UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**) Investigation Nos:**
STAINLESS STEEL SHEET AND STRIP	**) 701-TA-557 AND 731-TA-1312**
FROM CHINA	**) (FINAL)**

Pages: 1 - 192
Place: Washington, D.C.
Date: Tuesday, January 31, 2017

Ace-Federal Reporters, Inc.
Stenotype Reporters
1625 I Street, NW
Suite 790
Washington, D.C. 20006
202-347-3700
Nationwide Coverage
www.acefederal.com

UNITED STATES OF AMERICA

BEFORE THE

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:	) Investigation Nos.:
STAINLESS STEEL SHEET AND STRIP	) 701-TA-557 AND
FROM CHINA	) 731-TA-1312 (FINAL)

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

The meeting commenced pursuant to notice at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Rhonda K. Schmidtlein, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

Chairman Rhonda K. Schmidtlein (Presiding)

Vice Chairman David S. Johanson

Commissioner Irving A. Williamson

Commissioner Meredith M. Broadbent

Commissioner F. Scott Kieff

Staff:

Lisa R. Barton, Secretary to the Commission

Sharon Bellamy, Records Management Specialist

Tyrell Burch, Legal Document Assistant

Michael Szustakowski, Investigator

Karen Taylor, International Trade Analyst

Aimee Larsen, International Economist

Nabil Abbyad, International Economist

Jennifer Brinckhaus, Accountant/Auditor

Benjamin Allen, Attorney/Advisor

Douglas Corkran, Supervisory Investigator

Congressional Witness:

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

Opening Remarks:

Petitioners (Kathleen W. Cannon, Kelley Drye & Warren LLP)

Respondents (Jeffrey S. Neeley, Husch Blackwell LLP

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

Kelley Drye & Warren LLP

Washington, DC

on behalf of

AK Steel Corporation

Allegheny Ludlum, LLC d/b/aATI Flat Rolled Products

North American Stainless

Outokumpu Stainless USA, LLC

Terrence L. Hartford, Vice President for ATI Defense, Allegheny Technologies Incorporated

Geoff Pfeiffer, General Manager, Specialty Steel Sales, AK Steel Corporation

Dan Lebherz, Manager, Specialty Products & Markets, AK Steel Corporation

Chris Lyons, Vice President, Commerical, North American Stainless

Stephen J. Letnich, Vice President of Sales for Coil Americas, Outokumpu Stainless, LLC

Thomas Conway, International Vice President, United Steelworkers

Michael Kerwin, Director, Georgetwon, Economic Services

Brad Hudgens, Economic Consultant, Georgetown Economic Services

Kathleen W. Cannon, John M. Herrmann, David A. Hartquist and Grace W. Kim - Of Counsel

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

Husch Blackwell LLP

Washington, DC

on behalf of

ShanXi Taigang Stainless Steel Co., Ltd.

Baosteel Stainless Steel Co., Ltd.

Ningbo Baoxin Stainless Steel Co., Ltd.

Taiyuan Ridetaixing Precision Stainless Steel Incorporated Co., Ltd.

Ningbo Qiyi Precision Metals Co., Ltd.

Guanghan Tiancheng Stainless Steel Products Co., Ltd.

China Chamber of International Commerce

John P. Junker, General Manager, Tisco Trading USA, Inc.

Bruce Malashevich, President and Chief Executive Officer, Economic Consulting Services, LLC

Kathryn Kobe, Director of Price, Wage & Productivity Analysis, Economic Consulting Services, LLC

Jeffrey S. Neeley and Michael S. Holton - Of Counsel

Rebuttal/Closing Remarks:

Petitioners (Kathleen W. Cannon, Kelley Drye & Warren LLP)

Respondents (Jeffrey S. Neeley, Husch Blackwell LLP)

I N D E X

Page

Congressional Witness:

The Honorable Peter J. Visclosky, U.S. Representative, 1st District, Indiana 9

Opening Remarks:

Petitioners (Kathleen W. Cannon, Kelley Drye & Warren LLP) 11

Respondents (Jeffrey S. Neeley, Husch Blackwell LLP 15

Terrence L. Hartford, Vice President for ATI Defense, Allegheny Technologies Incorporated 18

Geoff Pfeiffer, General Manager, Specialty Steel Sales, AK Steel Corporation 24

Chris Lyons, Vice President, Commerical, North American Stainless 28

Stephen J. Letnich, Vice President of Sales for Coil Americas, Outokumpu Stainless, LLC 35

Thomas Conway, International Vice President, United Steelworkers 41

I N D E X

	Page
Kathleen W. Cannon - Of Counsel	44
John P. Junker, General Manager, Tisco Trading USA, Inc.	115
Bruce Malashevich, President and Chief Executive Officer, Economic Consulting Services, LLC	124
Rebuttal/Closing Remarks:	
Petitioners (Kathleen W. Cannon, Kelley Drye & Warren LLP)	180
Respondents (Jeffrey S. Neeley, Husch Blackwell LLP)	188

P R O C E E D I N G S

9:37 a.m.

MS. BARTON: Will the room please come to order.

CHAIRMAN SCHMIDTLEIN: On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation No. 701-TA-557 and 731-TA-1312 Final involving Stainless Steel Sheet and Strip from China. The purpose of these investigations is to determine whether an industry in the United States is materially injured or threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of imports of stainless steel sheet and strip from China.

Schedules citing forth the presentation of this hearing, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding time allocations should be directed toward the Secretary.

Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into the microphones, state your name for the record for the benefit of the court reporter. If you will be submitting documents that contain information you would classify as business confidential your request should comply with Commission Rule 201.6.

Madam Secretary, are there any preliminary matters?

MS. BARTON: No, Madam Chairman.

CHAIRMAN SCHMIDTLEIN: Very well, will you please announce our first Congressional witness.

MS. BARTON: Our first Congressional witness is the Honorable Peter J. Visclosky, U.S. Representative, First District, Indiana.

CHAIRMAN SCHMIDTLEIN: Thank you, Congressman Visclosky, before you get started I would just like to thank you publicly for your letter of support for the Commission's supplemental budget request that you made in November. We very much appreciate that.

STATMENT OF THE HONORABLE PETER J. VISCLOSKY

REPRESENTATIVE VISCLOSKY: I appreciate it and hopefully between now and the end of April Congress will finish its work on the Appropriations for 2017 and will continue my best efforts on their behalf. Now, Chairman and Members of the Commission, I appreciate the opportunity to again testify before you. It is a new year.

I do appreciate looking back on 2016 the

Commission's good work and attentiveness to detail. My recollection is that you deliberated on seven different steel-related cases last year that involved a total of 18 countries. Congress joined the last session, also approved two new laws so as to strengthen trade remedy statutes. We are in a new year but confronting very similar problems that remain much the same. We are needing to be very vigilant in 2017.

Last year I testified before you in three different steel cases involving Chinese Imports, one of which involved duties upwards of 215 percent. Today, a case involves the Country of China and stainless steel sheet and strip. The Department of Commerce has already indicated in its preliminary determinations just how egregious the actions in this case are by proposing dumping margins of up to 75 percent and subsidy rates of up to 193 percent. Further, the Commerce's decision to impose retroactive duties based on critical circumstances shows that these companies have a long history of disregarding our trade laws.

In conclusion, I know that you again will give careful and thoughtful consideration to all of the facts of law involved. I appreciate that and look forward to working with the Commission in the future.

CHAIRMAN SCHMIDTLEIN: Alright, thank you very much. Any questions for the Congressman?

(No response.)

CHAIRMAN SCHMIDTLEIN: Alright, thank you very much.

REPRESENTATIVE VISCLOSKY: Thank you.

CHAIRMAN SCHMIDTLEIN: We will now move to opening remarks.

MS. BARTON: From Petitioners Kathleen W. Cannon, Kelley Drye and Warren, LLP.

CHAIRMAN SCHMIDTLEIN: Welcome Ms. Cannon. You may begin when ready.

OPENING STATEMENTS OF KATHLEEN W. CANNON

MS. CANNON: Thank you and good morning Commissioner, Chairman Schmidtlein and members of the Commission and Staff. I'm Kathleen Cannon of the law firm Kelley Drye appearing today on behalf of Petitioners, the Domestic Industry Producing Stainless Steel Sheet and Strip.

You've heard a lot lately about the injury that imports from China have caused to the domestic carbon steel industry as a result of massive overcapacity and increased exports. Massive overcapacity also exists in the Chinese stainless steel industry. Over the past several years that overcapacity has led to significant increases in Chinese exports of stainless sheet to the U.S. Market.

Those exports sold at unfairly low prices have battered the Domestic Industry and its workers. In what should have been a healthy period for this industry fueled by increasing demand, the Domestic Industry's performance deteriorated significantly as China took U.S. Producers' sales and depressed U.S. prices and profits.

Let me review each of the statutory factors that point to a finding of injury. The volume of Subject Imports rose by more than 130 percent over the 2013 to 2015 Period of Investigation. By 2015, China was the largest import source of the subject product by a wide margin. The increase in import volumes from China outpace U.S. Demand growth, allowing China to increase its market share at the direct expense of the U.S. Industry.

This volume surge occurred for one primary reason, price. Purchasers overwhelmingly told you that price is very important to their buying decisions and that the prices of imports from China undercut U.S. Prices and that their main reason for shifting to imports from China was price. The quarterly pricing data show that imports undercut U.S. prices on a significant basis.

Further, purchasers acknowledge to shifting substantial volumes from U.S. Producers to lower priced imports from China specifically due to price. The low import prices not only caused U.S. Producers to lose sales, they also caused severe price depression. Prices of stainless sheet in 2015 plummeted to decade lows due to the glut of low priced imports. Prices fell to a greater degree than did costs, pulled down by the low Subject Import prices, leading to the declining financial performance of the industry.

The effect of this unfair import behavior has been significant declines in all of the U.S. Industry's key trade and financial indicators. Production and shipments dropped, workers lost their jobs, a facility was idled and then closed. The financial condition of the industry deteriorated to losses on both an operating and net income basis and planned investments were postponed or cancelled.

The correlation between the Subject Import volumes and prices and the Domestic Industry declines is strong. There is a virtual one for one shift in market share from the U.S. Industry to Subject Imports over the period. When Subject Imports hit their peak market share in 2015, the U.S. Industry suffered its lowest market share and its worst financial performance.

What is also telling is once this case was filed the Domestic Industry regained market share from China and finally its prices began to recover. Demand increased over the Period of Investigation so demand cannot be blamed for the Industry's performance declines. In fact, the U.S. Industry should have done much better than it did given the demand increase.

Non-subject Import volumes were stable over the period and also cannot be blamed for the injury. Respondents blame the injury on alleged U.S. Supply shortages but as our industry members will attest there was ample availability of stainless sheet from the Domestic Industry as a whole throughout the period.

While lead times lengthened temporarily in the second half of 2014, they were not longer than lead times of Subject Imports. As the vast majority of purchasers that bought the Chinese product told you, they shifted to China not due to availability or better lead times but due to price. Based on the overcapacity that remains in China, the injury will only grow worse.

Despite massive overcapacity, China continues to add stainless sheet capacity. China is also subject to numerous third country trade measures so the United States will remain an attractive outlet. Absent a remedy to address the unfair dumping and subsidies, China will increasingly target the U.S. Market with stainless sheet exports leading to further financial losses, additional closures of facilities and more lost jobs. We urge you to reach an affirmative determination to prevent that from happening. Thank you.

CHAIRMAN SCHMIDTLEIN: Thank you, Ms. Cannon.

MS. BISHOP: We will now have opening remarks from Respondents: Jeffrey S. Neeley from Husch Blackwell LLP.

CHAIRMAN SCHMIDTLEIN: Welcome, Mr. Neeley. You may begin when you are ready.

OPENING STATEMENTS OF JEFFREY S. NEELEY

MR. NEELEY: Thank you. I'm Jeff Neeley from Husch Blackwell here on behalf of the Chinese Respondents. Not surprisingly, what you are going to hear form us is a very different view of what happened in the U.S. Market since 2013. You will hear from Mr. John Junker who had spent many years in stainless steel industry, both with U.S. Producers and now with Tisco USA, the largest of the importers of stainless steel sheet and strip from China. He will discuss both the pricing mechanisms in the U.S. Market and the reasons that imports from China increased in 2014 and into the first part of 2015.

Our case is not based on anecdotes but rather on data. The story that the Commission was told about the severity of the production problems in 2014 and 2015 simply is not credible in our view. In light of Petitioner companies' own statements. I remind the Commission of the following which are just a few examples.

One, the parent company of NAS stated to its investors in 2014 "imports were pulled into the U.S.".

That's their quote. That's the word they used. "Pulled into the U.S. Market due to production issues with the U.S. Companies." Yet in this case the U.S. Producers have explicitly denied the pull effect.

Secondly, Outokumpu in statements to its adjusters provide figures indicating a significant cost and consequent financial losses due to the production problems. These statements did not indicate that this was some minor occurrence but rather a major disruption. More information on this matter is plainly available in the insurance claims of the company and we urge the Commission to supplement its questions with a request for those claims.

In Outokumpu thirdly, official in a statement to an industry forum showed his view of the overall capacity in North America. That position is directly at odds with the position taken here that there is a massive amount of excess capacity in the U.S. The shortfall that Outokumpu discusses is important because when there is increased demand and there is a major production problem in the United States as there was in 2014, imports are naturally pulled into the U.S. Market as NAS' parent discussed. Such imports may take a few months to arrive but they will arrive and providing some assurances of supply for U.S. customers.

So in light of this explanation, why do we see the adverse effects on the U.S. Industry in 2014 and 2015?

We think that the explanation is quite straightforward. The pricing mechanism used by the U.S. Producers relies on surcharges to provide most of the profit margins. Surcharges are not just a pass-through. They are a pass-through with a profit margin built in.

Because of this, it is just simple math that leads to the higher profit margins when prices for nickel and other surcharged items are high and lower profit margins when such prices are lower. The percentage markup is made on a lower base, obviously when the prices are lower. It's quite apparent from the data that the condition of the U.S. Industry is moving independently of the level of prices of imports from China. Instead, it's congruent with the falling surcharges.

The reason is quite apparent to use and it's the pricing mechanism. With Chinese Imports falling to low levels in 2016, one would expect if Petitioners were correct that prices and profits would have returned to 2014 levels before the entry of the increased Chinese Imports. But they did not. The explanation for this lack of effect is very clear. These figures move with the surcharges and not with the levels of prices of Chinese Imports.

In light of this lack of causal connection based on the data and in light of China's long history in the U.S. Market, there has been no sudden change that should lead to either a finding of present injury or threat of injury. It seems to us that this case was brought for one reason. There was an increase in Chinese Imports in 2014 and the U.S. Industry knew perfectly well this was the time to drive the Chinese Imports out of the U.S. Market.

They saw their opportunity and they took it. This does not support an affirmative determination however and we think the data support that. Thank you very much.

CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Neeley. Madam Secretary, we are ready for you to call the First Panel.

MS. BELLAMY: Would the first Panel please come forward?

CHAIRMAN SCHMIDTLEIN: Ms. Cannon, you may begin when you're ready.

MS. CANNON: Thank you, Chairman Schmidtlein. Our first witness this morning will be Mr. Hartford.

STATEMENT OF TERRENCE L. HARTFORD

MR. HARTFORD: Good morning Chairman Schmidtlein and members of the Commission. My name is Terry Hartford and I am a Vice President of ATI Defense at Allegheny Technologies. I've been employed by ATI in Allegheny Ludlum for nearly 36 years and served as the Vice President and General Manager of Stainless Sheet from 2006 through 2015 and currently serve as Vice Chairman of the Specialty Steel

Industry of North America.

Joining me this morning is Des Schnur, Product Manager for Sheet and Strip for ATI Flatroll Products. In 1998 and '99, I was extensively involved with ATI's participation in the Commission's Unfair Trade Investigations on Stainless Sheet and Strip from eight countries.

Our company testified to the injury we had suffered due to the barrage of these unfairly traded imports. Those cases were successful, the playing field was leveled and the U.S. Industry was able to recover. Orders covering stainless steel sheet and strip from Japan, South Korea and Taiwan remain in effect today and are subject to an ongoing Sunset Review.

Despite the relief provided by the existing unfair trade orders, we are again confronted by large volumes of unfairly traded imports of stainless steel sheet and strip, this time from China. The current situation is all the more frustrating because it was entirely predictable. Our former President expressed his concern during the Sunset Review of the existing stainless orders as to the negative consequences that China's large capacity expansions would have on the U.S. Market. His projections have proven to be true.

Imports of stainless sheet and strip from China more than doubled over the Period of Investigation, capturing market share from Domestic Producers. The volume of stainless sheet imports began shortly after the EU initiated unfair trade cases on that product in May of 2014. By 2015 the volume of imports from China alone was more than half of the total volume of imports from the 8 Subject Countries covered by the trade cases that were filed in 1998.

The Chinese sheet and strip entering the United States is interchangeable with the Domestic Product and is sold on the basis of price. Chinese Producers have aggressively used low prices to penetrate the U.S. Market quickly and at our expense. The large volume of low-priced Chinese Imports drove our total prices for stainless sheet down to levels I had not seen since 2004.

Worse, in 2015 the Industry experience the lowest base price levels in the 35 years that I have been in this industry. Because we manage fluctuations in raw material cost through the use of surcharges, we depend upon our base prices to do several things; to cover a portion of our material costs, cover our conversion costs and overhead costs and hopefully leave us with a profit. That goal was impossible to achieve over the past few years because of the low Chinese prices that force ATI and other Domestic Producers to significantly reduce the base prices.

Imports from China have had a devastating impact on ATI's operations and financial results. The Chinese Import surge occurred at just the time our company expected to be able to take advantage of a major capital investment to further strengthen our competitiveness.

Between 2010 and 2015, ATI invested an unprecedented 1.2 billion dollars to build the world's most advanced hot-rolling and processing facility in Brackenridge, Pennsylvania. This is the largest investment in ATI's history and was justified on the basis of expanding our product capability and reducing our cost structure.

Due to the weak conditions in the U.S. Market caused by the dumped and subsidized imports from China, our Brackenridge facility is running far fewer days than planned. This prevents the facility from being used at its maximum efficiency and the weak pricing for stainless sheet and strip is preventing us from earning a return on our investment.

The flood of low-priced imports from China caused ATI to announce the decision to idle our Midland, Pennsylvania facility in late December 2015. ATI's Chairman, President and CEO Rich Harshman stated that the challenging market conditions underlying the decision "are the result of global excess capacity, which has now led to unfairly traded imports in the U.S. Market including the first half of 2015 record surge of low-priced imports primarily from China".

In October 2016, we made the decision to permanently close the Midland Facility which has employed 100's of workers engaged in stainless sheet for decades. We are keeping the assets at Midland in the event that market conditions improve and justify resuming profitable operations there. The issuance of orders against China is one important component in improving market conditions.

The Chinese Respondents alleged that their products were "pulled into the U.S. Market as a result of the inability of Domestic Producers to supply their customers." As to ATI, they cite our Midland Facility closure and an employee lockout that we experience in 2015. Those claims are wrong. Neither the idling, nor the subsequent closure of Midland caused the supply shortage at ATI. As our company continued to have the capability and capacity to perform finishing operations on stainless sheet and strip at our facilities in Vandergrift, Pennsylvania; Louisville, Ohio; New Bedford, Massachusetts and Waterbury, Connecticut.

Further, our company's decision to idle the Midland facility did not pull imports of Chinese stainless and strip into the market. The decision to idle our Midland plant was announced in December 2015. The surge of Chinese

Imports however began in 2014 and continued into 2015. Indeed, it was the negative effects of the surge in low-priced Chinese Imports that forced our company to idle the Midland facility, not the other way around.

Similarly, the lockout our company experienced between August 2015 and March 2016 did not prompt the import surge or cause a supply shortage. Again, the surge in Chinese Imports began in 2014 well before the lockout began in August of 2015. With respect to supply, we planned extensively for a potential work stoppage.

We built inventory of finished stainless sheet and strip products as well as had our salaried and temporary employees operate the plants. Through these steps we were applied to ensure our customer's needs were satisfied. An agreement was reached with the USW in February of last year and our USW represented employees have been back to work since last March.

It is not a supply shortage but unfairly low prices that have allowed Chinese Imports to surge into the U.S. Market at our expense. The continued presence of such products in the U.S. Market has severely harmed our operations. We had to lay off 250 workers in Midland alone. We have lost sales, suffered financially and are badly in need of relief.

Without relief we know these things will get even worse. The surge in imports from China is a direct result of massive increasing capacity to manufacture stainless steel. China has a stainless melting capacity of approximately 30 million tons representing more than 50 percent of global capacity. Further, Chinese capacity to finish stainless sheet and strip is approximately 15 million tons which is roughly 8 times larger than the U.S. Market and far in excess of Chinese domestic consumption.

From our own market knowledge, we believe that China has current unused capacity that is twice the size of the U.S. Market. given these huge capacity expansions and the increasing number of barriers to Chinese stainless steel imposed by third countries, these low-priced imports will continue to flow into the U.S. Market causing more plant closures and the loss of more jobs.

I urge you to prevent that from happening by providing us with remedial relief against the high levels of dumping and subsidization we face in trying to compete with imports from China. Thank you.

STATEMENT OF GEOFF PFEIFFER

MR. PFEIFFER: Good morning Madam Chairman and Members of the Commission. My name is Geoff Pfeiffer and I'm the General Manager of Specialty Steel Sales at AK Steel Corporation. I have been employed at AK Steel since 1999. In my current position, which I assumed in July 2013 I am responsible for sales and marketing of stainless steels including stainless steel sheet and strip.

Joining me today is Dan Lebherz, the Manager of Specialty Products and Markets at AK Steel Corporation. AK Steel is headquartered in Westchester, Ohio. We produce stainless steel sheet and strip at our facilities in Middletown, Mansfield, Zanesville and Coshocton, Ohio as well as Rockport, Indiana and Butler, Pennsylvania.

AK Steel is a leading supplier of stainless steel sheet producing a broad range of grades including the more advanced precipitation hardening in duplex grades. We are a world-class producer of stainless steel products and are routinely sited by our customers for our superb quality and customer service. While AK Steel also produces carbon steel and electrical sheet products, stainless sheet and strip is also a core product for our company and is critical to our company's business.

Stainless steel sheet is used in a variety of consumer and industrial applications, especially in applications where corrosion resistance, heat resistance or aesthetic characteristics are desired. In particular, stainless steel sheet is used in automotive, housing and construction applications. Major purchasers include distributors, pipe producers, automotive manufacturers as well as manufacturers of household appliances and equipment for food processing and chemical handling.

Automotive manufacturers use stainless sheet particularly for automotive trim and exhaust applications. Given these applications, changes in demand for stainless sheet and strip in the U.S. Market generally attract broad economic trends, particularly with respect to the automobile and construction sectors.

