.

2 But as you have seen from the numbers, still
3 menis are our biggest market for our exports.

4 VICE CHAIRMAN JOHANSON: Thank you, Mr. Ekinçi and
5 Mr. Vaizoglu. How does scrap purchasing and processing in
6 Turkey differ from that in the United States?

7 (Mr. Vaizoglu translating for Mr. Ekinçi;)

8 MR. VAIZOGLU: Well of course the biggest
9 difference is we import most of our scrap. The amount of
10 scrap that is consumed in Turkey is around 33 million tons.
11 And 30 percent of it is domestic scrap and 70 percent of it
12 is imported scrap, and most of it comes from the United
13 States.

14 (Mr. Vaizoglu translating for Mr. Ekinçi:)

15 MR. VAIZOGLU: And when you compare it with scrap
16 that is used in U.S., most of the scrap exporting countries,
17 the better qualities, the higher qualities, are consumed
18 domestically and the lower qualities are exported. And the
19 difference between higher and lower quality of scrap is the
20 yield of the production. It's a yield problem. So with the
21 better qualities, when you compare the better quality scrap
22 with the lower quality scrap, in U.S. the one that is
23 consumed domestically and exported, the assumption is
24 around \$25 per metric ton cost difference.

25 So ours should be \$25 higher on the cost side.

1 And that's why he thinks that our American friends here, the
2 producers, have a bigger advantage on the cost. Also, they
3 have an advantage over the natural gas and electricity costs
4 in U.S. which are cheaper than Turkey. The only
5 disadvantage they have is labor cost.

6 VICE CHAIRMAN JOHANSON: Do Turkish producers also
7 use electric arc furnaces?

8 MR. NOLAN: Yes.

9 VICE CHAIRMAN JOHANSON: So the production
10 processes are the same, then?

11 MR. NOLAN: Yes. The difference is, again, from a
12 logistical standpoint. And I think some of the U.S. mills
13 are doing this now, too. Almost all Turkish mills that do
14 any exporting are located literally on the water, I mean
15 within a couple of hundred yards of the water, and they have
16 conveyor belts that will--the ship pulls in. Big claws come
17 in and take the scrap and put it in the yard. It goes on a
18 conveyor belt. It goes into the electric arc furnace. It
19 gets melted down. They add whatever they need to get the
20 ferro alloy content right in the mix. That gets turned into
21 rebar. The rebar goes through the cooling phase, goes back
22 on a conveyor belt, out the door, back on a ship, and back
23 out again.

24 From a logistics standpoint, you cannot get a
25 more efficient production method than that.

1 VICE CHAIRMAN JOHANSON: And out of curiosity, how
2 long as Turkey been producing rebar?

3 (Mr. Vaizoglu translating for Mr. Ekinici:)

4 MR. VAIZOGLU: Probably over 60 years.

5 VICE CHAIRMAN JOHANSON: Oh? Okay. Fascinating.
6 Well thank you. That concludes my questions for now, and my
7 time has expired.

8 COMMISSIONER WILLIAMSON: I just have one
9 question. Mr. Vaizoglu, since you're involved in stuff here
10 in the U.S., can you say something about the--for the
11 Turkish producers, their distribution in the U.S.? I mean,
12 do they maintain inventories? Do they have--what's the
13 infrastructure that they use to sell in the U.S. market?

14 (Mr. Vaizoglu translating for Mr. Ekinici:)

15 MR. VAIZOGLU: Well most of the mills are selling
16 to importers and traders. So they never bring any tons on a
17 vessel that is not sold. They always presell everything,
18 and they make their offers against the inquiries. They are
19 not marketing the materials here. So the importers like us,
20 we go to them. We ask for a certain tonnage for a certain
21 port, and they make us an offer. After signing the
22 contract, we give them a size that they produce and they
23 load it and they send it to the importers.

24 So there is no material on a vessel, or when you
25 see in the pictures the stocks in the port, they don't

1 belong to mills. The mills don't import material, keep it
2 on stock, and distribute to clients. That's our job.

3 COMMISSIONER WILLIAMSON: So what about the--are
4 there some importers that specialize in say imports from
5 Turkey? Are there--would it be called a distributor, then,
6 an importer/distributor?

7 MR. VAIZOGLU: Well we usually refer to ourselves
8 as importers, or traders. And it's not only Turkey. I
9 wouldn't say that there is only one trading company here who
10 belongs to a producer. Other than that, all the trading
11 companies import from different countries.

