UNITED STATES
INTERNATIONAL TRADE COMMISSION

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HOT-ROLLED STEEL PRODUCTS     )
FROM ARGENTINA, CHINA,        ) Docket Nos. 701-TA-404-408
INDIA, INDONESIA,             )             701-TA-898-903
KAZAKHSTAN, ROMANIA,          )             904-908 (Review)
SOUTH AFRICA, TAIWAN,         )
THAILAND AND UKRAINE          )
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Room 101
500 E Street, S.W.
Washington, D.C.

Wednesday,
August 1, 2007

The hearing commenced, pursuant to notice, at 9:31 a.m., before the Commissioners of the United States International Trade Commission, the Honorable DANIEL R. PEARSON, Chairman, presiding.

APPEARANCES:

Commissioners Present:

DANIEL R. PEARSON, CHAIRMAN (presiding)
SHARA L. ARANOFF, VICE CHAIRMAN
DEANNA TANNER OKUN, COMMISSIONER
CHARLOTTE R. LANE, COMMISSIONER
IRVING A. WILLIAMSON, COMMISSIONER
DEAN A. PINKERT, COMMISSIONER

Staff Present:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
BILL BISHOP, HEARINGS AND MEETINGS COORDINATOR
SHARON D. BELLAMY, HEARINGS AND MEETINGS ASSISTANT
MARY MESSER, INVESTIGATOR
KAREN TAYLOR, INDUSTRY ANALYST
NANCY BRYAN, ECONOMIST
JOHN ASCIENZO, ACCOUNTANT/AUDITOR
ROBIN TURNER, ATTORNEY
DOUGLAS CORKRAN, SUPERVISORY INVESTIGATOR

APPEARANCES (CONT'D)

EMBASSY APPEARANCE:

RAMET OPATUMPHUN, Deputy Managing Director
Iron and Steel Institute of Thailand
Ministry of Industry, Thailand

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

On behalf of G Steel Public Company Limited; Nakornthai Strip Mill Public Company Limited; Sahaviriya Steel Industries Public Company Limited:

MERLE EMERY, President, GR Spring and Stamping, Inc.
LANCE GREEN, Vice President, Materials, Batesville Tool & Die
GREG KNEDGEN, Director of Purchasing, E&E Manufacturing Co., Inc.

Of Counsel:

KENNETH J. PIERCE, Esquire
JAMES P. DURLING, Esquire
VICTOR S. MROCZKA, Esquire
MATTHEW P. McCULLOUGH, Esquire
Vinson & Elkins LLP
Washington, D.C.

On behalf of Siderar S.A.I.C. ("Siderar"):

Of Counsel:

GREGORY J. SPAK, Esquire
KRISTINA ZISSIS, Esquire
White & Case, LLP
Washington, D.C.

On behalf of China Iron & Steel Association; Baosteel Group Corporation:

Of Counsel:

PHILIPPE M. BRUNO, Esquire
DAVID AMERINE, Esquire
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Washington, D.C.

APPEARANCES (CONT'D)

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

JAMES C. HECHT, Esquire
Skadden, Arps, Slate, Meagher & Flom, LLP
Washington, D.C.

I N D E X

P R O C E E D I N G S

(9:31 a.m.)

CHAIRMAN PEARSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to Day Two of hearings on Investigation Nos. 701-TA-404-408 and 731-TA-898-903 and 904-908 (Review) involving hot-rolled steel products from Argentina, China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine.

The purpose of these five-year review investigations is to determine whether the revocation of the antidumping and countervailing duty orders covering hot-rolled steel products from those countries would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

The witness list, notices of investigation, and transcript order forms are available at the public distribution table. All prepared testimony should be given to the secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the secretary.

Finally, if you'll be submitting documents that contain information you wish classified as business confidential, your request should comply with Commission Rule 201.6.

Madam Secretary, are there any preliminary matters?

MS. ABBOTT: No, Mr. Chairman, other than the second panel in opposition to the continuation of the orders is seated, and all witnesses have been sworn.

CHAIRMAN PEARSON: Very well. Mr. Pierce, are you the shepherd of this flock?

MR. PIERCE: Yes, Mr. Chairman, I am.

CHAIRMAN PEARSON: Please proceed.

MR. PIERCE: Thank you. Good morning, Mr. Chairman and Commissioners. I'm Ken Pierce of Vincent & Elkins, counsel for Thailand. Our Respondent's panel will be addressing the distinct circumstances of Thailand and Argentina, as well as responding to Petitioners' claims against China.

Amazingly, none of those claims seriously address the fact that hot-rolled exports from China just had their cost increased by 16 percent, with the elimination of drawback and the imposition of export taxes.

First, though, a reality check is in order after all of the smoke and mirrors of yesterday. It's important that the Commission be reminded of the reality of the incredible strength of the domestic hot-rolled steel industry. From what you were told yesterday, one would not know that the industry had profits of 24, 14, and 15 percent over the past three years, the highest in history, or an average return of investment of 22 percent over that same period.

The domestic industry has fundamentally changed since 2001, garnering enormous market power and pricing discipline such that just three mills now control over 70 percent of U.S. flat-rolled production. While much of it is confidential, I commend the Commission to read closely the briefs submitted by the U.S. automobile producers and suppliers to better understand how price-negotiating level has been fundamentally enhanced to the steel mills' favor.

On this panel are three U.S. auto parts makers, all of which are reliant on hot-rolled steel as a direct production input. They are representative of the many American hot-rolled steel purchasers that are being squeezed by the steel mills' market domination and shortening of supply, to the point where their survival is in doubt, all to the benefit of foreign auto parts makers.

This is a completely unnecessary situation, given the sustained concentrated power and outstanding health of the domestic mills.

We will first describe how this power came about over the last three years and what it means for the reasonably foreseeable future. We then want the Commission to hear testimony about the U.S. hot-rolled market from the purchasers' perspective so that domestic mills' market power can be accurately understood.

Following this, counsel will address Petitioners' allegations concerning China and describe the unique market circumstances calling for separate and distinct consideration of Thailand and Argentina in the Commission's deliberations. With respect to Thailand, I am joined by Ramet Opatumphun, the government witness of yesterday, should you have any questions for him.

Now, the Commission heard a lot of misinformation yesterday about the law, and we are very anxious to address that in answer to questions, especially with respect to material injury and cumulation.

Just briefly, on material injury, the statute defines "material injury" as not unimportant. Eliminate the double negatives, and that means that material injury is important. The Commission weighs the facts in its discretion to determine materiality. That's what was decided in <u>OCTG</u>.

For cumulation, let's assume there is a discernable adverse impact. Let's assume that the petitions and the reviews were initiated on the same day. Let's assume no adverse inferences were taken, and let's assume that the four conditions are met for a reasonable overlap in competition. Then you can cumulate, but even then, still, in a review, you don't have to cumulate. It is in your discretion to not cumulate, and a sunset review is not the only place where you have that discretion not to cumulate, as you were misinformed yesterday.

You have the discretion not to cumulate in a threat determination as well as in a review. Now, what is similar between a threat determination and a review is that both are predictive. You're trying to assess what's going to happen, not what has happened. Therefore, you're looking forward into the future, and you have to avoid speculation.

The Congress has entrusted you to make intelligent decisions in those circumstances, to try to guess and assess what is going to happen. In order to do that and predict the future, you have to consider conditions of competition. What is the context that is going to drive what countries are likely to do if the orders are revoked?

The courts have been very clear in allowing you that discretion and in the factors that you may consider. Allegheny Ludlum: "Thus discretionary cumulation does not preclude the Commission from considering any factors it considers relevant." That includes trends.

Congress entrusted the Commission with judgment to make cumulation decisions based on intelligent choices of what you think is going on in the market based on conditions of competition. It did not tell you you have to make lock-sink determinations up or down, one vote on all countries in a sunset review. It simply doesn't work that way. That is not what Congress intended you to do. Congress expected you to make intelligent assessments of the record for each country: What is motivating these countries? What are their market conditions? And then decide, in your discretion, whether or not to cumulate in a sunset review. Thank you.

MR. McCULLOUGH: Good morning. My name is Matt McCullough of Vincent & Elkins. I will discuss the substantial changes that have taken place within the domestic industry in hot-rolled steel markets since the Commission's original investigation. These changes have left the domestic industry in a dominant position in this market.

There is no better illustration of this fact than the first slide in my presentation, which shows the domestic industry's operating margins over the past 17 years. We are in the most profitable period in the domestic industry's history. Operating margins over the '04-'06 period are substantial, sustained, and unprecedented, with operating profits averaging almost 17 percent, tripling average operating income in any prior three-year period.

Although it is easy to claim that the import restraints were responsible for these monumental profits, there is no correlation between import protection and the domestic industry's dramatic revitalization. The industry languished in '02 and '03, even with three separate layers of trade restraints.

Aside from import restraints, other fundamental changes have occurred in the market. To explain these changes, it is useful to look back at the domestic industry examined by the Commission in 2001. Now, for some commissioners, this is going to be a bit of a recap, given the 2005 hot-rolled sunset review and also the core review, but I think it's important that we go over some of these issues with some of the newer commissioners.

I think the point is whatever role played by subject imports during the original period of investigation, it is undeniable that the domestic industry suffered from other serious problems independent of import competition. These included the industry's high degree of fragmentation, enormous burdens associated with inflexible labor agreements and legacy costs, and damaging intra-industry competition between integrated mills and newer, low-cost minimills.

First, the domestic industry, in 2001 consisted of at least 26 producers with widely dispersed capacity. With so many producers and none holding a significant share of the market, it was far more difficult for the industry to react in a disciplined way to market downturns.

Second, the domestic industry, and, specifically, the older, integrated segment, struggled under costly labor agreements, as well as legacy costs that alone added as much as $65 to every ton of steel produced. With hot-rolled steel prices dipping to no more than $230 a ton and lower during periods of the original investigation, compared to the $500 to $600 dollars per ton seen today, legacy costs were a substantial handicap.

These costs further contributed to the industry's structural disarray. As industry executives recognize, legacy costs precluded consolidation and rationalization within the domestic industry and served as a high exit barrier for inefficient and obsolete steel-making capacity that weighed on the market. To be certain, the market was rapidly changing with the introduction of new, low-cost minimill capacity, which leads me to my third point on intra-industry competition.

Over the '98-'01 period, thin-slab minimills installed three million tons of new capacity and were still ramping up four million previously installed tons even as U.S. apparent consumption for hot-rolled steel dipped by 10 million tons. Minimills were attractive investments since they had much lower market entry costs than greenfield, integrated mills; benefitted from more flexible labor rules than integrated mills; shared none of the legacy costs of their integrated competition; and enjoyed record low input costs. In the case of scrap, these costs had dipped to below $80 a ton.

The competitive threat posed by minimills was very real, particularly for integrated mills with greater exposure to the hot-rolled spot market. The continued growth in minimill capacity was viewed by industry executives as a train wreck waiting to happen and a financial disaster for integrated mills selling hot-rolled steel.

Confronted with competition from expanding low-cost minimills, the integrated mills continued a longstanding practice of sacrificing profitability for capacity and production volume. Producers in or teetering on the verge of bankruptcy sought every dollar of revenue to sustain day-to-day operations.

The Commission itself has noted that there was a "significant incentive to maximize the use of steel-making assets, which can affect producers' pricing behavior" over the original period of investigation. This production pricing dynamic led to ultra-intense price competition in the market as integrated mills waged a largely futile campaign to keep pace with low-cost minimills.

Now, two critical developments helped break the hold these structural liabilities had on the domestic industry, placing the industry, as a whole, on a far more stable footing.

First, over a five-year period, integrated producers shed $9.2 billion in pension liabilities assumed by the PBGC. At least another $4.6 billion in other post-employment benefits were washed away in bankruptcy. The elimination of roughly $14 billion in liabilities set the stage for desperately needed consolidation and rationalization.

Overall, 22 steel-making assets in operation at the time of the Commission's original investigation have since combined to form just 13 producers, with expectations that further consolidation may follow, whether involving U.S. Steel, A.K. Steel, or others.

Through this consolidation, the domestic industry has generated substantial cost savings in the hundreds of millions of dollars per company.

Let me provide some added context on how this consolidation has changed the industry landscape. Consider that the largest domestic producer in 2001, U.S. Steel, had roughly 13 million tons of domestic flat-rolled capacity. The largest domestic producer today, Mittal, has more than twice that capacity. In 2001, it took eight domestic producers to make up roughly three-quarters of domestic production capacity. Today, that same capacity is concentrated in the hands of just three domestic producers.

The second crucial development concerns the convergence of cost structures between the integrated mills and minimills. Since the original investigation, minimill input costs, once substantially lower than integrated mill costs, increased at a faster rate than integrated costs. At the same time, the integrated segment eliminated billions in liabilities and secured huge cost savings from new labor agreements and synergies flowing from consolidation.

Thus the motivation or capacity of minimills and integrated mills to engage in pricing or production decisions similar to those seen over the '98-'01 period no longer exist. Minimills no longer have the cost cushion they had in previous years to match or undercut integrated pricing with impunity, and integrated mills are no longer desperate for revenue at any price.

These developments leave us with the domestic industry examined today, an industry that exhibits very strong production and pricing discipline, an industry that has translated that discipline into real market power, and an industry that is far more profitable, productive, and efficient.

First, let's look at production and pricing discipline. There is a consensus point that a consolidated and concentrated domestic industry is able to respond to market downturns through proactive production and pricing decisions. During periods of inventory increases, a common cyclical event in this industry, the mills have been able to minimize both the duration and magnitude of price declines.

For producers with international operations, such as the largest U.S. producer, Mittal, production discipline now occurs on a global basis. Here, I borrow a slide from Lakshmi Mittal's May 2006 presentation to investors. This slide highlights the Mittal footprint that spans 27 countries, nine major markets, and 61 steel plants. Mittal is part of a self-described "new paradigm" in the global industry with global players making global production decisions.

The industry's evolution is, in part, responsible for a new, higher price ban for hot-rolled steel. As explained by Lakshmi Mittal, the global steel industry is seeing a new, fundamental price dynamic. You can see this new price dynamic in production discipline in the history of U.S. market prices over the recent period. Over successive inventory cycles, the industry has improved its response time in terms of cutting production, halting and then reversing price declines at points that are still well above marginal costs for this industry.

The domestic industry is actually improving its response time. You can see, in this chart, that the domestic industry reacted more swiftly through shipment cutbacks in 2006, when inventories climbed, than in 2005. After a market lull this year and further production cutbacks, the industry is projecting better demand and profits moving forward into a period that Rolled Steel Dynamics will result in higher prices.

What we are ultimately talking about is the enormous market power of the domestic industry. With the vast majority of production capacity in the hands of three domestic producers and the ability of the industry to execute coordinated volume and price moves, the record in this review is further replete with evidence of volume limits, a move to shorter-term contracts, and the ability of the domestic industry to impose sudden and significant price increases. The domestic industry's margin over total costs over the past few years is truly amazing for a commodity product, such as hot-rolled steel, reflecting the industry's pricing power in this market.

Again, these are unprecedented margins for a commodity product and unprecedented for this industry. The industry is further able to widen the spread between costs and price even in the face of increasing import volumes. Similarly, as import AUVs from both subject and nonsubject sources declined between '05 and '06, the domestic unit value actually increased by five percent. Domestic shipments increased, and domestic operating margins increased.

We now see the domestic industry positioned to take advantage of any window of opportunity in the market. For example, following cutbacks in late 2006, the domestic industry capitalized on a brief upturn by swiftly raising prices in early 2007. These increases came in consecutive announcements, some occurring in the same month. The price increases were in addition to surcharges many of the mills maintain on hot-rolled steel.

For example, Nucor increased its March 2000 surcharge by $40 a ton, even as it announced a $20-per-ton price increase effective in the same month.

Beyond the domestic industry's profitability and market power, there are many other indicia of the industry's strong health. Return on investment and book values are up sharply. In the market, transaction values for domestic industry assets and trading valuations are also up sharply. Moodys has extended extremely favorable credit ratings to representative integrated and minimill producers U.S. Steel and Nucor and find unlikely the prospect of downward pressure on such ratings over the foreseeable future.

These facts all indicate very positive future expectations for this industry, and there is little doubt why. Domestic industry productivity is up 40 percent since 2001 while total production in 2006 remained near its peak over the '98-'06 period. Capacity utilization remained stable, though actual rates are somewhat elusive in light of supply disruptions reported by purchasers over the period of review.

Finally, the domestic industry's efficiency has improved at a tremendous rate. Unit labor costs are lower today than in 1998 and are at their lowest point over the '01-'06 period, even as hourly wages increased by over 35 percent. These trends are particularly striking and reveal a much leaner competitive industry than in years past.

So where does this leave the domestic industry today? Again, all signs indicate tremendous confidence in the industry and this market for the foreseeable future. The United States is no longer viewed as merely an export destination for hot-rolled steel. To the contrary, market analysts view the United States as one of the best places to produce steel. This is why you see billions of dollars being invested right here in new greenfield facilities, such as Sevecor and the $3.7 billion facility being pursued by Thyssen in Alabama.

In terms of supply and demand, this is not the recession-laden market of 2001. Steel consumption is expected to expand in North America by 4.3 percent in 2008, with stable or growth trends in key consuming hot-rolled sectors, such as vehicle production, nonresidential construction, and appliance fabrication. At the same time, rising freight rates and the weakening U.S. dollar make shipping to the United States less enticing, limiting import supply.

As it stands, the United States has not been the highest-priced market for hot-rolled steel since the end of 2006, and pricing differentials in lower-priced markets make shipping here uneconomic. This explains why U.S. importers are seeing offers disappear in this market, and hot-rolled steel imports, through June of this year, are down 50 percent from last year.

It is also why you see producers like Mittal announcing plans to export to Europe as much as 200,000 tons of steel a quarter. In other words, the U.S. production base is globally competitive, adding further consideration to the supply-demand balance in this market.

As far as the global market, the Commission is not confronting the after shocks of the Asian financial crisis. Mittal's choice to export is a clear indication that we are not in an era of true excess supply. Not even Mittal, the largest domestic and global producer, believes so. To the contrary, Mittal believes that the world market is in equilibrium and will remain so. Mittal reconfirmed that assessment today in their conference call on second-quarter results.

Again, I borrow from Mittal's own presentation. I'll show you another presentation later.

What market participants and observers alike see is that demand outside the G-7 will grow sharply in the coming years, sustaining an effect first caused by China's emergence in '04 as a huge steel consumer; that is, there will be major demand pull for steel and steel inputs in emerging markets, causing tight steel markets and increased prices.

Everyone seems to be calling it something different, but the conclusion is the same: Sustained global growth, particularly in emerging markets, driving sustained high prices for steel. While there may be occasional troughs in this new era, such as the temporary market doldrums we've seen in the United States in the past few months, there is a consensus, even among U.S. producers, that softening demand and prices will steadily improve by the third and fourth quarter of this year, supporting continuing high profit margins for the domestic industry.

In light of the fundamental changes in the domestic industry, as well as the fundamental changes in the global market for hot-rolled steel, the domestic industry cannot be considered vulnerable. Revocation of the orders is not likely to lead to continuation or recurrence of material injury. Thank you.

MR. DURLING: Good morning. My name is James

Durling, also with Vincent & Elkins. You have just heard about the transformation of the U.S. steel industry over the past several years. Faced with this dramatic evidence, the domestic industry has tried to downplay the industry's financial success. That is the purpose of Professor Kathari's report and Petitioners' arguments about how to value captive consumption of hot-rolled steel.

Petitioners have not provided any sound reasons to change the Commission's longstanding practice for valuing captive production. This practice has been repeatedly reaffirmed by the Commission and the courts. Petitioners have tried to manipulate this issue for years. This is not a new issue. Petitioners have also refused to provide detailed, consistent, and reconciled data about the profitability of downstream markets. The current Commission practice evolved from the refusal of the domestic industry to provide information requested by the Commission back in the '92-'93 steel cases.

The fact that market prices are now substantially above costs may be inconvenient for the lawyers arguing a case but does not provide any reason for a change. The current practice provides a reasonable and consistent basis for valuing captive production.

The centerpiece of Professor Kathari's argument is the claim that supplying external customers is substantially more costly, and so the use of market prices to these external customers somehow overstates captive sales. But like so many academic arguments, this one fails a very simple test. This claim is inconsistent with the Commission's evidentiary record in this case.

Total SG&A on merchant market sales has been only about three percent over the past few years, hardly the "substantial factor" that Professor Kathari argues, and would be even less if we were to focus just on the selling expenses. But more importantly, to the extent it is a factor at all, the per-unit SG&A expenses on captive sales, as reported by the domestic industry in this case, have averaged about two dollars per ton higher than the SG&A expenses on merchant market sales. The potential distortion criticized by Professor Kathari in his report simply does not exist in this industry.

Professor Kathari also argues that the Commission's approach double counts profits, but this argument attempts to create linkages between discrete investigations that simply do not exist. In each case before it, the Commission must focus on whatever product is being investigated in that case and the industry producing that product, what revenue and what profits can be generated from that production.

In a case involving only the downstream products, such as corrosion-resistant steel or tin mill steel, there are no captive sales to be valued. When the product is consumed both on the merchant market and internally, the Commission must still value all of the production by that industry, and this leads to the fundamental problem with Petitioners' approach, in that they try to assign zero profits to captive production. This approach makes no sense from the perspective of determining the value to the domestic industry of its total production of the product at issue.

When an integrated steel company makes a ton of corrosion-resistant steel, much of the total value being created occurs in the initial stages of producing the ton of hot-rolled steel. In fact, over the past few years, the total cost of producing hot-rolled steel has been about 70 percent of the total cost of producing corrosion-resistant steel. That ton of hot-rolled steel has created substantial value for the industry producing hot-rolled steel, regardless of what eventually happens to that ton of steel.

The Commission has thus quite reasonably said that the best way to approximate this value is to say the product has the same value that it could have obtained if it had been sold on the merchant market. It makes no sense to assume that that value is zero. If the Petitioners were to provide detailed, consistent, and reconciled data on the profitability of all their downstream markets, perhaps the Commission could develop an alternative.