The increase in consumption for stainless sheet over the past several years is consistent with the slow but steady growth in the U.S. Economy between 2013 and the present. The percentage increases in U.S. Market demand however have been far exceeded by huge increases in the supply of Chinese Products in the U.S. Market. The open U.S. Market has been an attractive outlet for excess Chinese production.

Irrational capacity expansions in China that far exceed domestic demand have created a large, idled capacity situation that has resulted in an export focus by Chinese Producers. This circumstance has been made worse for U.S. Producers by the fact that many of the large markets around the world including India, Brazil, Taiwan, Thailand, Vietnam and the European Union have been quick to respond to surging Chinese Imports and impose barriers on imports of unfairly traded stainless steel sheet and strip from China.

Chinese Producers have claimed that they entered our market only in response to U.S. Purchasers that were unable to obtain adequate supplies of stainless sheet and strip from the Domestic Industry. This is certainly not true with respect to AK Steel's operations. AK Steel has experienced no inability to supply our customers over the 2013 to 2016 period.

Our company did experience extended lead times in the 2nd half of 2014 because a number of our customers were purchasing stainless sheet and strip in volumes that significantly exceeded their typical volumes. We worked with our customers to ensure that they were able to obtain from us the steel required for operations. The large volume of Chinese Product in the U.S. Market in 2014 and 2015 were not in response to a supply need.

The Chinese Imports were able to penetrate our market so quickly for one reason; price. Subject Imports gained sales because they significantly undercut U.S. Prices. They did not gain sales based on a better quality, better reliability or any other factor. The increased volumes of low-priced Chinese product in the United States devastated pricing of stainless steel sheet and strip.

We saw prices in 2015 fall to absurdly low levels. By the 4th quarter of 2015 overall pricing and base prices were at levels we had not seen for more than a decade. The low-priced Chinese Imports were the cause of these price declines and I would add that these imports negatively affected our prices whether we were selling to customers through a short-term contract, a long-term contract or on the spot market.

AK Steel has lost significant sales revenue as a result of the low prices prevailing in the U.S. Market due to Chinese Imports. There is an urgent need for trade relief to return fair pricing to the U.S. Market and to ensure our industry is able to make the capital investments that are necessary to ensure our long-term competitiveness. Thank you.

STATEMENT OF CHRIS LYONS

MR. LYONS: Good morning. I am Chris Lyons, Vice President, Commercial, at North American Stainless, also commonly referred to as NAS.

This morning I would like to address issues regarding the pricing of stainless sheet and strip in the U.S. market and the impact of the unfair Chinese imports on the operations of NAS.

I have been in the steel industry with NAS for 15 years. NAS maintains a modern state-of-the-art steel mill in Ghent, Kentucky, on the Ohio River, as well as processing and distribution facilities in California, Illinois, Georgia, and Pennsylvania.

We offer a broad line of stainless sheet products and are very proud of our consistent high quality. While we go to great lengths to maintain our product quality, stainless sheet is sold on the basis of price. All producers in the United States and in China are capable of meeting the basic industry-wide quality standards, so price becomes the primary means of distinguishing suppliers.

Prices in the U.S. market are set using a base price plus surcharges. NAS's surcharges cover alloys, including nickel, chrome, molybdenum, iron, titanium, manganese, copper, and niobium.

Stainless scrap does not need its own surcharge because stainless scrap contains alloys covered under our surcharges. Surcharges for alloys differ by grade of stainless steel, reflecting various use of these alloys.

The price of nickel, for example, is very important to the pricing of Grade 304, but of no significance to the pricing of grade 409, because that product doesn't contain nickel.

NAS changes its surcharges on a monthly basis, and they are publicly available on our website. Our surcharges fluctuate based on published indices such as Platts, The London Metal Exchange, Metal Bulletin, and American Metal Market. Surcharges apply as of the date of shipment of the product, and that is true at both spot and contract accounts.

Surcharges are used when index costs for the alloys exceed a specific threshold. If costs for those elements do not exceed the threshold, the base price will cover all of our costs for the alloys and energy.

Base prices must cover all other components of our costs of production, including labor, industrial gases, acids, other factory costs, factory overhead, and SGNA expenses. For this reason, maintaining base prices is crucial to our profitability.

Throughout the Period of Investigation, prices for the key alloys covered under the surcharge mechanism were above the threshold. In other words, surcharges applied throughout the Period of Investigation even as our raw material costs declined.

For this reason, declining raw material costs never had an impact on our base prices in this period. Rather, it was unfair competition from Chinese imports that caused our base prices to decline as I will discuss further in a moment.

Domestic producers, and most importers, of stainless sheet use similar pricing mechanisms of a base price plus surcharges. In fact, some importers of Chinese product quote NAS's published surcharges as those to be employed in the pricing equation for the imports they offer.

But this does not mean that Chinese imports and domestically produced stainless sheets are priced at comparable levels. In fact, the base prices being offered on Chinese imports have been far lower than ours. This aggressive underselling is shown in the many instances we provided of accounts where we lost sales to low-priced offers for Chinese imports.

Not only had Chinese prices on stainless sheet undersold our prices throughout the 2013-2016 period, the degree to which they undercut our prices increased up until the time we filed this case.

Imports from China expanded and took a growing share of U.S. market in 2015, and price aggression grew to unprecedented levels. As the Chinese economy declined over the course of 2015, Chinese producers continuously lowered prices in the U.S. market in order to offload their excess production.

This trend became even more pronounced after the European Union imposed preliminary antidumping duties on imports of stainless steel sheet and strip from China in March 2015. The result for NAS was disastrous.

In the 12 months from January to December 2015, our base price, exclusive of surcharges, on stainless sheet fell by nearly 20 percent. In fact, by the end of 2015 our base prices fell to the lowest point we've ever seen.

As I noted earlier, these declines had nothing to do with declining raw material costs which were completely covered under surcharge declines. I must emphasize how destructive declines in base prices are to our financial performance, because it is the base price that must cover all of our manufacturing costs we incur in turning the raw materials into a finished product.

It is the base price that determines our profits. When that base price plummets due to unfair import price competition, so do our financial results. The destructive price impact of the Chinese imports has occurred in both our spot sales and contract accounts.

Aggressive pricing by Chinese imports pushed prices for our spot sales of stainless sheet ever lower over the course of 2015. Even contract sales with customers that wanted to maintain NAS as a consistent supplier were affected by the pricing being offered on Chinese imports as customers used those offers to push down our price.

We were increasingly faced with a choice of giving up sales volume to the underpriced Chinese imports, or lowering our prices to hold on to volumes. The combined result has been the financial deterioration that you see in our questionnaire response.

While your Staff Report notes that some purchasers have listed NAS as the price leader in the U.S. market, during the Period of Investigation our efforts were focused on increasing our prices for stainless sheet.

Until this case was filed, most of those efforts were unsuccessful. In truth, it was the Chinese imports that were leading U.S. prices, although they did not release them in published announcements.

The price declines in 2015 occurred in a period of healthy demand for stainless sheet. Overall, U.S. demand has been relatively buoyant throughout the period of investigation, and the U.S. economy is doing comparatively well by global standards. Given U.S. demand conditions, there was no market justification for the magnitude of the price declines we witnessed. Instead, we have suffered as weak market conditions in China have prompted Chinese producers to move as much volume to the United States as possible, regardless of price.

Generous subsidies from the Chinese Government allow this type of behavior, but the U.S. industry does not have the luxury of similar support. The Chinese Respondents have argued that supply tightness, not lower prices, caused the increase in volumes of Chinese imports.

This is simply not true. While NAS temporarily used a controlled-order entry system in 2015, this system was imposed to manage the lead times, and we did a good job of meeting our customer needs.

The important point to remember is that even when our lead times became extended, they never became as long as those of the Chinese imports. Customers bought imports from China due to the low prices, not due to availability issues or lead times.

After prices reached a low point in the first quarter of 2016, we have seen some improvement in pricing due to the impact of this case as import volumes from China have declined and the prices have increased and there has been an improvement in U.S. market prices.

This improvement is very tenuous, however, and will disappear completely if the duties are not locked into place through an affirmative final determination in this case. While we were able to announce a much-needed increase in our base prices in December, that increase is certainly not going to hold if Chinese are allowed to once again sell in the U.S. market at prices we saw in 2015.

The assault by Chinese imports has led to substantial declines in production, shipments, prices, and profitability at my company. The success of Chinese imports in our market has not been due to any advantages in relation to product quality or superior service. It simply comes down to lower prices.

Given the massive size and over-capacity of the Chinese industry, if antidumping and countervailing duties are not imposed against imports from China, the viability of our entire industry will be put in jeopardy.

That concludes my remarks. Thank you for allowing me to address you this morning.

STATEMENT OF STEPHEN J. LETNICH

MR. LETNICH: Good morning, Madam Chairman, and the Members of the Commission. I am Steve Letnich, the Vice President of Sales for Coil Americas at Outokumpu Stainless USA.

I appreciate the opportunity to appear before you today to discuss the injury that Outokumpu has suffered due to dumped and subsidized imports from China.

Outokumpu produces stainless steel sheet and strip at our state-of-the-art, fully integrated stainless mill in Calvert, Alabama. Our Calvert Mill was constructed on a Greenfield site near the Port of Mobile, Alabama, and includes both a melt shop and a cold-rolling mill.

We are a world-class stainless steel producer with one of the most advanced, efficient production facilities in the world. Our product offerings include a full range of stainless steel products, including 72-inch wide stainless sheet.

Outokumpu is a relatively new producer in the U.S. market. Our parent company, Outokumpu Oyi, acquired the Calvert facility from ThyssenKrupp Stainless at the end of 2012. Shortly after construction was completed, construction of the Calvert facility began in 2007 and was completed with the start of operations of the cold-rolling mill in 2010, and of the melt shop in 2012.

`The stainless portion of this project stands for an investment of over $1.5 billion, and the creation of over 1,000 direct jobs in Alabama, as well as numerous indirect jobs in the area.

At the time of the original investment and acquisition by our parent company, the U.S. market was strong and stable. Demand in the United States was increasing and prices were healthy, unlike in the European Union and other markets.

As a result, Outokumpu was very much looking forward to the opportunity to produce and sell stainless steel into the growing U.S. market, as well as earning a reasonable rate of return on our new investment. Unfortunately, we were deprived of that opportunity. Why? Because a wave of low-priced unfairly traded imports from China flooded the U.S. market.

In 2014, just as we were trying to ramp up to gain orders, dumped and subsidized imports of stainless steel from China surged into the United States, decimating pricing in the U.S. market and taking away sales from Outokumpu and other domestic producers.

In 2015, the onslaught of subject imports from

China continued at higher levels than in 2014, even as demand declined. As a result, the domestic industry's market share fell further and pricing of stainless steel sheet in the U.S. market collapsed to its lowest level in over a decade.

Chinese imports gained U.S. market share by significantly underselling U.S. producers. Most of Outokumpu's sales are sold to distributors on a spot basis. Distributors frequently use offers for lower-priced Chinese steel forcing us to lower our prices if we want to win the sale.

During the Period of Investigation, imports from China consistently undercut the prices of our products. As a result, we lost sales to China and had to cut our prices for those sales we were able to retain.

Because the U.S. market is not their primary market, Chinese producers are not concerned with the impact of their low pricing in the United States. In contrast, the U.S. market accounts for over 80 percent of domestic producer sales. When we are forced to reduce our prices to meet low import prices, that has a substantial and devastating impact on our financial performance.

Unlike Chinese producers who receive massive government subsidies, we do not have the luxury of selling our products at any price. The rapid deterioration in pricing in the U.S. market as a result of significant volumes of unfairly traded Chinese imports contributed greatly to the poor financial condition of my company and our industry/

While Outokumpu incurred startup costs associated with our new plant that contributed to negative EBITDA in 2013, Outokumpu projected growing demand for stainless sheet through 2015 that would provide us with increased sales and profitability.

Shortly after we made this projection, however, imports of unfairly priced stainless sheet from China surged into the market decimating pricing, taking market share from Outokumpu and other producers, and endangering the business rationale for our original investment in Calvert.

At a time when demand was increasing in the U.S. market, we should have seen much better results in our financial performance. Instead, Outokumpu has struggled, suffering declines in our share, production, sales, and profits. Our capacity utilization has also suffered.

In addition, and as detailed in our questionnaire response, the increase in unfair subject imports has forced us to postpone and significantly reduce planned capital investments in our facility that are necessary for the company to remain competitive.

We have provided extensive details in our questionnaire response of the financial effects on our operations resulting from these unfair imports.

We have worked hard and succeeded in providing a quality product at our Calvert facility that meets our customer needs. These efforts, however, have been undercut by the surging imports from China.

Although Outokumpu experienced some technical issues that forced us to operate a part of our stainless operations at reduced capacity, those were of limited duration during the second half of 2014.

Specifically, one cold-rolling line was down for repairs for six months, while two other lines were down for 10 and 19 days in September for preventative repairs. We never stopped production during this time, and all three lines were back up and running by December of 2014.

Moreover, we supplemented our U.S. production with fairly traded imports from our foreign affiliates. By relying on this supply of stainless sheet and trip from our overseas affiliates, we were able to help ensure our customers' needs were met, despite the temporary outage at our Calvert mill.

Instead, our customers still often chose to source from China because the Chinese prices were consistently lower than our prices. Imports from China continued to increase in 2015 when our company's stainless operations were fully functional. If imports were truly filling a supply shortage, then it doesn't make sense for Chinese imports to increase further in 2015 or to sell at prices that are substantially lower than our prices.

The significant increase in low-priced imports from China occurred because of the unprecedented global steel over-capacity plaguing markets worldwide. China vastly overbuilt its stainless steel sheet and strip capacity, even as their demand growth slowed.

As a result, Chinese producers have been exporting more and more of their stainless sheet and strip products to overseas markets, including the United States. Although the preliminary duties imposed last year helped to reduce the volume of Chinese imports in 2016, this trend will be quickly reversed if final duties are not imposed.

In conclusion, without relief from this case there is no doubt that stainless sheet and strip imports from China will once again flood the U.S. market at extremely low prices. Our trade and financial performance will continue to erode as we lose additional sales and cede market share to subject imports from China.

The substantial losses we have experienced will intensify and could well jeopardize the existence of our U.S. operations and the livelihood of over 1,000 new employees whose jobs were created just a few years ago.

On behalf of Outokumpu and our employees, I urge the Commission to reach an affirmative determination in this case. Thank you.

STATEMENT OF THOMAS CONWAY

MR. CONWAY: Good morning, Chairman Schmidtlein, Members of the Commission. My name is Tom Conway. I've the Vice President of Steelworkers Union. USW is the largest industrial union in North America, representing hundreds of thousands of active and retired members both in steel and many other industries, as you know.

I am here today to express the Union's support for the trade cases against the dumped and subsidized imports of the stainless sheet and strip from China. These unfairly traded imports seriously harm more than 2,000 steelworkers producing stainless steel sheet and strip products in the U.S., including the USW members at six ATI facilities, and one AK facility across multiple states.

The imposition of the antidumping and countervailing duty Orders on stainless steel sheet and strip from China is critical to Steelworkers.

The domestic industry is facing surging imports of unfairly traded stainless steel, both sheet and strip, from various countries over the past 30 years. These cases included orders on stainless from Japan, Korea, Taiwan, and the Commission found in the last reviews would continue to injury American producers and workers if the orders were revoked.

In the past several years, however, we've faced a new challenge in this industry as we've seen in the carbon steel industry, as well, unfairly priced stainless steel, sheet and strip, from China pouring into the U.S. I'm told that your Staff report reflects what I've witnessed happening at many of our stainless steel production facilities as a result of the import surge.

Steelworkers have lost jobs, hours, and wages. Roughly 500 jobs have been lost in the industry over the time period you're examining. Think about what those lost jobs mean to real people and real families.

Unfairly priced Chinese imports have also hurt the U.S. industry's ability to make the investments in capital and research and development necessary to remain competitive in the technically sophisticated stainless steel industry.

If these unfair imports from China are allowed to continue stealing business from U.S. stainless steel sheet and strip producers, the companies will be forced to cut back high-skilled steelworker jobs even further, with more devastating consequence.

These Steelworker jobs, these are good family-supporting jobs, and they are the bedrock of U.S.

manufacturing. This repeated torrent of unfair imports over the past 30 years has eroded the stainless steel industry, deeply and permanently affecting the livelihood of Steelworkers, their families, and our communities.

Our Steelworkers have already sacrificed so much in recent decades to ensure that the U.S. stainless steel industry survived. We've agreed to workforce reductions, changes in workplace rules, modifications to health care coverage; the Steelworker members have done all we can to ensure the viability of this industry, and we've fought to save U.S. jobs. We have fought to give our remaining workers the benefits they deserve for the time and talent they contribute to this industry.

We have fought to secure benefits for our many retirees who were deeply harmed by the loss of benefits earned over a lifetime of hard work in this industry. I would note the profit streams from both of these company, ATI and AK, are important to our ability to continue to deliver retiree health care benefits for our retirees from those companies. We have placed that benefit into a trust, in a VIVA trust, which is funded through profit streams from these companies.

So the ability for us to continue to take care of those retirees is directly linked to this. This situation is not going to get better on its own. China continues to produce both carbon and alloy steels, including stainless, at a record pace.

China's massive overcapacity is already extremely harmful to U.S. producers, and yet China continues to invest in stainless steel production. Stainless steel products from China are going to continue to flood the U.S. market and drown the domestic industry unless the Commission helps to stop the industry and stabilize the U.S. market.

We must do what we can to save these jobs while we can. So on behalf of our Union's members and the retirees and the communities that depend on them, I urge the Commission to find the unfairly priced stainless steel sheet and strip imports are injuring the U.S. industry and its workers.

Thank you.

STATEMENT OF KATHLEEN W. CANNON

MS. CANNON: For the record, I am Kathleen Cannon, and I will conclude our presentation today by addressing the key statutory issues the Commission must examine in reaching its final decision.

First, the domestic like-product. We have explained in our prehearing brief why the record continues to support the conclusion that the like-product should equate to the scope decision. Respondents stated that they do not contest this definition, so unless you have questions later I won't spend further time on that issue.

I would like to focus on the three statutory factors of volume, price, and impact that support a finding of material injury caused by subject imports. And you should each have a confidential handout that will provide some of the information that I am not able to show on these public slides.

(Slides are being shown.)

Let's start with volume. The volume of imports from China is significant. By 2015, China had become the largest import source of stainless sheet in the U.S. market, accounting for roughly one-third of total imports.

The volume of imports from China has also increased by a substantial amount, 133 percent, over the 2013 to 2015 period. In fact, the volume increase by China alone over the Period of Investigation exceeds the 2015 individual volume levels of every other import source.

These volume increases were not a reaction to demand growth. While demand did increase over the Period of Investigation, the pace of the increase of Chinese imports was much faster.

As a result, the U.S. market share of subject imports increased rapidly as well, more than doubling over the 2013-2015 period.

Our witnesses testified that the critical factor driving purchasing decisions in the U.S. market is price. Purchasers responding to your questionnaires confirmed that price is, quote, "very important" to their buying decisions.

Purchasers also reported that the U.S. product is comparable or superior to the imports from China on most factors except price. Most purchasers reported that the U.S. product was inferior or not priced as low as the Chinese product.

Quarterly pricing data confirmed that China has engaged in significant underselling both on a quarterly basis and on a volume basis. As the Commission has recognized in other cases, where a price-sensitive product is at issue a mixed pattern of underselling and overselling is not surprising and is supportive of an affirmative determination.

You asked the purchasers that had shifted to buying the subject imports instead of the U.S. product whether those imports were lower priced. Of the 19 responding purchasers who switched to China, 18 said the imports were lower priced. That's 95 percent of the responding purchasers who shifted to buying stainless sheet from China telling you Chinese prices are lower than U.S. prices.

Confidential slide 9 provides purchaser comments on Chinese versus U.S. prices. As you see, the purchasers were quite specific at calling out China as being the source they turned to for reasons of price. If you look at this slide and the one before it, you have to wonder whether the quarterly pricing data gathered are indicating the full extent of the underselling.

Not only did purchasers overwhelmingly cite Chinese imports as lower-priced, most of them also stated that price was the primary factor driving their decision to switch to China. And the volume that they reported switching to China due to price is substantial.

Purchasers admitted that the vast majority of their total purchases of Chinese imports were shifted due to price. This is a compelling table. It is hard to look at this table based expressly on the purchaser responses and not conclude that low-priced Chinese imports drove the surge in import volumes over the 2013 to 2015 period.

The results of the significant underselling by China was not just lost sales but also severe price depression. Domestic producer prices for each of the price descriptive products fell precipitously over the period.

As you heard our witnesses testify, total prices for stainless sheet by 2015 were at their lowest point in a decade. Base prices fell by 20 percent to absurd lows, driven by Chinese imports.

Purchasers confirmed that the price declines seen in the database were due to lower priced subject imports, as you see in the statements on confidential slide 15.

Numerous purchasers also reported substantial price cuts by the domestic industry in order to compete with lower priced imports, and you'll see the specific percentages on confidential slide 16.

The prehearing report's variance analysis confirms that it was not raw material cost declines that drove price declines. Rather, the declines in U.S. net sales values on a per-ton basis exceeded cost declines over the period.

As our witnesses testified, surcharges are used to address fluctuations in raw material costs. What those mechanisms do not address are the base prices that U.S. producers were forced to continually reduce to historically low levels so that they could compete with the lower prices of the imports from China.

The impact of these increasing volumes of imports is predictable and injurious. The domestic industry experienced declines in all of its key trade variables. Production and shipments fell. Employees lost their jobs. And the facility was idled and then closed, as you heard Mr. Hartford testify due to the increasing imports from China.

These large import volumes at prices that undercut and depress U.S. prices also had a devastating effect on the domestic industry's financial performance. Net sales values fell, as did net profits and operating profits, as well as the ratios of those profits to net sales.

In fact, "profit" is the wrong word to use, as all of these indicators were losses for the industry in 2015. The modest profit the industry obtained in 2014 was quickly reversed to a significant loss in 2015. And remember, in both of these years demand was up over 2013 levels. So the industry's sales and profits should have been much better.

The causal nexus between subject imports and injury the U.S. industry has suffered is compelling. There was a one-for-one shift in market share between subject imports which gained in 4.1 percentage points of market share between 2013 and 2015 and the U.S. industry which lost 4.2 percentage points of market share.

Of equal note in assessing causation is what happened after we filed this trade case in February of 2016. Once the case was filed, subject imports declined and only then were U.S. producers able to regain market share, again on almost a one-for-one shift back to the domestic industry from China.

No other factor explains this injury. U.S. demand increased over the period that should have led to increased U.S. sales and stronger prices and profits, but the opposite happened. Nonsubject imports were a remarkably stable presence in the market over the period, as you see from the dotted line along the bottom, increasing by just 0.1 percentage point.