12 It's not hundred percent Turkey. I don't think
13 there's not a single importer who only buys from Turkey.

14 COMMISSIONER WILLIAMSON: Okay. But clearly for
15 rebar Turkey is the major source of imports for this--

16 MR. VAIZOGLU: For any market around the world,
17 Turkey is the biggest source of rebar.

18 COMMISSIONER WILLIAMSON: And that means there is
19 a sophisticated distribution system, maybe not owned by the
20 producers but owned by somebody for getting that product
21 around the U.S. market.

22 MR. VAIZOGLU: Well there are logistics
23 advantages. Mr. Nolan state it's very efficient. The
24 location of the country itself is when you open the world
25 map it's in the center. So--

1 COMMISSIONER WILLIAMSON: No, I'm not talking
2 about--no, Turkey is very efficient in getting it out the
3 door. I'm also saying the purchasers of the product they
4 are efficient in distributing and developing customers in
5 the U.S. market.

6 MR. VAIZOGLU: Yes, it is.

7 COMMISSIONER WILLIAMSON: Any market that they're
8 in.

9 MR. NOLAN: And it is the fact that a lot of the
10 producers in Turkey have their own ships. Istash and Habash
11 both have their own ships, right? So they will figure out
12 the scheduling on those ships and load them up. And there's
13 an advantage to doing that.

14 This is vertical integration on the Turkish side
15 of things, just as downstream fabrication operations here
16 are an advantage to the U.S. producers. Turkey's advantage
17 is it's figured out its best course, its most efficient
18 process is to put the plants near the water, have your own
19 ships. Create that logistical advantage, and be the most
20 efficient provider you can be. And that is how they make
21 their money.

22 COMMISSIONER WILLIAMSON: But part of that being
23 the most efficient provider is that there's somebody who can
24 distribute your product and sell it in the country that it's
25 imported into.

1 MR. NOLAN: There's Turkish sellers and producers.
2 I mean, they're all over the place. They are always out.

3 MR. VAIZOGLU: Well here in the U.S. most of the
4 trading companies we import material are not Turkish. There
5 are two trading companies whose partners are Turkish, but
6 the rest are all international trading companies. So I can
7 tell you that the same company goes to the Turkish mill and
8 they can buy for U.S., they can buy for South Africa, they
9 can buy for Middle East, North Africa, Europe, you name it.

10 There are huge trading companies whose profession
11 is to buy that steel and distribute throughout the world.

12 MR. NOLAN: And the only country you will not see
13 them buying and trading with is the United States. The U.S.
14 does not trade rebar outside other than maybe Canada, maybe
15 a little bit to Mexico. But the U.S. is not present in
16 international markets.

17 Now that's just a choice. And maybe it's
18 partially because of the way the pricing is, but the fact of
19 the matter is, if you did an international map of rebar
20 movements, Turkey is there. You don't see the U.S. very
21 much.

22 COMMISSIONER WILLIAMSON: Okay, thank you. I
23 asked the domestic producers this morning about data on
24 inventories being held in the U.S. Do you have any ideas
25 about sources that would tell you how much inventory is

1 being held by not just the producers but the--whether it's
2 the distributors, the trading houses in the U.S. market?

3 MR. VAIZOGLU: I don't think so. I don't think
4 there's anybody who is keeping track of that kind of
5 information. We only can see the amount of rebar on the
6 ports, but again we exactly don't know if these are all
7 presold by the traders. It's presold by the mills, no
8 question, but if it's presold by our clients to their
9 clients, or the construction companies, or not. That we
10 don't see.

11 MR. NOLAN: I would find it a little hard to
12 believe that traders who make their money on moving the
13 merchandise as quickly as possible would want to maintain
14 large inventories, unless the economic conditions said they
15 had no choice.

16 So for example when the OCTG market collapsed,
17 right, we had a huge amount of oil country tubular goods
18 sitting off on the docks because nobody could sell it. You
19 couldn't buy, beg, or steal it because nobody wanted it. In
20 this industry, we have a gradually improving market. We
21 have construction increasing. We have the indicators that
22 there are indicators that a positive movement is going in
23 the economy for demand. There's no reason to indicate that
24 they would want to maintain inventories.

25 And, you know, if you look at the surrogate on

1 U.S. producer inventories, they didn't go up. So we can
2 look and see if there's any other evidence we can provide to
3 you on that. I just find it a little hard to believe that
4 the traders would want to be sitting on 200- 300,000 tons of
5 rebar on the dock because they can't sell it. Most of the
6 time they've already sold it before it gets here.