That's what the Commission tried to do in '92 and '93. That's what the Commission could not do because the domestic industry would not provide the information, and that's the origin of the simple assumption the Commission currently uses which, if the information hasn't been provided, will assume that it has the same value as the merchant market sales. But as long as Petitioners withhold this information, the current Commission practice continues to represent the most reasonable approach for valuing captive production.

We believe the Commission should affirm its traditional practice for valuing captive consumption, but we also note a certain irony in Petitioners' arguments in this case. For even if the Commission were to accept the argument and assign zero profits to the captive consumption -- in other words, even if you were to accept the extreme position advocated by Professor Kathari and the Petitioners yesterday, the domestic hot-rolled steel profitability would still be at record levels.

The average operating profits over the 2004-to-

2006 period of 7.4 percent, under Petitioners' approach, would still be higher than any other three-year period for this industry. These operating margins would still be higher than the operating margins for the corrosion-resistant steel industry that the Commission recently found to be healthy and not vulnerable to possible injury.

Indeed, Petitioners' arguments in this case underscore just how extremely profitable the merchant market sales have been. Even with the captive consumption contributing zero to total industry profits, even then the domestic industry, as a whole, has still been able to earn record-breaking profits. Thank you.

MR. EMERY: My name is Merle Emery. I'm president of GR Spring and Stamping. Founded in 1960, GR Spring and Stamping manufactures products in America, serving primarily the automotive sector. We have 280 employees in Michigan and 100 in our Kentucky division, which we opened in 2004.

Our company has firsthand experience of the supply shortages, quality problems, and overall demand in the U.S. domestic hot-rolled sector. GR purchased, on average, $20 million in hot-rolled steel each of the past three years, including 25,000 short tons in 2006.

Steel amounts to roughly 55 to 60 percent of our total costs. It is also the most unpredictable aspect of our business, the tight and unpredictable U.S. hot-rolled market that began in 2004 and continues today. Our company struggles to find hot-rolled steel on a timely basis and of consistent quality and grade.

Seventy-five percent of our contracts with steel suppliers are short term, no longer than six months but usually only three. The remaining 25 percent is purchased on the spot market usually because of mill delivery delays to service centers or quality problems.

Stability in the hot-rolled market is critical to our business. Accordingly, 50 percent of our steel purchases are through a customer-directed resale program that affords us some predictability. Resale programs are negotiated by our large customers, allowing us to purchase steel at prices negotiated by them.

While these arrangements can help stabilize steel costs for our customers, they do not address the problems with on-time delivery or quality. If we experience a late delivery or have a quality problem, we may often rely on the spot market to quickly replace the steel to meet a customer's delivery deadline. When we do this, our cost of steel is 15 to 20 percent higher, a cost we cannot pass along to our customers and placing many of our products at a negative margin.

However, jobs not associated with a resale program are constantly in jeopardy. The 20-percent premiums we pay on the spot market for hot rolled is not the only increased cost to our business. The reduced availability of steel, which began in 2004 and continues today, has caused us a shortage of certain hot-rolled products, forcing us to buy on the spot market where we run into inconsistencies not only in grade but in quality as well.

Since 2005, we have returned 212 shipments of steel, 98 percent of them due to mill defects. As a result of a lack of supply, materials often shipped by our suppliers simply will not make the part or are otherwise defective. Given the increase in global demand of hot rolled, I believe the U.S. supply situation will only get worse in the coming years.

For example, beginning 18 months ago, 18-gauge hot rolled has become difficult to acquire because domestic mills greatly reduced its production. This forced us to substitute cold-rolled steel at a much higher cost, roughly four cents a pound. The decreased supply of hot rolled in the United States in the past and the foreseeable future is causing us to accept shipments below our standards. In some cases, it can take three months to receive a replacement. These shortages cause us to either find what we need on the spot market or use our own labor to sort through the steel, order, and remove defective items.

We set our tools for certain grades of steel. The lack of consistency and variable quality of recent steel shipments forces us to reconfigure them, causing longer setup times. This reduces our productivity, costing us money, and limiting our competitiveness. It does not help the U.S. steel industry to starve its purchaser base in this manner.

The Cleveland Plain Dealer recently reported that Arcelor Mittal will increase exports, as well as other large domestic producers, further tightening the domestic supply and disrupting the businesses of thousands of manufacturers in the United States. Also, Arcelor Mittal announced, a few weeks ago, it will start idling some of its U.S. operations, beginning the first week in August. This is a lethal combination that will further squeeze industrial consumers of hot-rolled steel.

U.S. domestic producers do not have an incentive to improve their product or responsiveness. When they have such a captive market, they are insulated from global competition. This is why they can force poor-quality steel on us and break contracts.

Small businesses manufacturing in America are being squeezed by government policies, both here at home and overseas. Policymakers talk about leveling the international playing field for our manufacturers; however, it is essential that they take the entire supply chain into consideration and not just the producers of raw material.

The U.S. steel industry is globally competitive and strong. Domestic customers need to have ready access to globally competitive prices for high-quality steel so we are able to compete and purchase raw materials here in the U.S. If duties on hot-rolled steel are continued, steel-consuming companies, like GR Spring and Stamping, will be competing in global markets at a severe disadvantage.

I thank you for your time, and I look forward to any questions that you might have.

MR. GREEN: Good morning and thank you for allowing me to testify today. My name is Lance Green. I am vice president of materials with Batesville Tool and Die in Batesville, Indiana. Founded in 1978 in a small building with only one press, our company has since grown to over 225,000 square feet, with state-of-the-art equipment and processes, including 45 presses and, most importantly, 400 associates.

Unfortunately, over the past several years, it feels more like we are full-time steel buyers and not steel stampers. Our company has spent so much effort trying to acquire hot-rolled steel instead of focusing on our core competency that we have lost productivity and money.

Let me be clear. The current difficulty we experience on the steel is not focused on price. We are concerned about the stability of supply, consolidation of the domestic producing industry, and the current status of the domestic hot-rolled market and its customers.

Recently, the domestic U.S. steel industry has restructured and been rejuvenated. I applaud their historic turnaround. Batesville Tool and Die relies on a healthy, viable, domestic steel industry; however, we increasingly notice that actions of a few producers have dictated the direction of the U.S. market.

Over the past two years, when our company has seen a decrease in the domestic market price of hot-rolled steel, we have observed a decrease in the production of domestic hot rolled as well. This limits the supply, increases the price, and raises the cost of steel parts manufactured in the U.S.

We are trying to work with our suppliers to establish a reliable, globally priced supply of hot-rolled steel that will benefit all parties involved: suppliers, our customer, and our business. We are offering commitments to our steel suppliers in which we make them suppliers for the life of the program. This assures that we are all guaranteed an equitable stake in the manufacturing supply chain.

Batesville wants to establish partnerships with our suppliers and customers because we firmly believe we are all in this together, from the domestic steel producer to the domestic steel consumer. Unfortunately, we have not been as successful as we would like.

I would like to cite an example. We have one supplier on a resale program dictated to us by our customer. This supplier frequently delivers damaged materials, some unusable with cosmetic issues. In the past, when we selected our own steel suppliers, we would send the rejected steel back, along with debit charges for sorting and other defects, and the supplier would pay this.

However, under this particular customer's resale program, the dictated supplier made an agreement with our supplier when I can only charge back to the supplier the cost of the material content for the defective parts and not for the residual charges, such as sorting and rework. Out of 50,000 parts, only 500 may be bad, but our company is responsible for sorting all 50,000 to remove the 500 defects. As mentioned above, this is extremely time consuming and costly, causing us a major disruption in our business.

Prior to 2004, we seldom quoted a new job under 100,000 pieces a year. However, today, we are seeing proposals come in ranging from 35,000 to 65,000 pieces a year. These types of volumes were too small to accept a few short years ago. Today, we have implemented systems for low-volume runs because the high-volume orders are seldom even quoted in the U.S. anymore.

We hope this situation corrects itself, and I believe it will in a natural market cycle. I do worry that when the current demand increases again, the producers will not be prepared, similar to the 2004 shortages.

In November 2004, we signed annual contracts with our suppliers, but weeks later, in December, we received letters from them stating to expect a price increase. This was a notice to break their contracts with us, due to the fact that the mills were not honoring their contracts with them.

By the end of January, most of our steel purchase contracts were broken, and, by March, all of our contracts were voided. In contrast, my customers often insist that I sign two- or three-year contracts to supply parts or components and commit to holding the price on them.

Unreliable sources of hot-rolled steel and decreased U.S. supply are not only injuring U.S. domestic steel consumers but also steel producers. Our sectors are closely intertwined. When our business suffers, I believe domestic steel producers will find their customer base disappearing, which will cause significant injury to their business.

The continuation of these duties in question will further worsen this problem, hurt small businesses like ours, and, in the long run, damage the future of the domestic steel industry rather than protect the industry.

Thank you for you consideration, and I look forward to answering any questions you may have.

MR. KNEDGEN: Good morning, Members of the Commission. My name is Greg Knedgen. I am director of purchasing at E&E Manufacturing Company, Incorporated.

Founded in 1963, E&E meets the needs of its automotive customers by manufacturing heavy-gauge, stamped metal fasteners, progressive die metal stampings, and high value-added assemblies. Between our two facilities in Michigan and Tennessee, we have nearly 400 employees. E&E is a member of the Precision Metalforming Association, where our CEO serves as 2007 chairman of the board, and a member of the Motor and Equipment

Manufacturers Association.

In my various capacities in 21 years at E&E, I've witnessed firsthand the difficulties our company faces due to the unstable, U.S. hot-rolled steel market.

In 2006, E&E purchased more than 44,000 short tons of hot-rolled steel, costing us roughly $33 million, nearly all from domestic producers through service centers. Steel amounts to roughly 60 percent of our overall manufacturing costs. Any disruptions in the U.S. supply market has a significant effect on our ability to compete in the global market. We constantly struggle in this fluid environment with supply shortages, unreliable products of uncertain quality, and increased costs associated with consuming hot-rolled steel.

Our business felt the squeeze of high prices and the lack of availability of hot-rolled steel during the 2004 steel crisis, one of the worst financial years in our 40-year history. The domestic producers were not prepared for the sharp increase in demand, and there simply was not enough steel in the pipeline. With one customer in particular, E&E paid $221,000 in premium costs to acquire steel from alternative sources in 2004 as a result of the reduced supply. As of today, this total remains unrecoverable.

Between the imposition of the 201 steel tariffs and the close of 2004, our steel costs increased an average of 60 percent. In the three years preceding 2004, our excess freight costs averaged $23,075 per annum. In 2004, these costs more than doubled, to $50,360.

Several years ago, we began making sacrifices in quality because we struggled to obtain any hot rolled that we could. In 2004, we found roughly 20 percent of our hot-rolled shipments had significant surface quality problems. Our steel suppliers were sending us anything they could get their hands on. However, our customers were not willing to accept rusted components, nor were they willing to bear the costs of cleaning the materials.

Unfortunately, we did not have the luxury of rejecting the delivery of hot-rolled steel. There were not replacement options, and our business could not absorb the price of substituting cold-rolled steel.

During the development years on our largest product line, we had worked with steel suppliers to control steel chemistries and material gauges to ensure our customer a high quality, cost competitive product.

During the aforementioned shortages we were forced to accept whatever steel was available that met the general industrial grade and make do. As a result we experienced reduced part yield, shortened tool life, and were forced to increase expensive destructive part testing to verify borderline mechanical properties. this in addition to the inferior surface conditions noted resulted in increased cost and lost productivity which effectively removed all profit margin. We were essentially shipping our fasteners for nothing just to keep the contact with our customer. There just was not enough steel in the country.

On July 20, 2007 E&E's largest customer on our major fastener product line told us they were increasing the price of the steel they provide through their resale program but not allowing E&E to pass its higher cost along to them.

Recently E&E lost a large portion of its fastener product line contract, a $4 million contract, employing more than 30 people in Southeast Michigan. This was a patented product we had made since 1978. Now since our cost of using steel is going up, these jobs have gone overseas. Worse than losing the jobs, the customer did not even give us an opportunity to quote the jobs in some cases.

Substituting steel products purchased on the spot market due to a delivery or quality issue to make up for our shortages increases our cost by 10 to 20 percent over contract. In addition to the prohibitive prices, we make the other concessions as noted due to the lack of the hot-rolled we need.

We have now learned to live with lower profit margins directly related to our cost of raw materials. However we have made a commitment to manufacturing in America, especially in Southeast Michigan, and we are living with those sacrifices. The high cost associated with hot-rolled steel keeps us from investing in our business and expanding our opportunities.

As witnessed by the Delphi bankruptcy filing, the commercial availability of steel plays a major role in our economy. During the shortages of 2004 our company lost $6 million as a direct result of costs associated with using hot-rolled steel. Due to the extremely high prices in 2006 of hot-rolled we lost many more new job opportunities and continued to see profitability plunge.

While restricting the U.S. domestic supply of steel through duties may help one sector of the economy, the real world impact is the injury it causes thousands of businesses and millions of jobs. We are only one example of how government-imposed taxes on raw materials can injure a small business leading to shortages and quality problems.

On behalf of our 400 employees and their families we respectfully ask that you not continue the duties under consideration today.

Thank you for the opportunity to testify, and I look forward to answering any questions that you may have.

MR. BRUNO: Good morning, Mr. Chairman and Commissioners. My name is Phillipe Bruno of Greenberg Traurig. With me today on the panel is my colleague David Amerine. We represent China Iron & Steel Association and Baosteel.

From the testimony presented at the hearing by the U.S. industry it is clear that the focus of this review is squarely on China. We have heard that the Chinese HR is increasing capacity beyond reason, that it will flood the U.S. market with all its excess capacity, and that its unbridled growth is fueled by subsidies. We also have been told that there is a lot more capacity in China than has been reported. So much more, in fact, that it results in some 20 million tons of over-supply.

All of this, of course, is intended to convince the Commission that the revocation of the orders will lead to a surge of imports from China that will essentially destroy the domestic HR industry in very short order.

The problem with the China-focused hysteria created by the U.S. industry is that it does not withstand careful scrutiny in light of the information collected by the Commission. I invite the Commission to take a step back and to analyze carefully this information.

Other than the specter of the enormous unreported capacity brandished by the U.S. industry, there is no tangible evidence on the record that Chinese imports of HR will surge to levels that would cause material injury to the U.S. industry if the orders are revoked.

There are inescapable facts in this case. China is the most populated country in the world. It has the fastest growing economy in the world. It's demand for steel dwarfs that of all other countries in the world. As a result, its steel industry is today the largest in the world.

The information collected by the Commission shows that the Chinese HR industry essentially doubled its capacity between 2001 and 2006 and is projected to increase capacity in 2007. This increase is consistent with the Chinese growth in demand for HR products during the same period and for the foreseeable future.

The information collected by the Commission from its questionnaires also shows that the Chinese HR industry has not kept adding capacity for exportation, but for its domestic market as the volume of domestic shipments have increased every year. As a share of capacity, they were constant at 88 percent when comparing 2001 with 2006.

Domestic shipments also represented over 90 percent of production during the period.

These are remarkable numbers if one compares them to the same ratios for the U.S. industry -- 80 percent and upper 90 percent respectively. In fact the Chinese HR industry allocated more of its capacity to domestic shipments than the U.S. industry.

The Chinese industry did not behave any differently than the U.S. industry which increased capacity to meet rising U.S. HR demand between 2001 and 2006. The difference is that Chinese demand is rising much faster than the United States and so is Chinese capacity. Common sense suggests that as the Chinese standard of living rises so does the demand for, for example, new housing, modern day appliances, and cars. Let's not forget that beyond Beijing, Shanghai and a few other mega metropolises, the rest of China remains largely rural, waiting to be developed.

The rural China represents hundreds of millions of people that have to be brought to 21st Century amenities and for whom new houses and infrastructure projects have to be built.

Several important facts in the Commission records rebut Petitioners' excess capacity scenario and evidence that the increase in Chinese HR capacity did not result in any significant over-supply.

The questionnaire responses reported a high rate of capacity utilization that was over 90 percent during almost the entire period, and 97 percent in 2006. The same questionnaire responses showed increasing average unit prices to the commercial domestic market between 2001 and 2006; and with basic supply/demand theory, rising prices are inconsistent with over-supply.

Finally, the questionnaire information represented 70 percent of U.S. production by staff estimates, a number at odds with the U.S. industry estimation that it represented only 30 percent of Chinese capacity.

The U.S. industry has made much of the fact that China after years of being a significant net importer of steel, has recently become a net exporter. It is not surprising that Chinese steel mills like their counterparts in the U.S. and the rest of the world supply rising global demand. It is noteworthy that world steel prices have remained high, even with the Chinese steel mills engaged in global trade.

The information collected by the Commission shows that Chinese HR production was primarily destined for the domestic market to meet rising demand. It also showed that Asia was the primary export destination. Overall, Chinese HR exports accounted for a relatively small share of capacity and production. The great bulk of the increasing HR exports that occurred during the last three years was destined for Asian markets where demand for HR steel has again been rising.

Although U.S. prices have historically been higher than those in foreign markets, they are moving towards international parity and in the first half of 2007 were lower than prices in Western Europe. The narrowing of the gap between the U.S. and the rest of the world removed the incentive that higher prices create. Notably, Chinese exports to Europe are not projected to increase in 2007.

In sum, capacity that increases in line with rising domestic demand, increasing sales to the domestic market consistent with rising demand, high capacity utilization, relatively limited exports destined primarily for neighboring Asian markets, and a lowering of the gap between U.S. and Chinese prices are all important factors indicating that Chinese imports are not likely to have any significant impact on the domestic HR industry if the orders are revoked.

Under normal circumstances this would end my testimony. However there is another recent and important factor which I believe should weigh heavily in the Commission's analysis. In May this year the Chinese government took exceptional measures to rein in exports of a number of products including HR steel and other steel products not currently covered by AD orders. To my knowledge this is the first time that the Commission has to factor in its analysis measures by the Chinese government specifically aimed at curbing steel exports.

Now that the Chinese government has intervened, what incentive do Chinese producers have to export to the United States? The new measures level out the gap between U.S. and Chinese prices by making the exportation of steel significantly more expensive for the Chinese mills -- around 16 percent for HR steel, a cut that is of the same order as the 201 tariff that was to be imposed in the third years of the measure, 18 percent. In addition it allows the Chinese government to limit exports through licensing.

These measures already have had an impact on China's exports in July as mills such as Baosteel have curbed exports or renegotiated prices with foreign customers.

The Chinese government has taken the first step in addressing the U.S. industry's fear of a surge in Chinese

HR exports if the orders are revoked. These measures may fall short of the 100 percent ban on Chinese exports that the y industry seems to be seeking, but they address two of the main issues before the Commission, namely the pricing and volume of any future Chinese imports if the orders are revoked.

In response, the U.S. industry attempt to distract the Commission with peripheral issues such as subsidies that the Chinese industry allegedly received. This is purely speculative as there is no finding by the Department of Commerce that the Chinese HR producers have indeed benefited from illegal subsidies, justifying the imposition of countervailing duties.

Since this issue has been brought up by the U.S. industry I would ask the Commission to consider the absurdity of the argument. Even estimating that subsidies have been bestowed, what is their impact on Chinese exports in light of the export control measures that have been imposed on the same industry? It is clear that the Chinese government's recent actions keep steel production in China for domestic consumption and runs clearly against promoting the growth of Chinese capacity for export markets.

Like the European industry in the late '70s and the U.S. industry for the last 30 years, the Chinese steel industry, which is also a fragmented industry, is going through a restructuring phase. Obsolete plants are being phased out, production is being rationalized, steel mill plants are being brought to tougher environmental standards as goals set by the recent five year plan that was approved by the Chinese congress in March 2006.

The purpose is to rationalize the growth of the Chinese steel industry by eliminating polluting and inefficient capacity when needed, not to encourage exports. It is a far different picture from that propagated by the U.S. industry of an industry out of control where government is accelerating the growth and world domination through subsidies.

Thank you.

MR. MROCZKA: Good morning, Mr. Chairman, Commissioners. My name is Victor Mroczka from Vinson & Elkins representing Thailand. I will address the conditions of competition within which Thailand's hot-rolled steel producers operate and how these conditions have sharpened considerably since 2001.

These conditions of competition warrant decumulation of Thailand. Viewed separately, it becomes evident that a small country like Thailand cannot have any significant impact on the U.S. hot-rolled steel industry.

Decumulation in a sunset review is discretionary. The Commission exercises its discretion to decumulate if significant differences in the conditions of competition are likely to exist between imports of one country and those of the other subject countries.

The Commission has in the past decumulated where a country was a net importer, the focus was on the home market, and the incentive after the home market was directed at a regional market. The bases for decumulation in those cases are even more pronounced here.

There are a host of unique conditions of competition within which Thailand's producers operate. First off are the Thai producers' home market opportunities. Thailand is a major net importer of hot-rolled steel. For example, imports exceeded exports by 1.3 million tons in a 2006 market of 5.2 million tons. In addition, in 2006, imports constituted 40 percent of Thailand's apparent hot-rolled steel consumption. This condition is consistent throughout the POR and exists despite 14 antidumping duty orders in place against hot-rolled steel imports into Thailand.

The Thai mills are centered on production for the home market. For example, in 2001 Thailand's commercial shipments to its home market made up 79 percent of total shipments. This was similar in 2006 and is projected to remain high in the near future.

For first half 2007 data the concentration is 74 percent. In every year of the POR Thailand had the highest concentration of home market shipments with a POR average of 75 percent.

Furthermore, as stated by Mr. Ramet yesterday, Thailand has historically had to import high quality steel like skin-passed and P&O. Most of these imports came from Japan. Thailand has been working towards displacing these imports by upgrading its hot-rolled steel manufacturing capabilities. In 2004 SSI commenced operation of its PNO line. NSM commissioned a skin-passed line in 2004 and a PO line in 2005. G Steel started its skin-passed line in 2006.

SSI is also increasing its ownership of the largest Thai cold-rolling facility. As a result, imports are being displaced.