Respondents spend extensive time citing to supply shortages as the reason for the increased imports, but as you heard our witnesses testify they have not experienced supply shortages as an industry.

The equipment issue at Outokumpu affected only that one company, and only in the second half of 2014, and even then Outokumpu continued to supply product.

The other three producers did not experience supply shortages. Rather, their lead times extended in the second half of 2014. Importantly, even those extended lead times were not beyond lead times for subject imports. The reason purchasers bought imports from China in 2014 was the incredibly low prices China offered.

This slide, based on the purchaser reports, corroborates the domestic industry's testimony. While Respondents claim that lack of availability, poor delivery time, or lack of reliability is what drove purchasers to buy subject imports, the purchasers tell a different tale.

In terms of U.S. product availability, the main factor Respondents cite as to why subject imports increased, most purchasers reported that the U.S. was superior to imports on availability, or at least comparable. No purchaser said the U.S. was inferior.

The same is true of reliability of supply, another factor Respondents emphasized. No purchasers corroborated that claim. Look also, please, at the responses on delivery time. No purchasers reported the U.S. as inferior on delivery time.

The only variable as to which the purchasers give advantage to China is price. And you see again the reference to us being inferior on price.

This chart provides compelling evidence that price, not availability, reliability, or lead time, was the factor driving purchasers to buy imports from China. And don't forget this chart. Joint purchasers overwhelmingly reported they shifted large volumes to lower priced imports from China, and that they did so due to the lower import prices.

While the record is compelling in establishing present material injury caused by subject imports, there is also strong evidence of a continuing threat of injury. As with many other metal products, China has massively expanded its stainless steel production over the past 10 years. By 2015, China accounted for more than half of global production.

China's capacity has increased rapidly over the Period of Investigation, as you see in confidential slide 28, and it is projected to continue that growth even though there's already lots of idle capacity.

I know you received data from some of the Chinese producers that their total capacity and production is well below China as a whole, so we urge you to rely on these independent data for a complete picture of the level of Chinese current and projected capacity.

And much of the Chinese capacity sits idle, as you see in confidential slide 29. In fact, China can rapidly swamp the U.S. market with stainless sheet from its idle capacity alone. And there is every reason to believe China will increasingly export that idle capacity here if orders are not imposed.

There are a number of third countries that have imposed orders on stainless sheet from China. Major markets like the European Union have imposed duties against China, forcing China to look to other countries to unload its excess production.

In fact, once the EU initiated the case against China in 2014, Chinese exports to the U.S. market increased. The U.S. market will remain an attractive outlet for China, absent the imposition of duties in this case.

Thank you. That concludes our testimony and we would be happy to answer your questions.

CHAIRMAN SCHMIDTLEIN: Alright, thank you, Ms. Cannon. And I'd like to thank all of the witnesses for being here today to help us understand this case.

I am actually first in the questioning order this morning, so I want to start with, I guess, Mr. Lyons you talked about pricing and surcharges in the base price. And to understand a little bit more the differences between those two and in particular I thought I heard you say that in this instance surcharges applied throughout the period of investigation, even as raw material costs were dropping, so can you explain why that was because I thought that surcharges were reflecting the fluctuation in raw material prices.

MR. LYONS: Chris Lyons, North American Stainless.

Yes, I'd be happy to answer your question. The component of our price contains two parts, that being the base and the surcharge. The way the surcharge is built is there is a threshold of the content of each alloying element in the respective grade.

As long as the percentage of -- as long as the value of those alloying elements exceed that threshold there will be a surcharge. And what's important to understand is as the value of those elements decline, they always stayed ahead of the threshold such that those declines never imposed themselves on the base price itself.

CHAIRMAN SCHMIDTLEIN: And that's in the contracts, I guess.

MR. LYONS: Yes.

CHAIRMAN SCHMIDTLEIN: Okay. And in your experience, your base prices declined throughout the period of our investigation or was it --

MR. LYONS: The most pronounced decline came in the 2015 period. We say in the neighborhood of a 20 percent decline on base prices with the greatest point of decline at the end of 2015.

CHAIRMAN SCHMIDTLEIN: Okay. Maybe this might be a question for you, Ms. Cannon, or for one of the economists.

In your brief at page 27, you include some business proprietary information which is a graph of monthly average base prices for a particular grade. And if you look at that graph, you can see that between 2013 -- so this is, again, average, I guess, of the entire industry, maybe. That between 2013 and 2015 -- the beginning of 2013, so the beginning of '13 to the end of '14 I should say that base prices increase according to this graph.

Again, this is proprietary, so how do we reconcile that with an argument that Chinese prices --

because, of course, '13 to '14 is when the Chinese imports had their greatest increase into the U.S. market. So how do we reconcile those two pieces of information?

MS. CANNON: We may have to address more of this specifically in our brief because the numbers are proprietary, but the flood of the Chinese imports, and in fact, their peak market share was in 2015 even though they started the acceleration in 2014. They hit their peak market share in 2015 and they were really flooding the market and we lost the most market share that particular year and that was really when the prices crashed.

We submitted in the preliminary stage of this case a declaration on behalf of each of the domestic producers showing exactly what their base prices did over the period for each of the different pricing products that you are examining which shows that decline that happened that corroborates the testimony that Mr. Lyons presented about these very substantial declines that occurred.

CHAIRMAN SCHMIDTLEIN: You think those started in '14 not '15 because according to this it doesn't really start until '15.

MS. CANNON: The collapse in the base prices?

CHAIRMAN SCHMIDTLEIN: Yes, the decline, not just -- any decline. It's increasing up until the end according to this little chart.

MS. CANNON: I have to be a little careful because of the confidential nature of the information.

CHAIRMAN SCHMIDTLEIN: No, we don't have to talk about the particular numbers. It's just the trend.

MS. CANNON: Right. So for some products we were seeing some trend that was upward on some of the base prices in 2014 at the end of the period when they had the tightening of supply and the lengthening of the lead time, but that was a very short period and it quickly reversed itself as the glut of the imports came into the market and then it just collapsed, absolutely collapsed the prices in 2015 and you saw this trajectory downward.

And what's important to realize is even in 2014 when you're seeing that upward tick you're not seeing an upward to a premium price and profit. Look at the industry's profits overall for 2014. They were barely at break even, even no matter what those prices were, so you saw a little bit of an uptick and then you saw an absolute trending crash down in 2015 that pulled the prices down to the levels, as the witnesses said, they'd never seen before in many of their careers of these base prices and the profits as well.

So I think it was a very short period of time where anything trended upward that probably correlates with the tighter supply and the longer lead times, but it wasn't for very long and everything crashed in 2015 very quickly.

CHAIRMAN SCHMIDTLEIN: So are you all arguing that that price depression occurred throughout '14 or is it really that the price depression was concentrated was in '15.

MS. CANNON: There was much more in '15 for sure. There was some in 2014 certainly in that if you see the bottom line the domestic industry still couldn't increase their prices to the levels they would like with the imports surging into the market and them having to fight for it. You see a lot of the testimony or the evidence from the purchasers in their questionnaires about how much those prices were going down and they were experiencing that competition even in 2014, but it accelerated and intensified as that glut imports was really pushed into the market in 2015 and that's when the worse depression and the worse financial hit occurred.

CHAIRMAN SCHMIDTLEIN: Okay. Would any of you like to talk about your experience in having to reduce prices? Was that your experience in '14?

MR. HARTFORD: Terry Hartford with ATI.

I don't have our specific prices in front of me, but in 2014 I just recall as the surge of Chinese imports became very evident it very quickly translated into increase price pressure and these offerings for greater volume were coming at lower prices than the domestic market and we were constantly confronted with challenges to reduce our prices to keep the share of the business that we had.

CHAIRMAN SCHMIDTLEIN: Okay, anybody else?

MR. LYONS: I would echo the statements of Mr. Hartford. The pressure was most pronounced in the third and fourth quarter of 2014. That's when the volume began to increase substantially and the greater impact of our price was felt more among the lines of '15; however, the pressure began at the end of 2014.

CHAIRMAN SCHMIDTLEIN: At the end of '14?

MR. LYONS: Yes.

CHAIRMAN SCHMIDTLEIN: Okay, anyone else? No? Okay.

Can you respond to the argument, and I can probably guess what your response is going to be, but can you respond to the argument that according to the Respondents you see some of the supply constraints, as they call them, including the controlled entry order and the lockout and so forth occurring around the same time or correlating with when you see the overselling by Chinese imports, in other words, in 2015. And so doesn't that confirm their argument that their product was being pulled into the market due to that sort of supply shortage and that's why you see them able to oversell during that period of time.

MR. HARTFORD: Terry Hartford from ATI.

I'll be glad to answer that. I think the timing and sequence of events is really important to understanding how this period of time unfolded and clearly the surge of Chinese imports began early to mid-2014. That's when those imports arrived. Remember that the lead time to get those products is something on the order of two to three months prior to that delivery date, and so U.S. buyers decisions to start buying Chinese imports probably had to happen at the end of '13 or very early in 2014.

We talk about the episodes that you've referenced the extension of lead times at ATI didn't begin until late second quarter of 2014, so certainly after the surge of Chinese imports was coming into the U.S., so there was not a pull, from our standpoint and according to the data, there wasn't a pull.

This extension of lead times was not a controlled order entry situation. It was a temporary in surge in demand from our customers. We responded to that by lengthening our lead times and meeting individually with our customers to see what their needs -- their true material needs were during that period of time. Our lead times were extended for a period of about five months, roughly, and then they came back to a normal time. So that period for

ATI occurred after the beginning of the surge of Chinese imports, so it was not our episode resulting in a pull of Chinese. It was just the opposite. Our view is that the Chinese began pushing imports into the United States and using price to do that.

We had a lockout that I referenced in my testimony that you've referenced. That lockout began in August of 2015. It was about 17 or 18 months after the Chinese surge of imports began, so there certainly was not a causal affect of our lockout in August of '15 with the initiation of Chinese imports, so I don't buy an argument that says that they had to bring imports into this country to support ATI's customers because of a lockout. I don't think that's accurate.

And thirdly, the decision to idle the Midland facility occurred in December of 2015, you know a full year and a half or more after the initial surge of Chinese imports. So I don't think there was a causal affect in any of those three episodes relative to ATI and Chinese imports.

CHAIRMAN SCHMIDTLEIN: Okay. Mr. Lyons, I assume you would like to respond, but we can come back in my next round since we're already over. Vice-Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein and I would like to thank all of you for appearing here today, the witnesses and their counsel.

I'm going to begin by speaking about the plant in Calvert, Alabama. This is something I've been following since January or February of 2009 when I was working in the Senate. There was actually issues involving Calvert being discussed up there at that time, so I follow with interest.

In December 2012, Outokumpu acquired the stainless steel of ThyssenKrupp in Calvert, Alabama. Was this facility producing stainless steel sheet and strip at full capacity prior to 2013?

MR. LETNICH: Hi, Steve Letnich from Outokumpu.

From my knowledge, there was ramping up going on during that time period. So compared to the capacity of today, no sir, it was not at full capacity.

VICE CHAIRMAN JOHANSON: How did the market respond to Outokumpu's acquisition of this facility and the news that it would be supplying stainless steel sheet and stripe?

MR. LETNICH: Sir, I was not with the company at that time, so I couldn't comment on the market perception or any customer feedback.

VICE CHAIRMAN JOHANSON: How about any of the other producers who are here today?

MR. HARTFORD: We watched carefully as ThyssenKrupp made their decision to invest and then proceeded with their investment and that ramp up and then the subsequent acquisition of Outokumpu and you know it was a fact of life. We had a new competitor with new equipment that was coming on board and we knew we'd have to compete against a new competitor and so we did exactly that.

VICE CHAIRMAN JOHANSON: Did the acquisition of the plant by Outokumpu was it disruptive to other already established U.S. producers who were producing this product? For example, did it impact the Midland plant which was shut down in 2015?

MR. HARTFORD: Anew producer typically will do that. I think it is important to understand that prior to the Calvert plant being built Outokumpu would import product from other facilities, in Finland or in Sweden or at other places, into the U.S. market, so the Calvert investment was not a net increase to supply into the U.S. market. To a great extent, it was a substitute for product that they used to import into the U.S. market.

VICE CHAIRMAN JOHANSON: I'm sorry, Ms. Cannon.

MS. CANNON: Commissioner Johanson, I was just going to add onto that that actually that was discussed and analyzed by the Commission in detail in the context of the last round of sunset reviews of the stainless sheet orders when that whole acquisition was going on and the shift that Mr. Hartford described from importing to producing in the

U.S. occurred. And so, as he said, it was really a substitution and that was what the Commission found and the reason that the Commission terminated those orders.

VICE CHAIRMAN JOHANSON: Thank you, Ms. Cannon.

Respondents have argued that Outokumpu's acquisition of the plant in Alabama demonstrated the perception of a need for more capacity for stainless steel sheet and strip in the U.S. market, and this can be seen at page 7 of their brief.

Is this correct or were the circumstances of the acquisition emblematic of difficult market in the first place?

MS. CANNON: This is Kathy Cannon. I'll let Mr. Letnich elaborate, but there are statements by Outokumpu at the time basically stating that they were optimistic about demand in the market and that the investment was taking place precisely because of projected demand, which actually was borne out in the data -- 2014 demand, 2015 demand were both good. And then what they go on to say is the problems they didn't anticipate were the surge in subject imports. So I think they were simply, as we said, moving here to have in the U.S. a facility that would supply what had been supplied by import sources of their affiliates and doing it reaction to projected demand, which they were accurate to predict, but just unfortunately couldn't predict the import situation.

MR. LETNICH: The only comments that I would add to that is that you read some of our published words. Our former president and CEO projected a break even analysis based upon the market conditions for 2014. And actually, if you'll look at the data and the shipments, we had a significant increase in volume coming through the facility even with some of the mechanical issues we had in 2014 relative to 2013.

VICE CHAIRMAN JOHANSON: Yes, Mr. Hartford?

MR. HARTFORD: One other comment that I would add in terms of the market conditions at the time, as both Ms. Cannon and I said a minute ago, some of that output in Calvert was taking the place of product that used to be imported, so it was not a net increase, number one.

Number two, over the period of investigation the U.S. market grew by 4.4 percent and so we had a growing U.S. market to also absorb some of that additional capacity. And so when you look at those factors, it became competitive, but there was market growth to support that and there was this shift from imports to domestic production.

VICE CHAIRMAN JOHANSON: Thanks, Mr. Hartford.

Respondents have calculated what they contend are loss profits by Outokumpu in connection with its supply disruption in 2014 at the Calvert plant, and this can been seen at page 10 of the Respondent brief.

They also suggest that we should be obtaining any insurance claims for the outage filed by the company to understand the nature of such losses, and then this could be seen at pages 10 and 15 of their brief. How do you all respond to these allegations?

MS. CANNON: We would like to respond to those in our post-hearing brief because most of that information is confidential, but I will note that we are working with the Commission staff to respond to some requests that have been made to us.

VICE CHAIRMAN JOHANSON: Alright, thank you, Ms. Cannon.

I'd now like to turn to the issue of the lockout at ATI. How was it that ATI can lockout more than 2,000 employees for seven months without disrupting its ability to supply stainless steel sheet and strip to the market?

MR. HARTFORD: We had planned for that eventuality far in advance. Thirteen months prior to the expiration of our contract we began preparing for the fact that -- we prepared for the worse case scenario and in that case it came through. And part of that planning it involved several things. It involved the building of inventory of stainless sheet and strip, both intermediate inventory that could be subsequently processed during the lockout and also finished goods inventory to support our sheet and strip customers during that period of time.

We changed our sales portfolio during the period of the lockout to focus on U.S. customers and a significant decrease in our export market because for a variety of reasons it was more important for us to take care of our U.S. customers.

And third, we planned extensively to operate our facilities with company employees and professional temporary employees to run the facility during the period of the lockout, which we did successfully. And so the combination of those -- the outcome of those plans allowed us to continue to supply our customers with sheet and strip during that period.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Hartford.

And following up on that, the Respondents make a reasonable point at page 12 of their brief when they ask if the lockout would give customers a confidence to place the same level of orders with ATI or would instead this lead them to hedge their bets by seeking alternative sources?

MR. HARTFORD: Commissioner, I think I might want to respond to that in a post-hearing brief, if we could.

VICE CHAIRMAN JOHANSON: Alright, that's fine, Mr. Hartford. I look forward to seeing that. And the yellow light's about to come on, so let me stop here and I look forward to resuming questions in a few minutes. Thank you.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. And I too want to express my appreciation to the witnesses for coming today.

You argue in your brief that the domestic industry is capable of supplying the entire U.S. market. It's on page 16. Why then do the non-subject imports maintain such a significant share of the market?

MR. LYONS: Chris Lyons, North American Stainless.

The consistent presence from the Chinese is strictly a price-oriented equation. The products that we produce are not such that they cannot be replicated and offered by a number of different sources. Quality standards can be met by those producers in the U.S. as well as in China. So the fact that a domestic purchasing agent would choose extended lead times and Chinese supply is based off of price.

COMMISSIONER WILLIAMSON: I sorry; I was talking about non-subjects -- you know countries other than China.

MS. CANNON: Let me try, Commissioner

Williamson.

I think just because an industry can supply the entire market doesn't always mean it does supply the entire market. And most of the steel industries that you have seen there is a presence of imports. And that isn't and issue and it hasn't been an issue for the industry as long as those imports are not undertaking the price behavior that China did here that allowed them to surge in and really grab market share on the basis of low prices, crash prices to never-before-seen levels and harm the financial performance of the industry, so it's not a matter of trying to keep all imports out of the market. If other imports fairly trade that's simply a part of market dynamics that the stainless steel, the carbon steel, and other industries deal with every day.

COMMISSIONER WILLIAMSON: What role does the non-subject imports from companies related to the domestic producers play in this market?

MR. LYONS: Chris Lyons, North American Stainless.

For North American Stainless, we have a parent company in Spain. We have sister companies in Malaysia as well as South Africa. We, as an organization, have been able to utilize our own demand to supply our customers and our market needs. We have during the period of investigation imported product from our parent company Acerinox the reason for that decision is based on the fact that it's a product finish that we do not currently produce in Ghent, Kentucky.

You may have seen that we have a capital investment of $150 billion that our equipment is set in the coming months to commission and the product that we will produce is this same product that we were bringing from our parent company in Acerinox. Outside of that, we stand alone on our own and moving forward we intend to do so the same.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. LETNICH: Steve Letnich from Outokumpu.

You know we look at our business as a complete portfolio of products of which the Calvert mill satisfies roughly 80 percent of that, so we have opportunities with specific-niche products or capabilities of our affiliates in Europe that help us fill out that portfolio for our customers.

COMMISSIONER WILLIAMSON: Okay, thank you.

Mr. Conway, I was wondering what affect have the subject imports and all had on the workers in addition -- you talk about the layoff and some plant closings, but I was just wondering have there been other impacts?

MR. CONWAY: Yeah, it caused us to get locked out.

COMMISSIONER WILLIAMSON: Fair.

MR. CONWAY: I chaired the union's bargaining with ATI in that period that Mr. Hartford referenced and it was clear to the union that that lockout was hopefully we didn't figure it was imminent and we tried our best to avoid it, but during the bargaining and with the company's principles with who I bargained the overarching discussion was about the pressure from pricing from imports and it was constantly before us. It was constantly part of the bargaining, part of the ongoing discussion that went on and lead to the lockout.

Now the union tried not to get locked out. We wanted to stay at work. We continued to make offers. And in fact, modified our healthcare for our active employees, modified our retiree healthcare arrangement, modified a bonus plan to the tune of a buck fifty an hour that people was relaxed and made a bunch of other modifications to the labor agreement in order to avoid the lockout. It was unavoidable and we had this fight. So all those things, I think, are injury related to what went on leading up to the lockout and the discussions. So as far as I'm concerned, when Outokumpu came -- when ThyssenKrupp built that thing no one thought that was a good idea in this industry, whether you were on the carbon side or the stainless side. But Outokumpu was there now.

It was a reality to deal with and the fact that Outokumpu was now going to make the steel here rather than bring it in sort of was a push and that's how we saw it within the union, but the Chinese pressure that was coming in constantly was, as far as I'm concerned, for me something I couldn't escape in the bargaining leading up to the ATI deal and lead to the lockout.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. CONWAY: You're welcome.

COMMISSIONER WILLIAMSON: Thanks real. Okay, thanks.

This next question you'll probably address post-hearing. For certain key indicators, such as capacity utilization and profitability, there's a wide disparity in how certain U.S. producers perform versus others and so what is the explanation for these disparities and how should the Commission take this into account? And you can do it at post-hearing.

MS. CANNON: We'll be happy to do that post-hearing.

COMMISSIONER WILLIAMSON: Okay, thank you.

What does the domestic industry in its experience on operating loss in interim 2016 after subject imports had receded from the market?

MR. HARTFORD: Commissioner, Terry Hartford.

Could you please repeat the question?

COMMISSIONER WILLIAMSON: So why did the domestic industry experience an operating loss in interim period 2016? (0:28:23.7) didn't expect to see a post-petition affect and yet, I guess --

MS. CANNON: Perhaps I could start and you could supplement from the industry.

What we saw was, as we testified, by December 2015 the prices had crashed so low to records they hadn't seen, which pulled their profits down ridiculously in 2015. We filed the case in February of 2016, and even after we filed the case those imports from China continued to come in, in pretty significant volumes February and March, trying to beat the provisional duties. That's why we have the critical circumstances finding by Commerce. So you still have a continual presence in the market in early 2016. And remember we're recovering from a really low price base.

Now once they've stopped and you watch -- we can show you monthly imports. Those imports just plunge right about the time provisional duties were expected. That's when the price recovery began to happen, a real price recovery. It doesn't happen overnight, but it started trending up and that's why you're now seeing the industry's profits coming back from where they had been at a ridiculously low level. They haven't completely recovered to what would be healthy, but they certainly turned around from where they were enormously.

MR. HARTFORD: To Ms. Cannon's point for ATI, the period that she is talking about, from the second quarter of '16, when the Chinese imports finally started to subside, through the end of the year, we went from enormous losses to a break-even quarter in the fourth quarter of 2016, so there was improvement there.

In a competitive market like the stainless sheet and strip market, prices -- it takes a long time to go up. They can fall very quickly, if they're driven that way. But on the way up, it's a competitive market and so as we announce price increases, we fight hard to get them and we fight to keep business and the climb in prices is underway. But it will take some time to get it back to a level that's more reasonable.

MR. LETNICH: If I could add just a little bit, I was new to Outokumpu; I was hired in January, 2016. And the price pressure that China put under was not just spot market-based, but even for contractual obligations. So there were contracts that we were forced to sign into in the second half of '15 that lasted six months or twelve months into 2016. So even those spot prices come up, a chunk of business was not impacted by higher prices until those contracts were fulfilled.

COMMISSIONER WILLIAMSON: Thank you for those answers.

CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you, Chairman Schmidtlein. Mr. Lyons, if the pricing formula is base price plus surcharge, and the raw material costs declined, why wouldn't you expect domestic prices to decline concurrently?

MR. LYONS: Could you repeat for me one more time? I'm sorry.

COMMISSIONER BROADBENT: Sure, absolutely. If the pricing formula is base price plus surcharge, and the raw material costs declined, why wouldn't we expect domestic prices to decline at the same time?

MR. LYONS: They did. The net price did decline. The issue is that the declines that we saw exceeded that of the raw material declines. So there were declines as it relates to the lowering values of our surcharges, but the net reduction was much greater, which ties itself to reductions in the material base price.

COMMISSIONER BROADBENT: Okay. How much does the surcharge account for the total price?

MR. LYONS: That is a bit of a moving target as the value of the -- elements increase, it can change the percentage of the total. By and large, you're looking at around 60% as a figure, but I caution that that's really relative to what point in time we evaluate, because as those fluctuations in the raw materials occur, it has a big impact on the percentage split, base versus surcharge.

COMMISSIONER BROADBENT: Okay. But just rule of thumb, it's basically about 60%?

MR. LYONS: That's a fair assessment.

COMMISSIONER BROADBENT: Okay. Great. Mr. Letnich, you mentioned you've been in the industry a decade or so. How many times has the domestic industry had some of these issues that have occurred during this period of investigation, such as the motor failure and the lock-out and the shortages?

MR. LETNICH: May I clarify, I've been in the stainless steel for just over twelve months. I've been in the steel industry for twenty-five years.

COMMISSIONER BROADBENT: Okay.

MR. LETNICH: Just conjecture -- it happens. I can remember my father working for Bethlehem Steel in the 1970s and hearing of shutdowns. So there are equipment failures, there are electrical failures, there are union issues. There are all sorts of these that happen and have happened periodically.

But most cases, there are, I'd say, preventative measures done ahead of time. If you have a maintenance issue, you run product ahead to take care of your customers. If you have any unforeseen things, those typically don't happen, but certainly in my experience, planning before shutdowns or lock-outs are done to take care of customers and to insure there's consistent supply.

COMMISSIONER BROADBENT: Okay, great. Mr. Lyons, there's a mix of underselling and overselling in this case. How do you explain the instances of overselling by the Chinese? Is that a result of a different formula between the surcharge and the base price? Or --

MR. LYONS: I can't make sense of it. And the reason that is -- information will pass freely from customer to us as they get offers. The vivid, dramatic nature in which the Chinese approached our market place, it was quite apparent. And it was -- to hear that there was overselling, it doesn't corroborate with what I saw in the market place during that period of time. So I'm confused by that message.

COMMISSIONER BROADBENT: Okay.

MR. HARTFORD: Commissioner, if I could add to that. When I was in that role at ATI, I would concur with Mr. Lyons. It's surprising to me that there was evidence of overselling, as we saw this wave of Chinese imports come into the U.S. market. As you said, our customers share much of that information with us and consistently, those Chinese offerings were significantly below our current market prices. So I can't explain it either.

COMMISSIONER BROADBENT: Okay. Let's see -- for Mr. Conway, respondents in this case argue that, in regards to at least one U.S. producer, the uncertainty of the labor dispute led U.S. purchasers to seek alternative supply from China and nonsubject sources. If you're a U.S. purchaser, how do you navigate the labor and union negotiations and try to protect yourself against lack of availability of product?

MR. CONWAY: We knew they were putting a lot of inventory down, and they were building ahead of this strike, opening warehouses that had not been opened before, and putting a lot of inventory in a lot of different places around the country, and I was aware, frankly, of all of it, during that period of time.

Because one of the issues that led to the labor dispute was the amount of overtime people were getting forced to work in order to build this inventory and we knew that it wasn't shipping. So I think, if you're a customer out there, ATI certainly is able to say to them, we've got your materials put up and we're going to sustain our way through this, and this one lasted a while.

But nowadays labor disputes don't go a week or two. If the parties get in that sort of a squabble, it's going to last for a while. So this one I don't think was any worse than others. You know, I wish it hadn't happened, but I don't think they had trouble get out of their inventories by their customers. I think they were able to signal that to their customers.

Now, they'll tell you all day long they ran those plants with scabs and things ran fine. I don't believe that either. But I think they had enough material put up to weather their way through it.

COMMISSIONER BROADBENT: Okay, fair enough. Thank you. Let's see -- Mr. Hartford, why wasn't the domestic industry prepared for the increase in demand in 2014? Why did the lead times increase? If there was excess capacity in the domestic industry to begin with?

MR. HARTFORD: I can't explain all the reasons that we saw demand increase. I could probably speculate on a couple of things. One is many customers and much of our product that's sold goes through distribution and so there is this inventory filter, buffer, in the middle of the supply chain that can mask true demand by manufacturers. So if it's flowing through a distributor and then from a distributor to a customer, we don't always get a great view of what the true demand looks like down the supply chain.

Oftentimes, at the end of a year, many distributors will drive their inventory down. And then they'll replenish early the following year. We saw that happen a little bit later in 2014. We saw this increase start to happen sometime mid-second quarter. Some of that may have been driven by the beginning of a rise in material costs, and when customers see rising material costs, they at times will buy to try to get ahead of that. And so that may have spurred the increase in buying.

So we didn't see any fundamental demand signals that said, overall demand is going to be stronger. And so we were, I want to say, surprised, but we weren't expecting the increase in order entry that we saw. I think we got a handle on it pretty quickly in terms of meeting with our customers and asking what's behind this. Is this true demand? Are you ordering 20% more than you need just in case? And if that's the case, we can, if we understand what your true needs are, we can work with you and try to satisfy those things. So our lead times went out for a period of several months and we were able to satisfy our customers and then those lead times came back in by the end of 2014.

COMMISSIONER BROADBENT: Okay. Mr. Herrmann, your side is arguing that surging imports caused material injury to domestic industry. Yet, when subject imports from China increased the most in absolute volume between 2013 and 2014, the domestic industry was at its most profitable. Please explain why this was happening, and how the Commission should find that there's a causal link between the imports and the injury.

MR. HERRMANN: Sure. Happy to discuss that. So you did, as Mr. Hartford and the other witnesses have testified, see a sudden ramp-up in purchases at the second half of 2014. I think what you also saw at the same time was a substantial increase in inventories. And I think as prices rose with the increased demand, there was an opportunity for the domestic industry to do a little better. I think frankly what happened was, as you saw, the surge of Chinese product into the market, a build-up of inventories, and frankly that build-up of inventories worked its way off and through the market, through the remainder of 2014 and into 2015.

MS. CANNON: Commissioner Broadbent, if I could just supplement that. I know your time is running out. I think this phenomena is very similar to what we saw in the carbon steel cases where the 2014 demand went up in most of those cases. The imports surged and yet the industries profits generally did go up, but what they gave up was market share.

And then as they saw that they were losing so much market share, by 2015, it flipped, because they had to keep their customers, and that's when their prices went down, and the financial performance went down. And that tends to be the same pattern that you are looking at here.

So profits went up. But even when profits went up, look at what they went up to. They were barely break-even. In a very good demand year, they weren't making much money, and by 2015, when they had no choice but to cut the prices to try to get the customers back, everything crashed, both market share and profits fell off the face of the earth that year.

COMMISSIONER BROADBENT: Okay, thank you. My time has expired.

CHAIRMAN SCHMIDTLEIN: Commissioner Kieff.

COMMISSIONER KIEFF: So I join my colleagues in thanking everybody. Let me just ask you to follow-up on that. So I'm still trying to understand how we should be thinking about the case from your perspective. That in effect, the good days were not as good as they seemed to us in our staff report. They were in effect injurious to you, or setting a trap for you to be injured in the later years, is that -- am I understanding your last exchange correctly?

MS. CANNON: Commissioner Kieff, I guess I would ask, what do you mean by the good days? Are you referring to --

COMMISSIONER KIEFF: Sorry. You were just having a discussion in which you were referring to "profit". I think that's good, right? I'm just trying to summarize. So profit, let's call that a good day. I thought you were, in effect, saying yeah, it was a good day, but not as good as it seemed.

MS. CANNON: Understood. So let me clarify then. In the staff report I'm looking at your C-Table. The profit in 2014 was 0.5%. I wouldn't call that a good day. The industry wouldn't call that a good day, even that year.

COMMISSIONER KIEFF: Let me ask. Are you calling that what we in our statute should call material injury?

MS. CANNON: Yes. Because --

COMMISSIONER KIEFF: Because you're saying even though -- again, I'm just trying to summarize -- even though the books were black, not red, it was not as intensely black as you would have expected and therefore, that is injury?

MS. CANNON: Correct. Given the increase in demand that happened that year, in 2014, that should have been, given the business cycle and the upturn, that should have been a good year. A barely break-even profit and a loss in market share, which is what the industry went through in 2014, does not make it a good year, given the market dynamics of that year.

COMMISSIONER KIEFF: Okay, so let me make sure I'm understanding why we expect that. Because there's a phenomenon in this particular case that I'm struggling with, which is in an admittedly cartoonish way--I don't mean to suggest that what I'm about to say is accurate, I just mean to say there is a glimmer of it--what you have described in your getting ready for the, I believe the phrase was "worst-case scenario" and I'm not trying to put words in anyone's mouth.

I just -- in the kind of "getting ready for the bad", there was an increase in production in the domestic industry, an increase in overtime in the relationship between the domestic management and the domestic labor, and my understanding of the way that -- when you run a business in the United States where you generally pay more for overtime per hour than you pay for regular time per hour, I would expect a surging up of a business to make the books look exactly the way you just described them to look, less positively profitable in that timeframe, but that would be an artifact of running the furnaces longer and keeping the workers later in the day.

And what I'm trying to figure out is, there might be very good reasons for that. I don't want you to cast dispersions or suggest that there's anything insidious or improper about it. I'm just saying that might be explaining why the profitable numbers were smaller in that time period than otherwise.

MS. CANNON: Understood. So I think I have two responses to that. The first is that the situation that was described about the lock-out was in 2015, not 2014, so the 2014 period I was just describing, none of this was occurring.

COMMISSIONER KIEFF: I see.

MS. CANNON: It was the next year.

COMMISSIONER KIEFF: That's helpful.

MS. CANNON: And secondly, I would say it affected one company, ATI. It didn't affect anyone else. If we disaggregate the results, you're going to see a downtrend in the industry's performance, even separate and apart from that. So I think that those two factors answer the concern that you identified as I understood.

COMMISSIONER KIEFF: No problem. That's very helpful.

MR. KERWIN: Commissioner Kieff, if I could add two points. One is that in the respondents' brief, they point to a twenty-year history of consumption of this product in the United States. And 2014, by their own data, shows to be a record over that period. So it's a twenty-year high in terms of U.S. consumption.

Typically, in a period of increasing and high-consumption, an industry can be expected to be able to raise prices first of all, but also show some real efficiencies in the production process, such that those would overcome any increases in overtime because your throughput would be so much more substantial going through your mill, that your fixed costs would be allocated over a much larger number of units than you would be doing in a relatively poor period of consumption. So typically costs per unit should be declining in a period of healthy demand.

COMMISSIONER KIEFF: So if you could, in the post-hearing, just try to give us as much of--if you will--presidential listing of cases in which we have found an industry as in the black as you were in that time period, nonetheless being injured, perhaps for the reasons your economists just described or otherwise, I don't want to use the hearing to "gotcha". I want to use the hearing to focus to explain to us why we should decide your way, and of course the other side the same thing.

So if there are reasons why you think just that timeframe alone is a good case for injury, despite the fact that you were in the black, I can see the reasons why. I'd just like you to please explain it on the record, tying it to the facts and then giving us some precedential guidance as to why we generally go that way with that kind of record.

MS. CANNON: We'll be happy to do that, Commissioner Kieff, and we'll also be referencing you to the new legislation, the new law which --

COMMISSIONER KIEFF: But the new law -- remember the new law -- I'm not suggesting that I can't conceptualize that outcome. I actually, before the law, thought we had a good track record of both conceptualizing and going affirmative. So I actually still don't yet understand what that phrase in the new law was designed to encourage us to do if we already can conceptualize it and already can go affirmative on it.

And I don't know why being reminded to both conceptualize and go affirmative is necessary. But I do take the law at face value and absolutely am interested in following it. I just thought we were before. But I want to try to then follow-up on the next half of the exchange with Commissioner Broadbent, which is -- we were talking about the "good days", the profit days.

Now let's talk about the bad days. And on the bad days, in the staff report at least -- and I think Commissioner Broadbent was getting at this, and I think a couple of the other Commissioners as well -- there seems to be in the staff report just data that the Chinese products were, except for at least one grade, generally having higher unit values than the domestic, so colloquially overselling.

Now I take your witnesses at face value, that they're shocked to hear that. I don't doubt the sincerity or accuracy of their perceptions. I'm asking you as a lawyer, what we do with our staff report?

MS. CANNON: That's a question we asked

ourselves too, because what we saw in those quarterly pricing data did not match what our witnesses were telling us. So what we did was comb through other aspects of your staff report, and those are some of the other record facts that I tried to highlight in my presentation.

Because what we found were that, when you talk to the purchasers you got a very different picture than just what you see in the quarterly pricing data. You had eighteen of nineteen purchasers who said the product was lower-priced. And you had most of them say we shifted due to lower priced product. And it was a big shift.

So you have your purchasers telling you that, and that was over the entire period of investigation. You asked them how much it was in 2015.

COMMISSIONER KIEFF: So let me just make sure I'm understanding. You're saying that the data in our staff report might be accurate, but not representative of enough of the behavior in the market?

MS. CANNON: That may be correct. And I'm not totally sure that it's accurate. I mean we're trying to look behind some of the quarterly pricing data that shows overselling and --

COMMISSIONER KIEFF: Look. I'm trying to be really explicit. We benefit by being told by both sides whether our data is accurate or not. And then even if it's accurate, whether it's relevant or not. So we're not slavish to our first impressions. The whole reason we have hearings is to ask you to inform us what's wrong. Of course, we're asking the other side the same questions and we hope that we can discern a more accurate understanding from the combination of inputs we will receive from the two sides.

MS. CANNON: Understood. So in response to that, I fully encourage you to look very closely at what the purchasers have told you, because I think that's highly informative on the underselling issue.

COMMISSIONER KIEFF: Thank you.

CHAIRMAN SCHMIDTLEIN: All right. I just had a couple questions. We've heard from and read in the respondents' brief that there were a number of public statements from some of the companies with regard to what appears to be supply constraints. So I wondered if you would like to respond to that and explain how you believe we should consider those statements in our analysis.

MR. LYONS: Chris Lyons, North American Stainless. As it relates to supply constraints, what we saw is an extension of our lead time. Our customers' needs was something that we were able to fulfill. And, yes, the surge did lead to longer lead times, but it did not lead to our inability to provide to our customers the product that they needed.

MR. LETNICH: Steve Letnich with Outokumpu. As everyone knows, we had an issue with our manufacturing in Calvert, Alabama. We have three cold-rolling mills there, the smallest of which is the 54-inch mill. We've got a 64-inch mill and a 74-inch mill.

We had a motor outage on our 54-inch mill that took it out of operation for six months, June through December of 2014. We used that experience to inspect the motors on the other two mills and decided to do preventative maintenance for a very short period of time in September.

In those cases we did run material ahead and do the things necessary to make sure supply to our customers was taken care of. But all three mills were back up and running by the end of 2014.

In a note that I had said earlier, but I'll restate again, is that in 2013 into 2014, our volumes were significantly more in 2014 even with the outage of the small mill, and with the preventative maintenance on the two other mills.

MR. KERWIN: Chairman Schmidtlein, if I could add --- Mike Kerwin, Georgetown Economic Services. As Mr. Lyons just mentioned, lead times did increase over the 2014 period, but that does not equate with a product shortage during the period.

People were being supplied, and customers were being kept happy. But the key point I think is that even as these lead times increased, they never reached lead times of the Chinese imports, which means the Chinese imports never had a comparative advantage vis-a-vis lead times even as these lead times extended for the domestic industry.

CHAIRMAN SCHMIDTLEIN: And is that what--you're basing that on what they've reported in the questionnaires? Or what lead times from the Chinese are you referring to?

MR. KERWIN: Well in the Respondents' own brief, I believe on the first couple of pages, they note that the average lead time for Chinese imports in this period were 105 days, I believe it was, while the domestic industry's average lead times were 35 days.

CHAIRMAN SCHMIDTLEIN: Even during the extended lead times?

MR. KERWIN: Well they do have an exhibit that shows purported lead times, or track lead times, I'm not sure what the source is, but even in their own analysis it shows essentially the same thing. I won't go into the detail because it's, they've claimed, proprietary treatment for it, but there is evidence in one of their exhibits that goes to this issue.

CHAIRMAN SCHMIDTLEIN: Okay, maybe you could respond to that in the post-hearing.

MR. KERWIN: We'd be happy to, yes.

CHAIRMAN SCHMIDTLEIN: I note that in the Staff Report, the Staff Report does say that three of the four U.S. producers reported experiencing supply constraints since January 1st, 2013. So in your view that doesn't translate into purchasers turning to subject imports because of these ---

MR. KERWIN: Correct. I think there's a key point--

CHAIRMAN SCHMIDTLEIN: --various issues that were popping up?

MR. KERWIN: Right. The key point to remember, these issues that occurred at individual producers were not occurring at the same time. So to the extent there was something happening at Outokumpu during that period, those issues were not occurring at the three other domestic producers. And those domestic producers were able to pick up much of that slack.

And even if you examine the output at Outokumpu itself in 2014 in relation to 2013, you can see that there was no constraint in the output of the company. In fact, output increased in that period.

So not only was that not a substantial issue in relation to Outokumpu's output vis-a-vis 2013, but you also had three other manufacturers who were not in that same situation with an equipment failure. And the same is true when ATI Allegheny had its issues in 2015, the other three manufacturers were not in that position.

MS. CANNON: Chairman Schmidtlein, the other thing I would say about the supply constraint is, if there really was a supply constraint in the second half of 2014, why weren't nonsubject imports surging in?

I mean, everything went up, including domestic production and shipments. We shipped more in 2014 because the customers wanted more. But relatively, in terms of market share, who grabbed the share?

China, not any other subject country. They grabbed it at everybody's expense because of low prices. And then in 2015 when we were past the supply shortage, they didn't go away. They kept the share and then even increased the share further when there was nothing going on that precipitated that.

And again, nonsubject imports lost out. So you have to ask yourself, how is the supply constraint driving that type of a behavior? Why would it need to be low prices? Why would they sell low? They should sell high. They should get a premium. They didn't.

CHAIRMAN SCHMIDTLEIN: Yes, that's a question for the Respondents this afternoon.

Alright, so the other question I had, and I'm not sure--I don't think this has been specifically asked--why was the industry experiencing a loss in '13? What were the conditions in the market at that time that were causing the U.S. industry to operate at a loss?

MS. CANNON: Some of this is proprietary and we can address it more. One thing that has been said publicly by Outokumpu was that 2013 was still in their ramp-up period, and that they were projecting by 2014 that they would be at a break-even state.

And in fact that was borne out by the market, that the demand did pick up and things were getting better then. And then all of this happened and prices crashed. So part of the 2013 explanation is still related to the ramp up at Outokumpu.

Beyond that, to talk about other companies' specific performance, I don't know that we want to get into that specifically here, unless anybody just wants to comment on the market in 2013.

CHAIRMAN SCHMIDTLEIN: Okay, I would appreciate it if you could follow up in 2013. And then discuss whether the conditions that existed in 2013, I assume, how were they different from what's happening in 2016?

MS. CANNON: Absolutely.

CHAIRMAN SCHMIDTLEIN: Okay. Alright, thank you. I don't have any further questions.

Vice Chairman Johanson?

VICE CHAIRMAN JOHANSON: Respondents contend at page 4 of the brief, and at Exhibit 11, that during each of the years of the Period of Investigation subject imports from China were either at an all-time historical lows, or at levels consistent with annual import levels over the past 20 years.

Does the historical data provide important context from subject import volumes during the Period of Investigation as Respondents suggest?

And what role should the historical data play in the Commission's consideration of injury on this record, in your view?

MS. CANNON: Commissioner Johanson, I was extremely puzzled when I read that statement, because our experience was that China was nowhere near the level they are now historically. And in fact as we've gone back to read it, it's a very misleading statement.

It was never Chinese imports that were at these levels. What they've said is, they start by saying China imports, and then they segue to saying "subject imports," and by "subject" they don't mean China. They're now talking about the eight subject countries that were subject to the other cases.

So it is not true that China has just returned to historical levels. And in fact I had our economist pull the data going back 20 years to 1996, at which point the imports from China were 43 tons. And under 100 tons for a long time. They weren't even a fraction, a speck of anything in the market.

The largest volume of Chinese imports of any year in the past 20 years was 2015. So we will be happy to talk more historically, but that's just a very misleading statement in their brief.

VICE CHAIRMAN JOHANSON: Thank you, Ms. Cannon. How do you respond to Respondents' contention at page 2 of their brief that when the prices of Chinese product and domestic product are compared, one is comparing a Chinese price that is effectively a futures price with a U.S. price that is a current price.

MS. CANNON: Again, this is similar to arguments we saw in the carbon steel cases when they wanted you to do a lag effect and compare prices and market shares at different periods based on when they sell, but frankly there's nothing different about the way that the imports in stainless sheet are being sold in any of the other imports that you typically look at for price comparison purposes.

And in fact the domestic industry, when they price a product, they may be shipping it later, too. Nothing is being sold the day that it happens. The lead times vary, and the lead times varied over the entire period.

I was looking actually at your recent decision in the cut-to-length plate case where you were analyzing this lag argument and said there's really not a way to resolve this because you're always going to have some of these differences.

And the way that the quarterly pricing comparisons have traditionally been performed is as apt here as it is in any other case. There's nothing unique about the way that they sell here that would differentiate this case, or argue for a different methodology.

VICE CHAIRMAN JOHANSON: Thank you. Petitioners mention in the prehearing brief at page 9 that industry witnesses in the preliminary phase conference testified that customers began to place orders in 2014 for unusually large volumes of stainless steel sheet and strip and the market experienced a herd mentality.

Why was there this increase in demand in 2014? And what in particular drove this so-called "herd mentality" in purchases during this uptick?

MR. HARTFORD: Terry Hartford with ATI. I think there were some contributors to this. I don't know that we can fully explain every reason why we saw the demand increase, but I think a couple of reasons.

One is inventories at the distribution level had been driven down at the end of 2013, which was typical in the distribution business. And sometime in early to mid-2014 that replenishment began.

I think the herd mentality that was referenced in the earlier hearing was, if you are a buyer at distributor A and you know that somebody at distributor B is suddenly placing large orders, you don't want to get left behind and be the service center that doesn't have inventory.