7 COMMISSIONER WILLIAMSON: So are you saying that
8 the statements made this morning about inventories in the
9 U.S., you don't agree with that?

10 MR. NOLAN: I disagree with that. I mean when
11 stuff is sitting on the docks in Houston, it's sitting there
12 because for a few weeks--you know, when you bring a shipload
13 of rebar in, you're going to have a shipload of rebar
14 sitting on the docks until you get it off the dock, or off
15 the yard. So it is going to look like there's a lot of
16 rebar sitting there.

17 If this were the market where there's just huge
18 yards and yards, like we did, again going back to the--

19 COMMISSIONER WILLIAMSON: No, I understand that.
20 But the question is, if you're going to be competitive in
21 the market and you have a lot of people buying on spot
22 market, you've got to have inventory to meet the demand for
23 the ultimate customer.

24 MR. NOLAN: But the Turks, particularly the Turks,
25 don't like selling in inventory. They like to presell the

1 merchandise. They build to order. That's one of the
2 reasons they're so efficient, is they don't build on the
3 hope of selling. They sell it and then build it.

4 COMMISSIONER WILLIAMSON: Okay. We'll have to
5 find out if there's somebody else out there who is holding
6 the inventory.

7 MR. VAIZOGLU: Well also there's the risk of
8 different sizes, different grades, different lengths. So
9 you would bring something in to the port without selling,
10 and that grade, that size is not popular because that also
11 changes. All the areas has different grades and different
12 sizes popular, but from time to time there are small
13 variations about that as well.

14 COMMISSIONER WILLIAMSON: Okay.

15 MR. VAIZOGLU: So mill, especially, which is in
16 Turkey, would not know that.

17 COMMISSIONER WILLIAMSON: I understand that. But
18 I am just trying to figure out if someone is very
19 competitive in the market, they usually have the
20 infrastructure to support, or to sell to their ultimate
21 customers. And that was what I'm trying to get a picture of
22 here.

23 That was the last question I have, so I want to
24 thank you for your testimony.

25 CHAIRMAN SCHMIDTLEIN: Alright. Thank you. Vice

1 Chairman Johanson, do you have any further questions? No?

2 Okay.

3 Alright, that concludes questions from the
4 Commissioners. Do staff have any questions for this panel?

5 MR. THOMSEN: Craig Thomsen, office of Economics,
6 Staff has no questions.

7 CHAIRMAN SCHMIDTLEIN: Alright, thank you.

8 Do Petitioners have any questions for this panel?

9 MR. PRICE: Petitioners have no questions.

10 CHAIRMAN SCHMIDTLEIN: Alright, thank you. It
11 looks like we have somebody's family shot up there (on the
12 screen). Alright. Now we are moving on to closing
13 statements. Petitioners have two minutes from direct, five
14 minutes for closing, for a total of seven minutes.
15 Respondents have 28 minutes from direct, 5 minutes from
16 closing, for a total of 33 minutes. And we will begin with
17 Petitioners. So I will dismiss this panel at this time.

18 Again, thank you all very much.

19 MS. BELLAMY: Closing remarks on behalf of
20 Petitioners will be given by Alan H. Price and Laura
21 El-Sabaawi on behalf of Wiley Rein, LLP. You have seven
22 minutes.

23 MS. EL-SABAAWI: Good afternoon. In closing we
24 would like to reiterate that the record of this
25 investigation shows an incredibly straightforward case of

1 material injury by reason of subject imports.

2 First, subject imports compete in the same way in
3 the U.S. market and should be cumulated. They are shipped
4 to all geographic regions in all sizes and grades, all
5 ending up in the same place as domestic rebar.

6 Buy America restrictions apply to only a
7 relatively small portion of the U.S. market, and prices on
8 even these sales are affected by subject imports. They do
9 not insulate the domestic industry from competition, as the
10 Commission has repeatedly found.

11 Subject imports have had significant volume
12 effects in the U.S. market. Respondents themselves have
13 explicitly conceded this. They did so again today.

14 From 2014 to 2015 in particular, as subject
15 imports margins of underselling spiked, they increased by 79
16 percent and took more than 6 points of market share from the
17 domestic industry.

18 In 2016, domestic producers cut prices in an
19 effort to retain market share, but subject imports
20 maintained their high levels. Purchasers have directly told
21 the Commission that they shifted 1.4 million tons of rebar
22 purchases from U.S. to subject product.