In 2006 imports had a 40 percent market share. This is down from a high of 62 percent in 2001.

Hot-rolled steel demand in Thailand is strong and getting stronger. Thailand has become the so-called Detroit of Asia and is at the center of Southeast Asian automotive production. Automobile production in Thailand grew 158 percent from 2001 to 2005 and is expected to continue to grow in the near future. The same pattern has emerged in the motorcycle industry with 192 percent growth over the same period.

Thailand's construction and appliance industries are growing as well. Residential and commercial construction are up and the government of Thailand is commencing the first of many mega-projects at the end of this year. For example, construction was up over 10 percent in 2006.

Demand for downstream products is increasing as well. As discussed in greater detail in Exhibit 4 of our pre-hearing brief, demand in the appliance industry is growing. More downstream production needs more hot-rolled steel. All of the major hot-rolled steel consuming industries give Thailand's hot-rolled steel producers plenty of commercial reasons to concentrate on the home market. The Thai mills are not about to reduce shipments in their dominant home market if the orders are revoked.

To the extent that Thai mills export, their focus is on nearby and rapidly expanding Southeast Asian markets. ASEAN countries have experienced significant economic growth in recent years. Construction and manufacturing are on the rise as these economies develop. They need hot-rolled steel to keep growing.

Thailand is perfectly positioned to take advantage of this. Thailand is one of only two subject countries that is a member of ASEAN and is the only country within ASEAN that can produce a broad range of hot-rolled steel. Vietnam, one of the fastest growing markets in ASEAN, doesn't even have a hot-rolled mill.

Thai shipments to ASEAN grew throughout the POR and are projected to grow another 191 percent from 2006 to 2007.

To check these projections look at first half 2007 data. Thai shipments have already exceeded what was shipped in 2006. In fact 76 percent of all Thai exports were to Asian markets other than China, up from four percent in 2001. These have more than supplanted any drop-off from Thailand's exports to China.

No other country is so situated within the trading bloc that operates as a key condition of competition.

As the Commission staff report shows, Thailand also has the fewest barriers to entry worldwide among the subject countries. Thailand is the only country not subject to an antidumping or countervailing duty order somewhere in the world other than the United States. Thailand had the lowest U.S. rates among all countries in the original investigation.

Only Thailand has been largely exempted from the antidumping duties. SSI was exempted from the antidumping duty order in 2004. This was the first time there had ever been an exemption for any flat-rolled steel product from anywhere.

In 2006 and 2007 Commerce refused Petitioners' request to reimpose the antidumping duty order on SSI because there was no evidence of dumping.

During the POR Canada terminated its antidumping duty investigation of hot-rolled steel from Thailand because there was no evidence of dumping.

Finally, in 2001 Thailand was one of the few countries that the President exempted from the Section 201 safeguard measures on hot-rolled steel. No other subject country has repeatedly proven no dumping over such a long period of time.

Each of those warrant Thailand's decumulation. They make apparent that the Thai mills will continue to operate in a distinct and competitive environment for the foreseeable future. When viewed separately it is difficult to see how Thailand could have any significant effect on price and volume in the United States.

First of all, Thailand has a steady but inconsequential presence in the U.S. hot-rolled steel market. As the Commission staff report shows Thai imports constituted minuscule percentages of apparent

U.S. consumption. Imports from Thailand also did not make up a significant percentage of total U.S. open market shipments.

Second, Thailand is projected to produce hot-rolled steel at or near fully capacity utilization in the near future. Since almost all of Thailand's capacity is dedicated to serving its home market and non-U.S. export demand there is no significant room to ship to the United States outside of what is projected.

Third, Thailand is a world price taker when it comes to hot-rolled steel production and shipments. Because Thailand's mills use mostly imported slab and scrap for their production they are reliant on world market prices for these major inputs. In other words, they simply cannot price low to gain market share. Moreover, freight rates from Thailand to the United States have increased significantly during the POR.

Finally, a stronger currency means less return for U.S. dollars. For example, in 2001 a $550 per ton sale yielded 24,310 bought, in 2006 that same sale yielded only 20,834 bought, a decrease of 14 percent. Again, as with inputs these factors act as cost barriers to shipments to the United States whereas in 2007 whole market shipments are projected to be 3.6 million tons.

We add internal consumption, the ASEAN increase, non-U.S. exports and then U.S. exports. It is clear why Thailand's additional capacity is warranted and is no threat to U.S. mills. It is also important to note that Thai inventory levels are not determinative of U.S. shipments as U.S. export sales are produced to order not shipped from inventory.

Finally, Terrant has already demonstrated that revocation of the antidumping duty order against the Thai producer did not result in an injurious level of shipments. SSI, the largest Thai exporter producer, had initial low antidumping and countervailing duty rates, and Thailand was not subject to the 201 safeguard measures.

SSI had its antidumping duty order revoked. This was ample opportunity to significantly increase shipments to the United States, yet this did not happen. Shipments remained stable and did not surge. At the same time shipments to the whole market and ASEAN markets increased consistent with Thailand's stated shipment philosophy.

Petitioners allege that Thailand will increase shipments if the orders are revoked and claim SSI's postrevocation behavior as some sort of proof. There are two important points to remember here. First, when SSI was making shipments during the POR its antidumping duty rate was zero and it has a low CVD rate.

Therefore, the orders were having no effect on shipments. Second, these shipments never exceeded earlier POR highs. Finally, the sales were made when prices were at their peak. Petitioners claimed a return to dumping, Commerce disagreed and refused to reimpose the order. This demonstrates that revocation is not likely to have any significant impact on Thailand's shipment levels.

Revocation of the antidumping and countervailing duty orders on Thailand would not be likely to lead to material injury to the U.S. hot-rolled steel industry within a reasonably foreseeable time. Revocation of the Thai orders should be ordered. Thank you.

MR. SPAK: Good morning, Mr. Chairman, members of the Commission. I'm Gregory Spak of the law firm of White and Case, and I'm here today with my colleague, Kristina Zissis, on behalf of the Argentine hot-rolled producer Siderar. During the review period Siderar was the largest of two Argentine producers of hot-rolled steel.

The other smaller producer of hot-rolled steel in Argentina during the period was Acindar. For reasons that we've explained in Siderar's brief Siderar is the relevant Argentine producer for the purposes of analyzing what is likely to occur in the foreseeable future.

I will focus today on the reasons why imports from Argentina should not be cumulated with other subject imports. Imports from Argentina into the U.S. market are likely to be nominal if there are any at all. Imports at these levels will have no discernable adverse impact on the U.S. industry. In addition, the conditions of competition for any imports from Argentina are different than the conditions that exist for imports from other countries.

These conditions limit the volume of hot-rolled steel that Argentine producers can export to the U.S. market. I will highlight four of these conditions. First, Siderar's role as a subsidiary of Ternium, and its focus on the local and regional markets. Second, Siderar's limited excess capacity over several years of the period.

Third, Siderar's limited inventories. Fourth, the technical limitations of some of Siderar's hot-rolled production. Turning to the first, the staff report accurately describes the high degree to which Siderar dedicates its production to satisfying home market demand.

A very large percentage of its hot-rolled production is consumed to produce downstream products, and almost all of the rest is consumed in the Argentine merchant market by longstanding customers. These are customers that Siderar has worked hard to cultivate over the years. This unique market condition is not temporary or anecdotal.

In fact, it has become institutionalized now that Siderar is a subsidiary of Ternium, which also includes flat-rolled producers in two nonsubject countries, Mexico and Venezuela. Ternium was formed in 2004 after the original investigation in this case. This is an important point because it represents a change in Siderar's focus in marketing strategy.

As Siderar is the southernmost member of the group Ternium's strategy is for Siderar to focus on supplying demand in the Argentine market and in the countries closest to Argentina such as the Mercosur partners, Brazil, Uruguay, Paraguay, as well as other regional countries such as Chile and Bolivia.

There are no import duties or any other kind of market restraints on imports of hot-rolled from Argentina in any of these countries. Siderar's focus on these markets is shown clearly in the record. Throughout the review period most of the Argentine producers' shipments of hot-rolled steel were consumed in Argentina to produce downstream products or to sell to Argentine customers.

By 2004 after Siderar became part of Ternium the small volume of Argentine exports were shipped mainly to customers in South America with the remainder shipped to a limited number of long-term EU customers. This focus will not change. The projected high level of domestic hot-rolled consumption will leave little hot-rolled steel for export.

The Commission's record contains other evidence of Siderar's lack of interest in supplying significant quantities of hot-rolled to the United States. We will provide details describing that record evidence in our posthearing brief. The second issue, the capacity utilization. The capacity utilization data in the staff report confirms that there is limited excess capacity in Argentina.

Due to this limited excess capacity and the projected increase in Argentine and regional demand for hot-rolled and downstream products Siderar simply does not have and will not have the capacity to produce additional hot-rolled for export to the United States.

The Commission's staff properly recognized this singling out Argentina as the only country which is likely to respond to revocation with a, "small", increase in the volume of exports to the United States. Third, the Argentine industry has very limited inventories. In fact, the inventories where reported do not reflect available inventory, rather it is product awaiting delivery to the customer.

Therefore, Siderar simply does not have excess inventories available to ship to the United States. Fourth, there are a number of technical and production related limitations to prevent Siderar from supplying hot-rolled steel to the U.S. market in the foreseeable future.

These include the fact that Siderar produces primarily to the Argentine IRAM standard for its Argentine customers and the vast majority of its export customers. This is different from the U.S. ASTM standard. It is not practical or efficient for Siderar to produce in large quantities to the ASTM standard given the focus of its business in Argentina and the regional market.

Siderar is producing primarily to supply the Argentine market which does not require the ASTM standard. In addition, Siderar faces limitations on its skin-pass rolling capacity, and it only produces coils in 500 pound per inch width rather than 1,000 pound per inch width, which is what is primarily demanded here in the U.S. market.

These technical limitations corroborate the fact that Siderar's focus is not and is not likely to be the

U.S. market. Finally, a few U.S. producers claimed that the Argentine producers have understated their current and project hot-rolled capacity. In their prehearing brief U.S. Steel claims that the Argentine steel company Performa is a producer of hot-rolled steel products and that it has a capacity of 200,000 tons per year.

U.S. Steel suggests that the Commission and the parties have simply overlooked an additional Argentine hot-rolled producer and have missed this capacity. This is wrong. Public information shows that Performa is not a hot-rolled flat products producer, it is a long products producer, and the reference to hot-rolled products for this company means hot-rolled long products that have nothing to do with this review.

We will provide further information on this point in our posthearing brief. Another claim that U.S. Steel and Nucor make is that Siderar plans to increase its production capacity based on statements in Ternium's 2006 annual report. As we will address in greater detail in Siderar's posthearing brief these projects have not been approved.

If they are approved they would have no or minimal impact on available capacity during the reasonably foreseeable future. In conclusion, imports from Argentina present a classic case for decumulation in a five year review. The likely volume is so small that the Commission can reasonably find that any imports are likely to have no discernable impact on the U.S. industry.

If the Commission disagrees and considers whether to exercise its discretion to cumulate the Argentine hot-rolled it will find that both physical limitations and market circumstances argue forcefully against cumulation. Once decumulated the Commission must find that the Argentine producers are not likely to injure the U.S. industry.

Mr. Chairman, members of the Commission, that concludes the testimony of this panel. We will reserve any remaining time for rebuttal. Thank you.

CHAIRMAN PEARSON: Thank you for your testimony. Let me begin by welcoming this panel. I particularly appreciate the challenges that those of you who are actually involved in business have in taking at least three days to come to Washington and be here for this proceeding. It's a major commitment of your time, and I hope you find it worthwhile. We do our best.

We'll begin the questioning this morning with Vice Chairman Aranoff. See, I'm more awake today because I did get your name right.

VICE CHAIRMAN ARANOFF: Thank you, Mr. Chairman.

We would have been doomed if we tried to do this last night. I join the Chairman in welcoming all of you back this morning. It's hard to know where to start, but let me start with questions about the Thai industry, so I guess I'll start with you, Mr. Mroczka.

First of all, can you explain to me when the Thai mills export do they have their own sales operations or do they export through global trading companies? That's both for customers in Asia as well as any exports to North America.

MR. PIERCE: This is Ken Pierce. I'll answer. I work with the mills on that basis. They do not have agents in export markets. They tend to use trading companies. They also more often than not are contacted directly by customers asking for inquiries, and then they arrange the sale through a trading company.

VICE CHAIRMAN ARANOFF: Okay. What I'm trying to get to is when product is sold for export is it usually the case that you know already who the customer is? It's intended for a specific customer?

MR. PIERCE: Yes, we know who the customer is, and shipment is usually direct to the customer.

VICE CHAIRMAN ARANOFF: So there are no or rare instances in which product is placed with a trader and you have no idea where it's going? The trader is moving it somewhere?

MR. PIERCE: That's correct. The trader usually doesn't hold product. You ship direct to the customer. The customer may be an end user, the customer may be a distributor service center, but you ship direct to them so you always know the customer.

VICE CHAIRMAN ARANOFF: Okay. And so you always know what country the product is going to?

MR. PIERCE: That's correct.

VICE CHAIRMAN ARANOFF: Okay. For sales within Thailand do the Thai producers control the distribution network or is there an independent distribution network?

MR. PIERCE: For sales within Thailand it varies by company. Each of the companies, though, does have affiliates that they sell to in Thailand. They also sell direct, they'll sell to affiliates who then resell. Within Thailand sometimes those affiliates may process the product, like cut it into cut sheet and then resell it within Thailand.

They control the distribution in that sense that when they make sales to their affiliates the resales by affiliates they know are still in Thailand. When they sell direct to customers, like to the cold-rolling mill, they know it's going right to the cold-rolling mill and they don't have to go through an affiliate to make that sale.

VICE CHAIRMAN ARANOFF: I guess I'm more interested in the extent to which the Thai market is like or unlike the U.S. market in terms of having extensive independent distributors who sell to a lot of customers who don't have direct relationships with the mill.

MR. PIERCE: There are some independent distributors, but most of the distributors are affiliated.

VICE CHAIRMAN ARANOFF: Okay. Can you tell me because there are a number of allegations in the domestic industry's brief and I want to understand for each of the Thai producers the extent to which they produce their own slab or are importing slab either from China or somewhere else.

MR. PIERCE: Right. There are three Thai producers. There is SSI, that is by far the major one and the dominant one. They are a roller. They import all of their slab. They don't make steel, they import their slab. They're the only one who makes steel from slab. As far as slab imports go into Thailand it comes in from many different sources.

We looked it up last night anticipating this, and we'll be putting it in our posthearing brief, China is not the largest source by any means. The largest source is Russia and the CIS countries. They also got slab in 2006 from Australia, Brazil and several other places. So they buy slab on the world market. They're dependent on the world market.

They buy it from a lot of sources, and China is by no means the largest source.

VICE CHAIRMAN ARANOFF: And they're not related to any of the slab suppliers?

MR. PIERCE: No, they're ont related to any of them.

VICE CHAIRMAN ARANOFF: Okay.

MR. PIERCE: The other two mills are G Steel and NSM. They are both mini-mills. They both make steel from scrap. Eighty percent of the scrap used by the two mini-mills has to be imported. There just isn't that much scrap in Thailand, so they import almost all of their scrap, about 80 percent. By far and away in almost every five out of the last six years the largest scrap source in Thailand is the United States, dominant by far and away.

So to the extent the inputs are coming from anywhere in a large amount it is U.S. inputs that are used by the Thai producers to make their hot-rolled steel.

VICE CHAIRMAN ARANOFF: Okay. Thanks. The domestic industry, in some of their briefs they present Thailand as sort of the classic case that antidumping laws are intended to address in saying that you have producers within a protected domestic market, in this case protected by antidumping duty orders on imports from 14 countries, who use low priced exports to fill up their mills while earning all their profits on unprotected domestic sales.

Is that an accurate portrayal of what's going on in the Thai market?

MR. PIERCE: No, it's not at all, nor is that an accurate portrayal of the classic theory for antidumping. You can't have a closed market by antidumping duties and say that you can't do that for dumping purposes. Antidumping is kind of the exception to that when you get into antidumping theory. What the Thai market is all about really in the hot-rolled steel market, a lot of things are made in Thailand, a lot of downstream products.

It is the Detroit of Asia. Automobile production is growing tremendously. What you've had in Thailand is tremendous import penetration. Imports were holding 60 percent of market share five years ago. Today, they're holding 40 percent of market share.

That's a very important point, and we emphasize it because it's with understanding that you understand where the Thai mills are going with their production and their excess capacity and why they've expanded capacity.

They have such a high import penetration, most of it's from Japan and most of it is used for cold-rolling and then galvanizing for the downstream industries, particularly automotive, particularly appliances and then also some in construction, so that when you're a Thai mill the first thing you think about is how do I get more of my home market?

How do I get more home market share? That's what a mill always wants. You get home market advantage, you have pricing advantages, you have pricing premiums, logistics are easier, it's easier to deal with. So you've seen over time Thailand's mills have been concentrated on getting more and more of the home market.

They've kept out unfairly traded imports, they've put into effect 14 dumping orders pursuant to WTO rules, they concentrated on making those sales and bringing down import market share to 40 percent. Now, what you're left with of the imports into Thailand is primarily Japan, and this goes to your point yesterday, well, is it really product differentiation? Yes, it is.

It's a better quality hot-rolled steel that comes in from Japan and it is used further downstream for rolling. So what do the Thais do? The Thais have done under the last two years is improved their quality to focus on taking that market share away form Japan. That's why they have pickle and oiling lines have gone into effect into the last two years, that's why they've had skin-pass lines that have been invested in the last two years at SSI, NSM and G Steel.

All of that has to do with surface quality and surface conditioning of the hot-rolled which makes it applicable for automotive production in cold-rolled and then galvanized. The other thing they've done as well is SSI is gaining control of TCR, the largest cold-rolled producer in Thailand. By gaining control they're going to gain all of that hot-rolled steel consumption that had been coming in from Japan is now going to be sourced from SSI.

So when you want to understand the Thai market, and what the dynamics are and what's likely to happen in the future you have to think about imports, imports both on the production side because they are price takers, because all of their main inputs are imports, and imports on the sale side because their focus is on displacing import market share in the Thai market.

Well, this isn't something we just made up. Now, here's a good story. You know, I can stitch something together here. We put in the actual business plans, which you didn't get from a lot of the other guys, that projects, okay, what are the major Thai mills going to do, what are their business plans, what are they targeting, why are they making the investments?

Those business plans, which are attached to the questionnaire responses, spell all of this out. Not a word had been prepared in anticipation of this review.

VICE CHAIRMAN ARANOFF: Okay. Thanks. Appreciate all those answers.

MR. PIERCE: Thank you.

CHAIRMAN PEARSON: Commissioner Okun?

COMMISSIONER OKUN: Thank you, Mr. Chairman. I join my colleagues in welcoming all of you here this morning. Appreciate you taking the time to be with us and for the information you have provided in questionnaires and would note as I did yesterday that for those who submitted their business plans that were not prepared in anticipation of this I very much appreciate it.

I think they have a lot of useful information. Let me let Mr. Pierce just continue on that. I guess I didn't have a chance to look back. On the question yesterday about the extent to which the Thai producers will successfully be able to sell the product that is right now being supplied for Japan is it happening already or is this still just part of by increasing their capacity to increase the quality that they will at some point be able to take share from the Japanese in their own market?

MR. PIERCE: No, it's not a dream, it's happening already. If you look back from 2001 to 2006 you'll see that import market share declines from 60 percent to 40 percent, a 20 point drop. You'll also see the projections showing increased market share as a result of home market shipments increasing. These product enhancements if you will came on line two years ago, one year ago, recently, depending on which of the three mills you're talking about.

Gaining equity control of TCR by SSI is certainly their plan. A significant amount of that investment has already been made and it is on track I'd say within the next six months or so.

COMMISSIONER OKUN: Okay. Well, if there's any further information on that particular acquisition that would be helpful. And then of the 20 point drop if you can remind me how much of that was a displacement of Japanese?

MR. PIERCE: I don't know the exact number, I think it was significant, but we'd be happy to provide the exact number in a posthearing brief.

COMMISSIONER OKUN: Okay. If you'd do that I'd appreciate seeing that as well. And then just continuing on that, although this question would also be for counsel to Siderar as well as counsel to the Chinese, which is to the extent that there have been discussions about coming expansion products if you could in your posthearing specify when that capacity is projected to come on line in the next two to three years, and the amount of that capacity.

I know, Mr. Spak, that you had referenced one of those expansion products that the domestic industry had raised. If you will just provide more information on your understanding of that and any other announcements?

MALE VOICE: We will do that, Commissioner Okun.

MR. SPAK: We will do that. Thank you.

COMMISSIONER OKUN: Okay. Thank you. Mr. Pierce is shaking his head, so we'll get that from all of them. Then let me turn to the purchasers for a moment, and if you could each of you tell me what projections are for future demand? Actually, if you can talk about kind of the current status and what you see in what you would consider your reasonably foreseeable future?

I know each of you in your testimony talked about some finished products now competing with what you would sell and therefore losing some of your business, but I'm trying to understand. I understand what you testified to during the 2004 period and what was going on. I think some of you have referenced 2006, but I'd be particularly interested in what you see going forward right now in terms of where demand is likely to go for your businesses.

I'll start up here with you, Mr. Emery.

MR. EMERY: For us, we're predicting demand to actually increase this next fiscal year. In our Kentucky operation, however, in our Grand Rapids facility we see a level, we don't see an increase in that area. About a 20 percent increase in demand in our Kentucky operation.

COMMISSIONER OKUN: And can you just help me understand the reason for the differences in demand? I mean, Michigan, I think out of Kentucky, is it some other different customer?

MR. EMERY: Yes. It's geared towards a different customer and that region of the country is primarily the reason for that. So I would say overall our purchase increase of hot-rolled material as a corporation will increase by about eight percent next year.

COMMISSIONER OKUN: Okay.