And so I think those things sort of feed on themselves, and that may have been the reference to the herd mentality.

I think the other contributor to the increase in demand that we saw was a rise in raw material costs. And when that happens, most buyers try to get out ahead of that and buy earlier rather than later to take advantage of current raw material costs.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Hartford. At page 213 of the Staff Report it states that "Most responding firms indicated that the market for stainless steel sheet and strip is not subject to business cycles."

This struck me. How could this be the case, especially when this product is used largely in the manufacture of automobiles?

MR. KERWIN: Commissioner, I might just join in here--Mike Kerwin, Georgetown Economic Services. It seems to me that the comment--sorry, I lost my train of thought. Could you repeat your question again?

VICE CHAIRMAN JOHANSON: Yes. At page 213 of the Staff Report it states that "Most responding firms indicated that the market for stainless steel sheet and strip is not subject to business cycles." And I'm wondering why that might be the case?

MR. KERWIN: I think when that question is answered people are thinking in terms of does it have its own business cycle. I think that demand for this product is reflective of changes in the overall U.S. business cycle, including what could happen in the industries that consume the materials such as the auto industry. I don't think anybody denies that, that the strength of the auto industry has been a net gain for the stainless sheet and strip industry.

But the question of whether the stainless sheet and strip industry itself has a specific business cycle I think is what people are answering there in the negative.

VICE CHAIRMAN JOHANSON: Okay, that's for that clarification. I thought I knew the industry pretty well, after working all these cases, so that kind of struck me, that one sentence.

As presented in the prehearing Staff Report at

Table 6-2, during the Period of Investigation some U.S. producers performed notably better, while others performed notably worse.

What are the key factors that help to explain this divergence in company performance, in your view?

MS. CANNON: We believe that that answer needs to be presented in post-hearing brief so we can dissect each company, but we will be happy to provide that, Commissioner Johanson.

VICE CHAIRMAN JOHANSON: Alright, thank you, Ms. Cannon. Well that concludes my questions. I appreciate all of you appearing here today.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you. Just a few more questions.

We'll go back to the base versus total price discussion. I don't think these particular questions were addressed. Respondents argued that any effect of subject imports must occur in base prices, because the surcharge for alloys that pass through that is not negotiable.

Do you agree that we should be looking at base prices only?

MS. CANNON: Yes, we agree that you should look at base prices. Where we disagree is that we, as we testified, the base prices are what's driving the profits, not the surcharges. That's the area of disagreement.

COMMISSIONER WILLIAMSON: Okay, so in other words look not only at the base price is what you're saying?

MS. CANNON: Well let me clarify that. Total prices are important because often the imports from China are sold on the basis of total prices, which include both elements. So you do need to look at total prices.

Where you can segregate them and you see the effects, the base price portion, as Mr. Lyons testified, is the part that really gets hit because the surcharge is a formulaic number that will rise and fall in response to published metal exchanges.

So the base price is where they have to capture all their costs of production, all of the elements, and when China comes in and crashes those base prices, that's when prices are pulled down and we see the profit hit that we experienced, not when the surcharges fluctuate.

MR. KERWIN: Commissioner Williamson, if I could add, the argument of the Respondents is that the surcharges themselves explain the trends in profitability of the domestic industry in this period, and that makes no sense whatsoever.

As you've heard from our witnesses, it's the base prices that must capture and pay for the costs of changing the material, converting the material from a raw material into a finished product.

So all of their internal costs must be reflected in the base prices, and hopefully some element of a profit. But the surcharge itself is essentially a pass-through. So the surcharge trends over this period do not explain the trends in the industry's profitability whatsoever. It's the base prices that are key in demonstrating that.

COMMISSIONER WILLIAMSON: Does that mean that you agree or disagree with the Respondents' claim that there is a profit element in the surcharge?

MR. KERWIN: As the witnesses said this morning, the surcharge is essentially a pass-through. So there really is not a profit element in the surcharge.

COMMISSIONER WILLIAMSON: Okay, so you think they're wrong on that claim?

MR. KERWIN: That is correct.

COMMISSIONER WILLIAMSON: Okay. And if there's anything more you can add post-hearing, it would help on that.

MR. KERWIN: Sure. We'd be happy to do so.

COMMISSIONER WILLIAMSON: I wasn't clear. Did you say we should be looking at the base prices only?

MR. KERWIN: No, I think we should look at both, the total prices and the base prices. Certainly the pricing information that the Commission has collected is on a total-price basis, and it's certainly very relevant. But we do have some ability to look at the base prices here, and as you've heard from the witnesses the decline in the base prices certainly in 2015 were very substantial and very destructive.

MR. HARTQUIST: Commissioner Williamson, David Hartquist.

COMMISSIONER WILLIAMSON: Sure.

MR. HARTQUIST: Let me simplify this down to a very elementary level. The total price determines who gets the order. What the customer wants to know is how much do I have to pay for the product? And is it your price or somebody else's price? Which one is lower? That's where I place my order.

But the determination of profitability in the U.S. system of pricing is substantially dependent upon the base prices because that's where the element of profit comes in, given that the surcharges are a pass-through of material costs that are going into making the product.

COMMISSIONER WILLIAMSON: Does that imply that everybody constructs the surcharge the same way?

MR. HARTFORD: Terry Hartford, from ATI. I wouldn't say they're the same way, but they are similar. And they're posted on our respective websites, and we all have an approach to those surcharges.

I can give you a little bit of history. They started in 1988. And when we announced them in 1988 because of a dramatic spike in nickel prices at that point in time, we published the formula that we would use to construct a surcharge. And so that was very evident to our customers and to anybody else who was willing to read these things.

And so there was this, I won't say a public document, but a well-known construction of the surcharge. And so ATI publishes an ATI surcharge. And NAS does the same, and Outokumpu and AK do the same. They happen to be similar.

COMMISSIONER WILLIAMSON: Okay, so in a sense there's enough transparency in this that people can take it into account. And I guess--the Chinese, are they copying of these standards the major companies are using?

MR. LYONS: Chris Lyons, North American Stainless. In regards to that particular question, we receive through our customers offers that have been presented to them from Chinese producing mills that state on the offer itself that the surcharge reflective of North American Stainless's surcharge at the time of shipment. So they specifically point to our surcharge mechanism as the one they employ themselves.

COMMISSIONER WILLIAMSON: Okay, thank you. That helps to clarify that.

Let me go to another question that Commissioner Kieff had raised earlier. And this gets to the Table 4-4 and the differences in the AUVs between subject --- you know, showing that AUVs of subject imports were in many cases higher than the domestic AUVs.

And then I think you all started talking about the pricing tables, and I never really got an answer to is there an explanation for --- or what should we make of this difference in AUVs?

MS. CANNON: We discussed this, Commissioner Williamson, and this is a product with a very wide range of types and sizes and gauges and finishes, et cetera. It's a huge product mix. It's one of the reasons that the percentage coverage in your price descriptors, despite all of us working to try to find more, never got to be that big. Because you just have so many different types of products.

And so the explanation on why the average unit values of China may be higher than the U.S. here we think is driven simply by a different product mix, because that's hugely influential over prices in this particular product category.

COMMISSIONER WILLIAMSON: Okay.

MS. CANNON: Because all of the other information on the record from the purchasers tells you China is lower priced. So an average unit value which spans a wide product mix is just not going to be particularly informative here.

COMMISSIONER WILLIAMSON: Okay, I was just wondering. Good. Thank you.

Last question, just because no one has touched on it before, any forecast for demand going forward?>

MR. LYONS: North American Stainless, Chris Lyons. Looking ahead, there's an expectation of some potential modest growth in the neighborhood of 1 to 2 percent. By nature, our industry is a skeptic at first, it seems, and as it relates to what we've seen thus far and leading into next year, there's a sense of cautious optimism. But they want to see first before they really react.

So our expectation for the year ahead is modest, a 1 to 2 percent growth.

COMMISSIONER WILLIAMSON: Okay. Good. Thank you. Thank you for those answers.

CHAIRMAN SCHMIDTLEIN: Alright, Commissioner Broadbent?

COMMISSIONER BROADBENT: Yes, I just had a couple of extra ones here.

Okay, so profitability is--this is for Mr. Lyons--profitability is derived mostly from the base price. But Respondents are arguing that Outokumpu led a race to the bottom in the intra-industry price war. Should we assume the domestic industry shares a common base price formula?

Or are there differences? I just want to make sure that that's clear that they're pretty much the same.

MR. LYONS: Within the domestic industry, it gets back to what Mr. Hartquist was alluding to. What customer is--they're comparing the different vendors in the supply, and benchmarking on the best opportunity as it relates to price.

From my perspective, the attack on the price in the market was not led by our counterparts at Outokumpu. It was led by the very direct and aggressive approach by the Chinese. All U.S. suppliers in order to maintain market share were forced to follow the Chinese prices to a degree in which we could maintain volume levels, to the best of our abilities, but we have great interest in preserving margin where available.

So it's not our desire to lower prices, especially when the capacity of the domestic producers can fulfill that of the domestic marketplace.

COMMISSIONER BROADBENT: Okay. Is there a surcharge for energy costs, like electricity and gas and does that differ among U.S. producers and then between the U.S. and China?

MR. LYONS: There's a component to our surcharge that would enact an energy surcharge in the event that those costs reach a certain threshold. In the case of energy, they have not reached that threshold since 2009. So during the period of investigation the cost-related energy were covered in our base prices.

Ms. Cannon, what accounts for the increase in U.S. exports of stainless steel between 2013 and 2014? How do U.S. prices in other market -- what are the prices like in export markets and the pricing formula does it change in the export market? I mean is it basically the same or is it different?

MS. CANNON: I'd have to defer to the industry for the last question. For the first question about why there was a change in export.

COMMISSIONER BROADBENT: Why they went up, yes.

MS. CANNON: In the preliminary stage of the case, and I can put this on the record again, that question was asked at the staff conference and each of the witnesses put a confidential declaration in explaining for their company what change in exports and why it changed from 2013, so we can put that back on the record for you for this case.

In case of whether the pricing formula is somehow different, I'd let the industry answer that.

MR. HARTFORD: Terry Hartford, ATI.

For our export business, we follow a similar structure. We start with a base price and we add a surcharge to that, depending upon the grade and the month that we're going to ship it, so it follows the same structure for the same reasons. It's because we need that surcharge to protect ourselves against volatile raw material changes and the base price is the base price, so it's a similar structure.

COMMISSIONER BROADBENT: Okay, thank you very much. I don't have any further questions.

VICE CHAIRMAN JOHANSON: Commissioner Kieff?

COMMISSIONER KIEFF: So just a couple of follow ups. In your discussion with Commissioner Williamson a moment ago or a few moments ago, you were pointing out the difference in the AUVs -- difference in AUVs between domestic and subject imports and you were pointing out the differences across the product mix.

What I would like to ask, if you could, is to tie that difference in product mix to the Respondent's argument about attenuated competition. Doesn't that fit their argument?

MS. CANNON: No. Because while the domestic industry may sell a broader range of products, we are competing with them head-to-head in the products that they sell and so we have really not attenuated competition here of the type you might have seen in other cases. Say, if they were selling a grade, you know, 430 and we were selling a grade 304 and that's what I would call attenuated competition.

Here, if you have them selling the same grades that we're selling, even if they may not sell every grade, you don't have attenuated competition. But yes, you are correct that some of those differences could explain the average unit value variations because there are some different products that we sell.

COMMISSIONER KIEFF: Okay. And then to follow up on our last discussion about the different significance the two panels are probably going to ask us to draw from that so-called overselling data and the purchaser questionnaires that you pointed to, I take it that the -- I suspect that the afternoon panel will say, gosh, they're fine embracing the purchaser questionnaires because they understood the purchaser questionnaires to be saying that pricing was a factor rather than the factor and prices -- the idea that price is a factor is not inconsistent with their take on overselling.

MR. HUDGEN: Commissioner Kieff, I would just point out that the question actually indicates whether it's been a primary factor, not a factor. It actually indicates that it's an important factor.

MS. CANNON: Correct. And the way that the staff report reads is "Did you shift, was it lower priced, and was pricing a primary factor?" And when they say yes to all of that that's when they fill in the number. I think that's very telling if they have told you price -- it was lower priced and price was a primary factor in their shift. And a lot of them don't mention any other factors at all.

COMMISSIONER KIEFF: Okay, so again, if in the post-hearing if both sides could focus themselves on exactly what you are each pointing to and then explain to us why that either supports your view of the case or undermines or is inconsistent with your opponent's view. That's just very helpful.

Let me ask a set of questions that are not about primarily price, but rather how a purchaser might experience a increase in time for delivery of a product and whether that increase in time for delivery might encourage a purchaser to shift purchasing relationships. So I take it that you've, in effect, argued there were no supply constraints, but in arguing that there were no supply constraints you told an arch of a story about how you pre-positioned and planned and then delayed processing and had a controlled entry system and I'm just wondering whether increasing lead time might be a reason for a purchaser, in good faith, to act the way purchasers sometimes act with there is actually a supply constraint.

So put differently, while you're describing all the very reasonable things you did to help make sure there wasn't a supply constraints, at least some purchasers might have experienced some behaviors that they, nonetheless, treated as a supply constraint. Is there anything to that or is this an example of a bump in a rug getting pushed out only to surface somewhere else or was the rug really just smooth throughout the living room?

MS. CANNON: Let me start and you'll supplement.

So the lead times were pushed out. We've acknowledged that for a temporary period of time, but what we said was they never went longer than the imports. And so, to the extent that our industry witnesses talked to the customers, what the customer said was, you know, now you're out here and they're lower priced. That's why we're going to them and that's what they told you in the chart that I put up that there wasn't -- we weren't inferior on delivery times. We weren't inferior on availability. We were only inferior on price. So I think that purchaser statement is very telling that even with an extended lead time that wasn't what drove them to the imports. It was the price, but please.

MR. HARTFORD: I agree with what Ms. Cannon said. And in our post-hearing from the preliminary hearing back in March, we submitted some specific evidence of cases where we provided materials to certain -- material protection, if you will or certainty to certain customers, only to have them say no thank you because they chose to buy from China at a lower price and we can submit that again as a post-hearing this time.

COMMISSIONER KIEFF: Yeah, absolutely. We always, for both sides, we always are glad if we can get contemporaneous business documents, either call records, call notes, emails, even if they're your own people talking to each other the mere fact that they are written at that time, so in that regard not litigation induced, contemporary business records are always helpful to us, so if you've got them and can provide them, please.

Those are my questions. Thank you very much.

CHAIRMAN SCHMIDTLEIN: Alright, thank you. Do Commissioners have any other questions? No?

Does staff have any questions?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you, Madam Chairman, staff has one additional question, please.

Mr. Lyons testified that NAS established surcharges as of the date of shipment. Could the other domestic producers please indicate whether that's their same practice or whether they employ a different practice for surcharges?

MR. HARTFORD: Terry Hartford from ATI.

We publish a monthly surcharge and it's a calendar month and that surcharge is tied to raw material indices from a period of time that's six weeks to ten days prior to that month, so for the March surcharge we would use the raw material indices from January 20 to February 20 and those published prices compared to our threshold price would establish our surcharge for the month of March.

MR. LETNICH: Hi, Steve Letnich from Outokumpu.

We use a very similar practice as both ATI and NAS.

MR. LYONS: And if I may -- Chris Lyons, North American Stainless.

To clarify, at time of shipment, essentially, the month in which the product ships is tied to the month of the respective surcharge. Is what I was intending to convey.

MR. PFEIFFER: Geoff Pfeiffer, AK Steel we have a similar mechanism and we do publish our surcharges on our website, aksteel.com. And it is surcharge at time of delivery.

MR. CORKRAN: Thank you very much. Madam Chairman, staff has no additional questions.

CHAIRMAN SCHMIDTLEIN: Alright, thank you. Do Respondents have any questions for this panel?

MR. NEELEY: No.

CHAIRMAN SCHMIDTLEIN: Alright thank you. Alright we are ready for our lunch break, let me remind you that the hearing room is not secure. So please take your confidential business proprietary information with you. And we will stand in recess until 1:15 p.m.

(Whereupon the hearing recessed for lunch to reconvene at 1:15 this same day.)

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

CHAIRMAN SCHMIDTLEIN: Madam Secretary, are there any preliminary matters?

MS. BELLAMY: No, Madam Chairman.

CHAIRMAN SCHMIDTLEIN: Will you please call the second panel?

MS. BELLAMY: Second panel, you can start when you're ready.

CHAIRMAN SCHMIDTLEIN; Mr. Neeley, you can begin when you're ready.

MR. NEELEY: Okay, thank you very much.

Again, Jeff Neeley from Husch Blackwell. I'm not going to spend a lot of time, myself, talking this afternoon. I know that the afternoons tend to drag on, and I was very much encouraged this morning that the Commission had picked up on a lot of the themes that we think are important in this case.

So what we're going to do is have two witnesses, John Junker who is the General Manager of Sales and Marketing of Tisco Trading USA, and then a few words from Bruce Malashevich from Economic Consulting Services. And then we can go right to questions.

So with that, I will turn it over to Mr. Junker.

STATEMENT OF JOHN P. JUNKER

MR. JUNKER: Good afternoon. I am John Junker, and I am General Manager of Sales and Marketing of Tisco Trading in Canonsburg, Pennsylvania.

I have worked in the stainless steel industry for what will be 40 years this June. I went to school at Edinburgh State University in Pennsylvania, and then went into the industry immediately after graduation from college.

I worked with -- Specialty Steel, ThyssenKrupp, and various sales and marketing and management positions. In 2008 I came to work for Tisco to head up their sales and marketing efforts.

Tisco had a desire to start up an operation in the U.S. and would mirror the way European steel companies sold, which included not selling through traders, understanding the U.S. market better in order to achieve maximum profitability.

We were also able to advance credit terms and establish a claims system in order to reflect the way the U.S. industry operates and get to know our customers better.

Because I knew many of our customers already, Tisco thought that it would be the best way to maximize the profits of the company. As part of this we joined trade organizations, supplied hot bands to the ThyssenKrupp plant in Alabama that later was purchased by Outokumpu. We also supplied wide, 60-wide hot bands to Allegheny, and this was during the 2014 period.

I would like to start my remarks by discussing pricing in the U.S. industry, because the pricing structure is critical in understanding the profitability of the U.S. industry.

The overwhelming drivers of profitability up and down are the surcharges, not the base price. Surcharges are not a pass-through. They are a profit center. And sometimes a large profit center. While the U.S. industry tells its customers otherwise, this is simply not the industry--this is simply the industry's way of pretending that price increases are out of their control and just a wash, when in fact they are no such thing.

Let's start with the history of the surcharge in the stainless steel industry. In the mid-1980s due to rising nickel prices, the U.S. industry first introduced the surcharge mechanism. At that point, the surcharge was based on a factor of 1.1 times the nickel content in the material times the monthly published price, minus the trigger price.

At this point, no other component was part of the surcharge, but it only applied to nickel. Keep in mind that the 1.1 factor represents an estimated recovery rate. In other words, it represents a loss of 10 percent of the nickel in the production process.

Even at this time, back in the late '80s, this was very favorable to the mills because at that time the loss rate was probably around 5 to 7 percent. So it was a money-maker even then.

Then beginning in 1990, the surcharge went away for a number of years because the published nickel price fell below the nickel trigger price and thus there was no adjustment. In 1994, the surcharge was reintroduced because nickel prices rose. In 1994 when the surcharge began to be applied again, the factor was adjusted upwards by the U.S. industry from 1.1 to 1.2. This was simply an arbitrary adjustment upwards by the domestic industry and, much to the surprise of many in the domestic stainless steel industry, it was accepted by the market.

Clearly this meant that profits went up because efficiencies were getting better, not worse. It became a huge money maker when the prices for imports such as nickel were high.

The money-making effects of the surcharge are enhanced even more by the fact the U.S. industry melt is not based totally on virgin alloys like nickel, but instead primarily on scrap which is much less expensive.

So this adds to the profitability from surcharges when the price of the commodities are high. In the early 2000s, other raw material such as chrome and magnesium were added to the surcharge mechanism. Thus, the U.S. industry became even more dependent on surcharges for profitability.

The effect of the surcharge on profitability is really just a matter of math. For example, if total nickel price was $3 per pound and the trigger price was $2, then the surcharge formula is applied $1. So for every dollar the nickel increases the profit on the surcharge for nickel will be at least 10 cents.

Conversely, if nickel prices are falling, then the profits on the surcharge in overall profits also will fall. We can see this in the period outside the Period of Investigation as well as in the current period.

In 2007 the industry surcharge in July 2007 was $2.21 per pound. This generated record profits for the U.S. stainless steel industry. Surcharges were about 75 percent of the total price, and the base price was about 25 percent of the total price.

In 2015, base price was about the same, but base prices were about 46 percent of the total price in the published report and the industry suffered. This illustrates that the surcharges are driving profits up and down and has nothing to do with Chinese imports filling the gaps in supply in this market.

Let me turn now to the critical year of 2014 and what happened in the market. There was a major increase in early 2014 in U.S. demand mainly due to an increase in demand for appliances and construction increases, where there was pent-up demand.

Much of this demand was for lighter gauge stainless steel where the rolling time is longer for the U.S. mills, which drastically reduced the rolling capacity for the mills. I reviewed the presentation from Outokumpu from September 16, 2014, which is attached as Exhibit 5 in our brief.

There was discussion of the charts by Stephen Lacor of Outokumpu who prepared the presentation and he showed that on the chart on page 7, that shows the apparent consumption in NAFTA market. The chart shows the black line, sometimes solid and sometimes dotted, that Mr. Lacor explained represented actual capacity, and he shows that there is a shortfall in capacity.

There's no doubt that this shortfall had to come from imports from somewhere, whether it was from the Petitioner's related mills, or from China. One reason for Mr. Lacor's presentation was to show the need for additional capacity that Outokumpu was bringing on in Alabama.

As early as April of 2014, we began to receive inquiries and some orders as a result of the increased demand. You need to understand that most of our customers are service centers. After many years in this industry, I have observed that such service centers react to increased demand by over-buying because they are concerned with shortages and do not want to turn away customers.

Thus, the inventory levels often increase during periods of increased demand. The panic was particularly so in 2014 because of the increase in demand was obvious and came on top of major supply disruption by Outokumpu beginning in June 2014.

We need to distinguish this sort of major supply disruption from the ordinary issues in the industry that might be suffered by a company like AK or by delays in our own shipments. This Outokumpu disruption was major and an extraordinary disruption as can be seen by Outokumpu's own statements.

We saw this in the request for many additional customers who had not bought from us before, but now were concerned about obtaining supplies of stainless steel in placed orders.

Then in 2015, there was a 7-month lockup at Allegheny. While I do not think that this disruption was as severe as what happened with Outokumpu, it did cause continued concern in the marketplace.