23 This did not occur because U.S. producers prefer
24 to supply only their downstream operations, as Respondents
25 allege. There has been no shortage of domestic product

1 available in the market. Rather, the shifts occurred due to
2 the unfairly low prices of subject imports. These subject
3 imports also had significant price effects in the U.S.
4 market. Underselling was almost universal at substantial
5 margins, and there is overwhelming evidence that subject
6 imports depressed and suppressed U.S. prices.

7 There is a unanimous consensus that price is very
8 important in rebar purchasing decisions. U.S. producers
9 reported that they were forced to reduce prices to compete
10 with subject imports, and unable to raise prices to cover
11 rising raw material costs.

12 Purchasers representing 63 percent of purchases
13 confirm that U.S. producers were forced to drop their prices
14 in response to subject imports by an average of 13 percent.
15 And Respondents just said that the price competition in this
16 market is coming from subject imports which are keeping U.S.
17 prices down.

18 Contrary to Respondents' contentions, scrap costs
19 cannot explain the collapse in prices, particularly from '15
20 to '16 when U.S. producers were forced to cut prices to stop
21 losing sales and market share.

22 The data show that U.S. producers sales AUVs fell
23 further than raw material costs from '15 to '16. This is
24 also supported by the Commission's price and net cost
25 variance analyses. This is uniquely persuasive evidence

1 that it was subject imports that depressed and suppressed
2 U.S. prices.

3 Domestic producers should not have to choose
4 between keeping market share and obtaining a reasonable
5 price on their sales. In this case they lost both because
6 of subject imports.

7 Finally, subject imports have had an adverse
8 impact on domestic rebar producers. In a time of growing
9 and healthy demand, nearly all indicators of the domestic
10 industry's condition worsened.

11 Production, shipments, capacity utilization, and
12 market share fell. Prices collapsed and the U.S. industry's
13 profits with them. This is not the mark of an industry with
14 overwhelming market power, as claimed by Respondents.

15 The U.S. industry cannot survive on a 2.5 percent
16 operating margin. It cannot even cover its cost of capital
17 that way. Also during the period, 200 American workers lost
18 their jobs just at a time when they should have been
19 benefitting from reinvigorated rebar demand. Hours worked
20 and wages paid also fell.

21 In sum, the record is clear that subject imports
22 materially injured the domestic rebar industry, and they
23 also threaten the industry with further material injury.

24 That's it.

25 MR. PRICE: Thank you. Let's put this hearing to

1 a merciful and quick end at this point. Basically in order
2 for Respondents to win you would have to ignore the volume
3 loss was injurious. You would have to ignore that the
4 underselling increased was huge and on a price-sensitive
5 product would have material impacts in both the volume sense
6 and the pricing sense.

7 You would have to ignore the price effects of
8 imports, which they themselves have conceded. Now this is
9 due to unfair trade, so the statute is pretty clear. Have
10 we seen increasing imports of dumped and subsidized goods
11 that have had a volume effect on the U.S. industry? Yes.

12 A price effect on the U.S. industry? Yes. It
13 has not only affected prices generally but suppressed and
14 depressed domestic prices. And this case has unique
15 overwhelming evidence in that case.

16 So on behalf of the workers in a growing industry
17 who saw their wages decline, many of whom lost their jobs,
18 who had fewer hours to work in what should be the absolute
19 boom market of this period, I ask you to render an
20 affirmative determination. Thank you.

21 CHAIRMAN SCHMIDTLEIN: Thank you.

22 MS. BELLAMY: Closing remarks on behalf of
23 Respondents, Matthew M. Nolan, Arent Fox LLP. You have 33
24 minutes.

25 MR. NOLAN: I think the Petitioners have gotten my

1 number.

2 (Laughter.)

3 MR. NOLAN; Alright, well let's just say I am
4 exhausted right now. I don't think I've answered so many
5 questions in a single hearing in my life, and your patience
6 is exceptionally well received. Thank you very much for
7 putting up with a lawyer doing way too much talking in one
8 of these proceedings.

9 Yes, we will keep it short. I am not using 27
10 minutes. Let's all go have a drink. So let's talk about, a
11 little bit about what's going on with this case.

12 It is absolutely clear that imports went up. I'm
13 not going to even begin to try to say they didn't go up a
14 lot. Turkey came into this market. We can argue about what
15 those volume effects were. We submit that Mexico pretty
16 much left the market. That's a couple hundred thousand tons.
17 And we think that the Turks came in and basically took the
18 extra demand that was being built into the market because
19 the U.S. industry didn't seem to be more interested in
20 taking volume as opposed to price. We can argue that point
21 till the cows come home, and I won't continue to argue it
22 because I think I've done as much as I can at this point in
23 terms of damage.

24 It is curious that the Petitioners want you to
25 look at 2015-2016 only, because in 2014-2015 their profit

1 margins went up, even though that's when imports were coming
2 in the most, and their pricing shows that they were getting
3 larger, more significant margins as a percentage of sales
4 values and volumes.

5 They chose to put price and profit over volume.
6 That is a logical--I don't know logical, that is a business
7 decision to make. You either decide to try to get more
8 market, or you decide to sell at a higher price. They made
9 that decision. It's not the fault of imports.

10 The U.S. indicates that there was underpricing.
11 I submit to you that they were actually overpricing the
12 market relative to where it should be given the conditions
13 of competition.

14 Again, you've heard me drone on about that for
15 over an hour. You take that with whatever grain of salt you
16 feel appropriate.

17 They talk about, and we heard about this
18 repeatedly this morning from several Members of Congress
19 about leveling the playing field, and that U.S. producers
20 just need a break.

21 I know it's not part of your criteria, but as a
22 member of the Bar and as a defender of Turkish interests for
23 15 years now, I will have to say that we are not dealing
24 with a level playing field anymore. We are dealing with a
25 stacked deck. This is not the Commission's issue. This is

1 not part of your purview nor do I impugn your ability to
2 make a neutral decision, because I think the Commission does
3 act independently. I do not have the same degree of faith
4 in the Department of Commerce. They are consistently and
5 constantly changing the rules on us so that every time the
6 Turks think they are doing things the right way, the fair
7 way, the fair pricing way, the U.S. changes the rules and
8 says that's no longer the right way to do it.

9 The most recent decision to come out of the
10 Commerce Department is a case in point. They found a 14
11 percent subsidy on a Turkish producer because, lo and
12 behold, they found they were drawing duty drawback benefits
13 in Turkey, a benefit that has been around for 40 years, who
14 has been through at least 15 case segments where that issue
15 has come up, and for which I personally have three appeals
16 pending in the Court of International Trade as we speak.
17 And yet the Commerce Department deigned to find gambling in
18 this establishment and that nobody reported this as a
19 subsidy.

20 Now if duty drawback is a subsidy, so is every
21 VAT export exemption that exists on this planet. Because
22 what it says is, when you sell something overseas you don't
23 collect a tax on it. And that is a form of government
24 assistance.

25 If that is right, we violated about three or four

1 provisions of the World Trade Organization, not to mention
2 the fact that every single country in this world is now
3 subsidizing its material because they all use VAT except us.

4 And we may start using that soon, if we go to the
5 Border Adjusted Tax system. So be careful about glass
6 houses being built, ladies and gentlemen, because we are
7 headed into some dangerous territory here. That is my rant
8 on behalf of the Turkish industry that does nothing to do
9 with this proceeding.

10 The Commission has a difficult task ahead of it.
11 I am under no illusions that the Commission has already
12 found injury in a case not that far on the go under similar
13 fact pattern, and that we have more imports than we did
14 before. But I submit to you that the conditions of
15 competition in this industry, the behavior of this industry
16 in an oligopolistic setting, are such that they are
17 essentially creating the conditions for injury voluntarily
18 by taking courses of action and strategies which maximize
19 profits, maximize price, sacrifice volume, sacrifice market
20 share for short-term gain and not long-term gain.

21 And that is not the fault of subject imports.

22 Thank you.

23 CHAIRMAN SCHMIDTLEIN: Alright. Thank you very
24 much, Mr. Nolan.

25 This brings us to the end of our hearing.

1 Post-hearing briefs, statements responsive to questions, and
2 requests of the Commission, and corrections to the
3 transcript must be filed by May 25th, 2017. Closing of the
4 record and final release of data to parties will be June
5 8th, 2017. And final comments are due June 12th, 2017.

6 I would like to thank everyone again for their
7 time today and for the witnesses appearing here. And with
8 that, this hearing is adjourned.

9 (Whereupon, at 3:44 p.m., Thursday, May 18, 2017,
10 the hearing was adjourned.)

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CERTIFICATION OF REPORTER

TITLE: In The Matter Of: Steel Concrete Reinforcing Bar from Japan, Taiwan, Turkey

INVESTIGATION NOS.: 701-TA-564 and 731-TA-1338-1340

HEARING DATE: 5-18-17

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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.

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