MR. GREEN: I would say in our particular case we're actually going to see a reduction this next year primarily due to the fact that we are 90 to 95 percent automotive. We've been a large supplier to the Explorer program which has taken a dramatic drop. The other thing is that even to just maintain our current status or, you know, requirements again we've had to chase many more jobs to maintain that same level due to the volumes of these jobs today.

In the next several years we could particularly see an increase. It's very hard to predict at this time. Fortunately for us the new Honda plant is going to be 15 miles from our facility, and they are our largest customers. So that has an opportunity, but that's not something we can guarantee at this point.

COMMISSIONER OKUN: And that status of that facility?

MR. GREEN: They predicted to start production in July of 2008. However, that is currently tooled. I mean, that product line has been determined, those parts have already been sourced. Our only opportunity won't be in an increase in steel but would be an increase in value added, maybe in particular welding of parts.

We see our real opportunity for growth in the stamping portion in 2010 when they plan to retool that particular model.

COMMISSIONER OKUN: Okay. Yes, Mr. Knedgen?

MR. KNEDGEN: Yes. Thank you. Right now this year we expect about a 10 percent decrease in our Michigan facility in demand but a five percent increase in our Tennessee facility, and then that trend I would think would continue whereas next year, actually, I think Michigan is going to probably stand. After the 10 percent drop in demand it will probably be flat next year and then Tennessee would grow a little more next year.

So we anticipate increased demand in Tennessee and pretty much a stabilization or just a flat line in the Michigan market. This is because of the activity in the automotive industry. All of our parts go to the automotive industry and most of that assembly work and large production work is moving south which is why we began developing the Tennessee facility in the first place.

COMMISSIONER OKUN: Okay.

MR. MCCULLOUGH: Commissioner Okun, if I could add?

COMMISSIONER OKUN: Yes, Mr. McCullough?

MR. MCCULLOUGH: Matt McCullough with Brattle. I think recently we're starting to see some of the second quarter results come in from the domestic producers and U.S. Steel, Steel Dynamics and Mittal are all expecting increased demand the second half of this year for flat products. I think there are some other.

I had some information up on the slides about nonresidential construction I think which is projected by data we have to grow by eight percent in 2008. You have some information on the record from General Motors. Their questionnaire response I think you should look at. Some of that is confidential.

I think generally, though, you can say that vehicle production, there are some expectations of growth there in both 2008 and 2009. Appliance demand, second quarter results came out from Whirlpool, one of the largest white goods manufacturers in the U.S. if not the largest, and they are projecting increased shipments of appliances in the second half of this year.

Then when you look on the record of the recent plate sunset review, and we're happy to put more of this information back on the record, you have a lot of pent up demand for capital goods that is going to consume hot-rolled steel. So I think demand moving forward is going to improve in this market along with the margins and prices.

COMMISSIONER OKUN: Okay. One of the points made with reference to that yesterday by the producers is something that, you know, obviously is difficult in any of these sunset reviews when you're to look forward is the business cycle. While acknowledging that it's been very good I think the term of the day became a little long in the tooth.

I wanted to ask whether in terms of the business cycle, and again, let's start with purchasers here understanding that you don't represent all the demand for hot-rolled, but whether you've seen any changes in the business cycle over this period or looking forward, whether you think it is longer and therefore likely to go down or longer and sustained? If you have any sense of that that would be helpful.

MR. EMERY: Are you talking about the overall market sector that we're looking at?

COMMISSIONER OKUN: However you would look at it. I mean, and again, I understand Mr. McCullough's point that you don't represent all of the hot-rolled demand, but if you're looking at the cycle that's gone on for your product has it been a cycle that you think is up and likely to, I mean, you see demand going down, but just how do you see the business cycle?

MR. EMERY: We supply the automotive sector like I had mentioned, and I think it is very segregated in terms of certain products, certain vehicles are selling. You're seeing an overall switch from large, heavy vehicles to more fuel efficient, smaller vehicles which of course have smaller material content.

In the new domestic area that we supply we're seeing an increase in sales. The domestic auto producers obviously are down, so it really depends on what product line you're on where the increase or decrease has taken place.

COMMISSIONER OKUN: Okay. My time is almost up, but, Mr. Green, do you have any?

MR. GREEN: Well, I would agree with his comments except for the data is there that the market has remained pretty much level the last three to five years. They're selling the same amount of vehicles, it's just the mix changes. You know, a few years ago there was a spike in larger trucks and SUVs, today there's obviously a large spike -- as that market has now dropped obviously the market for the smaller cars has increased at that particular time.

So the amount of vehicles sold each year has pretty much let down a level field for several years within a certain percentage.

COMMISSIONER OKUN: Okay. Appreciate those comments.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Lane?

COMMISSIONER LANE: Good morning. Mr. Pierce, I would like to start with you. In your opening statement yesterday I believe that you said that the Commission could not find that this industry could be injured if the orders were revoked because it was earning a very high profit, I believe you said 21 or 22 percent.

Did I understand you correctly that an industry cannot be injured under any circumstances if it is currently earning a high profit?

MR. PIERCE: The 22 percent figure was return on investment. The profit rate has been 24, 14 and 15 percent over the last three years . Certainly an industry that is performing this well I do not think can be found to be vulnerable to injury. No, I do not think that can logically be done. Can you make an affirmative injury finding when a domestic industry is possible?

That's conceivable, that there could be such facts on the record might allow that. That is not the case here in my opinion. There is nothing to indicate in my opinion that this industry is going to suffer any injury whatsoever. It's not vulnerable, it wasn't vulnerable in 2005, it's gotten stronger, it's certainly not vulnerable now.

As a matter of law can you not find injury likely for a profitable industry? No, I'm not saying as a matter of law you cannot do that.

COMMISSIONER LANE: Okay. You're saying that the facts on this record would not allow that, so let's go to a hypothetical. If an industry is earning 20 percent and something happens to cause that to go to 10 percent, a 50 percent drop in profitability, would you say that the industry was injured?

MR. PIERCE: I would say the industry is not doing as well as it was previously, there has been a change. Is that a material change, material injury? That's for the Commission to weigh the facts and make its determination as decided in OCTG. There's also the causation issue. Certainly whatever that change has been has to be attributable to the imports.

Just because an industry's profitability has gone down from Point A to Point B does not mean you can blame or restrain the imports.

MR. DURLING: Commissioner Lane, if I could just add? This is Jim Durling. In your hypothetical the best way to put the 10 percent in context is to look at profit over time because if you have an industry that has had a surge in profits and profits have gone down but they're still well-above historical levels I would say that is not injury because the purpose of this law is not to create kind of a one way ratchet, profits can only go up, and whenever profits go down it means the industry is being injured, it is entitled to relief.

If 10 percent is well-above the historic average for an industry I would say even a 50 percent drop in profits would not constitute injury.

COMMISSIONER LANE: If I take 50 percent of your take home pay are you being injured?

MR. DURLING: It depends if the year before someone had tripled my pay.

COMMISSIONER LANE: Okay. Do you have a suggestion as to the magnitude of decline and profitability that would constitute a material injury?

MR. DURLING: Commissioner Lane, I don't think the statutory framework lends itself to coming up with rules of thumb like that. All I can offer is that you look at the performance of the industry in its historic context. When you have an industry that continues to perform well-above historic averages that's an industry that's doing really well.

Now, I don't think the Commission has ever embraced rules of thumb for profits, or market share, or anything else, so it would be completely contrary to -- you know, my 20 years of experience with the Commission, you never use rules of thumb, you always just look at the facts and circumstances of a particular case.

MR. PIERCE: I would add, Commissioner, if I may, I think it is an absurd argument that Petitioners are making that the statute defines material injury as small. I can't see that in the statutory definition. It says the term material injury means harm which is not inconsequential, immaterial or unimportant.

Eliminate the double negatives and that reads the term material injury means harm which is consequential, material or important. Doesn't say small.

COMMISSIONER LANE: Okay. And so your argument is if the profits are high enough to begin with it really doesn't matter how big a drop the profits could be, that would not be material injury?

MR. PIERCE: That's correct.

COMMISSIONER LANE: Okay. I would like to ask you a question about the employees of the industry and some of these legacy costs that you have referred to as being burdensome to the industry. If the orders were revoked and the industry was able to keep its profits from dropping significantly but to do that it was necessary to cut jobs, cut salaries, cut medical benefits and cut pension costs by reducing pensions for future and current retirees would you say that the impact on the employees constituted an injury?

MR. PIERCE: Well, the question is injury to the industry. Depending on how the industry reacts. There's no indication that with revocation of the orders anything like that is going to happen. This industry has already been restructured, their labor agreements have been revised, productivity is up through the roof with this industry, you saw that labor costs per ton were down, yet wages are up significantly.

So I guess I don't see what you're saying as a likely or at all scenario that's going to occur. The impact on workers is a consideration for the Commission of course.

COMMISSIONER LANE: Okay. Now I want to return to when you said yesterday you were talking about 21 or 22 percent that was the return on assets, and so if it was determined that some of the domestic companies obtained hot-rolled steel inputs such as slabs from upstream operations at cost which did not include any capital costs then when considering the return on assets of the hot-rolled product should we include the assets that were used to make those inputs in our calculations?

MR. DURLING: Commissioner Lane, I think what the Commission often does is you collect the information and you look at it in different ways. In accounting, and in economics and in finance there's rarely one unambiguous way to look at things, and so it's not a question of, you know, do you do it this way or that way? You can look at both and then make an informed judgment.

I mean, I think the reality for this industry is however you do the calculations of return on assets they have been doing very well. When you look at reports by industry analysts they characterize the results of the industry as very well. When you look at the investment decisions being made by this industry, committing more money, that suggests that they themselves internally review their results as very strong.

When you look at the testimony they give to industry panels they characterize the results as very strong. So at the end of the day it's not about this method or that method for calculating return on assets, it's look at all of the evidence that's available from multiple sources, look at what this industry says when they're talking to other parties, not what they come and tell you in the hearing room, but what do they say when they're going to the investment community?

You'd look at all of that in context, and I think collectively that evidence shows that this industry has been very happy with its financial performance, and they've had very strong returns.

MR. MCCULLOUGH: Commissioner Lane, if I could add something. I almost had to pinch myself yesterday sitting in here because I thought I walked into the wrong hearing room hearing about the domestic industry sort of unable or just now being able to cover its costs of capital.

If you look at the public data from the staff report and you count up, you add up the cash flow between 2001 and 2006 and you net it all out, and this is only from their commercial shipments, you're looking at $7.4 billion, and then you back out all the depreciation over that same period, you're still looking at $4.6 billion.

Then when you look at cap ex and R&D, which I can't discuss here because it's been made proprietary, look at that number and, you know, look at it and see whether or not this industry has been recovering its costs of capital and then some. This industry has done very well and has cash moving forward to do better.

COMMISSIONER LANE: Okay. Thank you.

Mr. Chairman, I'll wait until my next round. Thank you.

CHAIRMAN PEARSON: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman. I do want to express my appreciation to the panel just for their testimony this morning.

To the users of steel products I note you mentioned problems with quality and quantity and the difficulty that you've had. Now, in the staff report it talks about these problems as problems in 2004 and 2005, and I was wondering, occasionally I heard 2006 but most of your examples were from an earlier period. Is this still a problem, and why?

MR. EMERY: I think you're correct. The supply problem in particular goes back to the earlier years, 2004, 2005. Supply, there's no question right now has improved. However, I think when we talk about the quality of the product received we still struggle with that today as well.

MR. MCCULLOUGH: We had some pictures to show.

MR. EMERY: Yes. There's some examples of quality issues up here. What you're seeing here is surface defects, rust and so on, that we're forced to live with. You'll see a splitting condition caused by poor quality material, and this particular part had several. You're seeing a lamination issue where a separation of material has taken place.

These are problems that quite frankly, sir, we hadn't seen prior to 2004. It was during that period of time that we had seen a major increase in these type of issues. Again, you see surface conditions, splitting conditions, again, lamination. There's just general defects which have become way too common in the material that we see delivered today. Again, lamination issues.

COMMISSIONER WILLIAMSON: Okay. I guess my question is, though, there are a large quantity and I guess a growing quantity of nonsubject hot-rolled products coming into the U.S., so it's not as if you're not without alternative sources of supply. How should we take this into account?

MR. KNEDGEN: If I could, Mr. Emery, I could take that question. In my of our products the engineering specifications do not allow alternative. As I mentioned earlier if we try to use cold-rolled steel to replace the demand for hot-rolled we can't afford it from a cost standpoint, and we'd be out of the game on the part and not be able to compete on that particular part.

2006 did see a lot of quality problems. In fact, I've got about a quarter million pounds of steel on my floor right now that was rejected last year for the same types of issues that Mr. Durling is showing here, and we're still wrangling with a claim on it trying to get recovery on it. We had to go out on the open market and purchase from alternative sources at a 15 to 20 percent cost hit to us that we had to absorb.

MR. PIERCE: If I may add to that. Ken Pierce. For the nonsubject imports a couple of things to keep in mind. The domestic industry does have in place for protection antidumping orders or a suspension agreement against Japan, Russia, Brazil, three of the world's main hot-rolled producers. That steel, some gets in from Russia under the suspension agreement, the quota, much from Japan and almost nothing from Brazil.

The major nonsubject import sources are Canada and Europe primarily. Canada, Stelco just closed down its hot mill there taking about $1.5 million off the market. From the Canadian supplier it's no longer available, and in the EU when OEU prices today are considerably higher than in the United States, so they're going to be seeping into that market and not to the United States.

MR. EMERY: And if I may just add one more comment. I think it's important to remember that, you know, we talk about the margins of the steel industry, compare those to the industry that we're struggling in today in the global competition that we face when 55 to 60 percent of your cost is material, and you do have to substitute in a case like this, and that raw material cost does go up sometimes as much as 20 percent, our margins are gone.

We do not have those type of margins. The global competition that we deal in today does not allow that. So a two cent, three cent price per pound increase in material above and beyond what our price was established at in a lot of cases will put that product in a negative margin category.

COMMISSIONER WILLIAMSON: Okay, but I guess what I'm trying to figure out, given that imports can come in, I guess there's new production coming into the U.S., are these quality problems just because there's not enough steel being produced or is there something about the U.S. manufacturers --

MR. EMERY: Well, I think it's because there is a lack of global competition today because of the tariffs. We do not have the amount of imports coming in. I believe that right now we're in a little bit of a unique situation. There is more material available because there is a downturn in our industry, not just the automotive sector but the housing industry.

A lot of steel consuming industries are slow, so that has improved somewhat. I think, though, during peak times when we have experienced shortages it was basically take what you get because replacements are going to be out there a long way, and if you have to go on the spot market to buy it -- and that's where we have to turn to when we have to replace it quickly.

Our customers today will not allow us to wait for that original supplier to replace it. Typically, when we have to do that we pay a much higher cost.

COMMISSIONER WILLIAMSON: Okay. You know, I was also curious about what relevance sort of this quality issue has to our evaluation of the likely injury upon revocation.

MR. MCCULLOUGH: Commissioner Williamson, I think what it reflects is that you get into some of these quality problems when you've got an extremely tight market. You've got the market power that you're looking at in the domestic mills. It reflects how strong this market is and the ability of the mills to impose their supply discipline on their purchasers.

COMMISSIONER WILLIAMSON: And how should we evaluate the future plans? I guess we heard yesterday a lot about some new sizeable projects that are coming on line.

MR. MCCULLOUGH: Sure. There's a point to be made about that, and I can't remember who it was on yesterday's panel saying well, you know, gee, if those guys could redo calculus today, or if SeverCorr could redo the calculus today, or if Thyssen could redo the calculus today they would have never built that capacity or it would have been very different.

I think that is a grossly inaccurate statement. In fact, the decision by Thyssen to add capacity in this market was made in April of this year when the market was soft. The decision by SeverCorr to double up capacity, now, they made that decision in 2005 to build the plant, the decision to double up capacity in that plant was made in June of this year, okay?

I see that new capacity reflecting real confidence in this market. It's not capacity that is going to be weighing on this market.

COMMISSIONER WILLIAMSON: Okay. Thank you. Anyone else on this topic?

(No response.)

COMMISSIONER WILLIAMSON: For Mr. Spak, what are the plans for the Argentine producer for the U.S. market if the orders were revoked?

MR. SPAK: Yes. Really, our clients believe that revocation is irrelevant for their plans. As I was mentioning in our direct testimony Siderar will account for essentially all hot-rolled production.

Siderar is now part of a multinational group called Ternium, and Ternium has no plans for Siderar to change its current structure and the way it serves the market, which is primarily the market in Argentina, both the captive production so that Siderar can produce downstream products such as cold-rolled and corrosion-resistant and then also supply the other whole market consumers in Argentina.

Then as the staff shows over the last several years there's only a little bit left after that, and all of that has been going to the regional market with a small exception of a little bit going to Europe to serve longstanding customers. The company doesn't see any reason for that to change in the future, and it simply doesn't believe that revocation is going to change its plans.

COMMISSIONER WILLIAMSON: So given all that why appear at this hearing then?

MR. SPAK: Well, you know, we get that question a lot. First, Ternium is a company, it's a publicly-traded company, it's a company whose shareholders don't appreciate the fact the company is associated with allegations of injurious practices.

Also, as this Commission knows, you have the foreign producers who are subject to these duty orders have to deal with the Commerce Department, too, and occasionally just by going through your normal life you get hit with a review request and it requires you to spend a substantial amount of money just to prove you didn't ship.

So there is definitely a benefit to companies seeking revocation as is their right under the statute even if they're not planning to ship to the U.S. market.

COMMISSIONER WILLIAMSON: Okay. My time is up.

Thank you very much for those answers.

CHAIRMAN PEARSON: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Mr. Chairman, and I'd like to join my colleagues in thanking this panel for appearing today.

I'd like to start with a question for Mr. Opatumphun. For purposes of this question I'd like you to assume that there are going to be major increases in Chinese capacity and production in the next year or two. I'm not asking you to comment on that assumption, just to assume major increases in capacity and production in China.

How would that be likely to affect the sales from Thailand into the ASEAN market?

MR. OPATUMPHUN: Well, the ASEAN, we have the southeast Asia that the members, and they have the duty as their rule for their export to their countries, so that's a big area that we can explore from the Thailand, others, you know, in the members.

MR. PIERCE: Commissioner, meaning China is not a member of ASEAN.

COMMISSIONER PINKERT: Does that mean that China cannot sell into the ASEAN countries, the fact that they're not a member?

MR. OPATUMPHUN: You know, in the southeast Asia that China is not a member for the southeast Asia.

MR. PIERCE: It means that they would be paying normal import duties that range anywhere from five to 50 percent varying by country, whereas ASEAN trade between ASEAN members like any trading block so normally it's zero duties.

COMMISSIONER PINKERT: Would you be able to supply us with information about what China would have to pay to sell into those countries?

MR. PIERCE: Yes, of course. Certainly.

COMMISSIONER PINKERT: Thank you. Now, since I've got you answering questions, Mr. Pierce, I'd like to explore a logical issue. If I said, for example, that the pie yesterday was not bad would that necessarily mean that the pie was good or could the pie just be okay?

MR. PIERCE: This is the elimination of the double negative?

COMMISSIONER PINKERT: Yes.

MR. PIERCE: Well, if you said it's not bad I don't think you would be saying that it's bad which is Petitioners' reading of the statute that not unimportant means small. If you had a double negative in there, it's not not bad, then I think you would be saying that it's good.

COMMISSIONER PINKERT: But if I said that it's not bad I wouldn't necessarily mean that it's good, right?

CHAIRMAN PEARSON: Commissioner, if I could just interject. It would depend on how it was rated during the award. There are many ways to describe the quality of a pie.

COMMISSIONER PINKERT: From a logical point of view what I'm suggesting is that the law of the excluded middle does not always apply and that sometimes if we say that something is not inconsequential that does not necessarily mean that it is consequential.

MR. PIERCE: No, I disagree because I do not see anything in between consequential or inconsequential.

COMMISSIONER PINKERT: So you would argue that here the law of the excluded middle applies, but my point more generally is it doesn't always apply.

MR. PIERCE: It doesn't always apply.

COMMISSIONER PINKERT: You would agree with that?

MR. PIERCE: Yes, sir.

COMMISSIONER PINKERT: Okay. But, for example, if I said that something was kosher and then I said it was not kosher, those two things are exclusive and there's no middle?

MR. PIERCE: That's correct, nor is there a middle, I don't think, between it's either important or it's not important.

COMMISSIONER PINKERT: Okay. Now, going to more mundane matters than pie and the like I'd like to talk to Mr. Durling for a minute about the question of measuring the profits on the internal sales of the hot-rolled. What I'd like to know is whether you would agree that the outside limit of the profit on the internal transfer would have to be the profit on the downstream transaction?

In other words, if there's an internal transfer of hot-roll and it results in a downstream product being produced and then sold would the profit on the downstream represent the limit of what the profit on the internal transfer could be? Now, it could be less than that, but would that be the limit?

MR. DURLING: No, Commissioner Pinkert, I would not say that is a limit at all because think of it this way, when a company produces a ton of steel they make a choice what they do with it, okay?

So they can choose to sell it as hot-rolled steel and earn that profit margin, and in fact, that's kind of the logic behind the Commission's traditional practice, that if a company has chosen to push it downstream they've foregone the opportunity to sell it earlier in the production process, so they must think that there's some benefit to the company greater than the opportunity they would face by selling it as hot-rolled steel, so they're pushing it downstream.

What eventually happens downstream is what's happening in the downstream market, but when you're thinking about the decision to produce the hot-rolled steel a good first proxy is the merchant market sale. I would not impose a limit because that ton of steel could have been sitting in inventory for a while, the market conditions could have changed, and I would not say that's an upper limit.

It's certainly something you could look at in making a judgment, but I wouldn't say that it's an upper limit.

COMMISSIONER PINKERT: But aren't we looking here at actual profits? And if it's actual profit that we're looking at then how could the profit on the internal transfer be greater than the profit on the downstream transaction?