The other significant thing that happened in the U.S. market in 2015 was a price war that was started by Outokumpu to fill the mill. NAS quickly reacted with our own price cutting. All of this happened as the surcharges were dropping severely. Clearly these events were a huge impact on profits of the U.S. industry.

I want to make clear that not all customers were affected equally by shortages. As always, the U.S. industry took care of its major customers, and those customers may not have been affected as severely as others, but we had many customers who were concerned about supplies and were not able to get product in a timely manner.

So the Commission should rely on the overall picture and not just stories from a few companies. I hope the Commission will understand what happens when customers believe they may not get product.

When we have a major disruption such as what happened with Outokumpu in 2014, combined with increased demand, and then when other companies put customers on controlled-order basis, this causes customers to have a great concern and look elsewhere for products.

So if a company buying under a controlled-order system thinks that it would be able to get 100 tons of a product based on last year's purchases, but thinks it will need 120 due to increased demand, and also sees a major mill such as Outokumpu have huge disruptions, it is likely to believe that it will not get even th 100 tons, so it may order 130 or 140 tons. This is what happened in 2014.

So when the U.S. industry says it was not turning customers away, that may be true but it misses the point.

Late deliveries may have promised--may have promised but this did not meet the customer's needs and they turned to other sources.

Finally, I want to discuss what happened with the base price in 2015 and '16. In 2015, the base price did fall in the second half of the year due to a price war by Outokumpu. By the last half of 2015, before the case was filed, Tisco's orders had fallen off very substantially, as had orders from other Chinese producers, and they cannot be blamed for these falling base prices.

As you can see when you look at the import data, 64 percent of the total 2015 shipments from China came in the first five months of the year. These orders were booked in 2014 when prices were high, and there was a surge in buying due to concerns with supply availability.

By the end of 2015, Chinese imports had returned to traditional levels. By 2016, this price war had dissipated and there were shutdowns by Allegheny and increased demands in the first half of 2016 that led to base price increasing somewhat.

However, prices still were not at the levels we saw in 2014. This was due to the continuing low surcharges.

Thank you for your attention, and I will be glad to answer any questions.

MR. NEELEY: We will now turn to Mr. Malashevich.

STATEMENT OF BRUCE MALASHEVICH

MR. MALASHEVICH: Good afternoon, Madam Chairman, and Members of the Commission.

I am testifying today on behalf of Chinese Respondents in this case. And I would like to offer two significant rebuttal comments to Petitioners' prehearing brief. I respectfully view them as game-changing in this case.

Petitioners's brief meanders away from arguments in the original petition and in their post-conference brief. At that time they argued that low-priced imports from China caused material injury through total product price undercutting, more or less in the traditional analytical manner.

In this final phase, the prehearing brief follows a very different course. Now all the emphasis is on the alleged impact of subject imports on Petitioners' base prices, not surveyed by the Commission.

The Commission's traditional price comparisons for the total product price, despite Petitioners' addition of even more Grade 304 products essentially identical to the product already surveyed in the preliminary phase so as to put weight on one side of the scale, show a very mixed pattern of underselling by very low margins that fall into the realm, in my opinion, of statistical insignificance.

Put another way, the pattern is one where the competitors are trying to make sales at the highest prices possible and get the business, while one is selling forward by over 100 days and the other is normally selling with a much shorter time. You heard discussion of that in this morning's sessions, and it's addressed in Respondents' prehearing brief.

Petitioners face two case-decisive problems, in my view as a non-lawyer. The Commission's questionnaire surveyed the traditional pricing information only for the final net price of the product, including surcharges.

Ironically, Chinese Respondents in at least two occasions urged the Commission and staff in the fall, in writing, to modify the traditional pricing survey to deconstruct the total product price into its component parts: base price, extras, and surcharges.

We also urge the Commission to request insurance claims by certain producers affected by the unfortunate events of that period. And we also suggest that they collect data on--Mr. Junker, you had a term of art for the unfilled orders that every company keeps? --- on-time delivery books, which Mr. Junker claims are maintained in the routine course of business, and very easy to access on digitalized files.

Such time series would permit a comprehensive testing of Petitioners' theory that the base price drives the final price, and that Chinese underselling of the base price depressed prices generally.

The Commission and staff, for whatever reason, declined to make those modification, and I assume in part with the urging of Petitioners. So when faced with the current facts of no significant underselling by the traditional analysis, Petitioners now are resurrecting their argument about base prices, but supported only by the confidential exhibit 3 to their prehearing brief.

That exhibit consists of one affidavit with a few pages of text, rather than any complete data set covering the relevant facts and the relevant period.

Petitioners' own affidavit at their exhibit 3 in fact supports Respondents' case more than it does their own. On page 2 there's language that suggests that base prices during the POI were arbitrarily established with the surcharges routinely applied in the manner discussed by Mr. Junker.

Petitioners' prehearing brief at page 27 contains a line graph showing what it regards as the evolution of base prices going back a number of years. The underlying data is not provided.

Respondents' prehearing brief at exhibit 14 contains a similar chart showing both base prices and surcharges, and I urge you to take a look at that, which I've produced for you right from the brief for the convenience of the Commission.

It is an admittedly busy chart, but it's necessary to disprove all the major planks ot Petitioners' causation theory with respect to domestic industry's condition.

Now if I can ask you first to look at the two middle lines, that's the relationship between the base price and the surcharge. Now you don't have to be a scholar to figure out there's very little correlation between the two. No way one can conclude from these facts that base prices drive the total price of the product. They just don't. It's all about surcharges.

Now another thing this shows is, if you look at the boxes at the top, and you'll see there's a top and a bottom with different data sets. Let's look at the top line first. Let's call it normal conditions.

Now I'd like you to look at the percentages of gross profit and operating income going from left to right through time. And I would be very surprised if you would conclude that these are indicative of a crash, as noted by counsel for Petitioners I believe in the morning session.

But it's more than that. Not only do they show no evidence of any crash, even though being susceptible to exactly the same changes in supply and demand, changes in raw materials' prices, Chinese and wherever other competition, they're all exposed to the same facts of market conditions at the time. But look at the difference.

Focusing again on the top line, moving your eyes down, you'll see that in fact consistent with Mr.Junker's explanation of the true facts of the market, in 2014 indeed, and carrying into '15, the strong demand in that period caused the strongest reportable performance, okay? But also look at one of the two lines in the middle, the one representing surcharges, precisely as Mr. Junker testified, the best performance was recorded when the surcharges were at their peak during the period. And a lesser performance as they declined.

This is empirical support for the accuracy of Mr. Junker's theory, and complete bankruptcy of Petitioners' theory of causation. Speaking of which, once again I'm thinking of counsel's depiction of the so-called crash in the middle of the POI.

Take a look at the lower end of the top boxes and look at the percentages, and look at the lines at the very bottom with your attention paid to the right axis. This industry--this industry, in this respect, was in crash mode throughout the POI. And I suspect if we went back further in time it would have been still in crash mode.

So you really think a surge in imports from China over a period of months would cause the industry to crash for four years? It's ridiculous.

My second point, rebuttal point, addresses Petitioners' cookie-cutter injury argument concerning the industry's overall condition on pages 31 to 34, and the theory of domestic industry's vulnerability.

Of course my layman's understanding of the Commission's task is that it must consider injury to the industry as a whole, but I've heard time and again during the course of my career that it also has discretion to consider any other factors it deems relevant.

So taking a look at exhibit 14 that I just walked you through, how could you possibly think that's not relevant to the decision in this case? And to breaking the alleged link of subject imports and the domestic industry's overall condition.

In this case they are very well documented arguments concerning how certain producers experienced major injury owing to a combination of factors having nothing whatsoever to do with subject imports. Exhibit 14 is also instructive in that regard.

The fact of the matter is that the adverse impact of extraordinary events on the domestic industry's condition is profound, as indicated by the comparison of boxes that I just walked you through.

I would also like to call your attention to my second rebuttal point which is addressed in collective exhibit 15. And in this respect, we said, okay, so let's look at base prices, and let's look at what they did over the POI using sources well known and regarded as reliable in the industry, and just flip through them. Look at the titles carefully because there are some differences in exactly what is depicted, in the interests of showing a bunch of different ways that come out with the same conclusion.

Yes, the base prices were on a declining trend. However, they performed no worse, and indeed in some respects better, than base prices for nonsubject stainless plate, whether you look at continuous build plate, or piece plate, nonsubject, there is nothing special about the direction of change in this case that could conceivably be linked to subject imports.

The facts don't exist. So we had to use the reliable sources available to create the database as we hoped it would have been created in the questionnaires. And on that note, I will just say, taking a look again at the percentages at the top of exhibit 14, and addressing the threat situation in this case was not part of my mission but I do believe they go to the point of vulnerability of the domestic industry, and there isn't none. There isn't-- excuse me, there isn't one. And whichever line you look at, you can't possibly link any threat from China to the numbers you see.

Thank you for your attention.

MR. NEELEY: Thank you. I think we'll conclude our direct with that and be glad to answer any questions that the Commission may have.

CHAIRMAN SCHMIDTLEIN: Alright, thank you, Mr. Neeley. I'd like to thank all the witnesses for being here today. We appreciate it. And we will start with Vice-Chairman Johanson this afternoon.

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein and I would like to thank all four of you for appearing here today.

How do you all respond to the contention that the domestic industry's market share was directly displaced by subject imports as noted at page 30 of the Petitioner's brief? Why is the shift in market share that we observe in the "C" significant?

MR. NEELEY: I think what we're seeing -- and I'll let Mr. Malashevich jump in as well if he has anything additional on this, but I think what we saw in 2014 was a substantial increase in demand.

And if we turn to the piece that we put in by

Outokumpu in what we think is a shortage in capacity in the U.S. industry, which is what Outokumpu itself said the situation what, that that could not be served by the U.S. industry, so it would natural if demand increases they're really not able to serve it, one, because of capacity not being that great and number two, some shortages in that 2014 and actually you're going to see an uptick in market share.

MR. MALASHEVICH: Forgive me, Commissioner. I would just add that you know it's well known that if there's a supply gap that's being filled by the imports that doesn't displace domestic production that was not there to begin with.

I think we've made a case in our pre-hearing brief, generally, and if you were to do a version of Exhibit 14 that looked at capacity utilization, its evolution over time, you'd see what I mean. The capacity wasn't there and that's why -- and very interesting I think the best proof of that is there's a particular three-page table in the pre-hearing report. It distinguishes between AISI domestic shipments routinely gathered, subject and non-subject imports.

Now it's very clear that during the course of '16 Chinese imports fell off the cliff, but look who gained. If there is all this access capacity over there all the gain would've been filled by the domestic industry, but in fact, most of it was filled by non-subject imports and the record shows who is responsible for those, so I think that put that argument to bed.

MR. JUNKER: I'd like to add also I think you have to take a look in 2014 of the U.S. domestic's exports because those exports would've taken capacity away their ability to have market share and the exports from the U.S. domestics were higher in 2014.

VICE CHAIRMAN JOHANSON: Thank you for your responses.

If domestic producers were the source of a shortage in supply of stainless steel sheet and strip during the period of investigation, then why did purchasers state that U.S. producers reduced their prices to compete with Chinese imports as Petitioners have argued in their pre-hearing brief at page 28?

MR. JUNKER: I think we have to be careful of data like that. Purchasing people -- you know I've been in the industry. I've been selling for 40 years and believe it or not purchasers lie to me and they lie to domestic producers and I think that's one of the cases.

We set up Tisco to try to become a partner in the U.S. industry. We wanted to be a functional partner and I think when we look at pricing we try to monitor it as much as the domestic's do. We try to make sure that we were not selling under the U.S. domestics. We were trying to become a good market leader, so we watch pricing as much as they do.

VICE CHAIRMAN JOHANSON: Yes, Mr. Malashevich?

MR. MALASHEVICH: If I can add, please, Commissioner. I think it's very interesting that, first of all, not all purchasers said that; but also, let's think of what they're reacting to. What they're reacting to is the final price of the product. And let's assume that they were accurate, that the final price -- the primary reason for the switch because the subject import price was lower, but how does that relate to Petitioner's case concerning base price? It doesn't at all. There's no connection. The emperor has no clothes.

VICE CHAIRMAN JOHANSON: Thank you.

Petitioners have argued that Chinese capacity to produce stainless steel sheet and strip far exceeds the country's demand for the product and that despite such enormous capacity China's capacity to produce this product continues to expand. In your view, why does China continue to expand in the face of global over-capacity and is it your position that the Chinese home market is posed to absorb this production?

MR. NEELEY: I think we can provide you with some additional information in the post-conference brief, but for now what I would say is that what we're seeing from the Petitioners is information about when there is additional capacity coming on in China and at times, of course, there is and China just as there is in the United States. They don't show the shutdowns that occurred in China at the same time.

I think you also have to step back and take a history of China in the U.S. market, if they really were doing this in order to flood the U.S. market or any other market that would've been done long ago. And in fact, what's happened in China is that there continues to be growth despite that growth not being at the same high rate as it was earlier. So my understanding is that that is being added mainly for the Chinese market -- overwhelming for the Chinese market, in fact. And that when we look at the whole picture of shutdowns combined with additions that it's not the huge increase that's being alleged, but we'll try to get you better information on that. I know that that would be helpful to you.

VICE CHAIRMAN JOHANSON: Yes, once again, if you could try to find any information that you find that states that China's, indeed, producing or putting capacity in place in order to satisfy the home market that would be helpful if that is available.

You all have argued that non-subject imports surged in volume during the period of investigation. This is at page 5 of your brief, but doesn't the market share data undermine your contention that non-subject imports surged, but Chinese import volumes are not significant? Do Chinese volumes meet your definition of "surging" based on their quantity in market share data compared to non-subject imports same data?

MR. NEELEY: I think the period we were -- I'd have to look at it again, and I'd prefer to address it in the post-hearing, but I believe what we're referring to is the surge that Mr. Junker was referring to in the latter part of the period by non-subject, not at the 2014 level.

MR. JUNKER: When you look at the import data and you look at 2015 and you look at 2016 the same amount of tons are coming in, except China has been displaced by either non-subject companies, so I think that's what we're referring to, the overall imports in the United States in 2015 and 2016 were coming approximately same. What you have is you have Outokumpu deciding to bring in more material from Mexico and other companies they have. It's interesting that you have North American Stainless starting to introduce the Malaysian product, bringing in 1500 tons a month in October and November. So you have the Petitioners actually starting to bring in more imports as the Chinese went down.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr.

Junker.

Table 5-3 of the staff report shows that 78 percent of importer sales were on short-term contract basis, wouldn't these sales prices reflect a U.S. price that is a current price rather than a future price?

MR. JUNKER: All of our products, Tisco, was sold on an order-by-order basis. So we would contact the customer, give them a monthly price, and they would decide whether or not to place orders with us.

VICE CHAIRMAN JOHANSON: So that would be a current price, is that right?

MR. JUNKER: Right.

VICE CHAIRMAN JOHANSON: Okay, because in your brief you all write on a futures type of price.

MR. NEELEY: Well, let me clarify what we were trying to say if it didn't come through clearly. What we were trying to say was when you take into account delivery time when John sets his prices, for example -- and this is according to the Commission's staff report -- says that on average I think it was 106 days forward. He's trying to figure out what the correct price is going to be 106 days hence and so is the customer. And obviously, you've got fluctuations and things like surcharges going on, which can be significant, so people are trying to project out that far.

On the other hand, when the U.S. industry is making a sale it's probably 30 days out, so you're talking about a very different timeframe and the fact that the two don't always synch, that the projections aren't always exactly correct, yes, that happens. It could be higher or lower. That's what we were trying to say.

MR. JUNKER: Let me try to explain. When we contract with our customers and say the price we agreed to is a dollar a pound and that's in July of 2014. They're not going to get the material 'til December of 2014 or November in some cases, but yet, when North American Stainless would put through their product they may initially take a contract at a dollar a pound, but because the pricing mechanism in America is priced in effect of time of shipment if they start to decrease the prices by lowering the base price their price may be, effectively, 90 cents a pound because they've reduced it. So that's where we're talking about our pricing being firmed up at order entry, the base price is firmed up at order entry.

VICE CHAIRMAN JOHANSON: Alright, thank you for your responses. My time has expired.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Okay, thank you and I want to thank the witnesses for coming this afternoon.

You argue that purchasers have bought more subject imports because of various supply problems -- you know in the domestic industry in 2014, and of course, that was the year of highest demand. You point to higher lead time and controlled order entry by some producers. Did Chinese producers or importers experience supply issues or longer lead times in 2014?

MR. JUNKER: No. Our lead times were the same as they were throughout 2013, 2014. They've been pretty steady.

COMMISSIONER WILLIAMSON: Okay.

MR. NEELEY: I would just add, Commissioner, because it's important. Again, I think Mr. Junker talked about this. We have to sort out longer lead time in a substantial way against noise in the marketplace. In other words, there could be an occasional shipment that was late. I mean that always happens and that happens with the U.S. industry too. That's not what we're talking about. We're talking about a real large, sustained extension of lead times, which is a different phenomenon.

COMMISSIONER WILLIAMSON: Okay, but do the lead times of the Chinese imports ever become shorter than for domestic product?

MR. JUNKER: In some cases for like the West Coast because the shipment time to the West Coast is a lot shorter than it is to the East Coast. Yes, in 2014, there were times when our lead times to the West Coast were shorter than the domestic's. Again, our shipments are predominantly coming to the East Coast, but our shipments specifically for the West Coast were better than the domestic's in that case in 2014.

In fact, in the Petitioners own words they talk about no delivery problems causing the imports coming in. I mean there are articles that they cite in American Metal Market where Chris Lyons, the president of North American Stainless, states that the delivery performance of the domestic mills and long lead times contributed to imports coming into the United States.

MR. NEELEY: And maybe you, Mr. Junker, can expand on this a bit more -- Jeff Neeley here.

Simply comparing the lead times of the two may not be the most instructive thing. I was told by Mr. Junker when the lead times get closer people get closer -- when the U.S. lead times get very close to what the Chinese lead times are, people are already very concerned and start to make moves. They don't have to necessarily go over because, look, you're dealing with imperfect information in the marketplace as you try and make these decisions, so maybe you can expand on that.

MR. JUNKER: I think in 2014 there was a panic from domestic producers, whether producers want to admit that, domestic or not. Yes, some of them had controlled booking and allocation plans, but those allocations plans were based on what they bought in 2013; meanwhile, the apparent demand is going up. So there's a natural desire to have more steel come to them.

Surcharges were rising rapidly in 2014, so customers were trying to find other sources and obviously we provide by being a U.S. domestic arm of a Chinese producer some place where they could come to place orders.

COMMISSIONER WILLIAMSON: Okay. But that is different from the question of the lead times on the West Coast because I was going to ask you how significant was that West Coast market?

MR. JUNKER: It was about 20 percent of what we shipped. Remember, I'm only taking for Tisco. For other customers, I would think for other Chinese companies it may be the opposite of that. I think, for instance, I know Baosteel has major commitments to the West Coast, so it would be those imports coming from a company like Bao maybe it's -- I don't know the figure, but I know it's a lot more than 20 percent and it probably is north of 50 percent.

COMMISSIONER WILLIAMSON: Okay. Okay, you think, though, the lead times were similar -- I mean that their lead times might have been faster than U.S. lead times in that period?

MR. JUNKER: Yes, for sure. Yes. For the West Coast, it definitely would be significantly shorter than the U.S. domestic's to the West Coast.

COMMISSIONER WILLIAMSON: Okay. We also want to hear what the Petitioners may have to say about that, of course.

The domestic producers argue that underselling is significant because it was most pronounced in 2014 and this is the year in which, of course, subject imports grew the most. What is your reply to this assertion?

MR. NEELEY: I'm sorry; could you repeat the assertion?

COMMISSIONER WILLIAMSON: The domestic producers argue that underselling is significant because it was most pronounced in 2014 and of course, this was the year in which subject import volume grew the most. So I was wondering what is your response to this assertion?

MR. NEELEY: I guess we have a couple of responses. One, we think that underselling was a mixed bag in every period that we see and that was based on what we think is a very narrow focus of the pricing products. Basically, it was all 304s. I mean there was a little bit of other things, but it was mostly 304s.

Secondly, even if you do find on those selected items some underselling, when you then look at the condition of the U.S. industry, including its financial performance during that period, we don't see the linkage between whatever is going on with pricing, which is a mixed bag at best and the condition of the U.S. industry.

MR. JUNKER: Let me try to understand. Basically, what the Petitioners are saying is that our underselling occurred in 2014 during the time that the U.S. pricing was going up, but then our overselling was in 2015 when no prices were going down.

COMMISSIONER WILLIAMSON: They're actually saying the underselling was most pronounced. I know if they go that far and say it wasn't.

MR. JUNKER: When no prices are going up.

COMMISSIONER WILLIAMSON: Right.

MR. JUNKER: It doesn't make sense.

COMMISSIONER WILLIAMSON: Well, they were saying the volume of imports -- the subject imports grew the most in 2014 and they were saying that there was the most significant underselling during that period, so the relating the underselling to the growth of the -- .

MR. NEELEY: I guess the other comment I would make is, again, remember that 2014 surcharges were at their highest level, okay. So whatever was going on with underselling -- whatever was going on we don't think it was significant. It was mixed, but whatever was going on wasn't having any significant affect. What was driving everything upward in terms of the condition of the U.S. industry were the surcharges and what drove everything downward later were the surcharges in every material respect, at least. That's the way that we see it.

COMMISSIONER WILLIAMSON: I mean wasn't demand growing quite strong in '14?

MR. NEELEY: Yes.

COMMISSIONER WILLIAMSON: So what role did that pay?

MR. NEELEY: Well, demand drew in the imports. I mean certainly that had an affect. I'm not sure what else. I mean we don't see any linkage to an injury. I mean if you look at the condition of the industry we just don't see it.

MR. MALASHEVICH: Excuse me, Commissioner; I'd like to just add one point to what's been testified to.

Again, returning to the infamous or famous Exhibit 14, if you had to look at that again in the year 2014, notwithstanding whatever -- I don't have the underselling data in front of me, forgive me, but we do have these data that show during that same period where Petitioners are arguing that the underselling widened in some fashion you'll see that the result was best for the industry in 2014. And if you look down to those middle lines, you'll see that the base prices were moving steadily upward during the course of 2014, so be that what it may, but the underselling picture I challenge others to point out a causal link between those other factors with the results for the industry. You look at actual prices or you look at base prices, take your pick. You look at profits, same deal. The underselling had no impact.

COMMISSIONER WILLIAMSON: Okay. I see my time has expired, but thank you for those answers.

CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

COMMISSIONER BROADBENT: Okay. Let's see, as we try to understand the chronology of events regarding the alleged supply disruption, what were periods in which there was an overlap in domestic supply issues?