MR. DURLING: Because, Commissioner Pinkert, we're not looking at actual profit, okay? The only actual profit is the merchant market sales of hot-rolled steel. The question before you is not what was the profit later on when it was turned into another steel product? If this were a case about cold-rolled steel or a case about corrosion steel then you would be looking at the actual profits on those downstream products.

Here, you have two parts to a problem. You have actual profit on merchant market sales, that's information, consider that, that tells you a lot about the intrinsic profitability of the domestic hot-rolled industry. Then you have this theoretical question. Okay, what value do we assign to the hot-rolled steel that is being transferred internally, okay?

The question what value a company assigns to that internal transfer is more complicated than just well, what are they going to get eventually when they sell it as a downstream product? That's not an actual profit for the hot-rolled steel. It may be the actual profit for the downstream profit, but it's not the actual profit for the ton of hot-rolled steel. That's the challenge.

COMMISSIONER PINKERT: No, I understand that point, and I'm not suggesting that the profit on the downstream represents the profit on the internal transfer. What I'm saying is that I don't understand how the profit on the internal transfer could be greater than the profit on the downstream when what we're trying to do is impute an actual profit rather than some sort of theoretical profit.

MR. DURLING: No. What you're really trying to do I think is assign some value to a ton of steel that is in the production process, and so it's not just going downstream and looking for the profit. But even if you were inclined to do that, and I certainly understand that, you know, would be a way to gather information that would be certainly relevant to an assessment of the overall condition of the industry, I would just add a couple of other thoughts.

The first is you need to make sure you're getting the information on all of the downstream products not just the ones that are being cherry-picked. So, for example, you heard a lot yesterday about tin mill steel because that's the one example they can point to where at least in the Commission's investigation there seemed to have been some losses, but looking at the other cases, look at the profit margin on pipe, which is a very common source of hot-rolled steel.

I'm betting if you gathered information there would be substantial profits on cold-rolled steel.

If they want to argue it's the profit on the downstream product, in other words, if they want to change 20 years of Commission practice, what you should ask them to do is to give you a detailed breakdown of all of their downstream products that use hot-rolled steel and reconcile that total with what they report to their investors in their financial statements because frankly, I would love to see a reconciliation.

It is very frustrating for us on Respondents' side to basically see industry after industry in the flat-rolled steel industry and they often are reporting incredibly anemic results to the Commission when they're reporting much stronger results in other cases or to the investment community. So I would love for the Commission to ask for a breakdown where it reconciles.

In other words, if they're telling you they're losing money on tin mill steel or they're not making very much money on corrosion-resistant steel where are they booking the profits? You know, list all the products, show the profit margins by individual product segment, show how it reconciles to the financial statement.

If after they've done that they're showing on most of their downstream production significant losses or anemic profits then maybe they've presented you some evidence that would be worth considering, but if they're just kind of cherry-picking and telling you about tin mill and not telling you about pipe, and if they're not reconciling it to the financial statements then I don't think you should give their arguments very much weight.

COMMISSIONER PINKERT: Thank you.

CHAIRMAN PEARSON: Mr. Bruno, I long have had an interest in China's economy. You know, it's a fascinating blend of government policy and market forces, and certainly that's on my mind in this particular investigation, so how do you respond to the argument that China's very large production base for hot-rolled steel would mean that any hiccup in China's domestic demand could lead to a particularly large surge in exports?

MR. BRUNO: I think there is some truth to this statement to the extent that China's capacity and production is geared toward domestic demand and is in my view in line with domestic demand in that country, so if you do have a reduction in domestic demand in China you would have probably, and I would agree in that respect, excess capacity or excess production that would have to go somewhere else.

Now, this being said there are two important factors to keep in mind here. One is that demand in China is not forecasted to go down any time soon. This is a huge country, and you know China, with an enormous pent up demand for steel products. China has not tapped the entire market as yet as I mentioned in my testimony.

The second point, which is very important, is that a lot of the hot-rolled steel production goes into downstream products, cold-rolled in particular. The demand for cold-rolled in China is increasing, and this is just an example of one of the downstream products, but this demand is increasing exponentially and we haven't seen the end of it.

So a lot of the hot-rolled if you will excess capacity would be probably indeed already today absorbed by the downstream production of the products. I think as a result of that you could certainly say if there is a hiccup you may have problems, but I think the Commission has to look at the projected data for the future, and at this point in time I don't believe there is any indication that we're going to have a hiccup anytime soon in China.

CHAIRMAN PEARSON: Well, then I can't disagree with that because for a number of years I have been thinking that there should at some point be something that would happen that would slow the growth rate in China at least temporarily. I'm glad I never bet on that. I would have lost every time.

So somehow they keep things moving quite briskly. But just as a practical matter, as we look at all the countries in this investigation it's not irrational for me to take an especially close look at China just because of its size, is it?

MR. BRUNO: I think China is clearly in the target in this investigation. I mean, this the 800 pound gorilla here and I think it is absolutely reasonable for the Commission to take a long, hard look at China. What I would like to say on that score, though, is that there is a lot of information and I would say misinformation floating around in those hearings, and in briefs and so forth that just build China as being more than what it is.

One of the problems that we have and I think that the Commission has grappled with in this investigation and prior investigations is the fact that Chinese culture tends to keep the information for itself and not share it freely with the rest of the world. In some cases there is very little information in China itself.

So the problem that we had in this investigation, I want to point that out to the Commission, is to get the information in the questionnaire responses that we provided to the Commission we had someone in China that actually went to each plant that was willing to answer the questions, and as a result of that I think the quality of the information that you've got in this case as well as the representative nest if you will of this information is relatively high.

Now, we're going to file verification, additional corrections and so forth to the questionnaire in the next few days, but I think that the questionnaire responses that you've got in this investigation are a good source of information, at least a good indication, of how things are going in China in this industry.

CHAIRMAN PEARSON: Okay. And there is some disagreement on the question of how much of the industry in China is not accounted for on our record. You're comfortable with what, the 70 percent figure that's about what we've captured here?

MR. BRUNO: I have discussed this with my Chinese sources, and I have been told by my Chinese sources that the information that you have represent well-above 50 percent of Chinese production. The 70 percent that the staff estimated is based on the confidential report and confidential information that you have in the record.

I think that we can at this point feel relatively comfortable that we have a sample that represents well-above 50 percent of the Chinese production of that product.

CHAIRMAN PEARSON: Okay. Mr. Pierce?

MR. PIERCE: Just as one point of disagreement with Mr. Bruno, I don't agree this case is all about China. You have 10 different countries before you. Some didn't bother to show, don't care enough about the proceeding to participate. There should be consequences for that.

For the countries that are here, Thailand and

Argentina, I believe they should be getting an independent look by the Commission, an intelligent assessment of their conditions of competition, what they are likely to do if the order is revoked. The statute is designed that way to allow you in your discretion to make decumulated decisions for any reason or no reason.

In fact, there have in the past been in threat determinations Commissioners who as a matter of policy said I'm just not going to cumulate, I make intelligent decisions on a country-by-country basis. So to the extent that China is important in the hot-rolled market, we don't have any question about that, but I do not want to see us glommed together with China without individual consideration of exactly what is likely to happen should the orders be revoked for Thailand.

CHAIRMAN PEARSON: Yes, okay, and I certainly agree that you deserve individual consideration. Everybody is special. Let me just break the questioning for a moment to recognize the arrival of a delegation from the government of Egypt that's here with us as part of an ongoing exchange that the International Trade Commission has had with officials from that country.

We welcome you here. It's good to -- well, I don't know whether it's good for you to see what we do. We are in the midst of a hearing on hot-rolled steel, and

I hope that you enjoy it as much as the Commissioners are. That was a loaded way to say it. Welcome, at any rate. Let's see.

Mr. Bruno, going back to you if I could, you spoke about the new policies that China has put into place to discourage exports of hot-rolled steel, among other things, okay? My question has to do with the degree of confidence we should have that those policies will remain in place for the reasonably foreseeable future.

I ask that with some sense that China's policies, both for internal taxation of business and for export taxation, you know, subsidies or disincentive taxes, that those have changed occasionally. Is there a sense that you have that this new set of policies is going to be with us for a while?

MR. BRUNO: Well, I cannot speak on behalf of the Chinese government of course. My impression based on the discussions I had with various sources in China is that this is an attempt to resolve some of the issues that have been going on in steel between the United States and China and other countries as well for that matter.

I think that if you look at the measures they can be interpreted as a beginning, as a start, as something that can evolve in something a little bit more drastic than they are today as well as something that can be removed very shortly in the future if indeed no one pays attention to them and at least and allege that there is an effort being made to resolve some of these issues.

This is the understanding that I have from discussing these issues with various industry sources. I have not discussed those with the Chinese government, but I think that this is the first time that China is indeed trying to curb steel exports.

What is interesting is that they've added products such as wire rod, for example, which has been the subject of some discussion in one of the U.S. industry's briefs, as part of the products that would be subject to these measures indicating that there is an effort to prevent further deterioration if you will of the relationship between the United States and China in terms of steel.

As you know wire rod was the subject of a petition a couple of years ago. So I think that in this respect they have to be given the weight that I think the Chinese government intends them to have.

CHAIRMAN PEARSON: Okay. My red light is on, but just for purposes of the posthearing, if there's any statement by the Chinese government at the time it made these policy changes that it intends to leave them in effect through 2009 or something like that, if there is such documentation it would be good to have that on the record. Thank you.

Madam Vice Chairman?

VICE CHAIRMAN ARANOFF: Thank you, Mr. Chairman.

Mr. Spak, I have a series of questions for you. First, the issue of the Argentine industry producing the standards other than ASTM standards, this has come up before and I don't think to date the Commission has been able to figure out what to make of this argument. Aren't ASTM standards basically a global floor?

MR. SPAK: My understanding from my clients is that they are not in the sense that you can have an ASTM standard and then the market can demand let's say something like a half ASTM standard or a quarter ASTM standard, especially in the issue of tolerances, and if the market is demanding let's say a quarter ASTM standard that takes, you know, a lot of care in producing something to a quarter ASTM standard.

If you have the choice between, as Siderar has, producing for such a demanding market like that that would require that kind of tolerance or producing and selling at a good profit to a market that's less demanding and would allow you to run your plant more efficiently, that's what's happening right now, so they're able in their home market to produce to local standards which are less demanding than what's being required in the U.S. market and doing so profitably. I can get you more information from them.

VICE CHAIRMAN ARANOFF: Well, I guess what I don't understand is they've got to be selling to the same kinds of downstream customers that the U.S. industry is selling to, people who are producing corrosion coated products, pipe and tube, and those people are using the same technology that producers use globally, so how can they be feeding lower quality product into it and coming out with something that's any good?

MR. SPAK: Well, I don't want to give the impression that the quality is all bad, it's just a question of tolerance as I understand it. Just because somebody is producing to a standard that's less demanding doesn't mean the product itself is bad. I probably should get more information for you from the people who could answer that more specifically from a technical point of view, which I will do in posthearing.

VICE CHAIRMAN ARANOFF: Okay. Appreciate that. In particular, the Argentine industry has in the recent period exported a decent amount of production to Europe. Are the standards that are acceptable in Europe not ASTM standards? I would assume that their standards are at least as picky as the standards in the U.S.

MR. SPAK: We'll get you that information also.

We don't have that information.

VICE CHAIRMAN ARANOFF: Okay. Can you tell me what the channels of distribution are through which the Argentine product is sold in the home market? Are the distributors related, unrelated, how does the market work?

MR. SPAK: In Argentina, Siderar sells both directly to end users and through unrelated distributors, so you have some service centers, but you also have a large amount of supply directly to end users.

VICE CHAIRMAN ARANOFF: Okay, and the unrelated distributors, they are free to purchase imported product if they so choose?

MR. SPAK: I believe so. I will confirm in post-hearing.

VICE CHAIRMAN ARANOFF: Okay, I appreciate that.

MR. SPAK: And Commissioner Aranoff, if I could also just add that in the export market, and especially with respect to anything -- I think you asked the question before of Thailand as to whether or not they deal with trading companies. Just to make sure it's clear on the record that any international distribution of Siderar's product would be through Ternium, and it does not use unrelated distributors or trading companies to sell its product.

VICE CHAIRMAN ARANOFF: Okay, I appreciate that answer. Let me ask you, our data show a significant decline in Argentine exports to Europe over the period of review. What can you tell us about what accounts for that?

MR. SPAK: We've been informed by our clients that it's mainly a reflection of the demand in Argentina for the hot-rolled, both for captive consumption and the demand in the market for merchant sales of hot-rolled.

VICE CHAIRMAN ARANOFF: Okay, and we have charts that have been presented to us in this morning's presentation suggesting that prices are higher in Europe this year than they are anywhere else in the world, so this seems like kind of a bad time to be exiting the European market.

MR. SPAK: Well, but we also had testimony yesterday from Mittal that they are exporting to South America, so my sense is that these are markets that Siderar has developed, has known very well, and from Ternium's perspective, it makes sense for them to specialize in the markets that they know well and are lucrative for them, as we can see from the financial information.

VICE CHAIRMAN ARANOFF: Okay, and my last point, which is more in the nature of a comment than a question, you testified this morning that the second Argentine producer, Acindar, is not relevant to our assessment of what's likely to happen in the future, and the reasons for that are, of course, entirely bracketed, so I can't really ask you about them, except to suggest that in your post-hearing brief you revisit that because frankly, there are a lot of open questions about, to my mind, having read what you've presented, about why what you are positing is going to make economic sense and how soon some of the things you are suggesting are going to happen, and how certain they are.

That's about as far as I can go without touching on confidential information, but just to give you a sense that the explanations that are offered, to my mind at least, don't entirely resolve the issues.

MR. SPAK: We will try to get as much information as we can. As you can appreciate, we can give part of the story. I think Acindar -- well, it's difficult to get into confidential information or information that might be considered confidential, but we will do the best that we can to get you as complete a picture as possible in the post-hearing brief.

VICE CHAIRMAN ARANOFF: Okay, I appreciate that. Thank you.

MR. SPAK: Oh, and I'm sorry, Commissioner

Aranoff.

VICE CHAIRMAN ARANOFF: Go ahead.

MR. SPAK: It would help us a lot if you do have specific questions if you could put them to us maybe after the hearing, because we do have to deal with another producer here, so if there is something that's bothering you about the information that they have given you, and since they are not here, we would like to know it so that we could try to get you the information.

VICE CHAIRMAN ARANOFF: Well, I'll give that a shot if I can. Well, let me ask you one more question, actually, while I have you here. What evidence should we be looking at in assessing whether demand in the Argentine home market is likely to continue supporting the degree of capacity utilization that the industry currently enjoys?

MR. SPAK: We have provided some demand information in the questionnaire response, and we can provide whatever else the company has in its projections in post-hearing, but everything that we've received and everything we've read, which we will cite to you in post-hearing, suggests that a slowdown certainly isn't likely in Argentina, and all of the projections are that the demand will justify and continue to absorb the production that Siderar is committed to have in Argentina.

VICE CHAIRMAN ARANOFF: Okay. Now let me raise the -- generally, for all of the subject producers who are represented today, I explored this with the domestic producers yesterday and I am trying to understand how to treat a foreign producer's capacity that is used for internal consumption in production of a downstream product, to what extent that ought to be treated as product that is divertable to the US market, you know, under what circumstances, and the domestic industry was presenting to me about the hypothetical economic case where that could make sense.

I have very little time left, but if somebody wants to start responding to that, I can come back in the next round. Mr. Pierce, did you want to?

MR. PIERCE: Yes, I think it has to be looked at very skeptically that a mill is going to divert that production to the United States market when it's got downstream customers that it's supplying. It's usually going to be a pretty big volume, important to the hot-rolled producer, and just to think that, you know, well, they could sell it somewhere else, I don't think it weighs as divertable capacity or should be given much weight at all, frankly.

MR. BRUNO: If I may?

VICE CHAIRMAN ARANOFF: Mr. Bruno?

MR. BRUNO: Yes, Vice Chairman Aranoff. With respect to China, there is an effort made by the mills, large integrated mills, to move to downstream products and to increase capacity in those downstream products. As a result of that, we have seen a large amount of capacity which is exclusively devoted to producing cold-rolled and other downstream products. It would be, and in fact it's not even contemplated for them to switch that production and capacity to export markets. It is really, in fact they are trying to go the other way by increasing the amount of capacity of hot-rolled that goes to downstream products.

VICE CHAIRMAN ARANOFF: Okay, well, if you guys can help me in your post-hearing to think through the economics of this. If it turns out that prices, for example, in Europe for hot-rolled are very good and you have a choice of supplying it to a pipe manufacturer, say, in your own country, or exporting to Europe for the better price, when would it make sense to do the one versus the other?

You know, how much does it depend on how sustained and how large the price differential is? Those are the sort of things that I am trying to look at.

MR. BRUNO: In our case, Vice Chairman Aranoff, it would depend also on the price of the cold-rolled product in the domestic market.

VICE CHAIRMAN ARANOFF: Right.

MR. BRUNO: Because that's what they are looking at as well, and if you have noticed, in spite of the recent spike in prices in Europe, Chinese exports are not expected to increase to Europe.

VICE CHAIRMAN: Okay, thanks. I've run over time.

MR. PIERCE: We'd be happy to provide that information as well, Vice Chairman Aranoff, particularly with respect to Thailand trying to move towards more and more internal consumption by buying part of the cold-rolled in order to control the consumption. It's not something you are going to divert away after making a corporate strategic decision to expand internal consumption. We would be happy to address it further in our briefs.

VICE CHAIRMAN ARANOFF: Okay, thank you very much. Thanks, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Okun.

COMMISSIONER OKUN: Thank you, and I was interested in the response to the Vice Chairman's question and the information you are going to proved post-hearing, and maybe just to add on to that, that not only do I think it would be helpful to understand from the producers when it does or doesn't make economic sense to sell the hot-rolled as opposed to internal consumption, but then if there is information about the home market demand for those downstream products in which they are internally consuming, that would, I think, help illuminate for me whether we should be contemplating that as divertable a capacity as just exports to a third market, for example.

So I appreciate that, and we will also be talking to the Vice Chairman's staff on the question as to the Argentinian producers. Mr. Spak, I had the same kind of question when I looked over the data of trying to understand what the industry looks like in the future and whether the information on the record adds up, so I will make sure that we don't send conflicting questions to you on that, if we can.

Let me turn, well, maybe -- I think I'll start with a hypothetical, and I hope we are not too far into speculation, but the hiccup question by the Chairman reminds me of this, and actually, looking over today's clips further remind me of this. Mr. Bruno, if the US Congress, and none of this reflects my own views, I should say at the outset, if the US Congress were to pass a currency bill in some form and the President, who plans to veto it, had his veto overridden, there have been reports that such a bill, while maybe having short-term benefit for US manufacturers, would start a retaliatory process from China and that we would see protectionist measures thrown up, which some would speculate would impact global demand for a number of things because of the fact that China has been this driver.

If this bill were to pass before the record closes for this, how would you have us take that into account, or is that too much in the realm of speculation until something happens and we see the reaction?

MR. BRUNO: That's a little bit too much speculation at this point in time.

COMMISSIONER OKUN: Okay.

MR. BRUNO: I will try to provide some information on this hypothetical in my post-hearing submission.

COMMISSIONER OKUN: Okay, I appreciate it. I'm going to return the clips and I make this observation that I think folks were saying yesterday, which is, you know, during this period, in particular, this period of review, you not only have the US economic scenario very rosy, you've also had the world demand running on all cylinders, and I think that is one of the questions that intrigues me in doing the sunset reviews, is how long does it last and what indicators should we be looking at, and obviously, you have the World Bank, you have other global bodies who make forecasts, and I think you've put some of those into there, but if there is anything else that you can find that would help us in that inquiry, I would appreciate it as well.

Mr. Bruno, another question for you, and this is with regard to what incentive the Chinese producers might have to shift exports into the US market if the order were lifted. In reading your brief, I got the impression that, and you can correct me on this, that you were indicating that the Chinese exports weren't really following higher prices elsewhere. They have this very good home market and if not there, Asia.

But if I look at the record, it seems to me to indicate that, indeed, we've talked about Western Europe, that Chinese ship to Europe as prices go up, and I wondered if you could help me understand why we wouldn't expect that, or if we would, how I should take that into account if this order were lifted.

MR. BRUNO: Yes. There are two factors in the decision that prompts Chinese exporters, and really, when I say Chinese exporters, I am referring to some of the companies I have discussed these issues with. I do not purport to represent or at least to speak on behalf of the entire Chinese industry here, even though I represent this petition (ph) because I have not had discussions with a lot of these industries, but taking the example of

Baosteel, for example, there are two factors that prompt them to export.

One is having some available capacity to do so, and as you've seen from the questionnaire responses, the capacity is mostly allocated to the domestic market. When prices rise in a market, it creates an opportunity for those companies to take advantage of the rising price in that market, and that's what you are referring to in terms of following, if you will, the higher prices in the various markets to which they export.

But there is another factor which is also very important, particularly with respect to the Asian market. A lot of the Chinese companies have long-term contracts, and as the case of BaoSteel, for example, in Korea, owe a long-term relationship with customers there to whom they provide year after year a certain amount of steel, and that's the case of hot-rolled steel. And so those customers they cannot shift their exports to those customers to other countries such as the United States.

So to summarize, I would simply say that, yes, there is some truth to the matter that they tend to follow higher prices, but there is, as you can see with the European example where, in fact, with high prices, Chinese are not flooding that market, there is limitation in how much they can shift from one market to another, and I think that was reflected somewhat in the staff report in discussing the ability of Chinese exporters to shift from one market to another, and how much availability there was to increase exports to a particular market vis-á-vis another market.

COMMISSIONER OKUN: Okay, I appreciate that response, and I would note I particularly appreciate how carefully you have answered these questions and making clear on what you know based on talking to your clients, and what information is not available to you, and I think that's an honest way of answering these questions, and to the extent that we had business plans, I appreciate that as well.