MR. NEELEY: The disruption for Outokumpu occurred in 2014 and they basically were in the second half of 2014. And I might remind the Commissioners you know whereas only one of those mills was out for six months, as they said in the testimony, they were proactively taking the other two down at different periods to look at these same bearings that had caused the problems in the 54Z mill. And customers were saying what if those Z mills also go down. So again, there's periods of two to three weeks, maybe a month when customers do not know what Outokumpu can produce, so it was a significant disruption, not a minor disruption.

Allegheny's was basically in 2015 when they locked out the workers.

MR. MALASHEVICH: I can add a few other points that might be helpful. In the Respondents pre-hearing brief, I simply elected not to reproduce those particular exhibits, but we show through more than one means, relying on Tisco data based on order date as opposed to physical entry into the United States. We relied on staff's numbers on the behavior of subject imports month-by-month, which was in a table in the report, and we drew shaded areas or vertical lines to identify the periods of greatest disruption and the periods were different in time as between the lockout that's been discussed earlier and the problems with Outokumpu, but elsewhere in the brief there's -- you know we can't think of the problems of Outokumpu as a one-time event like the lockout. It occurred throughout the POI.

As a matter of fact, I personally reviewed the latest annual or quarterly report. I forget what it was, but we quoted it in the brief and I believe we submitted the entire document as an attachment to the brief, Outokumpu's major report to shareholders, sort of similar to a 10(k), and the main man, whatever he's called, the president, the CEO said -- and the quote's in or brief -- that they won't get that plant operating properly until 2018. It's unfortunate for them, and I wish no ill on anybody, a continuing problem in production, not a one-shot deal.

COMMISSIONER BROADBENT: Okay, but why are U.S. purchasers going outside of the country so easily. Why don't they just go to another domestic producer?

MR. NEELEY: I'll start. I think part of that just -- the reason they're going out of the country is explained by Outokumpu itself and Outokumpu saying that there was not sufficient capacity. Outokumpu was saying that largely because they were saying why are they bringing a mill on and why are they working on this mill and putting this money into Alabama. Well, their explanation was that there wasn't sufficient capacity in the United States and so I mean I think if Outokumpu is correct in that statement then I think it pretty much explains fully what happened.

MR. JUNKER: Yes. When you look at the chart -- and again, this is the Petitioner's vice president and commercial for Outokumpu at that time talking at a conference, explaining his graph on page 7, when basically he says here's the actual capacity. And I think that's what people have to watch because there may be a ready capacity for Allegheny that is totally different from what their actual capacity is, in Outokumpu or any one of the other domestic mills. So when you look at that chart this is in September 2014. I mean what he was saying in that meeting, in that conference was there's a need for imports. We can't supply all the material that NAFTA -- remember NAFTA we're talking about Canada. We're talking about Mexico, but we can't, the U.S. producers produce enough material to supply the demand of the market.

COMMISSIONER BROADBENT: Okay.

MR. JUNKER: Again, these are words of the Petitioners, not us.

COMMISSIONER BROADBENT: Of one element of it.

MR. JUNKER: Right.

COMMISSIONER BROADBENT: But it seemed to me there are a lot of other characters out there that you could buy from and I'm just looking for more evidence on the record, other than that one statement.

MR. JUNKER: I would think you would have to ask them what those shipments were for those periods versus what they could produce, and again, actual capacity, not what they have as a graded capacity.

MR. MALASHEVICH: If I might add that, of course, in the United States there are only four steel mills producing this product and if you were to redo the boxes on Exhibit 14, the capacity utilization rates, that partly will answer your question. But the other thing that I think is quite significant is if there's all this unused capacity why did so much of the reduction -- dramatic reduction in imports from China in 2016 was filled with non-subject imports? Why didn't all that capacity in the United States rally and fill it all? The fact of the matter it didn't exist.

MR. JUNKER: I mean, again, look at NAS in their testimony this morning. They were bringing in product from Spain, but they didn't mention the fact that they were bringing product in from Malaysia, so if they were at 100 percent capacity you know in this current market why are they bringing material in from Malaysia? I do understand the material from Spain. It's a product that they don't produce, but it's a product that U.S. producers do produce.

COMMISSIONER BROADBENT: Okay. But back on the base price surcharge discussion, I mean if you got your profits either in the base price or the surcharges it doesn't really matter in the sense that total prices did decline and I just wondered where you all thought the Chinese industry was as unprofitable as the domestic industry based on this pricing?

MR. JUNKER: When you look at the price erosion from 2014, in July of 2014 the surcharge component that was 90 cents a pound. By the end of 2015, that price in surcharge went down to approximately 40 cents. That's a 50 cent drop just in surcharge. The base price, even if it's going down 20 percent moves maybe 10 to 12 cents a pound. I mean the surcharge -- the surcharge component of the profitability of the domestic mills is an absolutely huge component. It's cannot be separated out.

When 60 to 65 percent of the costs of making stainless steel is raw materials and you have a factor of 1.2 percent -- 1.2 times the actual chemical you're making a lot of money on that. And the domestic mills for years and years have had a broken price system that doesn't reflect the true cost.

When the surcharge was reintroduced in 2000 with a two dollar trigger price, the base price without a surcharge was probably in the $1.10, $1.20 range.

MR. JUNKER: Now some of the domestics are half that on the base price. So again, they have relied on the surcharge mechanism and it's made them a lot of money. In 2007, it made them a lot of money. But when nickel goes down, they lose money because of that.

MR. NEELEY: I guess another way to put it is yes, we sort of agree that total price matters, but total price is being driven mostly by the surcharge, right?

MR. JUNKER: Again, in 2007, 75 percent of the price was surcharge.

COMMISSIONER BROADBENT: Okay. I think that's all my questions for the moment. Thank you very much.

CHAIRMAN SCHMIDTLEIN: Commissioner Kieff.

COMMISSIONER KIEFF: I just add my appreciation to the panel and appreciate the discussions that are going on. So I have nothing particular to add to them, but I look forward to the ongoing discussion and the submissions. Thank you.

CHAIRMAN SCHMIDTLEIN: Okay, thank you. I want to understand a few things that you've said so far, and particularly I guess we'll start with the most recent that, and I think Mr. Malashevich, you must have said this just a while ago, that non-subjects, when the Chinese imports left in 2016, that non-subjects came in and took that share?

MR. MALASHEVICH: Excuse me. And my comment refers to a particular table that's in the staff report, three pages long. It goes back in time on a monthly basis, and I forget what table it is but it's about the middle of the report. And the table shows a number of things, but one of them is that as Chinese imports fell I don't think literally to zero but towards zero --

CHAIRMAN SCHMIDTLEIN: Yeah, reduced in 2016 you mean?

MR. MALASHEVICH: 2016, yes.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. MALASHEVICH: And if there was all of this excess capacity truly in existence, you would have found all of that gap supplied by the domestic industry, which presumably would have been desperate to fill that capacity. Instead, I forget the exact percentage, but roughly half of the market vacated, if you will by subject imports was filled by increasing subject imports.

There was an increase in AISI shipments of a modest degree. But why wouldn't they take all of it if they had the capacity? That's the anomaly that I'm trying to --

CHAIRMAN SCHMIDTLEIN: And so how does, you know, because when you look at the table, the domestic producers regained 5.2 percent share and non-subject regained .9, in the interim.

MR. MALASHEVICH: No. I don't have it in front of me, but the volume --

CHAIRMAN SCHMIDTLEIN: You're talking about the absolute volume?

MR. MALASHEVICH: Yes, yes.

CHAIRMAN SCHMIDTLEIN: In tons, the short tons, how many short tons. So non-subjects took half of what left from China?

MR. MALASHEVICH: That's going from memory. I prefer not to shoot from the hip on that, but I think -- I see no reason why domestic shipments would not have taken all of it, if in fact there is all that capacity?

CHAIRMAN SCHMIDTLEIN: Well, but couldn't they be competing on price with non-subject? I mean what -- what is arguing against a fairly priced import?

MR. MALASHEVICH: I can't answer that particular question on pricing with non-subject. That I believe is APO. But I'd be happy to address it as part of the post-hearing brief, and I think I know what I'll find. But it's --

CHAIRMAN SCHMIDTLEIN: Do you think the U.S. was priced, that non-subject was underselling?

MR. MALASHEVICH: No. Off the top of my head, I don't know.

MR. NEELEY: We also ought to keep in -- if I may, this is Jeff Neeley, we also probably ought to keep in mind that we think a substantial amount of those non-subject imports were affiliated companies. So I mean we call them, you know, fairly priced or we can call them, you know, captive or affiliated. So there were other things going on with those imports as well I believe.

MR. MALASHEVICH: Certainly that's true. To the extent that the nonsubject imports are by U.S. producers themselves from their affiliates or from elsewhere, these are the same producers that are complaining that they're suffering from underutilized capacities. So why would they reach out to anybody, be it their affiliates or others? It just doesn't make sense to me in terms of some of the capacity utilization rates that have been reported.

CHAIRMAN SCHMIDTLEIN: So you all are questioning the utilization rates in the staff report?

MR. MALASHEVICH: Well, I'm not saying they're arithmetically inaccurate, but I'm saying there's an abundance of evidence that they are wishful thinking.

MR. NEELEY: And I would just add, Jeff Neeley, that they're currently inconsistent with what Outokumpu was saying in the report or Mr. Lacor. So I mean that's --

CHAIRMAN SCHMIDTLEIN: But they include more than just that one company. So --

MR. NEELEY: Well, I don't know. I think that what Mr. Lacor was talking about was not Outokumpu. He was talking about NAFTA capacity, okay. He was talking -- he wasn't talking about Outokumpu. He was talking about why Outokumpu, it made sense for Outokumpu to come into the U.S. market in a big way and upgrade that plant in Alabama, you know, not about what only their capacity was.

CHAIRMAN SCHMIDTLEIN: Okay. But I guess -- so for us, you would be asking the Commission to say we will rely on a statement by an executive in one of the companies, and disregard the information provided in the questionnaire responses by the individual companies, in terms of analyzing whether or not there was available capacity?

MR. NEELEY: What I would say is that you should treat the capacity information that you have from the questionnaires with a great deal of caution. I can't explain the difference, but there is a huge difference and I would say that what Mr. Lacor said was not, you know, during the course of the investigation, where they're trying to get dumping duties. It was to an industry conference.

CHAIRMAN SCHMIDTLEIN: It was in an industry conference. That's the statement you're referring to?

MR. NEELEY: That's correct.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. MALASHEVICH: There's also the purchasers' questionnaires, which the prehearing brief quotes from liberally. There were not all purchasers but roughly half of them going from memory did cite the presence of shortages and allocations with various euphemisms for not having enough product available when it wanted, and I think that's probably the most powerful evidence of actual full utilization of practical capacity.

CHAIRMAN SCHMIDTLEIN: All right. So this was sort of a segue into my next question, which is something that came up in the morning panel. If that's true, and demand is going up, then why do we see the underselling in 2014? Why would the Chinese product, why wouldn't they command a premium if they're being demanded in the market due to a shortage, and demand is otherwise so high?

MR. NEELEY: Jeff Neeley. I think we have -- there's a couple of things going on here that we need to keep in mind. One is that the AUVs overall from China are actually higher, and you know, we do have when we're looking at the pricing products, we have a fairly small number of pricing products. Those pricing products are concentrated on Grade 304.

So I'm not sure that's a completely representative sample of what's going on overall in the marketplace. Secondly, I think you're bound to have, in our view, a mix of underselling and overselling when they're selling forward, and that's why our explanation of selling forward by 100 and, you know, average 106 days the staff report says or whatever the exact number you're looking at, as opposed to 30 days or 35 days forward, makes a difference because you're projecting out on a different basis. So we're not necessarily, you know --

CHAIRMAN SCHMIDTLEIN: But you're agreeing on a price on the date you make the sale, right?

MR. NEELEY: You're agreeing on a price, and anticipating what the price -- in their case, in Mr. Junker's case, is going to be 106 days hence, okay, or whatever the number is, 120 it is, whatever it is. He's trying to figure out what, what the market's going to be 106 days say out.

CHAIRMAN SCHMIDTLEIN: But whatever that is, if you assume that demand is strong and there's a shortage, so customers are desperate, then relative to what that would have been otherwise your price should be higher, and why wouldn't it be higher than the U.S. price?

MR. NEELEY: Because they have better information. They have information that's within 30 days. You know, his information is 100 --

CHAIRMAN SCHMIDTLEIN: So they can guess what's going to happen in 30 days but not 120 days?

MR. NEELEY: Yeah. I mean I think it's --

CHAIRMAN SCHMIDTLEIN: I think they're in the wrong business. I think I'd go to the stock business if you're able to do that.

MR. NEELEY: Well, if I could do that, I wouldn't be here but that's a different question.

(Laughter.)

CHAIRMAN SCHMIDTLEIN: All right, okay. Yeah, I understand what you're trying to -- what you're arguing. All right. I think I don't have any -- I'm finished for the moment, so we will go back to Vice Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you Chairman. How do you all respond to the Petitioners' point that demand for stainless steel sheet and strip was increasing during the Period of Investigation, and should have led to improvements in the domestic industry's condition, and this can be found on page 37 of their brief?

MR. MALASHEVICH: I'll take a first stab at that. I think once again, I draw your attention to Respondent's Exhibit 14. The short answer is that it did. Those operating under normal circumstances responded precisely in that way, both in terms of financial performance and otherwise.

MR. NEELEY: And I would also just add, Jeff Neeley, that if you accept our premise, and we think it's supported by the facts, that the surcharges have such a large effect on prices that that explains a lot of why they're not doing as well as they'd like to be doing. I mean whatever's going on with demand, that's only one part of the, you know, of the picture.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Neeley. Does a market share below ten percent and makes underselling and overselling by margins that average less than ten percent, diminish any impact of subject imports below the threshold of significant?

MR. NEELEY: Do those factors help us win? Is that the question?

VICE CHAIRMAN JOHANSON: That's basically --

(Simultaneous speaking.)

MR. NEELEY: I think the answer is yes if that's the question.

VICE CHAIRMAN JOHANSON: It's the question. But then again, we're also dealing with commodity product, where margins are traditionally very low; correct?

MR. NEELEY: Yes.

MR. MALASHEVICH: Forgive me, but I don't think the commodity product per se means that the margins will be low, because especially in a product like this where you have literally hundreds of different combinations of chemistry, finishes, dimensions, I know for a fact that there are lots of products that a whopping margin, even though you might call Grade 3 or 4 to be finished indeed a commodity.

VICE CHAIRMAN JOHANSON: Okay, thank you Mr. Malashevich.

MR. MALASHEVICH: I would only add that a good friend of mine who passed away some years ago was a very, very wealthy man, and he made his wealth by selling pockets that are sewn in a dress or pants. Big commodity, big margin.

MR. NEELEY: Yeah. I would only say that even if one accepts that, you know, it's a commodity market, people -- you're not going to see prices being exactly the same at all points in time now. As you see from the selling of the prices that you've collected, it overshoots, it undershoots both ways. So I think when you take all of the factors into account, that it's not significant, that there's a bit of underselling or overselling when taken in context.

VICE CHAIRMAN JOHANSON: Okay thanks, Mr. Neeley. According to the staff report, purchasers stated that the late deliveries from both domestic and import suppliers were frequent, but not out of the ordinary, and this can be found in the staff report at page 211.

Why were there delivery issues with respect to import suppliers during the Period of Investigation? How should we factor this into our consideration of competition between the two sources of supply?

MR. JUNKER: As importers, we can be subject to problems as far as material getting to the port and the FDA wants to search the ships for bugs. So and it holds it for two to three weeks longer than what we thought. So there are some things that are out of our control. But I can tell you, our delivery performance during the period was pretty much in the month we had promised it, and again, I would ask that the delivery performance for the U.S. domestics should also be measured.

It's evidence that they have, that's easy for them to give you. So you should ask for them to see what their delivery performance was during the Period of Investigation.

VICE CHAIRMAN JOHANSON: Okay, thank you Mr. Junker. To what extent in your experience does price drive purchasing decisions for stainless steel sheet and strip, and would you characterize the U.S. stainless steel sheet and strip market as highly price sensitive?

MR. JUNKER: Price is definitely a factor for any commodity you would have, and the domestics struggle with it as we struggle with it. But it's not the only component, especially for some major purchasers, they may decide that they want to buy so much of the material from foreign sources. They have a goal that they're going to -- as a service center that they're going to buy say 20 percent foreign steel. There may be some domestic service centers that are international and that want to have a global agreement with service centers.

So there's -- it's not only price. It's not only price for the domestics, but it's also not only price for the importers. There are reasons why besides price that people buy from us.

VICE CHAIRMAN JOHANSON: Thanks Mr. Junker. Respondents have also argued that the increase in demand during 2014 pulled in subject imports from China. If that's the case however, then why did subject imports from China not only maintain their volume but actually increase their volume in 2015, when apparent U.S. consumption actually declined, as shown in Table C-1 of the staff report?

MR. JUNKER: That's very easy, and I think we've tried to explain that to you. The entire 2015, the first five months, where 86,000 tons of the approximately 132,000 tons came in. Those whole -- those orders were booked in 2014. So basically what you have is the boats were going. Our orders from China are non-cancellable.

So basically they had given us orders and the service centers could not cancel the orders. So basically the reaction of the first five months in 2015, where the majority of the shipments came in, well over the majority, 86,000 to 46,000 tons, those orders were entered in the 2014 period, and basically they came through the system. The orders came through and arrived in the United States, and as soon as Nass, as soon as Outokumpu in January, in February said they were ready to take orders, our order rate fell off drastically, back down to historical levels.

If you look at the Chinese imports in the last seven months of 2015, they're back to historical standards, go back to 6,000, 5,000 tons per month. And in fact in 2015, the end of the year, they were down to sometimes 3,000 tons. So they were falling off as the pricing war started with the U.S. domestics.

MR. MALASHEVICH: That's most vividly displayed in an exhibit to the brief that relies on Tisco's data, based on order date as opposed to arrival date. We duplicated that same analysis and format using the staff's data on the -- in the table that Chairman Schmidtlein mentioned in our colloquy, monthly data. It shows the same thing, even though they're based on entries.

The correlation is with the events creating the shortages during the period, not any other factors.

VICE CHAIRMAN JOHANSON: All right. Well thank you for your responses. That concludes my questions.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. I wanted to go back to I think your argument, if I understand it correctly, you're saying that the high surcharge in 2014 and I guess the decline has adversely affected the domestic industry, affected their profitability?

MR. JUNKER: Yes.

COMMISSIONER WILLIAMSON: Are the Chinese -- I think the producers said this morning the Chinese basically use a similar formulation for surcharges because they're producing the same result. Do you agree with that?

MR. JUNKER: Yes.

COMMISSIONER WILLIAMSON: And so what does that say about the Chinese firms, their profitability and so their market behavior if the surcharges are -- is it having the same effect on them?

MR. JUNKER: Yes. Right and again, it's what -- it's unfortunate that we have gone so long in this industry with a pricing system that was designed basically in the year 2000, again when discounts. I think you have to take a look at the way the U.S. domestics and we also unfortunately had to respond to them.

You have a base price. In 304, that's $1.40 a pound. And then you have what are size extras. It encases seven gauge, which is 36 cents a pound. So you add those together and you use a discount factor. So all of the sudden now those size extras, those are supposed to be rolling costs, true costs of rolling steel down to the lighter gauges. It goes down past the 36.

So now all of the sudden in 2000, when we set up this pricing system, those discounts were say at 35 percent off. Now the discounts are 70 percent off. So instead of getting -- instead of getting an effect of $24 for rolling a seven gauge, now you get an effect of $12.

I mean it's the pricing system that the current U.S. industry has doesn't capture the real cost of rolling to lighter gauges, and it's not a factor of what we, China, have done; it's a factor that they've not revised the pricing system that's been broken for a number of years.

COMMISSIONER WILLIAMSON: Okay. I'm trying to figure out do the Chinese have the same -- are the surcharges having the same effect on them, should there be any difference --

MR. JUNKER: The Chinese through the Chinese domestic market give a monthly price. So they basically -- they come up with a monthly price including the alloys, and that's how they sell in the Chinese market. It's adjusted every month. It's not formulated; it's adjusted every month.

MR. NEELEY: Yeah, if I can be clear. This is Jeff Neeley. I mean this is a U.S. pricing system. We don't necessarily like it at Tisco I think, but --

COMMISSIONER WILLIAMSON: That's clear.

MR. NEELEY: Right yeah, and it's been -- but it's been there for a long time. There's not a whole lot, you know. If they're going to sell in this market, there's not a whole lot they can do about it. It's different in China, though. In the home market of China, they don't follow that system.

COMMISSIONER WILLIAMSON: Okay, okay. I'm going to come back, because producers have not asked you why if -- why was there the underselling in 2014 and you said yeah, well it's just those few products that are -- if you look at the total supply, it's only those few products in which I guess we have pricing data on, and that -- because she was asking the question why was there the underselling if, you know, demand was so strong in 2014.

And the answer was I don't know what you said about the other products, or whether or not you said there wasn't underselling for those or we just don't know what was going on.

MR. NEELEY: I think what I said was that the average unit values were still higher for us in 2014. I believe that's correct, and so there's a -- that means there's a substantial amount of product that we don't know whether they were undersold or oversold. So that's part of the answer.

The other part of the answer is regardless of -- that there might be some underselling at some point, clearly that was not having an adverse financial effect on the U.S. industry, that the only thing that was having an adverse or the main driver, the overwhelming driver I would say of the adverse financial effects on the U.S. industry was what was happening to the surcharges. So that's -- it's a causational answer, and it's also an answer of the data aren't complete. So it's both.

MR. MALASHEVICH: And I agree with Mr. Neeley, that you might recall I also referred to, and I don't know the exact answer of why, assuming there was a greater degree of underselling in that year. But it's -- I call the Commission's attention once again to Exhibit 14, how the domestic industry operating under normal conditions responded precisely as expected.

Prices were higher. Both the base price and surcharges were at their peak. Profitability was at its peak. I mean that's normal. So it's what in our cases I call arithmetic underselling. Yes, you do the math and there's underselling by a given percentage. But it didn't make a difference at the end of the day.

MR. JUNKER: I think if the Commission wants to take a look at something and study the effects of China coming to the United States, if you look at the Grade 201, which is a domestic grade that they produce, Chinese producers do not produce this grade. If you look at during the point of investigation, I will tell you clearly that the same pricing problems that they had in 304 occurred in 201.

The same erosion of prices and erosion of profitability accounted, were duplicate in 201 as 304, but yet there was no competition from China in 201.

COMMISSIONER WILLIAMSON: Okay. Thank you for that answer. Petitioners argue that the Commission should reduce its reliance on interim 2016 data due to the effect of the petition and the investigations. You know, this is the post-petition effect. Do you agree with that or --

MR. NEELEY: I guess it depends what they mean by, you know, discounted. I mean clearly the petition had an effect. There's no doubt about that. But discounted in a different way I would say no. I mean you should take a look at it, because if their theory of the case is correct, one would think that by the end of 2016, everything should have gone back up to those wonderful days in 2014, when they were doing incredibly well financially and prices were very high.