We do, however, face the issue, and you've acknowledged it, which is, the information is hard to get and there are of course serious allegations from the domestic industry regarding how much of the Chinese industry we have reflected in the staff report, and so for post-hearing, I think it would be particularly helpful if you can look at the estimates that are out there from some of the other -- from the organizations that follow trends in these different countries and production and capacity numbers, and do the best you can with the information you have in helping us sort through that and in making clear where you get that information from, so that we can do the best we can sorting through what I see as conflicting data out there in looking at the Chinese industry.

MR. BRUNO: We will be happy to do so in our post-hearing submission. I would like to make one point, however, with respect to the capacity information that has been provided by the US industry. There was something that caught my attention, and I think it's very reflective of what's happening here. I think it was a Nucor brief. There was the statement that, essentially, I believe, 17 new Chinese steel mills will increase capacity by 2010, and the word 'will' got my attention because I was not aware of it, and then it referred to the source for that statement, and unfortunately the source is confidential, but that source does not use the same word, number one, and refers to another source which is also confidential, and a table which has also been kept confidential, listing those 17 mills, and we have Googled the 17 mills in question to find out if indeed, given the amounts of announced increased capacity, those would be picked up through websites and so forth, and I will provide the result of this research in my post-hearing submission because given the fact that the information is confidential, I don't want to disclose it here, but I think this is symptomatic of really what has happened here where basically, the US industry has come with an enormous amount of capacity and has tried to explain it through various sources, and at the same time has said, well, you see, with all this capacity, there is no investment, no one can invest, it's so much capacity, therefore, they must have received subsidies.

I think this is something I am glad I get a chance to comment on, and I will expand on that in the post-conference submission.

COMMISSIONER OKUN: Okay. I also look forward to that response, and now I see my time is going to run out, so just for post-hearing, I do have a quick question for post-hearing which is, the domestic industry, Nucor in particular, I think, has urged the Commission to use a slightly longer period of time than the Commission has in a number of steel cases, looking more at three years, and I would ask you in post-hearing to comment on that, or if you did so in your prehearing, just to refer me to that as well.

All right, thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Lane.

COMMISSIONER LANE: I'd like to return to Mr. Pierce and Mr. Durling. I have another question that relates to the valuation of internally consumed hot-rolled steel. If it was determined that the constructed fair market value of the noncommercial hot-rolled steel included profits that were made on the sale of the final downstream products, then when considering the return on assets of the hot-rolled product, should we include the assets that were used to make the downstream products?

MR. DURLING: I think this is similar to the question earlier, which is certainly the Commission can do the calculation that way and include that as one of the factors that you consider. I think it's just inappropriate to try and come up with a single mathematical formula for how you value something like this.

COMMISSIONER LANE: So your answer is that we should include the assets that were used to make the downstream products when we are looking at the value or the profit made on these downstream products?

MR. DURLING: Commissioner Lane, the Commission can and should look at any information that you think will inform your decision, but if you are going to look at that information, I would also suggest that you, to put that in even better context is, look at how they have characterized their return on assets to the investment community. In other words, when they go public with this number, when these producers go to their shareholders and describe how are we doing overall, what are they saying?

And to me, it's more a question of, you have an integrated producer. How are they doing with their investment of their resources, and in fact, it may be more reasonable to simply look at the company as a whole, if you have a company that, as a whole, is earning very strong returns, if they are earning very strong return on their assets, they are making all of these internal decisions about where to deploy their capital and they are making those decisions very effectively.

I think it's hard for the Commission when just looking at one individual segment of an integrated steel producer to secondguess the decisions that the company itself would be making and how it allocates its capital for various investments. So look at the company as a whole. Look at what they tell the investment community. That's where I think you are going to get the best picture of the overall health of the industry, including the industry producing hot-rolled steel.

COMMISSIONER LANE: Mr. Pierce?

MR. PIERCE: Thank you. I think it's also useful to consider what other agencies do. The Commission is not the only one that looks at this, is the transfer price valid or not. Other agencies out there do this all the time, particularly the Internal Revenue Service when there are transfers, sales between affiliates. Where is the profit going? What does the IRS use to value the transfer between the affiliates? It uses the comparable uncontrolled price, or CUP.

It uses fair market value, exactly what the Commission has done for the last 20 years. It comes up in the Customs Service all the time for the valuation of an import. The exporters relate it to the importer. Well, is that value understated or overstated? Are Customs duties being underpaid or overpaid? What does the Customs Service do? It looks at the arms-length price on a sale between an unaffiliated party and the exporter. It does exactly what the Commission has done for the last 20 years.

So this isn't just a question for the Commission. The use of FMV in this valuation is exactly what the IRS does when looking at a similar question, and it's exactly what the Customs Service does when looking at a similar question.

COMMISSIONER LANE: Okay. At this point, I'd like to invite the domestic industry in their post-hearing brief to consider the questions that I have asked about profitability, return on assets and the capital costs, and I would like that if they have reflected the market value of the final downstream products in their valuation of internally consumed hot-rolled products, I would like them to quantify the net value of the assets used to produce those downstream products.

Now, Mr. Pierce, I have another question for you.

MR. PIERCE: Okay.

COMMISSIONER LANE: In response to Vice Chairman Aranoff's first question, you referred to global trading companies. Could you please elaborate on the topic of these companies for me? For instance, how often do subject producers use these global trading companies?

MR. PIERCE: In Thailand? In Thailand, for exports to the United States, it is not unusual for a trading company to be involved in a sale. They don't necessarily set up the sale, they don't take possession of the product, but it's not unusual that they help to facilitate sales, and when you don't have a sales office or a distribution network in a foreign country, you need a trading company to help facilitate the sale.

COMMISSIONER LANE: And who sets the price?

MR. PIERCE: Well, this price is going to be negotiated normally between the customer, the end user who the delivery is made to, and the mill, and then the trading company usually takes a commission. Sometimes it will be back to back. That can happen, where the price is set between the mill and the trading company and then there is a resale price to the final customer.

COMMISSIONER LANE: Isn't it true that the use of these global trading companies further increases the likelihood of an increase of subject imports entering the US market upon revocation because these global trading companies, once they have purchased the hot-rolled steel from subject producers, can search out the most favorable markets and ship there?

MR. PIERCE: No, absolutely not. That's not true. These products are sold, and the resale customer is already known. In fact, shipment is direct to the trading company's customer, if you will, or if the trading company is just asking as an agent. So it's not like they buy the product, hold it and then shop it. It doesn't work that way. You know who the end customer is when the mill makes the sale.

The trading companies do help facilitate trade. They have been around for hundreds of years, literally, and if you are going to sell into another country and you don't have a distribution network, you don't have an affiliate in the other country, it helps to have a trading company that is familiar with it, but they don't --

COMMISSIONER LANE: So the trading company finds the customer first, then finds the product, and then negotiates the sale?

MR. PIERCE: Normally that is how it works for the clients that I am familiar with. They don't buy the product and then shop it around. We know who the customer is, we know what their specs are, we know who we are going to be shipping to, we know what the price is, we know what the cut or the commission is for the trading company.

MR. McCULLOUGH: Commissioner Lane, I want to add on that. You asked about subject product, and I think we heard yesterday, at least for the Mittal countries, that Mittal affiliates basically have a veto power on whether or not those subject products will enter the United States, so I think the answer for the Mittal countries would be no.

COMMISSIONER LANE: Okay, now I have some questions -- oh, go right ahead, Mr. Pierce.

MR. PIERCE: That's consistent with why the inventory levels in Thailand really aren't relevant to this case. When you sell to the United States, you produce to order. You produce to a customer's order, special chemistries, special mix, etc. That's not something that -- and in order to do that, you have to know what the customer needs and who you are shipping to. A trading company just can't tell you, just give me a generic steel, and then go out and shop it.

It just doesn't work that way, and that is why this notion that the inventories in Thailand are an overhanging threat for the United States market is just hooey. It doesn't make sense because you produce to order for the US market. You don't sell from inventory.

COMMISSIONER LANE: Okay, and now I have questions for Mr. Green and Mr. Knedgen. I would you to explain what you expect to achieve if the orders are revoked. For example, do you believe you will be able to buy steel from subject countries at lower prices?

MR. GREEN: In our particular case, at least with our company, I don't see that we are going to be able to buy direct either way. We just don't buy enough volume, but the service centers that we do work with have indicated that they would be able to buy direct and that would help them service our industry better. Does that answer your question?

COMMISSIONER LANE: Yes, thank you.

MR. GREEN: Okay, thanks.

MR. KNEDGEN: Our situation is very similar, and what we are seeing right now is that a lot of our product line is competing in the global market, which doesn't have these kinds of tariffs and duties, and what we make them from, the steel, does. And that ability to have our service centers get a more fair market price for us is going to help us to compete in that market.

COMMISSIONER LANE: Okay, thank you.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman.

Mr. Bruno, on page 6 of your brief, you claim that China is still a net importer of hot-rolled steel, but I notice you didn't mention that this morning, so I was wondering, what is your position now as to whether or not China is a net exporter?

MR. BRUNO: The information provided in our brief was based on confidential information provided in the Commission staff. We have checked carefully, and I think there is a question of definition of the products covered by those various data. We have checked carefully with China and we do believe at this point that China would be a net exporter as of 2006 of HR steel.

COMMISSIONER WILLIAMSON: Okay, thank you. What is your position on cumulation in this case? What should we do in regards to cumulation? I'm sorry, for Mr. Bruno.

MR. BRUNO: I think that you heard arguments by two countries to be decumulated. As far as China is concerned, we still remain squarely in the crosshair with cumulated or decumulated, so I think I would let me colleagues answer that question.

COMMISSIONER WILLIAMSON: Okay, anyone else want to address that?

MR. PIERCE: Well, yes, sure, absolutely. For Thailand, absolutely should not be cumulated because revocation with respect to Thailand is not likely to lead to continuation or recurrence of material injury to the domestic industry. You have complete discretion to decumulate Thailand. We have given you many reasons to do so that we think fairly indicate, based on the economics and the market incentives, that Thailand isn't going to be a problem for the US market.

We are not saying we are completely out of the market, but we have demonstrated that we are not going to be a problem for the US market. Indeed, SSI has had a zero margin looking back to entries through reviews since almost 2001, and had its dumping order revoked in 2006, a very unique situation that you have in this case.

So clearly, in my opinion, we think Thailand should be considered separately, weighed separately with a separate determination for Thailand. No question about it in my mind.

COMMISSIONER WILLIAMSON: Okay, thank you.

I think I know where the others stand, so I would like to go back to Mr. Bruno on this question of the --

it's the two measures that China has taken recently, and I wonder if you can explain what the impacts are likely to be of them. One is the imposition of an export licensing requirement, and can you explain how do you think that is going to work and what impact will that have on hot-rolled exports?

MR. BRUNO: My understanding is that every time an export of the products covered by these measures is planned, the Chinese mill, and only the Chinese mill, has to request a license from the Chinese government in order to export. From what I understand, this license has not yet resulted in quantitative restrictions on exports from China. However, this has been recently implemented, and the Chinese mills themselves do not know all the modalities under which they are going to be receiving those licenses.

There are rumors in the Chinese industry that indeed, those licenses are going to be limited to a few plants and for a certain quantity of products every year or every month, but at this point, those are just rumors and I cannot confirm those at this point in time. I will be happy to provide additional information at post-hearing submission, but I think that it does give the Chinese government the possibility to, at least in the foreseeable future, to limit and control the exports of

China towards other markets, which would have the effect of keeping capacity, which is very important for China, keeping the capacity for domestic market purposes, which I think is a consequence of these measures.

COMMISSIONER WILLIAMSON: What about the commodity export rebate, the 13% that I guess has been eliminated for some products? Is that likely to lead to maybe restrictions on some products, such as pipe not being exported and more hot-rolled steel being available for export, or what is likely to be the impact?

MR. BRUNO: I would like to comment on that in my post-hearing submission if I may, Commissioner Williamson.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. McCULLOUGH: Commissioner Williamson, I don't know if it was raised or not, but Chinese pipe products are also subject to the VAT rebate as well -- elimination, I'm sorry. So I think that's another demand feature in this market. I think as you see less and less Chinese pipe in this market, that means there is going to be more US hot-rolled used to produce pipe in this country.

COMMISSIONER WILLIAMSON: Okay. On Thailand, was Thailand a net exporter during the original period of investigation?

MR. PIERCE: I believe Thailand was a net importer in the original investigation, but I would have to -- well, I know at least since 2001 it's been a net importer. In 2001 there was a 60% market share held by imports, so I would imagine it was a net importer, and since Thai steel production didn't really start until the late 90s, I'm sure it was, yes, I'm sure it was a net importer.

And I am defining net imports, just to be clear, as more imports than exports, all right, so somebody mentioned yesterday, I think it was Vice Chairman Aranoff, that there were three net importers in this case. We were scratching our heads trying to figure out who the others were because I don't know if you have all the information on imports and exports. I could be wrong about that, but just to be clear about how we are defining it.

COMMISSIONER WILLIAMSON: What about the forecast for Thailand's position in the next couple of years? I do know in the chart that you presented that you show signs of increased exports, I think, to other Asian countries. I was wondering what's the basis for that?

MR. PIERCE: Well, we have a couple bases for it. As far as the export trends go in particular, we are looking primarily --

COMMISSIONER WILLIAMSON: The export trends and also the status of net export or --

MR. PIERCE: Net importer? We are looking primarily at increased exports to ASEAN. I think if you look at the trends over the last two years, you see that, and certainly if you look at the first half of 2007 where exports to the ASEAN countries exceed exports to the ASEAN countries for all of 2006. In other words, in a half year, we've more than made up full exports to 2006 to the ASEAN countries. That's the main reason for that.

As far as exports to the United States, we are projecting that they are going to -- we are not saying we are getting out of the US market. We are projecting that they are going to stay at about a steady level of about 165,000 tons. Before the order went into effect, I think we reached about 200,000, in that neighborhood. I'd have to check to know the exact number.

As far as demand in Thailand, there was a bit of a softening of demand in 2006 as a result of political instability. That is turning around. All of the projections are favorable for Thailand, certainly in the automotive sector where you have seen automotive production in Thailand go from about 450,000 units to about 1.2 million units in about 6 years, and they are projecting 2 million units in Thailand for automotive production.

It has become the 'Detroit of Asia.' It is where all the automotive assemblers are going, and about half of those autos are being exported from Thailand. The same is happening in motorcycle production, which is increasing dramatically, and motorcycles do consume a fair amount of flat-rolled steel that all starts as hot-rolled steel. The construction industry is doing well in Thailand and will continue to do well, we believe.

If you have been to Bangkok, you can still see the buildings going up rapidly. Also, the Thai government has engaged in certain mega-projects, if you will. This is, for example, the new airport, which is very steel-intensive, consumed a lot of steel. There are mass transit projects just getting kicked off at the end of 2007. That's going to consume an enormous amount of steel, and residential and commercial production are up.

So we see Thailand, a bit of a pent up demand coming into 2007, and then demand taking off very well, and we've got an enormous amount of the market served by imports that we are getting ready to replace with domestic production, and we are doing that because we have enhanced the production capabilities to use hot-rolled steel for cold-rolled and galvanized production in Thailand.

COMMISSIONER WILLIAMSON: So are you saying you don't see an increase in exports other than to the ASEAN countries?

MR. PIERCE: I see exports saying, I mean, exports are not insignificant for Thailand. They are going to be around 23, 25% of production. We see them going to primarily the ASEAN countries, but that's not what we are banking on, and if you look at the business plans, if you haven't already, that were attached to our questionnaire responses, these are the internal, prepared in the ordinary course of business.

Exports are part of the mix, but it's clearly not the mail focus. The main focus is the home market and displacing imports in the home market.

COMMISSIONER WILLIAMSON: Okay, my time is up. Thank you.

MR. PIERCE: Thank you.

CHAIRMAN PEARSON: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr. Chairman. I'd like to ask a question about both the Thai market and the Argentine market, so I would hope that each of you would have an answer.

My question is, how difficult is it for a purchaser to change hot-rolled suppliers, and what factors enter into that difficulty?

Do you want to start with that, Mr. Pierce?

MR. PIERCE: Sure. I'd be happy to.

It depends. It depends on what type of hot-rolled steel you're buying and what type of purchaser you are.

I think if you're a high grade hot-rolled steel purchaser with significant volumes where you need regular and continuous supply, it's probably harder to change suppliers than if you're out on the spot market just from time to time purchasing. That would be logical.

But you can change suppliers, but oftentimes the large purchasers will have qualified suppliers, maybe a pool of qualified suppliers, that they would purchase from.

MR. SPAK: This is Greg Spak.

In the Argentine market, as we understand it, Siderar has worked very hard as we've explained in the questionnaire response and in the brief to cultivate a very loyal following of clients, including a program through which it develops and tries to create as many links with its small and medium sized customer clients.

Our understanding is there are certainly things that Siderar cannot produce and there are some imports of hot-rolled, but those that it does produce, for those products it does produce and does sell in the local market, it works very hard to keep that customer base loyal and with great success.

I'll be happy to try to get more information for you, Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you.

MR. PIERCE: Just one other obvious point I should have made, sorry. It's obviously difficult if not impossible to change suppliers for your own internal consumption that's going to be inflated from competition, or long-term contracts. You're going to be locked in and you're not going to be facing competition on that. That's one of our points about the domestic industry. In particular a large amount of their sales are obviously insulated from competition because they're either internal consumption or long-term contracts.

COMMISSIONER PINKERT: Mr. Bruno, is there anything you'd like to add to that concerning conditions in the Chinese market?

MR. BRUNO: Concerning the shift between hot-rolled and cold-rolled products?

COMMISSIONER PINKERT: No, the ease or difficulty in shifting suppliers, in changing one's suppliers of hot-rolled.

MR. BRUNO: I do not have enough information about the Chinese market to answer that question at this point, Commissioner Pinkert. I'll be happy to address that in my post-conference submission.

COMMISSIONER PINKERT: Thank you.

I'd like to turn back to Mr. Spak. I recognize that the answer to my next question is fraught with difficulty because you may perceive that different Commissioners apply some of these terms differently. But in any event I'd like to get your view about where no discernible adverse impact leaves off and where the discretion not to cumulate despite all the other prerequisites being satisfied picks up.

I hope you understand my question, because I think that you're arguing both. That we could say no discernible, or we could say that we have the discretion not to cumulate Argentina, in your situation. I'm wondering what you think the standards are for those two and where one leaves off and the other one picks up.

MR. SPAK: I clearly think you do have the ability to analyze the case under both standards. I think you're almost required under the statute to do so because the statute says that you cannot cumulate if there's no discernible, if you find that there's no discernible impact.

Even if you don't make such a finding, the statute says that you "may" cumulate.

So it seems to me on a clear reading of the statute that you can apply both tests and evaluate evidence at both of those distinct stages, and they're two different inquiries.

Now where the lines are drawn in any particular case I have to say I don't think we can say, but certainly I don't think you have to find no imports in order to satisfy the no, or no likely imports in order to satisfy the no discernible impact or no likely discernible impact.

You could in this case I think consider that there may be some small imports at some point in the future, but you might consider that those imports, even if they were to occur, would not likely have a discernible impact on the U.S. industry. Other Commissioners might disagree, and if they disagree then I think you can look at it again under the cumulation standard because the statute still says that once you're past that first hurdle you may cumulate, which to me suggests that you have to analyze the context in which any such imports would compete in the U.S. market against the U.S. product and the other imports.

I hope that's responsive.

MR. PIERCE: It's a fascinating theory, but this is --

COMMISSIONER PINKERT: Mr. Pierce.

MR. PIERCE: There is a place between this product will have a discernible adverse impact, so I'm not precluded from cumulating; but I can't cumulate legally. That gap is that if you don't find a reasonable overlap in competition. You can still have that gap. Or if one of the countries had adverse inferences against it, I don't think you can cumulate in that instance either.

So it's not a clear line of it's either discernible adverse impact or I can cumulate. Not necessarily. You've got thresholds to go through. I don't know that that comes up in this case, but just theoretically under the statute.

COMMISSIONER PINKERT: My question, and I should have made it clearer, was assuming that the reasonable overlap standard is satisfied, then is there a line between no discernible adverse impact and exercising the discretion that we have not to cumulate, even if all the other standards are satisfied.

MR. PIERCE: Sure, there has to be. Otherwise the no discernible adverse impact would never operate. In other words, if you had reasonable overlap of competition, you would never consider the question of no discernible adverse impact.

So yes, I think so.

COMMISSIONER PINKERT: Mr. Spak, anything to add to that?

MR. SPAK: Nothing, Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you.

I'd like to go to the statements that were made about the Commerce Department findings with regard to SSI. I believe that, I can't remember exactly who testified as to this but I believe the statement was made that when Commerce decided not to reinstate the order in SSI, that it necessarily found that there would be no adverse impact to the domestic industry from that company.

I'm wondering, did Commerce make any findings as to import volumes or likely import volumes in the context of making that decision?

MR. PIERCE: Let me clarify. It's a confusing situation, and in case I misspoke, I do want to get it right.

You know the Commerce Department very well, obviously, so if I talk in shorthand I'm sorry.

SSI went through three reviews with de minimis margins in each review. The second review we went halfway into them. Petitioners withdrew their review request when they knew we were going to get de minimis. So we got the three zeros in a row. We got the three zeroes and Commerce determined that there were commercial quantities sold in each year. In other words, we did not need to dump in order to maintain commercial quantities and a level of exports to the United States.

As a result of that, Commerce Department revoked the order as to SSI. It revoked it in 2006 retroactive to 2004.

We made sales after that to the United States. Petitioners came in and said those sales were dumped, those sales were dumped, you violated your agreement, here's evidence of that.

We went back and forth fighting with Petitioners and in the end the Commerce Department said Petitioners, you have not introduced evidence or come up with evidence to demonstrate a return to dumping or a resumption of dumping. So the changed circumstance review request by Petitioners just languished and died. That's the status.

COMMISSIONER PINKERT: So of I understand your testimony correctly then, the focus with regard to the reinstatement request was on whether dumping had resumed.

MR. PIERCE: Yes. That's correct. The Commerce Department doesn't make an injury determination. If I gave that impression, I apologize.

COMMISSIONER PINKERT: Not a problem, I was just trying to clarify it. Thank you.

CHAIRMAN PEARSON: A question for the domestic users.

You've indicated that it's at times a challenge to get good quality steel on time. In the hypothetical situation in which all of these orders would be revoked, how would that change the market? We know that global demand is strong. If the orders are revoked are you going to have ample availability of steel from multiple sources that will help you meet your needs?

MR. EMERY: We feel that certainly the supply would increase. Since duties were imposed is when we started to see the difficulties of the quality issues that we've dealt with and the delivery. We do feel that added competition from a global perspective would help rectify that problem.

CHAIRMAN PEARSON: Mr. Green?

MR. GREEN: I'd have to agree with his comments, that the information that we've gathered from our service centers indicate that they do feel they would have likewise other availabilities.

Another issue they have seen is in the past at least the information forwarded on to us was also here in the U.S. they've had issues where hot-rolled has been shifted to cold-rolled so that they can meet that demand. Then it makes it tight on the hot-rolled market.

So if you had that other availability of material coming in, they would then be able to make their choice. They are typically looking out three to four months likewise.

CHAIRMAN PEARSON: Mr. Knedgen?

Mr. KNEDGEN: I have nothing to add to Mr. Emery's or Mr. Green's comments. Our situation is precisely the same.

It's a lack of choices. We feel captive in a situation like that where a lot of our product lines are three to four day turn-around from the time we receive steel to they have to be at the customer's lines. So when you're presented with a situation like that in the current market, there aren't many other options. Not affordable options anyway.

CHAIRMAN PEARSON: Mr. Pierce?

MR. PIERCE: Two quick points as far as the revocation of the order.

There are two conditions of competition out there that it's important that the Commission not lose sight of because they are significant in this case.

First, ocean freight rates have increased significantly. The cost of shipping, for example, from Thailand to the United States is now over about 10 percent of the price.

Secondly, the dollar has weakened and that changes things. When you're shipping from Thailand and it's X dollars a ton, you think about how much Thai baht am I going to get for that. I'm getting a lot less Thai baht now, about 14 percent less, than I had previously.

So it's not just looking at the U.S. price compared to previous prices, it's as against the Thai baht and the as the dollars weaken the export market of the United States becomes far less attractive on the sale side.

CHAIRMAN PEARSON: Back to domestic purchasers.

How would you decide which product to buy if suddenly you had multiple sources available?

Mr. KNEDGEN: I can speak to that, Commissioner Pearson.

Historically we would review steel pricing every six months and put steel out for bid to numerous suppliers and go through the process of negotiation to source that business. What's occurred is a lot of, because of the steel market the way it is, a lot of our customers have gone to directed sourcing for us.

CHAIRMAN PEARSON: Clarify. They are doing that because it's easier for them to negotiate with the mills than it is for you?

Mr. KNEDGEN: There are a number of reasons, and I can't speak to all of the internal reasons. But what happens is the situation in the domestic market is such that the price is pretty much set.

I have an example of a whole product line that this whole situation is a matter of our survival as a company. We're competing in a global market. We're selling parts for in many cases 22 percent than we did 25 years ago without any changes to the part. The steel makes up 40 percent of that part, and when we cannot negotiate or get a fair market price for steel against the global competition which is internet price bidding, then we're in a situation where, the opinion I guess internally in our company is if another five years of the current steel market the way it is, we're going to be out of that product line.

CHAIRMAN PEARSON: Would the decision on which product to buy largely be based on price?

Mr. KNEDGEN: Not always. In that particular product line we actually control a lot of the specifications within a tighter band inside the ASTM standards previously mentioned so that we can get performance out of the part and higher part yield. If we can't control gauge, that affects our price also. If we can't control mechanical properties and work through those, then we have a product which is prone to increased testing in order to qualify it.

So price is not the only reason. There are a lot of quality reasons too.

MR. EMERY: I would have to agree with that statement. There's really several factors that play into the sourcing decisions and we choose a supplier of steel for our industry. Quality, of course; availability, which really relates to delivery; and performance in the past; and obviously cost. Again, we can't avoid that question, it is cost. We're competing in a global market where 40-50 percent of our cost is steel. The next big factor, of course, is labor. We're competing with countries that basically enjoy the same steel costs that we do today but have a much reduced labor cost. Now you tie our hands behind our backs with duties on steel that's going to cause us to pay a higher price coupled with the lower cost of labor and I think it puts a lot of the product that is currently produced here in the United States, generating good jobs, in jeopardy.

Again, I think to avoid the question that price does not play a part, it certainly does. Our customers that we supply to, especially in the automotive sector, know that price. We have to know it as well.

Again, it's not just that. It also comes down to stability, predictability in our market right now.

As an example, we may quote a job today, prepare a price for a domestic OEM, and we will submit our bid and hope to get that work based on that price. Start of production may not happen for 18 months. The price that we choose today based on the material cost, again, keep in mind in some cases can be well over half of our cost. If that price goes up due to a volatile market, a short supply here in the United States, we're stuck with that price. Generally price increases are not tolerated in our industry.

So again, it goes back to the predictability and sustainability of our industry. We know what we've been through in the last five years. We certainly don't feel our industry could sustain that for an additional five years.

MR. PIERCE: If I may very quickly.

SSI accounts for over 95 percent of the Thai shipments into the United States market. And on the price issue, and something you asked about actually last week, one thing SSI has done and why it has no dumping order, it has learned to drive 55, if you will. It has learned how to sell at non-dumped prices. How to keep the U.S. prices high and ensure that it's not dumping through internal pricing mechanisms and monitoring.

So this is a company that has internalized the law, learned to drive at the speed limit, and control its prices so that it's not dumping, and that's why the order was revoked.

CHAIRMAN PEARSON: Let me clarify.

Did they implement accounting systems that were designed to try to estimate what the Department of Commerce might project on any individual sale, whether or not it was dumped?

MR. PIERCE: Yes.

CHAIRMAN PEARSON: So the order was revoked for that --

MR. PIERCE: For that company.

CHAIRMAN PEARSON: Okay.

Back to the domestic purchasers. Based on what you know about steel from various companies and various countries, what steel would you prefer? What would be your preference to use in your operation?

Is there some steel you would avoid? Some companies you would avoid?

MR. GREEN: Obviously when we had bought in the past and we knew it was imported steel there were trials that we would do and make sure that it did meet the same requirements.

I'll say right now, the steel I prefer to buy is U.S. steel. But it is a world market today. We have to be open to that. We know there are going to be steel coming in from other countries.

What we had really found in the past, to my understanding, is for example the better quality steels that we would maybe use in the automotive were brought in, but the other steels that were brought in from let's say the other countries were brought in, for example we have a company we work with that they make shells. So he could care less what kind of grade material that is. I do have to care about the grade of the material.

CHAIRMAN PEARSON: Thank you. My red light is on.

Madame Vice Chairman?

VICE CHAIRMAN ARANOFF: Thank you, Mr. Chairman.

Mr. Bruno, just one follow-up for you. Oh, I'll come back when he gets back in the room.

I'll continue my conversation then with the three purchasers who are here that the Chairman was having.

In your direct testimony you indicated that there were some instances in 2004 and 2005 where domestic producers breached contracts with you for supply of hot-rolled steel. I wanted to, to the extent it's not confidential, get some more detail. The word breach has a pretty specific legal meaning.

Can someone explain to me what happened? Was there a contract with a fixed price term where the price was not honored? Was there an adjustment mechanism that was invoked? Did it have to do with the volume that was supplied? What can you tell me?

MR. GREEN: In our particular case in 2004, in December of '03 we started our annual contracts at that time. In probably about September of '03. Then based on the fact that you have to allow a good eight to twelve weeks to allow the new material source, if you're going to resource, to prepare for this, you start early.

We by then already knew who each of our sources were going to be for the '04 calendar year.

On December 5th of '03, I think it was, we had already been issued a letter by one of our service centers that the mills would not honor their contract whereas in they would not be able to honor ours; or basically put it in the form of there's going to be a surcharge added to those particular materials.

It basically went on, as I had indicated, by March of that year every one of our contracts with every one of our suppliers had been broken and we were just forced to absorb at that time those surcharges which each month, at least the deal we worked with our suppliers, each month that was a variable number that we had to discuss and see which portion we could absorb. We could maybe work a deal with our customer. We credited our customers for scrap because scrap prices were up at that time.

VICE CHAIRMAN ARANOFF: What you're describing is basically kind of an across the board canceling of contractual agreements, the fixed price. I guess my question to you is, did people sue each other? This all just happened and no one did anything? You didn't see an alternative?

MR. GREEN: We were kind of stuck in a hard place during that time. If people in our industry forced it onto per se the big boys, yeah, they were sued. Did we in our particular case sue anybody or do I know of anybody in our industry or in a situation similar to ours sue anybody? No. In the end I still need steel. It's fine ground there.

MR. EMERY: If I may just comment.

Very much like was just testified to, we had similar situations where we had prices established with agreed-upon time limits and when availability was tight, prices began to go up. There was just no avoiding the fact that we were charged with price increases, contracts or no contracts.

Did anybody get sued? We're small users. I know there were some very intense negotiations at a much larger level, particularly with the OEMs and some of the steel markets. In our case and I think in the case of most of the folks here today, we deal with service centers who buy directly from U.S. mills or bought imported materials. In this particular case the mills raised their prices to the service centers. The service centers in return raised their prices to us.

Availability was a big issue in that particular time. We simply couldn't go somewhere else to get the steel. If we didn't want to take it at that price they were happy to sell it to somebody else at the higher price. So were contracts broken? Yes, they were. The answer is clearly yes, they were. I think every one of us could make the same statement.

VICE CHAIRMAN ARANOFF: And would you say that since that time, because you all testified that you don't really buy on contract any more. That that was the point at which practices changed?

MR. EMERY: I would say at that particular time the negotiated lengths of contracts were certainly changed, for a couple of reasons. They will give you longer contracts but usually at a much higher price than what the market really is today. So we have to speculate to some degree. That's what caused that. That's what drove it.

Mr. KNEDGEN: Vice Chairman Aranoff, the situation at E&E was exactly the same as was just testified to, in duplicate.

VICE CHAIRMAN ARANOFF: All right. I appreciate those answers.

Mr. Bruno, since you're back let me go back to the question I was going to ask you.

I asked the domestic industry yesterday to take a look at Exhibit 6 to Mittal's brief which listed a number of additions or expansions to capacity for various subject producers, and particularly with respect to the Chinese producers I wanted to ask you if you could also take a look at that and try and give me a sense of all of those sort of announced projects or things reported in the press. Where has ground been broken, where are things going to come on line by at least 2009 or maybe a little bit beyond that that we can really see as likely.

MR. BRUNO: We will do so in our post-conference submission.

VICE CHAIRMAN ARANOFF: Okay. Thank you very much.

I hardly know whether I want to go to this question, but I'm going to give it a try.

In the corrosion case the auto producers appeared here and argued before us that while they didn't really want to buy subject product, just the threat of its being available would help them to negotiate more advantageous contract terms with the domestic producers. I wouldn't want to imply that they're non-appearance today had anything to do with what we said about that argument in our corrosion views, although it might.

But to the purchasers who are here, I guess my question is, would revocation of these orders or particular ones of these orders give you or your auto producer customers the opportunity to get more advantageous contract terms than those of which you've been complaining of late?

And if so, how could that be enough to help you without being a material harm to the domestic producers?

Does anybody want to take a shot at that? Too big a question?

MR. PIERCE: Sure. These particular purchasers don't buy in that type of quantity where I think it's going to make a difference as far as the leverage goes.

What you may want to do, the Commission of course is free to ask questions of any party that has submitted a brief. There's no reason why you can't pose that question directly in writing to the automobile producers who did file a brief in this case to response to it.

VICE CHAIRMAN ARANOFF: I knew asking that question might not get me anything useful.

(Laughter).

Let me ask the purchasers this. The Argentine industry is arguing that they produce to these sub-ASTM standards. It's always been my understanding that ASTM standards were kind of a global floor. Is there really sub-ASTM material in the market? Either in the U.S., are you familiar with it being in the market any where?

MR. EMERY: Yes, there is. In the automotive sector it's certainly not widely used. ASTM standards are strictly adhered to in our market. I think in some of the construction grades and other grades, it may be allowed.

VICE CHAIRMAN ARANOFF: Mr. Green, you said you have customers who are outside of the automotive sector? I think you said that.

MR. GREEN: No. Primarily, we do have customers outside that sector but what I'd indicated to is I know a gentleman that has another facility that they build shelving and that. To him, whatever he can find the cheapest, that's what he'll grab and make his parts out of. But if that materials's available to him, he's taking less from the material that we're using at that time possibly. But again, a small factor.

VICE CHAIRMAN ARANOFF: Okay.

One last question I had and I asked this to the domestic producers yesterday. The Thai Respondent's brief points to the World Steel Dynamics predictions about a real surge in prices in late 2007 or early 2008. I asked the domestic producers yesterday and they told me they took a very dim view of the accuracy of predictions put out by World Steel Dynamics, that there was a 50/50 chance they'll be right.

I guess I give you a chance to respond to that and also ask what else we have on the record or could have on the record that would corroborate that view of the market.

MR. McCULLOUGH: Matt McCullough, Vinson & Elkins.

I thought it was kind of funny yesterday. They pooh-poohed the World Steel Dynamics numbers, but then came right back around to World Steel Dynamics when it was time to talk about Chinese capacity. And oh, well, these numbers are good but these numbers are not good.

I would point out a couple of things about the World Steel Dynamics data. They also run a series called Steel Benchmarker where I think they even have a letter of intent right now with NYMEX where those prices and what they track are going to be used to close futures contracts. So there's a lot of faith put in the World Steel Dynamics numbers.

Now I know he's projecting forward, but I would also point out I think some of the data on the record that's proprietary that the Commission has collected is consistent with price increases; it's consistent with demand growth which will drive price increases, which is consistent with a lot of other publicly available information. Even today from Mittal about improved supply conditions in China, U.S. supply/demand equilibrium, with shipments and pricing expected to improve in the second half of 2007. That's Mittal. Steel Dynamics. Their second quarter results also said prices should improve, shipments should improve. U.S. Steel, second quarter results also said prices and shipments should improve.

I've already talked about people adding capacity in this market. In the downturn, when it's been soft in '07, they're making those announcements then because they know that the market is going to be good.

I pointed to Thyssen and SeverCorr on that accord, but I think also yesterday California Steel Industries was mentioned. Their new capacity expansion. When was that announced? It was announced in June 2007. Why? Because there is, I love the word too, it comes right out of the statute, foreseeable growth in the Western U.S. market justifies this additional capacity.

VICE CHAIRMAN ARANOFF: It's too bad volcanic price changes aren't in the statute.

(Laughter).

MR. McCULLOUGH: We can't have everything.

VICE CHAIRMAN ARANOFF: Thank you very much.

CHAIRMAN PEARSON: Commissioner Okun?

COMMISSIONER OKUN: Thank you. I think I just have a couple of issues left.

Mr. Pierce, in answer to questions during your testimony you had talked about what the exchange rates might mean for the reasonably foreseeable future, and the Commission during my time here has looked at and sometimes put them in. We've had parties make various arguments about them. Obviously currency's an important issue.

But I think what I'd ask for post-hearing, in the Skadden Arps brief, Volume 2, Attachment A, pages 11 through 12, they have simply talked about the pass-through of exchange rates to import prices had been declining over time essentially for the steel industry so the depreciation, the value of the dollar translates into less than an equivalent increase in the price of the imported products.

I wondered if you could, you can address that now, but also, and if other counsel have thoughts on that and how we should evaluate where we think exchange rates will be in the reasonably foreseeable future, I'd appreciate that.

MR. PIERCE: Sure. We'd be happy to address it in the post-hearing brief. That's the Brattle report, I think it was part of. That's the report that based all their arguments on AUVs through the end of 2006, and before the inverse relationship change so that the U.S. prices are less than world prices, thereby undermining all of the conclusions of that report.

On the exchange rate part and the pass-through part, they're obviously anticipating the arguments about the weakening dollar as against the AUVs. We'll address that in particular on the economics basis on what type of pass-through there should be for exchange rate dollar weakening.

COMMISSIONER OKUN: I appreciate that.

A final question, cumulation which maybe I'll have better luck than I had yesterday in ending on it. Maybe you'll at least let me get my question out.

I would note in the Vinson & Elkins brief on page four it just struck me, and this is more of a personal comment a little bit I guess on how we talk about the statute.

The first line of your brief says, "Under the statute decumulation in the sunset review is discretionary."

As I indicated in the dialogue I had with

Petitioners' counsel, I spent a long time looking at that cumulation statute and I think if you don't start with the view that what the cumulation statute says is that cumulation is discretionary --

I mean if you start with the sentence you have here, then I think it's much much tougher. I think that assumes you cumulate and therefore you have to figure out a way to pick people off. That is not how I think the statute in fact is written.

MR. PIERCE: I have given this thought and I take your point.

The problem with approaching it the other way is that cumulation is not really discretionary because there's a threshold. You have to have the reasonable overlap in competition. You have to meet the four factors before you can even address cumulation. You have to have a discernible adverse impact before you can have cumulation. In my view you have to not have a country involved against which you've used adverse facts available. So it's really not in that sense cumulation is discretionary, because there's thresholds that have to be met. You can't just decide to cumulate.

On the other hand, decumulation is completely discretionary in the sense that even if you have a reasonable overlap in competition, even if you have more than a discernible adverse impact, and if you have the involvement of a country with adverse facts available, in any of those instances you can decumulate. In fact if you have a country with adverse facts available you have to decumulate.

So I take your point. That is the normal way to approach it and that it's looked at. But technically, logically, you've got thresholds you have to get over before you cumulate. You don't have any thresholds you have to clear before you don't cumulate. Therefore decumulation, in my view, is discretionary. That's why I phrased it that way.

COMMISSIONER OKUN: Interesting. I still take a different view, but another one the Court may talk to.

MR. PIERCE: I hope not.

(Laughter).

COMMISSIONER OKUN: I did want to note, and obviously I've been up here seven and a half years so I understand why counsel continues to make new arguments because you have a changing set of Commissioners and in particular with something like cumulation in the sunset where it's discretionary, Commissioners may come to a different view so you should argue. I'm not saying you shouldn't argue these different things.

I would point out perhaps for the benefit of

Commissioners who joined after I did, that on the issue of whether or not you should use participation or non-participation as a reason to cumulate, the Commission, I was in the majority at that point, did address that and I don't know if you looked at that in Stainless Steel Sheet and Strip from Germany, Italy, Japan, Korea, Mexico and Taiwan, and found that it was not a reason, it was not a cumulation consideration that we were going to consider because we didn't view it as falling under adverse inferences if you weren't otherwise, I'm always making decisions based on the information in the record that's available to me.

MR. PIERCE: That's how you dodge the issue of well, we're going to --

COMMISSIONER OKUN: Now we're dodging.

(Laughter).

MR. PIERCE: If you had called it adverse inferences rather than facts available then you would have run into the statutory problem of taking adverse inferences against Country X, cumulating it with Country Y, and then therefore taking the adverse inference in effect against Country Y. Instead, in the Stainless case you mentioned, it was, it was facts available, it wasn't called adverse facts available.

In this particular case Petitioners are calling for "adverse facts available", "adverse inferences" against the non-participating countries.

And cumulation of those countries with everybody else.

You can't do that, in my opinion, under the statute. If you take adverse inferences against a country you cannot cumulate that country because you would be taking adverse inferences in effect against other countries.

COMMISSIONER OKUN: I understand what your point is. Again, I think we addressed it, given how, still in my view of how we would address adverse inferences, that it was the information available and therefore wasn't a reason not to exercise a discretion to cumulate in that or not cumulate in that as the case may be.

With that, I will not prolong the cumulation discussion any longer. I very much appreciate all the responses you've given on this matter and others and look forward to your post-hearing briefs.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Lane?

COMMISSIONER LANE: I have a few questions for Mr. Bruno.

Would you tell me first who makes up the China Iron and Steel Association?

MR. BRUNO: Commissioner Lane, this association consists of hundreds of steel companies in --

COMMISSIONER LANE: I'm sorry, could you talk into your mike a little bit more?

MR. BRUNO: Yes, I'm sorry.

They are members, the members of this association include steel mills, iron companies which are copper products which are outside the scope of this investigation. It covers essentially all steel companies that produce any type of steel products.

COMMISSIONER LANE: You may have answered this earlier, and if so I apologize, but it won't hurt to ask again.

Yesterday the domestic industry made references to what they thought the capacity of the steel industry was in China and apparently maybe they were using BPI information so I won't use those numbers. I guess somebody will probably come up and strike those numbers from my notes because I took very careful notes.

Also the domestic industry criticized the numbers that the staff was using for the capacity of the Chinese steel industry.

What I'm going to ask you, and like I said, you may have already agreed to provide this. Since you are representing Baosteel and the Chinese Iron and Steel Association, I'm assuming that you have access then to the total capacity of the steelmaking industry in China. Could you please provide those in your post-hearing brief?

MR. BRUNO: I will do my very best to provide this information. I have to caution you, though, that those numbers even in China are hard to come by. But we will provide our estimate, if you will, of the capacity for that industry.

COMMISSIONER LANE: I would appreciate that. I'm looking forward to reading that in the post-hearing brief.

I just have a couple of questions to the industry as a whole relating to raw material and energy prices which we have seen in the domestic industry have increased during the period of review.

Could you tell me if the subject countries face the same raw material and injury price increases? If so, how have these increase impacted the subject producers' operations?

MR. PIERCE: Ken Pierce. I can speak with respect to Thailand.

We have to import all our slab, and we import 80 percent of our scrap. So to the extent that prices for these inputs have increased on the world level, they've increased for Thailand and that's caused us to increase our prices as we showed on one of our slides. As the slab costs and the scrap costs have gone up, our prices have had to go up for our end product as well in order to maintain the metal margin.

COMMISSIONER LANE: Yes, sir.

MR. SPAK: Commissioner Lane, this is Greg Spak.

I can just say, referring to our questionnaire responses Siderar in Question 3-5 where we addressed this issue, we did provide some pricing information.