That didn't happen. I mean why didn't it happen? Well, it didn't happen because those surcharges were not there. Surcharges were much lower, that's why.

COMMISSIONER WILLIAMSON: Well, but they argue that it's just because they were in such a deep hole that it took that long to get back.

MR. NEELEY: Surcharges are formulaic, okay. I mean they've said that, we've said that and I don't think anybody disagrees. Surcharges are formulaic, and if they're formulaic, they have no control over them and yet when --

COMMISSIONER WILLIAMSON: I don't think they were talking about the surcharges. They're just talking about whether or not they were able to benefit from the petition, the effect of the petitions and reducing the --

MR. NEELEY: Let me try to put it a different way if I'm not clear. What I'm trying to say is that one would think if it was the Chinese that were causing the problem, that the prices would have gone back up to 2014 levels. I mean their case is largely one of, you know, prices, Chinese prices. We've been talking about underselling or whatever's going on.

And you would think that they would go up to something approaching 2014 levels. Okay, they didn't -- that didn't happen in 2014, I mean in 2016. They stayed -- it up ticked a little bit, but they didn't really go up, and the U.S. industry didn't benefit that much. The reason it didn't benefit that much in our view is pretty clearly the surcharges.

So yes, they didn't talk about surcharges. If they talked about the surcharges, they got a big problem, because that's what driving everything in 2016 and throughout this period. So that's why we think it's so important that you consider 2016, at least for the point of view of for whatever reason, it doesn't really matter, the Chinese are out of the market basically in -- particularly in the latter half of 2016, moved on.

So if we're not there and they're not getting any better or they're not getting a lot better or they're certainly not going up to 2014 levels, then I think you need to ask yourself why that is. I think we have a really quite thorough and complete explanation in surcharges.

COMMISSIONER WILLIAMSON: Okay. Let's see, one last question. Okay, no. Anti-dumping penalties have been applied on Chinese stainless steel sheet and strip I guess by six countries since 2013, including most recently the EU. These measures cover four of China's top five export destinations. What has been the effect of these measures on Chinese exports to the country at issue, to countries at issue? In other words, what's happened to Chinese exports after these measures --

MR. NEELEY: Yeah, thank you. Jeff Neeley. It's probably the easiest to just go through those one by one in the post-hearing brief and just walk through that. I think that's better addressed and more thoroughly addressed there. So if that's acceptable with that.

COMMISSIONER WILLIAMSON: And the -- well, either then or now, address what -- don't these measures increase Chinese incentives to ship to the U.S., United States?

MR. NEELEY: Right, okay. We'll address that as well.

COMMISSIONER WILLIAMSON: Okay.

MR. NEELEY: We don't think so, but we'll explain our view of that.

COMMISSIONER WILLIAMSON: Okay.

MR. NEELEY: Thank you.

COMMISSIONER WILLIAMSON: Thank you. That's all the questions I have.

CHAIRMAN SCHMIDTLEIN: Commissioner Kieff, do you have any -- No?

I guess I just had one follow-up question. Mr. Neeley, you made the statement a few minutes ago that there was no adverse affect from the underselling because profitability, according to the Respondents is based on the surcharges. So my question is if the Commission were to find that the underselling in 2014 lead to a loss of market share with the concomitant loss of sales revenue from those sales does the difference between surcharge and base prices and so forth matter for purposes of determining whether or not there's injury?

MR. JUNKER: Well, the surcharge, as we've talked, certainly does affect the profitability. Again, I emphasize you're looking at factor of 1.2, 20 percent.

CHAIRMAN SCHMIDTLEIN: I understand that concept.

MR. JUNKER: So as nickel prices go up.

CHAIRMAN SCHMIDTLEIN: I understand that concept, but my question, but it's a bit of a legal question.

MR. JUNKER: Yes, I'm trying to understand the question.

CHAIRMAN SCHMIDTLEIN: And now that you mention it, you've argued that surcharges were at their peak in 2014.

MR. JUNKER: That's correct.

CHAIRMAN SCHMIDTLEIN: So if the Commission were to find that the underselling lead to the loss of market share, which is loss of sales revenue in 2014, then presumably, they lost out on what was the peak time for profitability you know from no profits given that surcharges were at their height.

MR. NEELEY: I think I see what you're driving at. I mean I think what we would say is that there was no material affect in 2014 and there was no material affect, partly because the surcharges were so high they were making a huge amount of money, partly because they couldn't service the supply in a timely manner and a commercially reasonable manner at that time. So that there were other things going on that even if at the end of the day a customer said, oh, I'll buy that Chinese product because it has a lower price there were other things going on that also lead them -- as Mr. Junker testified, I mean price was not everything. So I mean sorting price affects and under pricing is a very difficult thing. It was a significant or a factor. We're not disputing that really.

So what we're saying is that even in -- even if there was underselling and it had an affect it could not have been a material affect and have caused material injury under the statute.

MR. MALASHEVICH: If I could add a non-legal point that I think, if I understand your theory correctly and I think I do, you would have to assume that there was displacement one-for-one on account of price. And I think we've all been involved in other cases where the allegations of shortages have been an issue to various degrees, but personally, I can't think of a case where the shortages were this well documented in so many different ways and that's why I think -- you know with respect, I think that in this case that that theory would fail because of the extraordinary circumstances and the extraordinary weight of the documentations being presented in the questionnaires, SEC statements, authoritative documents, not rhetoric.

CHAIRMAN SCHMIDTLEIN: Yes, the Commission would have to find that they had the capacity to do that.

MR. MALASHEVICH: Capability might be a better word because they might have the physical capacity, but there could've been other demands on it.

CHAIRMAN SCHMIDTLEIN: Right. Alright, this morning the Petitioners made the argument that the imports weren't drawn into the market by any supply constraint because the surge started prior to any reports of various supply issues. Can you respond to that?

MR. NEELEY: It's Jeff Neeley. Let me try and I'll let Mr. Junker because he obviously knows a lot about this industry, but there's two things that are going here that are important.

Yes, there was a decrease in demand in 2014 which we need to recognize, so the problems of Outokumpu weren't the only things that were going on in 2014 to increase the Chinese imports, so we need to take that into account as well.

CHAIRMAN SCHMIDTLEIN: Can you respond to it because based on what you explained a few minutes ago about the lead times and how '15 those orders were placed, at least the first five months of '15 those orders had been placed in the prior year, so presumably, that's true for '13 to '14, right? So a lot of the product that you see coming in, in '14, must've been ordered in '13. And if the supply constraints were really beginning in '14 then does that undermine your argument that the imports were being drawn into the market by supply shortages?

MR. JUNKER: When you look at 2014, the industries that stainless serve, appliance, construction, automotive, even in the end of 2013 there was a big ramp up of demand.

Also, remember that, in particular, the appliance manufacturers, unfortunately, that product that they asked for from the industry is light gauge. It's one of the lightest products they roll. So once you start to have to roll lighter gauges because the usage, the mix of the mill changes from heavy gauge to light gauge it reduces the capacity of the mill. That started in 2013, really took off in '14.

In 2014, the service industry, in particular, started to restock and so all of a sudden you had -- and you had surcharges starting to go up, so you had people starting to say we want to get the orders in as fast as we can. Again, if you look at our imports, they were primarily, again, late second half -- I mean late third quarter to fourth quarter. That's when they started to drive in, but basically -- yes, there was demand and there was constraints because the mix of the mills changed.

I mean North American Stainless complained to customers saying that our mill has gone into light gauge and it's gone into 201 and 201 is another grade that the U.S. mills had problems producing, so it reduces the capacity. So the capacity constraints were started probably at the end of 2013 and definitely in 2014 early. The markets for appliance, the markets for automotive were taking off.

CHAIRMAN SCHMIDTLEIN: And you think that's across the industry that there was a constraint imposed by the lighter gauge.

MR. JUNKER: It doesn't matter if it's NAS or it's Allegheny it takes much more time to roll a 24 gauge than it does a 7 gauge, so when a mix goes to lighter gauges they lose capacity.

MR. NEELEY: Jeff Neeley.

I would add one more thing and that is just to remind everybody that it was the parent company of NAS that also talked about the NAS saying that there was a pool affect in the U.S. market in 2014. It's not just our say-so. I mean they were saying the same thing.

CHAIRMAN SCHMIDTLEIN: Right, okay.

MR. MALASHEVICH: Also, Madam Chairman, if you could look at Exhibit 16. It's APO, but Mr. Junker's testimony is borne out by those statistics. It's gray area "A" and "B." "A" coincides with the shortage associated with Outokumpu, among other things. "B" is associated with the so-called lockout and it shows based on order date, not delivery date, I'd say a modest increase '13 to '14 in keeping with demand.

The only thing I can call a surge would be the box marked "A" occurred in between March and October, roughly, eyeballing the data, of 2015 and then it fell off the cliff down to what you could only call pre-surge levels. These are orders for subject merchandise. There is a less pronounced surge and then fall off during the Allegheny lockout. It's all here.

CHAIRMAN SCHMIDTLEIN: Okay, I will definitely take a look at that.

Alright, well, I don't have any further questions.

VICE CHAIRMAN JOHANSON: I have one.

CHAIRMAN SCHMIDTLEIN: You have one, okay, Vice-Chairman Johanson.

VICE CHAIRMAN JOHANSON: I have just one more question. If domestic supply disruptions or lead times were driving U.S. purchasers to other sources of stainless steel sheet and strip in 2014 and 2015, why didn't non-subject imports gain market share on the domestic industry?

MR. JUNKER: By 2013, and again, we set up the local office in Tisco back in 2008/2009. We were well established. I mean we had a very good reputation as far as a place to go place order, get good delivery. Our quality was as good as the domestic industry and sometimes better by what customers said, so they came to us. There were other purchasers, not of Tisco product, but of Bao product that had a very established source. So that particular customer decided that they would go to Bao and place more orders also.

So it basically was we had the mechanism, I think, China, to respond faster than say a Vietnam that didn't have outlets. I mean Vietnam doesn't have an outlet in the U.S. to -- again, one of the major problems with imports is if you don't have structure like we have to settle claims, to let people buy on open terms customers are reluctant to do that. We established that. We established a claims policy that was similar to the U.S., so it was natural for them to come to us, to come to China as a source when supply got tight.

VICE CHAIRMAN JOHANSON: But non-subjects had been in the market for a long time, right?

MR. JUNKER: Well, again, non-subjects? Which ones are you referring to because, again, non-subjects, as we've talked before, some of them like Mexinox, is controlled by Outokumpu? And basically, even in 2014 when you look at those shipments the South American market all of a sudden became very strong for Mexinox, Outokumpu. They strategically decided that they wanted to sell -- to service more in the home market, which was growing.

If you look at the charts we supplied from Outokumpu, look at Mexico, how fast Mexico is growing in stainless. Mexinox is the only stainless producer in Mexico. So basically, you'll see a switch away from some of those subject countries because they have home markets where they were also busy.

VICE CHAIRMAN JOHANSON: Alright, thank you for your response, Mr. Junker. And that concludes my questions.

CHAIRMAN SCHMIDTLEIN: Alright, so the Commissioners are finished with questions. Does staff have any questions?

MR. CORKRAN: Douglas Corkran, Office of Investigations.

Thank you, Madam Chairman, staff has no additional questions.

CHAIRMAN SCHMIDTLEIN: Okay. Do Petitioners have any questions for this panel? No? Alright, then we will move to closing statements. The Petitioners have 12 minutes from direct, plus 5 for a total of 17. The Respondents have 34 minutes from direct, plus 5 for a total of 39. You do not have to take all your time.

Ms. Cannon, you can begin when you're ready.

CLOSING STATEMENT OF KATHLEEN W. CANNON

MS. CANNON: Thank you, Madam Chairman.

Let me just start with volume. Respondents said if the market share shift was due to the lower priced imports of China we should've gotten -- we, the domestic industry, should've gotten the increase back when China declined in 2016. We did. Look at your Table C-1. They went down over the period 6.1 percent. We went up by 5.2 percent. We got almost all of it back over the period. Non-subject imports didn't benefit from that.

And even if you look at just the interim period, 2015 to 2016, you'll see that we took 172,000 tons and they grew by 32,000 ton, so we took 84 percent of the growth, so the domestic industry absolutely did benefit from the decline in China imports. It wasn't the non-subjects. If he thinks that proves the converse, then I agree with him.

The decline in the import absolute volumes in the second half of 2015 was not to alleviate a supply shortage. They had swamped the market so badly that no one could sell and yet they kept selling.

They keep talking about how there was this supposed just temporary volumes in the first few months of 2015, but look at your database again. Your Table C-1 shows they hit their highest market share of the entire period in 2015 and they didn't stop then. They not only didn't stop in the beginning of 2015. They didn't stop at the end of 2015. We had big increases in imports from China in both February/March of 2016. That's why Commerce found critical circumstances. So this was not a temporary phenomenon that went away as they want to characterize it.

In terms of capacity, they've challenged the capacity as reported by the domestic industry and I have a couple of responses. First, we worked with your staff very closely in responding to providing the capacity that you want in the way you want it in the questionnaire responses. We've revised the data. And the data submitted on the record in the U.S. producer questionnaire responses is completely consistent with what we've been asked to provide by the staff and it shows that in 2014 we were operating at 75 percent of capacity.

So they make a big deal about 2014 based on

Outokumpu statement that it needed to go out to get imports from affiliates to supply customers, but that isn't saying the entire industry needed to do that. None of the other U.S. producers say that they had any supply shortages. What they say was that there was a rush in demand at a certain time and when that happened the lead times lengthened and they still were able to manage their customer needs.

Mr. Malashevich says why didn't the U.S. industry rally and supply the whole market. Well, we might've liked to, but we were faced with underselling by China. Look at the 2014 underselling data. That's what the U.S. industry was forced to compete with. That's how they gained the market share.

Mr. Junker testified that the inquiries to Tisco started as early as April 2014. That's well before the outage at Outokumpu that they said that they were responding to, that that's what pulled them into the market. And in fact, when you add in the lag affect and you look at the actually monthly data you see a spike in imports beginning in the second quarter of 2014, which had to have been ordered before that. So what was really pulling it into the market? It wasn't a pull. It was a push. And what pushed it, frankly, more than anything that they've ignored entirely is the European Union starting a trade case at that time.

So everybody knew that there was a trade case filed and it got started and as soon as that happened -- and we'll give you monthly data showing how their exports to the European Union fell off and their exports to the United States surged and that was in 2014. They needed another market for that product. That's what caused them to come in here so rapidly and at such low prices.

Mr. Junker says the ITC should rely on the overall picture and not just stories from a few companies in analyzing why purchasers sourced from China. We agree. Look at your purchaser responses. They say, 14 of 19 of them, that they bought primarily due to lower prices, that that was why they shifted a lot of volume. They don't say they did that because they couldn't get U.S. product.

Mr. Junker also says late deliveries may have been promised, but this did not meet the customer needs, so they turned to other sources. Look at confidential slide 25 of the presentation I did earlier. Did any customers tell you that the U.S. inferior to China on delivery time? No, not one did. They all said they were inferior -- that the U.S. was inferior on price and that was how China was getting sales.

They've cited to you the Acerinox report on this pull factor. We're going to provide in our post-hearing brief some other quotes from that same report and statements from the CEO of Acerinox that they've ignored that talk about the aggressive China pricing and why they actually -- what they were experiencing in the market, so it was some selective quoting there.

They also ignored the fact that when they refer to the 2014 supply shortage if you look at the data again in Table C-1 you will see that production increased over that period by the U.S. industry. It didn't decline. And in fact, in their own brief the Respondents say that in 2014 U.S. producer shipments were the highest on record during the 20-year period. So I don't understand how they keep characterizing this as a supply shortage.

Let me turn to price. Mr. Malashevich says that there's mixed underselling and in this case, in his view, it is statistically insignificant I believe is what he said.

The mixed pattern here is actually very similar to the mixed underselling pattern you've seen in the carbon steel cases and it's what you often see in types of cases where you have commodity-sensitive products. In fact, in earlier cases involving this exact product, stainless steel and strip, you saw similar mixed patterns of underselling, but does it fully capture the underselling here, probably not.

When you asked about whether there was a premium and why there was not a premium because of tight supply, they answered that, well, there was a small number of pricing products and maybe it wasn't a complete sample and it wasn't capturing everything. Well, in some ways I agree with that and we think it's not capturing fully all of the underselling. And how do you sort that out? You know we're saying maybe it's not capturing it all. They're saying the opposite.

Look elsewhere in your record. Is there anything in your record that says that there was a premium charge for Chinese product during this period due to a supply shortage? No, there's nothing there, other than their claim that maybe there might've been; but there's nothing there. But what did the purchasers say? The purchasers say they were lower priced. That's where your other record evidence is.

I also would cite in this context they cite the refrigerant's case to you and say we're just like the refrigerant's case where you found this supply shortage. Well, look at that case. In that case there actually was a supply shortage. The domestic industry admitted people couldn't get raw material, so people just had to stop producing. That was a real supply shortage. And what happened? Prices spiked. You're not seeing that here. You're seeing a lot of underselling and you're seeing very depressed prices throughout the period.

There was some discussion about average unit values earlier and you'd asked about why are the Chinese prices higher than the U.S. prices and I mentioned product mix. We dug a little bit further into this in the break and Mr. Neeley confirmed just now the primary alloy they sell is Grade 304. If you look at our data, you'll see that our mix carries much more diverse alloys, including the fluidics grades, which are lower values and we think that's probably why you're seeing the lower average unit values related to that product mix point.

Mr. Malashevich, I think, misunderstands our argument about underselling because he seems to think that we support his view that you should deconstruct the base price from the surcharge when you're looking at price comparisons. We've always urged you to compare total price comparisons. That's what you've done. That's what our producers face in the market. Our focus on the base price has been with respect to the profit component and we will provide more on that in our brief, but let me just mention a few points in response to this Exhibit 14 on which they focused extensively.

Please note that it's disaggregating domestic financial performance by groups of producers, not looking at the industry as a whole. It's comparing quarterly surcharges to annual financial performance. It has really no analysis of correlation, let alone causation between the surcharges and producer profitability. And frankly, as we'll discuss, it does show a relationship between base prices and profits.

At one point there was a claim, I think, that the purchasers lie about price and maybe the testimony was that the purchasers somehow are misleading us when they're in a negotiation. I hope they are not suggesting to you that the purchasers are lying to you in the questionnaire responses because there's no evidence of that. There's no evidence when 95 percent said China was lower priced, that that's not true. There's no evidence that when they said U.S. prices -- we're buying because of the price and not because of delivery time or availability or any of the other factors they've cited. We urge you to focus heavily on those responses.

Last, in terms of impact, there was testimony that the U.S. industry is doing incredibly well in 2014. And I think that Mr. Malashevich said that just look at the arithmetic. The underselling has no impact on the domestic industry in 2014. Look at 2014 in the C Table again. We were experiencing record demand. We had record output and there were large increases in surcharges, they say, all of which should drive profitability, but what happened? We had barely break even profitability of 0.5 percent. That is terrible in a year of record demand. It should've been far better than that and it's because they were underselling us and they took our market share.

So in sum, I would just say you have a lot of he said/she said here and it's always challenging I know to sort that out. I would simply urge you to look at two basic factors. One is you know this is a price sensitive case. They've never really argued that this is not a very price sensitive product and price drives market share and where did the market shift go? It went to them away from us. That's very telling.

And number two, please look closely at what the purchasers said. The purchasers documented testimony and reports is overwhelming in establishing that price drove a substantial volume shift to China and away from us due to price. Thank you very much.

CHAIRMAN SCHMIDTLEIN: Alright, thank you, Ms. Cannon.

CLOSING STATEMENT OF JEFFREY S. NEELEY

MR. NEELEY: Jeff Neeley from Husch Blackwell. I won't take my thirty-seven minutes or whatever it is that I've got. Fortunately, you know, I do agree -- or I guess I don't agree with the statement, it's a question of "He Said She Said". I really think this is a case about the data.

Fortunately, you've got a lot of data and I think it all points in the same direction. We don't have to rely on anecdotes here. So let me just walk through a couple of things and then we'll put a lot more in our post-hearing brief.

But the 2016 effect, whatever the volume effect might have been for our being knocked out of the market from the Chinese point of view, we also need to look at other things, such as what happened to pricing, what happened to the financial situation of the U.S. industry. And the answer is, not very much.

So we--the Chinese imports--are supposed to be the explanation of all this bad stuff that happened to them. But we're out of the market for whatever reason. It doesn't really matter why, but we're not there anymore, and nothing really great is happening to them in terms of pricing and the financial situation.

And again that goes back to our explanation of the surcharges and the effects. In 2015, the continued importations of China in 2015 can be easily explained. We talked about it. It's the lag effect. Mr. Junker went into that. We've given you information in our brief on Tisco's orders. I think it answers that question perfectly well.

I can't completely explain why the capacity information that the Commission is obtaining is different. It's seemingly radically different than what Outokumpu was seeing in the industry meetings. I mean I think it's for them to explain why it's different, but I would just think that the Commission ought to be treating the capacity information that it has with great caution, and it ought to be doing so, not only because of that statement, but also the fact that Outokumpu was coming into the United States and making very substantial investments and I don't think they're crazy.

I mean they seem to think there was a reason to have those additional investments in the United States. Almost every -- I think every one of the representatives of the U.S. industry said that lead times were extended in 2014. At the same time, they said there's no pull. Well, go figure.

I don't know -- I don't understand that argument. It doesn't go together, it doesn't make sense to me. Carbon steel is the analogy that they love, it's a draw. That's understandable because the U.S. industry after all won the carbon steel cases recently, so I guess I draw that analogy as well.

But what carbon steel didn't have is a number of things. But one thing it didn't have was an alternative explanation of the performance of the U.S. industry, which we have here. And we have it in the form of the surcharges. And what we just heard in the response of the domestic industry just now, a couple of minutes ago, was nothing really substantive on the surcharges. There are no real explanation of the surcharges.

And keep that in mind. The surcharge issue was brought up in our brief. I mean we just didn't come today and talk about it. It has been an issue. They had an opportunity to address it. They haven't done so. And I think there's a reason for that. So I'll close with that and we'll address the issues that the Commission has raised in our post-hearing brief. Thank you.

CHAIRMAN SCHMIDTLEIN: Thank you, Mr. Neeley. All right. Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by February 7th, 2017. Closing of the record and final release of data to parties is February 24th, 2017, and final comments are due February 28th, 2017. And with that, this hearing is adjourned.

(Whereupon the hearing was adjourned at 3:11 p.m.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Stainless Steel Sheet and Strip from China

INVESTIGATION NOS.: 701-TA-557 and 731-TA-1312

HEARING DATE: 1-31-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 1-31-17

SIGNED: Mark Jagan

Signature of the Contractor or the Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Gregory Johnson
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Gaynell Catherine
Signature of Court Reporter