COMMISSIONER LANE: Thank you.

Anybody else want to respond to that? Mr. McCullough?

MR. McCULLOUGH: Commissioner Lane. On this issue of raw material prices and escalating prices, I think you've seen over the period of review that there has been the ability, looking at the domestic industry now, to actually use the increases in raw material prices to push prices even higher than those costs. So you've seen actually the spread and the margin increase even during periods even when raw material costs are going higher.

Looking forward, and again I revert back to some of the analyst reports, there's some belief again that in times when metallics and raw material prices, supply gets tight and prices go higher, it has been and will be an opportunity for the mills to actually increase prices higher than those costs and get a better return.

COMMISSIONER LANE: In your opinion have the raw material prices in both the United States market and the global market peaked?

MR. McCULLOUGH: What I have seen, and I think what is on the record, is some anticipation that iron ore prices are going to increase. And that scrap costs may also increase. This tends to be a global phenomenon. It's not unique to the U.S. industry. So I think you're going to see price levels globally increase.

Going back to the pricing volcano, I have to return to that a little bit because in fact that's exactly what happened in 2004. Prices went to $800 a ton and higher for hot-rolled steel because consumption of inputs increased at such a tremendous rate, input costs increased at a tremendous rate, steel got tight and prices went through the roof and so did the profit margins.

What people are seeing on the horizon into 2008, again, is global demand, particularly from emerging markets, consuming a lot of steel just like China did in late '03 and '04, that are going to push supplies of metallics, eat up supplies of other inputs, and raise the price of steel substantially.

So yes, I think the idea of a pricing volcano, I understand the term brings some chuckles, but what they're talking about is pricing that you may see get back up above $600 a ton, maybe not to the $800 a ton you saw in 2004, but I think it's a very real situation.

COMMISSIONER LANE: Thank you.

Did anybody else want to add anything to that?

Mr. Pierce? No, okay.

Mr. Chairman, with that I don't have any further questions. I want to thank this panel for their answers and cooperation.

CHAIRMAN PEARSON: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Mr. Chairman, I have no further questions, and I too want to thank the panel for the information they provided today. Thank you.

CHAIRMAN PEARSON: Commissioner Pinkert?

COMMISSIONER PINKERT: I join my colleagues in thanking the panel and I look forward to the post-hearing submissions.

CHAIRMAN PEARSON: Gosh, I do have a couple more questions. Is that okay?

(Laughter).

Mr. Spak, can you clarify, how is Argentine hot-rolled steel shipped to Mercosur customers? Is it done by rail? Is it put on a vessel and shipped by water?

MR. SPAK: I would have to check to confirm this, but I believe a lot of it is done by truck and rail.

CHAIRMAN PEARSON: You noted that there are no tariffs on the hot-rolled steel trade within Mercosur, correct?

MR. SPAK: That's correct.

CHAIRMAN PEARSON: In the event we would revoke these orders there also would be no tariff on Argentine hot-rolled steel coming into the United States. So what I'm trying to understand is would this lead Argentine producers to see the U.S. market as very similar to the Mercosur market? Kind of something that is available without restriction and to be considered like the home market?

MR. SPAK: I don't think so. At least not in anything we can foresee in the reasonable future. It is an issue of not only cost and expense of getting the product to market, but also a number of technical product characteristic issues that we've raised. Not only the issue of the non-ASTM standard, but also the skin-pass limitations that they have on their capacity. And the coil weight issue, which is also very important.

I think our main message that we want to get through here is that this producer is set up to do exactly what it's doing, which is supplying the domestic market and the regional market that it's supplying very well. That's the reason we don't see this having a significant impact on the exports.

CHAIRMAN PEARSON: You did make an argument on behalf of a finding of no discernible adverse impact with respect to Argentina. I've been known at times to look favorably on that concept. Perhaps you'd have a chance to look through some of the previous instances in which I've made a no discernible adverse impact finding and contrast it with this situation in Argentina. As I sit here, having benefited from two days of learning, I'm not quite sure how I would rank it in contrast to how I've applied the concept before.

MR. SPAK: We understand that. We'll brief it but again I want to make clear, and I think it is clear to the Commissioners, that we don't see that as ending the inquiry on Argentina, obviously, because we believe that the statute allows for an analysis of conditions of competition after that initial finding, and the court has upheld you and you have discretion to decumulate, or you have discretion to cumulate after that stage on the basis of which you've done.

We will brief that, Chairman Pearson, but we urge you to continue to consider the context in which the product would compete in the U.S. market if there were any such imports.

CHAIRMAN PEARSON: I'm very pleased to remain open minded pending the filing of post-hearing briefs, and look forward to seeing them.

Are there any other questions from the dais?

Mr. Pinkert?

COMMISSIONER PINKERT: Mr. Spak, I'm prompted by that last answer to follow up and ask that when you analyze the no discernible adverse impact cases, please pay attention to questions of industry capacity and whether or not that was a relevant factor in those analyses.

MR. SPAK: We will do so. Thank you.

COMMISSIONER PINKERT: Thank you.

CHAIRMAN PEARSON: Seeing no further questions from the dais, do members of the staff have questions for the Respondent's panel?

MR. ASCIENZO: Yes, this is John Ascienzo, Office of Investigations. I have a question I think for Mr. Durling, but I'm also going to ask the domestic industry counsel to respond.

Mr. Durling, sir, I think it was you that said that the Commission's current practice of valuing sales of non-commercial product at fair market value came about as a result of 1992-1993 steel investigation.

MR. DURLING: yes, it certainly was a very contentious issue in that case and it went to court and it was actually the two court cases that I cited on the slide that addressed different aspects of captive consumption. So it was a major, major issue in '92 and '93.

MR. ASCIENZO: Could you place any of those documents on the record in your post-hearing brief? Or they're already cited, I'm sorry. To the extent that it exists it's already cited?

MR. DURLING: We could certainly put the court cases on the record to make them easier to access and we also will look for anything else in the historic archives. I guess we have the advantage that we've been fighting these battles with the integrated steel industry for as long as I can remember. We were fighting these battles when I started doing this stuff 25 years ago, and we're still fighting these battles.

So if we can collect historical information that will help shed light on that, we'd be happy to put it on the record for you.

What most struck me about my exercise in history was the realization that back in '92, '93, we were in exactly the same position. The domestic industry arguing do it based on cost, do it based on cost. The Commission tried valiantly to get them to give you the information to consider alternatives, but the attitude was kind of the typical steel industry kind of do it my way or else, so they didn't give you the information. In fact Judge Responi in her decision specifically quotes a letter provided by U.S. Steel where she characterizes it as a direct refusal to provide the information the staff tried to collect.

So we're kind of where we were in '92, '93. They're coming in arguing for cost. They're now trying to back away from that. But they're not giving you the information. Complete, consistent, verifiable, reconciled information on the profitability of the downstream industries. So they can't ask you to develop a method if they're not going to give you the information. They didn't in '92, '93. Maybe they'll put it on the record this time.

MR. ASCIENZO: Thank you very much. Make sure you handle this in your post-hearing brief. And also the domestic industry.

Thank you very much.

And to the extent that what you're citing is ITC publications, you don't have to provide copies, just cite to it.

Thank you very much. That's all I have.

MS. TURNER: Robin Turner, Office of the General

Counsel.

I have one question. It's first directed to Mr. Pierce but then I would ask counsel for all the domestic parties as well as the Respondent parties to please address this. This has to do with the cumulation, the actual, the discussion you just had with Commissioner Okun regarding a statement I believe you made that said that the statute does not permit the Commission to cumulate when in fact the Commission has found adverse inferences against a country.

What I'd like for you to do is to please in your post-hearing brief provide support for where in the statute that prohibition is, as well as any case law, as well as briefing basically where you find support for that.

MR. PIERCE: We'd be happy to. It's Section 776(b) which says that the Commission may use an inference that is adverse to the interest of that party. Meaning I don't see how you could use the adverse inference against another party, which you would be doing if you cumulate it.

We'd be happy to brief it for you as well. But it's based on that statutory hook.

MS. TURNER: Okay. If you could actually tie that to the cumulation provision itself, because I would take from that argument that you would mean that anything that is part of the case that there's an adverse inference against couldn't be used in any other part of the case.

MR. PIERCE: That's correct. You cannot take an adverse inference against, who's not here, India, which is going to lead to an affirmative determination against India, cumulate it with everybody else, and sink everybody else just for, or float everybody else depending on how you look at it, just because India didn't participate. I don't think the statute allows that.

The adverse inference has to be directed at in effect the non-cooperative, non-participating party and can't spill over and poison or taint the determination for everybody else.

We'll spell it out in the brief, but that's the essence of our argument.

MS. TURNER: And if there's a distinction between the adverse inference and the facts available, can you also brief that?

MR. PIERCE: I think there's a real difference between the two of them and that's what I talked about dodging in the earlier cases. The discussion never says adverse in it in those cases. It talks about facts available in the record, which is very different than taking an adverse inference against somebody.

MS. TURNER: Thank you. There's no further staff questions.

CHAIRMAN PEARSON: I observe that we have quite an assemblage of counsel for the domestic industry here. Would any of you have questions for the Respondent's panel?

MR. PRICE: No questions.

COMMISSIONER LANE: I have another question.

CHAIRMAN PEARSON: I recognize Commissioner Lane.

COMMISSIONER LANE: I just want to observe that I think I've observed Mr. Pierce twice saying that Commissioner Okun is dodging the question.

(Laughter).

MR. PIERCE: No, she's referring to an opinion that dodged the question.

(Laughter).

MR. DURLING: Shall we call it skillfully sidestepping?

MR. PIERCE: Reconciling.

CHAIRMAN PEARSON: Before releasing this panel I want to thank you very much for your contributions to this lengthy hearing.

Mr. Opatumphun, thank you for traveling to be here. It's a long way from Thailand.

With that we will excuse this panel and prepare for closing.

The time remaining for those in support of continuation of the orders have seven minutes from their direct presentation for five for closing, a total of 12 minutes.

In opposition to continuation, five minutes remaining from the direct presentation, plus five for closing, a total of ten.

Counsel for the domestic industry, how do you wish to proceed? Do you want to just run 12 minutes straight, or do you want to break it up and do seven for rebuttal and five for closing?

MR. HECHT: I think we'll break it up.

CHAIRMAN PEARSON: Okay. Good.

I did not announce a break. Because of the need to get the computer organized, we can take about five minutes here to stretch. So do that, and don't stray too far away.

(Whereupon, a brief recess was taken.)

CHAIRMAN PEARSON: Okay, are we ready to proceed?

MR. BISHOP: Yes we are, Mr. Chairman.

CHAIRMAN PEARSON: Excellent. The lights are on a seven minute cycle for Mr. Hecht?

MR. BISHOP: Correct.

CHAIRMAN PEARSON: Please proceed.

MR. HECHT: Good afternoon. I'm Jim Hecht representing U.S. Steel and I would like to address a few key points.

There has probably never been a case in which you have no questionnaire data for such an enormous volume of capacity. You are in large part flying blind with respect to some of the world's largest steel producing countries -- China, India, Indonesia and Ukraine. Countries that could almost overnight change the dynamic in this market if given the chance.

Importantly, the other side has not challenged the capacity data that we presented from public sources.

Cumulation is absolutely critical in this case. Your exercise of discretion in determining whether to cumulate is not unbridled, but as the courts have found, must be anchored in the language and spirit of the statute. What is that language an spirit? First, that cumulation is a critical component of the trade laws. Second, that cumulation allows you to capture the actual affects of unfair competition. That is the fact that injury from a number of sources can be just as great or greater than from a single source.

Even if you do have discretion, why would you use it to mask the true effects of dumped and subsidized imports and thereby subject our workers and companies to increased unfair trade?

Congress has given you the authority and discretion to prevent such a result. The types of differences that have been used to decumulate countries in recent cases have nothing to do with the ability of those countries to cause cumulative harm to U.S. workers and companies. They are distinctions without a difference in terms of the intent of the statute and the purpose of cumulation.

We have talked about the fact that there is no reason to give special treatment to subject producers with U.S. affiliates. Here is a modified example of the chart we put up yesterday. This time assuming that dumped imports from a foreign affiliate caused the U.S. price to drop from $5.50 to $5.20. Even then and after considering the affect of the U.S. affiliate, it is still more profitable to dump.

The point is, there are enumerable situations in which this could occur, just as it did when the Kazakh mill dumped in the original investigation, notwithstanding its affiliation with a major U.S. producer.

The Thai producers tell you they are focused on markets in Asia. Last year Malaysia and Korea both sent enormous volumes of hot-rolled steel from Asia to this market. Indeed, the only major steel producers who are not active here are the ones under order. Everyone wants to be here and all the subject producers will return if the orders are revoked.

The Thais say that they are different from other subject producers because they are a net importer of hot-rolled steel. But this fact did not prevent them from causing injury in the original investigation. Nor has it prevented them from significantly increasing their exports of hot-rolled steel over the period of review.

Here you can get a preview of what the Thais would likely do upon revocation. Based on this monthly import data from '05 to '07 you can see that unfair trade orders largely kept high producers out of the market.

In May 2006, however, there was a conditional revocation of the antidumping order on SSI and the result was that Thai producers promptly shipped over 100,000 tons of hot-rolled steel to this market in a single month. These imports then receded, but only after the effects of a court decision making clear that the CFD rate for Thailand would be increased significantly.

Clearly these unfair trade orders are the only thing preventing major shipments from the Thai mills.

The other side argues that World Steel Dynamics is optimistic about the steel industry, but here's that publication from a few weeks ago saying that it will likely take two more pricing death spirals before Chines conditions are likely to stabilize. WSD has also made clear that its assessment of China is premised on a forceful application of unfair trade laws. That is that agencies like this Commission strongly enforce the rules. Under any scenario, Chinese producers free to dump in this market would cause massive injury.

Respondents made several references to strong demand. Let's put that in perspective.

As you can see here, overall demand for this product is essentially flat. Some years are better than others, but demand has not returned to the levels seen in 2000 when subject imports last flooded the market.

Respondents also referred to the domestic industry's so-called pricing power. Here are spot prices for every month since the beginning of 2004 when Respondents claim this new paradigm began. As you can see, prices fell sharply after the last hearing on hot-rolled steel in March 2005, just as domestic producers suggested, and have trended downward since their 2004 peak, even while costs were increasing.

Public data from today suggests that prices have fallen below $500 a ton for August sales. This is not a picture of a market with pricing power.

Respondents also talk about how concentrated this market is. But just to remind you, despite the changes since 2001, this market remains highly fragmented.

Respondents contend that they can find better markets elsewhere, but even aside from the enormous levels of excess capacity that could immediately be directed to this market, this shows that last year subject producers exported over 20 million tons of hot-rolled steel. By diverting only a small fraction of this amount to the highly attractive U.S. market, these countries could exceed the volumes that caused injury in 2000.

You see here the average AUV for those 20 million tons of exports, which was $150 a ton below the average spot price in the U.S. market.

The fact is there would be an enormous incentive to divert shipments to this market, and that is exactly what would happen.

In conclusion, we are aware of no previous case in which subject producers could draw upon such an enormous volume of excess divertible and new capacity to overrun this market. Please do not let that happen. Keep all of the subject orders in place.

CHAIRMAN PEARSON: Thank you, Mr. Hecht.

Mr. Pierce, do you wish to provide five minutes of rebuttal? Or should we go to closing by the domestic industry?

MR. PIERCE: Closing by the domestic industry, please.

CHAIRMAN PEARSON: Fine.

Mr. Price? Welcome. You may proceed when ready.

MR. PRICE: Chairman Pearson and members of the Commission, I would like to thank you for your time and attention in this matter. I'd also like to thank the staff for its diligence and professionalism throughout this investigation.

We respectfully request that the Commission make an affirmative determination as to all subject countries in the review. Most of the broad arguments of Mr. Pierce on flat-rolled steel frankly have nothing to do with hot-rolled steel and are irrelevant. Remarkably, none, I repeat none of the ten subject countries made available to you an actual industry mill executive as a witness here.

Basically you heard a lot of hot air from paid attorneys like Mr. Pierce. Attorneys and government officials are not substitutes for actual mill executives to tell you what their intent and likely behavior will be.

Even worse, to be blunt about it, there are many Chinese mill executives in DC for bilateral dialogue, and it's shocking that none of them are here.

Now let's turn to the evidence that we have.

The record demonstrates the following facts. In 2006 all the subject countries had approximately 50 million tons of excess and divertible hot-rolled capacity. An amount that's about ten times greater than the volume that caused material injury in the original investigation.

Vice Chairman Aranoff, our divertible capacity argument is not based upon product shifting. This excess and divertible capacity is getting worse. The volume of new capacity coming on-line in the subject countries will far out-strip any increase in demand, and this phenomena is not, I repeat not limited to China.

The United States is an attractive market. It is the second largest and most open hot-rolled market in the world. While there are isolated periods where other markets may have higher prices, over time the record shows the United States offers an attractive combination of price, volume and access.

The domestic industry does not have to prove that the U.S. market has the highest hot-rolled prices of any time. The bottom line is that the United States is attractive enough for substantial volumes of subject imports to shift here upon revocation, and they will do so.

Making matter worse, demand for hot-rolled steel in the United States is softening and this has already had an affect on the U.S. producers. There's a big difference between the price increase announcements Mr. Pierce flashed upon his screen and the actual prices received by producers. SBB reports that prices are down substantially.

Many U.S. companies foresee weak hot-rolled demand into the future. Allowing unfair imports back into the U.S. market will make conditions for the domestic producers materially worse.

As Mr. Hecht said, all of the subject producers should be cumulated for the purposes of this investigation because they meet the language and intent of the statute. There would be a discernible adverse impact from each of the subject producers.

Controlling just one or two countries will not stop a cascade of imports flowing from massive excess capacity.

Thailand itself is projecting that it needs to double exports in 2007 and 2008. It cannot withstand the impending surge of imports which is why they have issued

14 antidumping orders covering many of the subject countries.

Indonesia, an ASEAN country, is prosecuting 80 cases against China, Thailand and Taiwan as we speak. And look at Skadden Arps' Exhibit 90. It shows that Chinese exports to ASEAN countries are surging and several times that of the amount of Thailand.

We believe that all countries should be cumulated.

In conclusion, if the orders are revoked imports from the subject countries will enter the United States in significant volumes and those imports will have significant affects on the price, on the U.S. market. Revocation would have a negative impact on the domestic hot-rolled industry. Sales volume, prices and profits would all fall. More importantly, the industry's nearly 25,000 production workers will suffer harm. They will lose hours. They will lose wages. And hundreds of thousands of retirees who depend on their VEBA health insurance will be harmed.

For these reasons we ask that the commission not revoke the subject orders.

Thank you.

CHAIRMAN PEARSON: Thank you, Mr. Price.

Mr. Pierce?

Would you prefer the clock run ten minutes straight, or do you want it bifurcated into two five-minute segments?

MR. PIERCE: Thank you, Mr. Chairman. This will be pretty quick. I think they're finished, so I can finish pretty quickly.

CHAIRMAN PEARSON: Okay, please proceed.

MR. PIERCE: Ken Pierce, counsel for Thailand.

Keep in mind the domestic mills profit rates -- 24 percent, 14 percent, 15 percent the last three years, 22 percent return on investment, something Petitioners don't really talk about, haven't talked about in this hearing.

They also haven't given you any of their business plans, have they? Hmm. Nothing in writing about how the market's going to tank. Nothing in perhaps their lending and financing saying that the financing will be canceled if these orders don't stay in effect. They don't give you those things in writing. They don't give you those types of internal documents because frankly, I don't think they exist and it would undermine their case. That's why they withhold them in this case and they have in every case.

They seem to be resting their case on a carum shot. Well, take adverse inferences against those countries that didn't participate, that didn't give you information, then cumulate and go affirmative against everybody.

I don't think you can do that one, under the statute; and two, in the exercise of your discretion I don't think you should do that. In fact the language of Allegheny Ludlum I think should be read and studied by you in considering not to cumulate where the court says, "Congress intended the agency to have such discretion as a fairer way in which to review the impact of foreign imports on the domestic industry."

It would hardly be fair to the participating countries to have them all go down because some non-participating countries had adverse inferences against them.

Lastly, with respect to Thailand, SSI, the largest exporter from Thailand, over 95 percent of the exports come from SSI. Demonstrated no dumping. Actually had the order revoked by the Commerce Department. That's the first time that's ever happened for a flat-rolled steel product for a revocation for three zeroes. They did ship then to the United States, and Petitioners tried to claim dumping in a changed circumstance review to reimpose the order, and the Commerce Department denied that request because there was no evidence of dumping.

As to the CVD rate for Thailand, it remains at 2.38 percent. That is the deposit rate. It is extremely low.

So with that, I would conclude my remarks. I want to thank you all for the time and attention. It's always a pleasure to appear before this Commission. You study the record hard, you ask what I think are the right questions, and sometimes hard questions for all sides, and that's very much appreciated. I thank you for the time.

I would urge you to vote in the negative in this sunset review.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Thank you, Mr. Pierce.

Thanks to all who participated in this two-day hearing.

Because we have not done a two-day hearing like this for a single antidumping countervailing duty review, investigation, if you have thoughts on whether we should consider using this format again or whether we should not, please let us know. Communicating with the secretary would probably be fine. As a Commission we very much wanted to do what would seem to work best for the most people.

I note that all Commissioners have survived, so perhaps it was a success.

Now Madame Secretary, I may read the closing statement?

MS. ABBOTT: Yes, Mr. Chairman.

CHAIRMAN PEARSON: Good.

In accordance with Title 7 of the Tariff Act of 1930, post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by August 23, 2007.

Closing of the record and final release of data to the parties are due on October 2nd.

Final comments are due October 4, 2007.

Thank you very much. This hearing is adjourned.

(Whereupon, at 1:53 p.m. the hearing was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Hot-Rolled Steel Products

INVESTIGATION NOS.: 701-TA-404-408, 731-TA-898-903 904-908 (Review)

HEARING DATE: August 1, 2007

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: August 1, 2007

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos E. Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter