UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
STEEL CONCRETE REINFORCING	)	701-TA-502 and
BAR FROM MEXICO AND TURKEY	)	731-TA-1227 (Review)

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Thursday,
August 6, 2020

Teleconference
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable JASON E. KEARNS, Chairman, presiding.

APPEARANCES:

On Behalf of the International Trade Commission:

Commissioners:

JASON E. KEARNS, CHAIRMAN
RANDOLPH J. STAYIN, VICE CHAIRMAN
DAVID S. JOHANSON, COMMISSIONER
RHONDA K. SCHMIDTLEIN, COMMISSIONER
AMY A. KARPEL, COMMISSIONER

Staff:

WILLIAM R. BISHOP, SUPERVISORY HEARINGS
AND INFORMATION OFFICER
TYRELL BURCH, MANAGEMENT ANALYST

APPEARANCES: (Cont'd.)

JOSEPHINE SHISTER, INVESTIGATOR
ALEXANDER MELTON, INTERNATIONAL TRADE ANALYST
PAMELA DAVIS, INTERNATIONAL ECONOMIST
JOANNA LO, ACCOUNTANT/AUDITOR
Karen Driscoll, ATTORNEY/ADVISOR
DOUGLAS CORKRAN, SUPERVISORY INVESTIGATOR

I N D E X

In Support of the Continuation of
Antidumping and Countervailing Duty Orders: (Cont'd)

Of Counsel:

Alan H. Price
John R. Shane

Maureen E. Thorson
Adam M. Teslik

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

Arent Fox LLP
Washington, DC
on behalf of

Celik Ihracatcilari Birligi - Steel Exporters Association ("CIB")
Colakoglu Metalurji A.S. ("Colakoglu")
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. ("Icdas")
Kaptan Demir Celik Endustrisi ve Ticaret,

P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN KEARNS: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this public hearing concerning Steel Concrete Reinforcing Bar from Mexico and Turkey.

Due to COVID-19 considerations, the Commission is holding this public hearing via videoconference. We appreciate everyone's cooperation and patience during this time.

The purpose of these reviews is to determine whether revocation of the antidumping and countervailing duty orders on steel concrete reinforcing bar from Mexico and Turkey would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

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

Only the Commission and its staff may ask questions of the parties. Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into the microphone, state your name and affiliation for the record for the benefit of the court reporter, and mute your microphone when you are not presenting.

If you will be submitting documents that contain information you wish classified as business confidential, your request should comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

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

CHAIRMAN KEARNS: Okay, thank you. Can you please announce our congressional witnesses.

MR. BISHOP: Has Representative Wilson arrived?

(No response.)

MR. BISHOP: Okay, we will start with the Honorable John Katko, United States Representative, representing the 24th District of New York.

We welcome you, Mr. Representative.

MR. KATKO: I want to thank you for having me here for this morning and also note that I'm in the middle of a vacation, and I didn't know I was going to be testifying until last evening. So I apologize for the informal attire, but when I go on vacations, I don't bring suits with me. So I apologize for that. I want to thank the Chairman -- pardon me?

MR. BISHOP: Representative, we can't see your webcam, sir.

MR. KATKO: That's okay. Tell me how I -- let me try this right here. Oh, here we go.

CHAIRMAN KEARNS: We're all now very curious what you're wearing, so --

MR. KATKO: Oh, here you go. How's that? How's that for you, right?

MR. BISHOP: Thank you so much.

MR. KATKO: Okay. Thank you. Well, I want to thank you all for having me testify today on this most important matter. I understand that the Commission is nearing a final determination on whether the antidumping duties on rebar from Mexico and the countervailing duties on rebar from Turkey once again should remain in place.

I think it is very clear that if unfairly traded imports are allowed to return to market, our country's rebar producers will be injured yet again. In my three terms as a

U.S. Representative, I have committed myself to fight for domestic manufacturers, especially those in my district in central New York.

Our manufacturers are the best in the world, and I can think of no better example of American manufacturing than Nucor Steel in Auburn, New York, which has been making steel since 1974. We are the most cost-efficient and cleanest rebar producers in the world, with Nucor Steel's Auburn plant containing 97 percent of recycled content.

I've been to Nucor's facility in Auburn many times and have seen firsthand the efficiency of their operations and the high-quality products they produce. They also value their workers' safety above all else, having achieved the OSHA Voluntary Protection Program status, its highest level of recognition for safety.

The 300 hard-working men and women of Nucor Steel in Auburn are depending on this Commission's decision for their continued economic well-being. Since every steel job supports an additional five to seven jobs, a thriving steel mill has an impact across my district and the entire upstate New York economy.

But the mill's contribution is not just economic.

As our area dealt with the pandemic, blood supplies ran low. Nucor Steel's Auburn teammates, following special protocols, including safe social distancing, hosted a record-breaking blood drive with help from the Auburn community.

Companies like Nucor play a vital role in the community and the nation's economy. That important role is threatened when foreign competitors receive illegal government subsidies and then dump their products here, hurting U.S. companies and their workers. That is why it is imperative that our trade laws are strongly enforced.

It is my understanding that current trade remedies have been effective in restraining unfairly traded rebar imports from Mexico and Turkey, and, as a result, the U.S. rebar companies have been able to benefit from U.S. demand. In short, what you have been doing in the past and what I testified to in the past is working.

These remedies have enabled producers to make their new investments and create good jobs in the United States. However, manufacturers are not immune from the incredibly challenging and uncertain economic times our country faces as a result of the Coronavirus pandemic. Revoking these remedies would compromise the industry's progress just when stability is needed most.

I understand that the Commerce Department has already determined that unfair trade is likely to continue if these remedies are revoked. I couldn't echo their sentiments more. We cannot allow foreign producers that do not play by the rules to take advantage of the U.S. market and threaten much needed jobs.

In closing, I'm not asking for special treatment for our manufacturers. I'm simply asking that our trade laws be enforced and that the playing field be somewhat leveled. When faced with unfair trade practices, I believe it is the duty of the American government to use the tools available to ensure that such practices do not injure our industry.

I want to thank you all very much for allowing me to testify today despite my somewhat informal appearance. I look forward to continue working with the Commission on these and critical issues, and I can tell you personally myself how much what you're doing is working in this industry, and it's a question of fairness. And I just wanted to say thank you all very much for that. And with that, I yield back.

CHAIRMAN KEARNS: Thank you, Mr. Katko.

Do any Commissioners have questions for

Representative Katko?

VICE CHAIRMAN STAYIN: No.

CHAIRMAN KEARNS: Hearing none, should we go to Mr. Wilson, please.

MR. BISHOP: Our next congressional appearance is the Honorable Joe Wilson, United States Representative, representing the 2nd District in South Carolina. Welcome, Mr. Representative.

MR. WILSON: Ladies and gentlemen, I am Joe Wilson. I'm very grateful to represent the central areas of South Carolina, and I'm very, very grateful too. Hey, what an honor to be with John Katko. I agreed with every word he said -- isn't that amazing -- because he was telling the truth, thank goodness.

I'm grateful to be with you today to comment on the International Trade Commission as you consider the antidumping/countervailing duty order on steel rebar from Mexico and Turkey. The impact of the steel industry to the people of South Carolina and jobs of South Carolina is expansive and very significant. CMC Steel is very important, located in the district I represent in Cayce, South Carolina, and it's the largest CMC mill in the United States, and I've toured it a number of times. It's always so impressive, the people who work there, how capable and competent they are. One of the highlights for the Christmas season, I get to go to their Christmas party. Now I've never been allowed to stay to eat, but I do get to be there and just thank the people who work at CMC for their dedication and their competence and capabilities.

While I appreciate the relationship we have with Turkey and Mexico -- and I need to point out that I work very closely with both of those countries, working with the ambassadors from Mexico and Turkey. They're great allies of America and important allies and trade partners, but these nations have historically undercut the United States on prices and acted unfairly with respect to their trade practices.

Steel rebar is critical for use in construction of infrastructure. I represent the Savannah River Site, and if you ever want to see a forest of rebar, visit the Savannah River Site in Aiken and Barnwell County, South Carolina.

Additionally, it's very important for our buildings, bridges, highways, tunnels. In this particularly challenging time for our jobs and economy, revoking the order would have devastating impact on the American economy and jobs.

Thank you for taking your time this morning to meet on this important issue. I look forward to continue working with you to protect the United States against unfair trade practices, and I'm very honored to represent the people of 2nd District. And if you're ever in Washington, you're welcome to come by and visit, 1436 Longworth House Office Building. You will notice that I have my CMC hat there and helmet. And so my appreciation is very personal, and it's just so sincere. They're great people who work at CMC.

CHAIRMAN KEARNS: Great. Thank you, Mr. Wilson.

Do any Commissioners have questions for Representative Wilson?

VICE CHAIRMAN STAYIN: No.

MR. WILSON: Everyone have a great weekend. Again, I wish you all well and success in all of your endeavors. Thank you.

CHAIRMAN KEARNS: Thank you, sir.

MR. BISHOP: Mr. Chairman, that concludes direct testimony from our congressional witnesses.

CHAIRMAN KEARNS: Thank you, Mr. Secretary. Let's continue with opening remarks.

MR. BISHOP: Providing opening remarks on behalf of those in support of continuation is Alan H. Price of Wiley Rein.

Mr. Price, you have a total of five minutes. Please activate your webcam and microphone.

MR. PRICE: Good morning. Can you see me or? Sorry. Good morning, Chairman Kearns, members of the Commission. I want to begin by highlighting five numbers: 2.7, 7.2, 119, 275, and 156 million. Remember these numbers. I'll come back to them in a couple of minutes.

This case is about rebar. For those of you who are new to rebar, the most important condition of competition is the importance of price. In many industries, price may be an important factor among others, but in this industry, price is not only the most important factor, it's also the second most important factor. Nothing else compares.

This is an intentionally homogenized product made for ease of use by the construction industry. There are no meaningful differences among domestic rebar and rebar from Mexico and Turkey, there are no meaningful differences in the way they compete, so subject imports should be cumulated.

The Commission has found time and time again that rebar is fungible, that imports and domestic producers compete across sizes, lengths, and grades throughout the U.S. market, and that they are sold through common channels of distribution. Nothing has changed. All the Respondents are doing here is recycling rejected arguments.

Both subject industries have the ability and incentive to ramp up exports to the United States. If there's a distinction between likely volumes of Mexican and Turkish imports, it is between very significant and even more significant. This is a distinction without a difference in terms of adverse impact on the industry and the market.

Significant capacity from both industries is unaccounted for. About a third of the Mexican capacity failed to respond, more than two-thirds of the Turkish industry failed to respond. What are they hiding? Lots of available capacity and supply that would be here in a heartbeat.

Rebar demand is driven by construction activity. The COVID-19 pandemic has exacerbated already weak construction demand in Turkey and Mexico. Third country markets are smaller and less attractively priced. Would they come here in increasing volumes? The answer is they already are. If home and third country markets were as attractive as they say, this wouldn't be happening.

Subject imports from both countries pervasively undersell the domestic industry. This was true in the original investigation, and it's true here again. The effects on price are identical, and they would be even worse without the orders. Would significant volumes that pervasively undersell the domestic industry be injurious? Of course. The Commission has found that they were in 2001, 2014, and 2017, and they would be now.

Producers are already seeing offers from Mexico and Turkish producers spreading throughout the market, forcing them to reduce prices to maintain sales. Without the orders, subject import prices will fall further and the domestic industry will have no choice but to sacrifice volume or cut prices.

Either way, they'll take a direct and immediate hit. Trade and financial performance will suffer, new investments will be compromised, good jobs will be lost. This will happen either in a strong market or a COVID-impacted market.

Everything I just mentioned to you about cumulation and the fundamental conditions of competition has been addressed before. The Respondents' case basically boils down to one argument. Hey, Commission, you just got it wrong. The foundation of the Respondents' argument is that the orders have had no impact. Well, these orders have had an impact.

Back to the five numbers. After the orders were imposed, the industry's operating profits improved from 2.7 percent to 7.2 from 2014 to 2015, while operating income increased from $119 million to $275 million. This improvement is 156 million data points showing that there was a material, not merely discernible, benefit to the industry of imposing the duties on dumped Mexican volume and subsidized Turkish volume.

The industry continues to benefit from these orders today. If they are revoked, volumes will increase, prices will fall, and material injury will continue or recur. Thank you.

MR. BISHOP: Thank you, Mr. Price.

Providing opening remarks on behalf of those in opposition to continuation are Rosa Jeong of Greenberg

Traurig and Leah Scarpelli of Arent Fox.

Ladies, you have a total of five minutes. You may begin when you're ready. If you would please activate your webcams and microphones.

MS. SCARPELLI: Good morning, this is --

MR. BISHOP: Are you doing it, Leah?

MS. SCARPELLI: I'm going first. Can you all hear me okay?

MR. BISHOP: Yes, we sure can.

MS. SCARPELLI: Okay, great. Good morning, Chairman Kearns and members of the Commission. I'm Leah Scarpelli with Arent Fox, and I'm here today on behalf of the Turkish Steel Exporters Association. On behalf of the association, we appreciate the opportunity to be here before you, albeit virtually today.

The U.S. market has changed significantly since the orders at issue first took effect, but the margins under the CVD order have been consistently low or de minimis. After the orders were implemented in 2014, rebar imports from Turkey actually increased, demonstrating that this order has never restrained Turkish imports.

It was not until the separate AD order was imposed in 2017 that imports from Turkey began to decline. When the Section 232 tariffs took effect in 2018 at rates of up to 50 percent, Turkish imports almost entirely exited the market. Even if the CVD order is revoked, imports of rebar from Turkey will continue to be regulated by both the AD order and the 232 tariffs, both of which are expected to remain in effect for the foreseeable future, regardless of the outcome of this case.

The U.S. market is simply less attractive now to Turkish exporters, especially compared to developing markets in the Middle East and in Asia that do not face the same restrictions. Rebar producers in Turkey have shifted their focus to more lucrative regional markets. Demand in Turkey's home market has also improved. A large share of rebar produced in Turkey will continue to be targeted at the home market and the regional export markets, not the United States. As you'll hear today, Turkish exporters intend to maintain a modest market presence in the U.S., but any growth will be in these other markets.

Finally, the positive performance of the U.S. industry indicates that it's not at risk of material injury. The domestic rebar industry has become even more concentrated since 2014, with a few major players dominating in just about every measurable sense. They are fully integrated and the price leaders in this market.

U.S. producers have used their position to restrict competition and maximize profits and will continue to thrive regardless of whether these orders are continued. Due to these conditions, the CVD order on imported rebar from Turkey has no effect, and its continuation is not necessary to prevent material injury to the U.S. industry.

We look forward to addressing these topics in more detail during our presentations. Thank you.

Rosa?

MS. JEONG: Good morning. I'm Rosa Jeong of Greenberg Traurig appearing on behalf of the Mexican Respondents. In the last six years since the imposition of AD and CVD orders on imports of rebar from Mexico and Turkey, the reasons favoring the revocation of the Mexican AD order have continued and been reinforced. Since 2014, the U.S. industry has only gotten stronger. What was known as the big three is now the big two and they continue to dominate the U.S. market. The industry is doing incredibly well by every metric reviewed by the Commission and has been doing well despite the current COVID-19 pandemic. Mexican market share was low during the POI and remained low throughout the POR even during extended periods of low or no dumping duties.

Mexican imports have had absolutely no impact on the U.S. market or the U.S. industry. During the POI, Mexican imports did not gain any material market share at the expense of the U.S. industry, and Mexican imports leaving the market during the POR did not improve the conditions of the U.S. industry.

The situation with domestic producers only improved beginning in 2017 after the new AD and CVD orders were imposed on imports of rebar from Turkey, Japan, and Taiwan and in 2018 when Section 232 duties were imposed. The different trajectories of Mexican and Turkish imports and the differences in conditions of competition between Mexico and Turkey support analyzing subject imports on a decumulated basis, and unlike Turkey, Mexico faces an additional volume restraint in the form of the bilateral agreement on the removal of Section 232 duties, which constrains imports from Mexico at historical levels. Evidence demonstrates that the revocation of the order will not lead to recurrence of material injury to the domestic industry by reason of imports from Mexico.

This conclusion does not change even if the Commission decides to analyze subject imports on a cumulated basis. Even if the current orders are revoked, imports from Turkey will still be covered by the 2017 AD and CVD orders and Section 232 tariffs, meaning that there will be no recurrence of injury to the domestic industry in the foreseeable future. Thank you.

MR. BISHOP: Thank you, Ms. Jeong and Ms. Scarpelli.

Mr. Chairman, that concludes opening remarks. We will now move forward with the panel in support of continuation of the antidumping and countervailing duty orders. This panel has a total of 60 minutes for their direct testimony. If you would please make sure that your webcam and microphones are activated when you are presenting testimony or answering a question. We welcome all of you, and you may begin when you're ready.

MR. PRICE: Good morning. I'm Alan Price on behalf of the Rebar Trade Action Coalition. I'm going to very briefly review some key facts and conditions of competition. Price is just as important today to purchasers as it was five years ago and, in fact, in this case, purchasers have told you that they'll buy subject imports in increasing volumes if the orders are terminated. Price is obviously the key by which imports are sold in this market and you see massive underselling.

U.S. prices are attractive to the subject producers and, obviously, they will continue to undersell. Rebar is a highly fungible product and it is made intentionally for one purpose, to sink in concrete. Unsurprisingly, many purchasers report buying both domestic and subject rebar and vice versa.

Obviously, once the imports come in, they travel far and wide in the U.S. Here is a picture of Grupo Acerero rebar in Des Moines, Iowa, I think fairly far from the Mexican border as far as I can tell, and Grupo Acerero has become a major exporter to the U.S. in 2020 and has not filed a questionnaire response.

Obviously, there are changes in demand that are occurring and this shows a lot of the forecast for decline on a going forward basis. And one thing that is critical here is no matter how bad things are in the United States, actually, things have been worse in the home markets of

Mexico and Turkey. They were weak before COVID-19 hit, and they are continuing to be weak and they are facing increased competition in their alternative markets, such as Colombia and the Middle East, and, obviously, things are also COVID-impacted there too.

Both Mexico and Turkey are major net exporters and they ship substantial volumes of rebar abroad every year, more than what was reflected in the responses to the Commission questionnaire, and subject producers are already targeting the U.S. market in 2020 with volumes well above 2019 levels. You can see some of the surge.

The domestic producers are still not insulated or are just not insulated from competition with the subject imports. Transactions with affiliates are at market prices, in competition with other suppliers. Domestic content requirements still only cover a small portion of the market and don't affect pricing. You'll also hear like from Respondents today argue that rebar they sell is somehow or other different from U.S. rebar and competes in different places. Now this argument has been tried every time in multiple different investigations and reviews. It's never been accepted. The facts haven't changed. Commission precedent is clear.

Again, you can see significant overlaps everywhere. And, finally, the imports here will have much more than a discernible impact. Imports from Mexico and Turkey will each adversely affect the U.S. market. In the event of revocation, both countries have capacity and exports will be on what we found would produce discernible impacts and other recent rebar in the multi-country rebar reviews and the producers in both countries are poised to substantially increase their imports through underselling, taking market share, and depressing prices. That concludes our slide show. Now I can introduce our first witness, Ms. Barbara Smith, Chairman of Commercial Metals Corporation.

MS. SMITH: Good morning. I'm Barbara Smith, Chairman of the Board, President, and Chief Executive Officer of Commercial Metals Company. CMC is a global metals recycling, manufacturing, and fabricating enterprise. Our corporate headquarters are in Irving, Texas, but we operate in almost 200 locations across the United States and Europe. I appreciate the opportunity to explain why these AD/CVD orders should remain in place.

CMC has a window into market conditions in the U.S.

and elsewhere and we are deeply concerned about what will happen without the discipline of the orders. There is no question that Mexican and Turkish producers will continue to target the U.S. market if the orders are revoked. This would be disastrous for CMS and the U.S. rebar industry. Both subject industries are highly export-oriented. They have significant excess capacity and they cannot rely on their home or alternative export markets to absorb it all. Turkey is an export platform even when demand is strong. Demand in Turkey right now is weak as a result of construction decline in 2019, followed by the 2020 COVID-19 outbreak.

Alternative export markets are building out their own capacity to displace imports. Trade measures and quotas are locking them out of markets in Europe, the Middle East, and Canada. We know Mexican producers remain focused on the U.S. market based on repeated attempts to circumvent U.S. AD/CVD orders. In fact, Deacero added a hook to the end of rebar and claimed it was out of scope. They were also caught twice trying to circumvent the wire rod AD order. Colombia has been the Mexican industry’s only other meaningful export market and the local Colombian mills are expanding capacity specifically to replace import volume.

Imports from both Turkey and Mexico are already returning to the U.S. market and are beginning to destabilize pricing. Volumes from both countries this year have been well above their 2019 average. Once they enter the market, they are transported easily throughout the country by truck, rail, or barge.

Mexican producers have maintained distribution warehouses throughout the country while Turkish producers have built out affiliated U.S. distribution networks and ship here for stock inventory, eliminating import lead time. We have recently seen offers in shipments of Mexican and Turkish material as far north as Bismarck, North Dakota, and New Haven, Connecticut. If you can get to Bismarck, you can get anywhere. Once these offers are in the market, they spread quickly and we are forced to respond.

Our customers need to be competitive in their own downstream business. We have longstanding relationships with many of them, but we also understand that when their competitors turn to dumped and subsidized imports, they have no choice but to do the same. Rebar is rebar no matter where it comes from. It is about as close as you can get in the steel industry to a pure commodity product, so it sells on price and price alone. At the end of the day, the cheaper alternative always wins the business. As a result, we have no other viable option when faced with low-priced import competition. We either cut our prices or we lose volume. Either way our business suffers. The effects of imports from both countries are identical and they are disastrous.

As subject volumes have increased this year, we are already beginning to see pricing pressures and compression of our metal margins. We see the most harm where the imports are most concentrated, but the effects spread rapidly as the imports are shipped throughout the country. Revoking the orders would open the floodgates, depress prices to levels that we could not compete or make a profit, result in lost sales and market share, and ultimately the loss of high-quality jobs.

There's nothing about the U.S. industry or market that would insulate us from these effects. We've heard before that CMC's affiliation with scrap yards and fabricators somehow gives us a leg up against import competition. This was not true then and it's not true now.

Our affiliated fabricators operate just like independent fabricators and need to be competitive in their own downstream business. We sell to them at market prices in the same way that we sell to our unaffiliated customers. CMC’s acquisition of rebar production and fabricating assets from Gerdau in November 2018 has not changed this. When we purchased these assets, they had been starved of technology improvements from the prior owner, and to remain competitive, these assets will need significant capital investment over time. As a result, we have had to increase risk-taking by investing more, which in turn makes us even more vulnerable to unfair trade. The acquisition was simply a value proposition that should allow us to serve our customers more effectively, whether affiliated or unaffiliated, and it has not changed the market supply and demand forces.

The same dynamics apply to scrap. Scrap is a globally traded product that we purchase entirely from third parties on the open market and in competition with other domestic mills and the mills in Mexico and Turkey. The United States exports approximately 20 percent of the scrap it generates. Deacero has U.S. scrap yards that collect scrap to export and feed its rolling mills in Mexico. Turkish producers ship scrap from here to Turkey, convert it to rebar, and ship the rebar back to the United States. Our conversion and input costs are amongst the lowest in the world due to our continued investment in technology and local availability of raw materials. With scrap and electricity making up approximately 60 percent of our total conversion cost and the U.S. having among the lowest power and scrap cost in the world, I cannot fathom how they are able to profitably undercut prices, but they do. This increases the price of our raw materials while depressing our rebar prices. We're already seeing this play out.

The U.S. market is large and attractively priced, and both Mexico and Turkey have demonstrated that this is their market of choice. Both would rapidly and significantly increase shipments to the United States if the orders are revoked. This would happen at a time of significant economic uncertainty.

Given the nature of the construction industry, business has remained steady thus far through the COVID-19 pandemic. Construction has been designated as an essential industry, so work on existing projects has proceeded despite the broader economic shutdown. The construction industry also operates differently than many other sectors. Projects are generally pre-funded and once they get underway they are seen through to completion regardless of the broader economy. It can take up to a year before existing work is completed. This does not last forever, though. It did not after the 2008 financial crisis, and it will not this time. While we like to be optimistic, the most recent data is cause for concern.

One of the key indicators we look at for construction is the Architecture Billing Index. In June, the ABI was the lowest it's been since the beginning of the 2008 financial crisis. Cement demand is another important indicator. The Portland Cement Association recently revised its 2020 consumption forecast down to a 5.5 percent decline compared to 2019. As current construction projects are completed, fewer will replace them and demand for rebar will contract. We've already seen a number of projects canceled or delayed. Even where bidding activity continues, fewer projects are moving forward from the bidding stage to the award stage because of heightened uncertainty.

While we've been hopeful about a major infrastructure bill, both money and attention now appear to be focused on the more immediate public health and economic crisis. It increasingly looks like the most we will see is a short-term reauthorization of the FAST Act at current funding levels, with an open question as to whether states and local governments can meet their contribution requirements. The pandemic has had serious economic consequences and are going to catch up with us eventually. It's only a question of when and to what extent. This leaves us even more susceptible to unfairly traded imports, which are injurious even when the economy is strong. The market does not need a single ton of unfairly traded imports. U.S. rebar mills have the capacity to serve the entire market. Thanks to these orders, CMC has been able to construct a new mill in Durant, Oklahoma, in 2018.

Unfairly traded imports would threaten the viability of these investments and the high-quality jobs that they create. On behalf of CMC and its 9,000-plus employees in the United States, we urge you to allow these orders to remain in place with respect to Mexico and Turkey. Unfairly traded imports would hurt us regardless of demand conditions but especially as we enter a period of significant uncertainty in the market. Thank you.

MR. PRICE: Thank you. I'd now like to introduce Don Barney of Nucor Corporation.

MR. BARNEY: Good morning. I'm Don Barney, Commercial General Manager, Merchant Bar Products and Rebar in Nucor Corporation. Thank you all for the hard work that the Commissioners and staff have put into this review. These AD/CVD orders on Mexico and Turkey have brought much-needed stability to the market and they are still critical to Nucor and the nearly 2500 teammates involved in rebar production. As we head into this period of significant uncertainty for the rebar market, we urge the Commission to keep these orders in place.

The industries in Mexico and Turkey are among the most aggressive in the world in targeting the U.S. market. Anything you hear this afternoon about their focus on domestic and other export markets is simply not credible. They have attacked us before and are attacking us now with increasing volumes. Without the orders in place, it will just get worse. This has already started to happen over the last 12 months. Mexico is excluded from the 232 tariffs entirely, while Turkey is so eager to offload volumes at any price in the United States that it has started shipping right through the 25 percent tariff. The long-term discipline of these orders is key to keeping their unfairly traded volumes at bay.

The Turkish rebar market is structurally oversupplied, so the industry is largely an export platform. As a result, the Turkish industry is the world's number one rebar exporter. Because the U.S. market is large, open, and attractively priced, it continues to be their market of choice. But the Mexican industry, which is also a substantial net exporter, is just as aggressive. As the Mexican economy continues to struggle and the construction market in particular has rapidly deteriorated, we are seeing increasing shipments from new suppliers that have traditionally only had a minor presence in the United States.

Nucor is a 50/50 partner in a coated sheet joint venture in central Mexico, so we keep close tabs on what is happening in the Mexican market. Mexico's construction industry has faced well-documented challenges the last two years. In 2019, before COVID-19, rebar consumption in Mexico fell significantly compared to 2018 levels. This has been exacerbated by the pandemic, but the problems are structural and they are not improving.

The Mexican construction sector has been in recession since the second half of 2018 and is now worse than it has been in 25 years. Demand is expected to fall even more in 2020. The government-funded infrastructure projects that you are likely to hear about today will not make up the difference. These projects include the Dos Bocas refinery, the Mayan tourist trade, and the Santa Lucia airport. These projects will not consume very much rebar and it is likely that most of it has already been purchased. They are insignificant compared to the size of the Mexican rebar industry and it will do little, if anything, to prop up Mexican demand. There’s simply nowhere else that they can look for meaningful demand other than the U.S. market.

Colombia has historically been the only other major export market for Mexican rebar producers and Ternium is starting up a new mill there specifically to displace import volumes. Prices in the United States are more attractive in any event and it’s easy to shift volumes from one market to another to chase higher prices. It is no surprise that Mexican volumes have already begun to surge.

One of my jobs is to track imports as closely as possible to see where they are ending up. Once they enter, they easily move up river by barge and are offloaded in places like Memphis, St. Louis, Cincinnati, and all the way up to Minneapolis. We have recently seen photos of Mexican materials sitting in inventories in places like Des Moines, Iowa. Any claim that these imports do not compete on price throughout the United States is inconsistent with reality. If the orders are revoked, this trend will accelerate and prices will plummet, with devastating effects for domestic producers.

This would happen at a time of immense uncertainty for us. We always like to be optimistic whenever we can, and, luckily, we have avoided the worst of the pandemic's economic consequences so far. This is because the construction industry lags the broader economy by six to 12 months and pre-funded projects generally progress to completion once they start. Unfortunately, optimism doesn't always become reality. After the 2008, 2009 financial crisis, we were optimistic about a speedy recovery, but the growth remained weak for years even after we exited the recession. The indices we are tracking right now for future construction activity all show rapidly declining trends that indicate fewer new projects will replace current projects as they are finished.

Even if the broader economy recovers rapidly, this will not necessarily translate into the same level of construction activity that we saw prior to the pandemic. Some changes may be long-term and structural. Many companies, for example, have discovered that employees can be equally productive when working from home and they may decide that they need less office space. Many brick-and-mortar retail stores may never reopen, especially as long as there isn't a vaccine for COVID-19. This is true of travel, tourism, and entertainment as well, which could lead to less demand for new hotels, convention centers, stadiums, and other projects.

As the Commission found in 2014, unfairly traded rebar imports are injurious in the best of times, but given the enormous uncertainty about the effects of this pandemic on future construction activity, the stability of these orders is more important than it has ever been. If they are revoked, Mexican and Turkish imports will flood into the market and undercut us on price just like they did in the investigation period, and the price is the only thing that matters in this market. Rebar is almost a pure commodity product. It is completely interchangeable regardless of source and it sells on price. This is true whether we are selling to affiliated or unaffiliated customers. We sell the majority of our rebar to unaffiliated customers and we have to meet the prevailing market price on sales to affiliates as well.

Our affiliated fabricators need to be competitive in their own business, which means buying subject imports when prices fall far enough that we cannot keep them competitive. Likewise, our scrap yards may provide some security of supply, but we pay market prices for scrap in competition with other domestic mills and subject producers. As Mexican and Turkish volumes have increased over the last year, we have already begun to feel price pressure and metal margin compression.

Let me also make clear that no unfairly traded volumes are needed in this market because these orders have helped restrain unfairly traded volumes from Mexico and Turkey over the last several years. Nucor has been able to benefit from a strong construction market and invest in expanding its rebar operations. These investments will create stable high-wage jobs for an additional 400 teammates. Allowing dumped and subsidized volumes from Mexico and Turkey unfettered access to the U.S. market again will compromise these investments and the new jobs that they create as well as the remainder of our rebar operations. If the orders are revoked, prices will fall to the point that we cannot make a profit and we will lose sales. If we lose sales, we produce less. If we produce less, our teammates take home less pay because their compensation is tied to production. That is why I ask you to allow these orders to stay in place on behalf of Nucor and its teammates. Thank you.

MR. PRICE: Yeah, I realize that. Could we stop for a second, Shayne? Okay. Thank you. Now I'd like to introduce Shayne Byer.

MS. BYER: Good morning. I am Shayne Byer, Chief Executive Officer and sole owner of Byer Steel in Cincinnati, Ohio. Thank you very much for the opportunity to speak with you today and for your attention to a matter of critical importance to the U.S. rebar industry.

Byer Steel is a small company but one with a long and strong tradition in the Ohio tri-state area. We are family-owned and operated and have been in business for over four generations, more than 100 years. I am incredibly proud of our business and the opportunity to be one of the only, if not the only, women-owned steel mills in the country. My hope is that we will be here making rebar for another 100 years and my children and their children will be afforded the same opportunity.

Byer Steel makes rebar in straight lengths of 20 and 40 feet. We diversified business several years ago to go to fabrication warehouse services. We employ just over 100 employees in total, with roughly 40 workers in the rebar manufacturing and 30 in fabrication. There is no aspect of our business that is unaffected by unfairly traded imports.

As a small company with a single location in Cincinnati, we are something of a canary in a coal mine when it comes to unfair imports. When we start seeing material being offloaded on barges this far inland, we know that trouble is probably ahead.

Without trade relief in place, rebar builds up on docks and eventually sells at whatever price is necessary just to move it and avoid daily storage fees. Before these orders imposed some discipline on prices, Mexican and Turkish rebar was being sold far less than our cost of production. At times, it has gotten to the point where our own fab shop had no choice but to buy imports because they could buy it for less than we could make it.

There is no question that this will happen again unless these orders remain in place. Ever since the Section 232 duties on Mexico were suspended and the duties on Turkey were reduced, imports from these countries have returned to the market and have started competing with us for sales.

Material lands in New Orleans, comes up the Mississippi and Ohio River by barge, and is unloaded right on our doorstep here in Cincinnati. We've seen offers for Mexican rebar as far north as Iowa. Customers have told us that Turkish material is coming in right through the 25 percent Section 232 duties and still undercutting us on price.

It is astounding that they can buy stuff here, send it all the way to Turkey and then send rebar back to the U.S. and still manage to undersell us here in Ohio. Without these orders in place, there is no doubt that Mexican and Turkish rebar will flood in and make it impossible for us to compete in our own backyard, just like they have in the past.

This would cause significant disruption in an already uncertain time for the rebar market. We have growing concerns looking forward as the pandemic continues to spread. We are still bidding on projects, but we have seen a notable drop-off in the number of purchase orders coming out of these bids. This tells us that projects are being delayed and not moving forward at all due to the actual economic fallout of the pandemic. We anticipate significant decline in orders for the fourth quarter as a result.

Allowing unfairly traded Mexican and Turkish rebar unfettered access to the market just when demand is likely to start falling would be disastrous for Byer Steel, for all my hard-working employees, their families, and for the rest of the domestic industry. Thank you. I am greatly honored to be able to speak today, and I look forward to answering any questions that you may have.

MR. PRICE: Our next witness is Chris Graham of Steel Dynamics.

MR. GRAHAM: Good morning. My name is Chris Graham and I'm the Senior Vice President of the Long Products Group at Steel Dynamics, Incorporated. Thank you for the opportunity to be here today.

Mexican and Turkish suppliers are notorious for their approach to the rebar market. They historically flex their production capacities quickly and widely as they chase demand and attractive prices around the world.

Given demand, market stability, currency valuations, and current pricing, the U.S. market is easily the most attractive in the world today. In the time that it takes to send a few emails, word of their offers spread across the country and the material itself is never far behind, whether it's on a barge, train, or truck.

Our rebar mills can either match Mexican and Turkish prices or lose sales. There is no middle ground. As a fungible commodity product, rebar sales come down to one thing, price. Steel Dynamics sells exclusively to rebar customers who are not affiliated with a domestic mill, meaning we compete against the subject imports and other domestic suppliers for sales every day. In 2020, we've already seen Mexico and Turkey increase their shipments in the United States as the other markets have slowed.

These trade orders are the only thing safeguarding market stability right now, especially as we anticipate slower demand over the next year or so because of the pandemic. Removing these safeguards will compromise any progress that SDI has been able to make in recent years as effective trade relief has kept unfairly traded volumes at bay and prices at levels where market-oriented producers can compete.

In 2017, SDI made major capital investments in rebar production in the United States. These investments include the commissioning of a state-of-the-art reheat furnace at our Virginia mill, the installation of a new 240,000 ton per year rebar mill at one of our Indiana locations, and the hiring of the people to operate and maintain this equipment.

We made these investments due to the pricing stability that the existing orders have brought to the supply chain. If the orders are revoked and Mexican and Turkish players are once again allowed unchecked access to the market, we will not generate sufficient returns to justify these recent investments.

The employees of SDI, as well as those of our counterparts, are more than capable of competing with any steel worker in the world. Rescinding these orders will deny them their well-deserved opportunity to compete on a level playing field. Thanks for the opportunity to speak today.

MR. PRICE: Thank you, Chris.

Tom Sondgeroth at Gerdau submitted his written testimony and is available to answer questions. Due to time constraints, we're going to continue to move since we have a number of witnesses today. Our next witness is Roy Houseman of the United Steelworkers.

MR. HOUSEMAN: Good morning. I am Roy Houseman, Legislative Director for the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, better known as the USW.

The USW is the largest industrial union in North America, representing members throughout the economy, including workers in the rebar mills at Cascade, CMC, and Gerdau. Our workers and their livelihoods depend on fair trade, and we deeply appreciate the Commission's role in ensuring that trade remains fair.

The USW strongly supports the continuation of the AD/CVD orders on rebar from Mexico and Turkey. We know American workers in the rebar industry can compete on a level playing field, but there isn't much they can do against foreign producers that price unfairly and foreign governments who subsidize their domestic industries.

When these industries, including the Mexican and Turkish rebar industries, are given unfettered access to the

U.S. market, we know what happens. Our members lose their jobs and take home less pay. Since Section 232 duties are currently suspended for Mexico and reduced for Turkey, continuing these orders becomes even more important to prevent subject imports from returning and causing U.S. rebar mills to cut workers or close down entirely.

Mexican and Turkish imports have increased over the last year and our membership has felt the impact. We lost 250 jobs this year at Gerdau's mill in Saint Paul, Minnesota, and around 100 more last year in California after CMC closed its melting operation and reduced swelling shifts at its Rancho Cucamonga mill.

If the orders are revoked, there's no question that additional workers will be harmed. USW works to defend workers' rights both in the United States and around the world. U.S. steel mills have to comply with stringent labor and environmental rules which reflect their values and ensures the share of prosperity. This is not always the case with foreign industry. USW has serious concerns about labor and environmental protections in both Mexico and Turkey.

While Mexico passed a labor reform bill, there continues to be a number of delays in implementation;

meanwhile, low wages and an informal economy continue to exist. In addition, while researching for this testimony, I was shocked to learn that less than a third of Mexico's industrial wastewater is treated. In a review of the country's environmental laws by an EPA expert, they found that the country's water laws are totally inadequate to protect aquatic life and human life.

Meanwhile, European monitors recently concluded that Turkey has fallen short on obligations regarding wages and hours worked. American workers who play by the rules should not have to pay the price when the foreign industries don't live up to the obligations in the trade rules for labor and environmental standards. On behalf of the USW and its members, I ask you to continue and fully effectively enforce the U.S. trade laws and allow these orders to remain in place. Thank you, and I'll be happy to answer any questions you have.

MR. PRICE: Thank you, Roy.

Our next witness is Rob Webb. Rob?

MR. WEBB: Good morning. I'm Rob Webb, President of Southwestern Suppliers. Southwestern is a wholesale distributor of construction products and an independent rebar fabricator. We are based in Tampa and serve primarily the State of Florida. Our company was founded more than 60 years ago, and it remains family-owned and operated. I'm the third generation of our family in this business, with two of my adult children at my side preparing to be the fourth. I strongly support the domestic industry's position with respect to keeping the AD/CVD orders on Mexican and Turkish rebar in place.

I appreciate the opportunity to tell you about what is happening in the market right now because it is truly a precarious situation. We have not seen as much rebar from these countries since the orders went into place, but that has started to change over the last year. Greater volumes of Turkish rebar are entering the ports here in Florida and we are again seeing offers at incredibly low prices. This is happening despite the orders and Section 232 duties, so it seems they are desperate to sell here at any price just to keep their mills running.

We saw this back in 2014 and again in 2017, so we know it will only get worse if the orders are revoked. As our competitors start buying unfairly priced imports and underbidding us for construction work, we are forced to either press the domestic mills to lower their prices to unsustainably low levels or look to import supply to stay competitive on our bids.

I'm amazed at how quickly Mexican and Turkish rebar can take over the market. Despite being largely absent for years because of effective trade relief, they have maintained and even established new distribution arms that are springing back into action.

Turkish producers now ship their inventory here with their own distribution operations in place that seem to have standing orders to move tons regardless of market conditions in the U.S. One particularly challenging distributor in our region is Medtrade, who is actually a subsidiary of a Turkish rebar mill. We know the Turkish mills rely on exports and have never been able to sell all they make in their local domestic market.

The fact that they have started shipping right through the 25 percent Section 232 duties means that things must be getting even worse in terms of demand outside the U.S. market. We are already overwhelmed by offers that the domestic mills are unable to match, and this market will only become more attractive to them if the orders are revoked.

I know you've heard this already, but I think it's worth repeating for any Commissioners who are new to the rebar industry. This product has one purpose: to reinforce concrete. Our operations are pretty evenly split between fabrication and distribution and it makes no difference as to where the rebar goes and how it is used. It is standard in this industry for distributors to be fabricators and vice versa. It is a distinction without a difference.

Rebar is as close as the steel industry gets to a pure commodity product; therefore, margins are thin. Everything that is coming in from Mexico and Turkey is easily available from a domestic supplier. Not only can we get all the sizes, grades, and lengths we need, we have always been able to get as much quantity as we need from the domestic mills, including the mills with affiliated fabricators, but price is paramount. Given the continued spread of COVID-19 pandemic, the stability provided by these orders is more important than ever.

It is true that the first quarter of 2020 was a strong one for us businesswise. This is because the construction market was spared from immediate economic impact of this pandemic. Most projects that were already underway kept us busy. Because of the size and scope of these projects, timing for the construction industry lags the broader economy by six to 12 months.

We've only begun to see the effects of this pandemic in our industry. New project awards are fewer and further between and project starts are being delayed for long periods of time, if not indefinitely. I've included a number of examples of such projects in my written testimony. These projects require fabrication of thousands of tons of rebar, months of work that was planned for our team and our customers' crews as well. Our bids for these projects were based on sourcing domestic material, but that could change given the trends we are seeing in short supply.

When delays last long enough, the owners of these projects don't just sit on the pricing structure of current bids. Just like any profit-oriented company, they will reevaluate the market when the time comes to see if they can get the work done for a lower price. That means we may need to reevaluate our rebar purchases as well.

We prefer to buy from domestic mills, but when there's a lot of low-priced import supply in the market, that becomes impossible. We must buy materials at the lowest possible price to compete for jobs with other fabricators. Unfortunately, that often means we are buying from Turkey and Mexico when those volumes are in the market. Especially with demand expected to fall in the foreseeable future, no one needs rebar from Mexico and Turkey flooding the market and collapsing prices. What the market needs right now for mills, fabricators, and distributors is stability. These orders have been critical for that over the last five years and revoking them now would likely be disastrous. Thank you, and I'm happy to answer any questions you may have.

MR. PRICE: Thank you. Our next fabricator is Tim Johnson from Suncoast.

MR. JOHNSON: Good morning. I'm Tim Johnson, Chief Operating Officer of Suncoast Post-Tension, headquartered in Houston, Texas. Suncoast has nine facilities across the United States that specialize in conventional rebar fabrication, in addition to post-tension materials and fabrication. We typically consume around 7500 tons of rebar per month, making it one of our most important raw materials.

The stability and integrity of the rebar market is therefore critical to our business and I appreciate the opportunity to be here today. I agree with the rebar producers here today that the AD/CVD orders on Mexico and Turkey should remain in place. Just like any fabricator, we have to procure rebar at the most competitive prices we can get. We primarily buy domestic material, but we've been forced to turn to import supply at times. We've done so for only one reason and that is the price of the imported rebar.

We regularly get unsolicited offers for both Mexican and Turkish rebar. When those offers start coming in, many of our competitors turn to them quickly because they know domestic mills cannot meet the prices. We generally approach our long-term domestic suppliers first and tell them what we're seeing in the market. If they can't meet those prices, we have no choice.

At the end of the day, we need to win bids and make profits to keep our own business going. The mills know that and they do what they can to keep us competitive. It gets to a point, though, where prices get down to their cost of production and they just can't go any lower. In my experience, it's the imports that lead prices downwards and the domestic mills end up chasing them to keep as many customers as they can.

This is not a matter of quality or availability or lead times or anything other than price. Our domestic suppliers have never been unable to give us what we need when we need it. The same is true of Mexican and Turkish rebar once it starts coming into the market. We can get the exact same rebar on the same time schedules. The subject sources supply all of the same common lengths, grade, and sizes. These characteristics do not affect the per ton price or end use of the product in any case. It all holds up sunken concrete. The only difference is price.

Thankfully, construction activity has stayed fairly strong in our primary markets, but signs of weakness are definitely emerging, especially with bigger commercial and nonresidential projects that account for a lot of our rebar fabrication demand. Loadings are down even where bidding activity is continuing. Lots of developers on these projects are trying to figure out whether future economic conditions will be strong enough for projects to move forward. Our on-order book has gotten smaller in four consecutive months and our backlog is down 70 percent overall during that time. That means that we're finishing existing work faster than we're finding new work, and that seems to be the norm throughout the industry.

Given the current situation, it is impossible to predict exactly where things will end up, but it is unrealistic to expect the market to remain where it was in 2019. An influx of incredibly low-priced imported rebar would be very disruptive in these conditions. That is why I agree that the AD/CVD orders on Mexico and Turkey should remain in place. Thank you for your attention, and I'm happy to answer any questions that you have.

MR. PRICE: And our next witness is Jeff Veilleux. Jeff?

MR. VEILLEUX: Good morning, Commissioners. Can you hear me?

MR. BISHOP: We sure can, Jeff.

MR. VEILLEUX: Wonderful. Thank you. Thank you, Bill. My name is Jeff Veilleux. I'm the Vice President of Sales and Marketing at PJ's Rebar. PJ's Rebar is a fabricator that's located in Fremont, California, and we serve the West Coast and beyond. We're a family-owned business, and I've been with the company for 24 years. We have good, long-standing relationships with a number of domestic rebar producers, who have been reliable sources of material for PJ's over many years.

Mexican and Turkish rebar suppliers are famously disruptive when it comes to rebar prices. Although we generally purchase from domestic mills, there are times when it is simply impossible for them to sell at prices as low as what we can get from Mexico and Turkey. These trade orders have kept a lot of offers from Mexico and Turkey either out of the market entirely or at fair prices that allow domestic mills to compete. But, when the material comes in at unfair prices and our competitors start buying it, we ultimately have no choice but to do the same. If we don't, we can't stay competitive in our own bidding and our own sales effort.

But make no mistake about it, once lower-priced import offers start spreading through the market, they get around fast and they get around everywhere. This has started happening already as Turkish and Mexican suppliers look to seek the U.S. market and export their products and export their way out of the recovery of their own economic impact related to COVID-19.

We're located in California, as I said, and we've been getting offers for Turkish rebar coming as far away as Florida. It doesn't matter whether it's coming from Turkey or Mexico or whether it's entering on the East Coast or the

West Coast. It's easy to put rebar on a train or a barge or a truck and ship it nationwide.

We certainly communicate what we're seeing price-wise with our domestic suppliers and we ask them to meet it or beat it, but they often don't have to. They know what's happening in the market usually before we do and they know that they must react or else risk losing sales. And based on the offers that I've seen recently and my experience with previous periods of intense import competition, I have no doubt that subject imports will quickly push prices down to untenable levels if they are left with unfettered access to the market.

All it comes down to at the end of the day is price. We can do what we need to do with rebar from any of these sources, whether domestic, Mexican, or Turkish. As you've already heard, rebar is pretty close to a commodity in terms of how it's made and how it's sold. Anyone can make it and anyone can make it to any specification.

We have also never needed to look at imports to fill any unmet demands. Domestic mills have always been ready, willing, and able to supply us with whatever we've needed. We're usually the one turning the mills down because of pricing pressure in the market and not vice versa. Even though we compete with the affiliated fabricators for their business sometimes, the mills have never tried to restrict supply or charge us higher prices. This is unlikely to change in the near future given what is coming because of COVID-19.

We primarily serve the non-residential construction market, which has so far skipped the worst of the pandemic's economic consequences. So this is not because the sector is immune. As a result, we've had stable business since March, but that's beginning to change. While bids for new work are still going out, projects that have not begun construction are frequently delayed in times of economic uncertainty. I mention several examples in my written statement.

Overall, we anticipate that project delays will result in approximately 40 percent less demand than we had in March. This will force us to be aggressive, as aggressive as we can be, on bids going forward. And without any restraint on imports from Mexico and Turkey, they will inevitably pour into the market at incredibly low prices, and we will have no choice but to source from them to keep our own business competitive. Thank you.

MR. PRICE: Thank you. Our next witness is John Cross.

MR. CROSS: Good morning. I'm John Cross, Principal of Crosswind Consulting. The COVID-19 recession will have a significant negative impact on domestic non-residential building construction activity over the next 12 months, likely not returning to pre-recession levels for three to four years. This downturn in construction activity will have a disproportionate adverse effect on producers of construction materials, including concrete reenforcing steel, which are used in new building construction as opposed to building renovation.

It is important to distinguish the impact of recessions on construction activity. Construction behaves differently than other sectors of the economy. Where other sectors react to recessionary trends in days or weeks, construction lags the general economy by as much as a year. Non-residential construction projects that have already broken ground have a momentum that carries them forward to completion. They are designed, permitted, financed, and already moving forward, making cancellations infeasible.

In a typical recession, construction put in place will not show a decrease for three to four quarters after the beginning of a recession. This first slide illustrates this phenomena in the wake of the 2008 global financial crisis. As a result, so far, construction activity has remained stable.

But we can already see the key leading indicators turning downward. The Architect's Billing Index for the past four months shows a majority of firms experiencing a decline in billings. Decreasing design activity foreshadows a decline in construction starts. In this slide, you can see the severity of that decline in historical context. The Dodge Momentum Index shown here mirrors this pattern with a decrease in the number of new conceptual stage projects compared to 2018 and 2019.

The consensus findings of a recent AIA survey of construction economists forecasts a decrease of construction put in place in 2020, with a continued decline into 2021. A decline in construction put in place translates to an even greater decline in construction starts. This is going to hurt, and if there is a resurgence of COVID-19 cases requiring a second hard stop of a significant portion of the domestic economy, the pain will be even greater.

So what is the bottom line? The recession of 2020 will have a substantial negative impact on long-term non-residential building construction activity. We are likely to see construction starts as opposed to construction put in place activity begin to show decline in the third quarter of this year as owners and developers pull back on their plans based on a lack of demand for new space and economic uncertainty. This decline will accelerate in the fourth quarter and first quarter of the next year, with stops potentially dropping by as much as 15 to 20 percent during the 12-month period starting in the latter part of 2020.

This type of contraction hits suppliers of structural materials like reenforced concrete especially hard. During recessionary periods, building renovation remains strong, fueling the inside trades, electrical, HVAC, plumbing, carpentry, but the outside trades, foundation, structures, concrete, reenforcing steel, receive no benefits from renovation work as they are focused on the core and shell of new buildings and will feel the full impact of the decline in construction starts.

Just like the downturn in construction activity lags the economy, so does the construction industry's recovery but to an even greater degree. It is important to recognize that in a recessionary period, the existing inventory of space does not disappear. But, as economic activity decreases and employment levels fall, the demand for that space declines. It is not when the GDP growth rate begins to turn positive or the unemployment rate begins to decline that construction activity returns but when GDP and employment measured in absolute terms return to pre-recession levels.

The length of the downturn will most likely extend 12 to 14 quarters. For non-residential construction, the recession will not be a crisp V but a lopsided U. Again, this slide illustrates this phenomena in the wake of the global financial crisis. And, here, you can see possible recovery timelines for the current crisis based on optimistic, realistic, and pessimistic forecasts.

Historically, federal stimulus programs have done little to incentivize non-residential building construction, focusing rather on transportation projects and even then on shovel-ready, resurfacing, and repair projects rather than new construction. The stimulus programs currently being considered follow the same pattern. Even if a federal infrastructure program is implemented, it will provide little, if any, help to the non-residential building sector and the suppliers of structural materials, such as reenforcing steel.

In sum, it is unrealistic to expect that construction activity will continue unabated despite the economic impact of the pandemic. I expect a downturn will begin over the next two fiscal quarters. This will primarily affect new construction starts, which is where materials like reenforced concrete are primarily consumed. The downturn can be expected to last 12 to 14 quarters as any recovery will also lag the broader economy. It is unlikely that any federal stimulus package will pick up the slack even if one is passed. Thank you.

MR. PRICE: Okay. Can we stop for one second while we change presenters, if we need to?

MR. BISHOP: Stop the clock.

(Pause.)

MR. BISHOP: Okay, I think you should be all set.

DR. KAPLAN: Okay. Good morning. Next slide, please.

MR. BISHOP: Start the clock. Thank you.

DR. KAPLAN: Good morning. Let me discuss the economics of reviews and threat. Review economics addresses the recurrence of unfair imports while threat addresses the continuation of unfair imports. Reviews are a but for exercise with and without the orders. Hearing a review of existing orders act like a dam, holding back on unfair imports. The question for the Commission is, when you remove the dam, how much water is behind it, where will it flow, and how much damage will be caused by the flood.

The dam analogy is consistent with the Commission's traditional ability, incentive, effect analysis typically used in reviews. The ability is what is the volume of potential imports absent the order. The incentive is do prices in the U.S. create arbitrage opportunities for the subject producers. And the effect has to do with the volume of unfairly traded imports causing injury.

The ability of Turkish and Mexican imports is great. They have large volumes of excess and divertable capacity. Their home market demand is falling and their third market demand is declining, making this worse.

Mexico has very large volumes. Excess and divertable capacity is large, as reported in the staff report. But the staff report underestimates Mexican actual excess capacity, and I wish the Commission would take a close look at this. There are non-responding producers, significant unusable, usable capacity that's not allocated to rebar in mills that can make two products. And the new Colombian mill will decrease Mexico's exports to its largest third market customer.

Turkey also has large volumes of excess and divertable capacity. They cannot absorb their excess capacity at home. They are very export-oriented. The witness testimony talks about 180 countries that Turkish producers send product to. That is the Turkish testimony. The staff report once again is not complete due to non-responses. The 219 excess capacity is already high and the pandemic is worsening the capacity.

Subject countries have large and divertable volume. As you can see on this confidential slide, both Mexico and Turkey are in the double digits of excess and divertable capacity relative to U.S. consumption. This is large and, given the highly competitive nature of the product, highly significant.

Demand in Mexico, Turkey, and their largest markets are falling in both 2019 and the first quarter of 2020 and in the second quarter, which the staff report does not have data. Demand in Mexico has declined. This is demand for construction from the Mexican-owned state government data. Notice the severe drop-off continues in the second quarter of 2020, and that's the current state of affairs. The recession will make things worse. The pandemic will make things worse. The Colombian plant will make things worse. And they are having infrastructure projects canceled, postponed, and redesigned.

Turkey is also seeing a decline in demand. GDP has been falling continuously from construction and is expected to continue into 2020. Forecasts from independent guru organizations show a continued decline through 2021 in Turkey. The major international organizations also show a decline in Turkey and in Mexico. Even in the growth rates, there are declines from past GDP growth and very small. Third markets, as I've discussed, are falling. Colombia, the largest purchaser, is expected to decrease their production as a new facility is being built, where other end markets are falling.

With respect to Turkey, as the next slide shows, their major end markets are showing sharp contractions, including Israel, Yemen, Singapore, Ethiopia, and Hong Kong.

So we see the ability. What about the incentive to come to the U.S.? Well, the Commission has always looked at arbitrage opportunities as the reason that imports will come to the United States should an order be revoked. These citations are from cases that go back to 2006. So let's look at what prices are in the United States. The next slide shows that prices in the United States are high compared to the rest of the world.

The next slide shows that prices are higher, transportation adjusted, in the United States than the prices that Turkey and Mexico sell to their current third-market countries. In fact, with respect to Turkey, it's near 100 percent and with respect to Mexico, it is overwhelmingly undersold.

So this graph shows the underselling of the third-market exports from Mexico. The next graph shows the underselling of third-market sales from Turkey compared to the U.S. price. So we've seen two things with regard to incentive. U.S. prices are higher than world prices, and U.S. prices are higher than the third markets they send them to. The conditions of competition show the effects will be severe: high substitutability between domestic and subject rebar, inelastic demand, a lag between the import volumes and domestic prices we've seen again and again, and nearly ton for ton replacement.

This will lead to a decline in U.S. demand, and ton for ton replacement will lead to a decline in production shipments and market share and trade, which will lead to a decline in profits and profit margins and lead to a decline in employment, wages, and hours worked.

Thank you very much.

MR. PRICE: That concludes our direct presentation, and we'll reserve whatever remaining time we've got.

MR. BISHOP: Mr. Chairman, that concludes all testimony from this panel.

We thank all panel members, and we will reserve your remaining time for rebuttal and close.

MR. PRICE: Okay. You can now get on. Okay.

CHAIRMAN KEARNS: Okay, thank you. We'll begin questioning with Commissioner Karpel.

COMMISSIONER KARPEL: Thank you, and thank you, all the witnesses, for being here today and for your testimony.

I wanted to start with a question. Domestic import volumes and market share increased substantially from the first quarter of 2019 to the first quarter of 2020. From your perspective, what explains that increase?

MR. PRICE: Okay. Thank you. A considerable portion of the increase in this case can be claimed by the collapsing of the markets, the high markets of both countries and the increasing desperation to give volume to the U.S.

Mr. Barney, would you like to address it from a commercial perspective?

MR. BARNEY: Yes. Good morning. And I was going to say basically the exact same thing. I mean, we see declining demand in their home markets and declining demand in the third party export markets, and, obviously, the U.S. market has remained relatively attractive based upon the six- to 12-month lag from a construction activity standpoint, so it just is indicative of the desire to be in this market and to export product to this market at higher and higher rates that subsidize the downward pricing as a result. I think it's just a prelude of what we're going to see if these orders are revoked.

MR. PRICE: Thank you.

Ms. Smith, do you have anything? Would you like to add anything?

MS. SMITH: Thanks, Alan. I don't have anything further to add. I think Don summarized it incredibly well. And I think it is definitely a prelude to what we're going to see as demand weakens.

COMMISSIONER KARPEL: All right. Okay. So I can move on to another question unless anyone else wants to speak on that. And I guess sort of a follow-up to that, though, is it looks like the gain in market share was at the expense of non-subject imports, not domestic producer market share. Is that also something we would expect to see going forward, or do you see that changing?

MR. PRICE: Barbara? Thank you.

MS. SMITH: Yeah, thanks, Al. I think it's just the beginning of other actions. They're going to continue to push product into the market until they start to erode at domestic market share. It's happened every time in the past, and the pattern of behavior is the same. It's repeated over and over.

As demand continues to weaken in the U.S., which you heard from all of the witnesses this morning, it will cause, you know, domestic fabricators to be attracted to these cheaply priced imports as they compete for work, and then we have no choice but to take our prices down to meet the unfairly traded imports, or we walk away from orders and suffer the consequences of, you know, impact to our employee base and to our investments here.

MR. PRICE: Mr. Webb, would you like to add something from a fabricator perspective regarding the aggressiveness of these particular importers, as well as Mr. Johnson?

MR. WEBB: Sure. We've been competing with the domestic suppliers for generations. It's generally the independent fabricators who source the more aggressively priced Turkish rebar that are the most fierce competitors we see in the market.

MR. PRICE: And do you see that picking up if these orders are lifted?

MR. WEBB: Yes, this market will become more attractive if the orders, the AD/CVD orders, are removed. The margins in our business are minimal, so, you know, a slight increase in their margins is just going to make it more attractive to come here.

MR. PRICE: Okay.

COMMISSIONER KARPEL: Yeah, if I could just interrupt. I just wanted to try to understand. So we're trying to make an assessment of what's going to happen in the future, and so one window into that might be to look at what's happening most immediately, so changes between the first quarter of 2019 and first quarter of 2020 are particularly interesting. An observation there is subject imports went up, but another observation is they aren't taking sales, at least in terms of market share level, from domestic producers, they're taking from non-subject.

So, if we're going to try to look at most recent history and predict what's going to happen in the future, that would have us perhaps thinking that non-subjects are going to again sort of take the hit from subject imports. So what can we look at in the record or what facts can we understand to see that that eventually is going to turn the tide and they're gonna start taking market share from domestic producers too? Is there something about the nature of competition that you can elaborate or some data you can point me to? I hear your perspective that you expect this to happen, but we're going to have to hang on to something a little more concrete than that.

MR. WEBB: Well, historically, Turkey is the biggest aggressor in our market by far. Any non-subject importers follow the Turkish lead. You know, I don't know what more to tell you than that.

But, historically, prior to these orders, the volume of Turkish bar in Florida was monumental and just disastrous for our industry, and the prices were continually eroding. So no matter who entered in replacement, the Turks seem to be able to come in and undercut and further escalate the decreasing.

MR. PRICE: And, Mr. Johnson, would you address the increased aggressiveness of the Mexican bar in your market and how you see them continuing to want to sell more and more volume?

MR. JOHNSON: Yeah. Absolutely. I mean, Houston, being a very large port, we see a lot of boats, but, you know, in the last number of months, we've seen Mexican bar much more aggressive with offers through the traders that we deal with.

MR. PRICE: Commissioner Karpel, I'd like to ask Mr. Kaplan to respond.

MR. KAPLAN: Commissioner, I think there's several things you could look at. The first thing you have to realize is that the period that we're examining are not a period of unfair imports because the Turkish and Mexican rebar is under order, so the question would be, if they were removed, what would happen. And you have a history of seeing, when unfair imports from Turkey and Mexico are in the market, they do take share from the domestic industry, and that's a difference in kind, difference between unfair and fairly traded.

The second thing is, historically, in this industry, the unfair imports have taken share approximately proportionately, so they will take share from fairly traded imports, but they will take share from the domestic industry as well. You have many cases that you've seen the effects of unfair imports.

And, finally, there is often a bit of a lag in the domestic industry. You've already heard about how orders were set forward now for delivery later.

And so, between those three effects, I think you could expect and anticipate that they would take share from the domestic industry with a high level of confidence. Thank you.

COMMISSIONER KARPEL: Thank you. Okay, moving to a different question, one might expect, as Deacero suggests, for example, in their pre-hearing brief, that with the low anti-dumping margins assigned in the administrative reviews to imports from Mexico and the continued underselling by such imports, we would see higher import volumes than we do, for example, import volumes closer to what we saw in the original investigation. Why aren't we seeing that now? And do these facts tend to support Deacero's argument that Mexican producers may be more focused on their home markets?

MR. PRICE: First of all, absolutely not. Essentially, Mexican producers have a increasingly desperate situation in their various markets. They've essentially lost all their Canadian sales, they're in a tough position in demand in Mexico. They're going to increasingly provide products to the U.S. because this is an open market.

Now margin management is an interesting art form here. We already have a preliminary determination showing that there will be a significant increase in or a meaningful increase in the Mexican dumping margins for the next administrative review period, and we're looking at review periods that are really old in some of those things, so it's an interesting question.

Another factor that you need to consider is that a number of the surges we're starting to see in Mexico are folks that don't have deposit rates there, so hard to say what management programs they have. Again, this is a sign of increasing desperation and need to export to the United States.

As we look forward, you know, the Mexicans and the Turks have by and large already replaced all of the non-subject or virtually all of the non-subject imports into the United States, going back to your prior question, so further increases will be at the expense of the domestic industry.

And the Commerce Department has found, and this is the critical number, that they will return to dumping at margins as high as 60 percent, and that's the relevant issue here, is what will happen? They'll price more aggressively because they can take more risks, and they know that those risks are out there.

And let me just hit one more second. We look at an interesting period in the first quarter of this year or the first half of this year because, if you make a negative determination, the negative determination actually dates back in terms of dumping margin obligations all the way back to the fifth year anniversary month, which is sometime about a year ago, and so they would owe no duty. So right now you can take extra risks within the marketplace and hope you can get away with it.

So, while Mr. Kaplan, you know, may say, oh, these are theoretically, you know, fairly traded, there's a lot of things going on here. And even today we think the dumping margins are having a restraining effect because they have to be mindful of potential liabilities. But, without an order, we think they'll be a lot more and they'll be a lot larger in quantity and in market share.

COMMISSIONER KARPEL: Okay. I think my time is gone over, but I still will have some follow-up to this. I'm not sure you quite answered my question, If there is lots of underselling going on now, price is important, and there's low margins applicable to imports from Mexico, why aren't volumes higher and why isn't the market share higher given those factors? But my time is up, so I leave you with that, and I'll let the other Commissioners have a turn.

CHAIRMAN KEARNS: Okay, thank you. I think I'm up next. I'd like to thank you all for testifying again today. Appreciate the testimony. This question I think is a good -- Commissioner Karpel's questions kind of lead in to my questions, and it's probably best-suited for Mr. Price and Mr. Kaplan.

Mr. Kaplan, this may go to your dam analogy, and also to what you just said, Mr. Price, about kind of the disciplining effect of the anti-dumping order on Mexico.

In sunset reviews, we sometimes see small dumping margins and maybe not so much underselling by subject imports. In cases like that, petitioners often point out that the order is helping to discipline the market to ensure fair trade. They argue that if the order were revoked, subject imports would again enter the market at much higher dumping margins and would significantly undersell U.S. producers, again causing material injury.

But, here, with respect to Turkey at least, this is a CVD case, not a dumping case, and the CVD duties have always been zero, de minimis, or very small, and one Turkish producer is excluded from the order entirely. Moreover, the imports are still covered by a separate anti-dumping order that is not the subject of this review and by 232 duties. In this situation, what harm could result if the CVD order were revoked?

MR. PRICE: So let me address a couple of different things here. First of all, unlike the dumping orders, normally, in this context, the margin of subsidization is one the Commission is not directed to consider. It can consider it, it's a factor out there, but it's something out there.

The Commerce Department found that subsidization would recur at rates of about 1.25 to 4 percent if the orders are revoked. In this case, there was a discernible impact of these orders, and I will say that there does continue to be a substantial benefit to these orders.

Regarding discernability, I would actually like to direct the Commissioners to the Arent Fox brief at page 21. There's a confidential exhibit there, but you will see that, contrary to the arguments that the Respondents made, that the subject imports, while they did increase after the 2014 order was put in place, were far more restrained in the increase than the non-subject imports. So there is a restraining effect here, it is a tempering effect on the Turkish volumes, and they will be more aggressive, and they will be worse without an order in place.

And you'll see that there was a benefit, contrary to what both Greenberg Traurig and Respondents said. If you go -- and I'll notate it later on -- to Mr. Dougan's Chart VII, where he -- excuse me, page 2, where he basically says, hey, there's no benefit to any of these orders and any of these margins, any of this stuff here, it's interesting because what he leaves out on this is 2015 in all of this, and there was a substantial pricing benefit to this set of orders.

So, between the restraining effect on subsidies and the benefit of requiring fair trade in Mexico, there were discernible, and there are discernible, benefits to this order.

Mr. Kaplan, would you like to continue?

MR. KAPLAN: Well, yes. I would point to the Commission's continued observation from both its staff of the price sensitivity of this product and the high degree of substitutability between the subject products and the domestic products. So even small price effects could have significant effects on volume shifts or depressive effects given the substitutability of the products.

I think this goes to the notion of why you cumulate all the imports and why the orders are also what you look at because the combined effects of these are significant and material, and to let out any part of it would have a discernible effect, if not a material effect. I would point to the evidence that Mr. Price stated about the effects of 2015.

And I note that the Turkish producers are arguing that they are not subsidizing, the subsidies should be removed, and that is something, I believe, for the Commerce Department to look at. But the effects are discernible at the current levels, and they are based on the Commission's repeated finding of the price sensitivity and the high substitutability of the products and the effects from these during the original investigation and in other cases as well. Thank you.

MR. SHANE: And I would just follow up on Seth's point. If you take a look at the quantity of in subject imports coming in in the first half of this year compared to the first half of last year, you see they increase to 418,000 tons this year, two and a half times what they were in the prior year. So I think the underselling and aggressiveness of the subject imports is pretty evident if you just take a look at those numbers, and I think, as Alan pointed out, given the substantial volumes out there, they can be directed here. Excess capacity, divertable capacity, as Seth pointed out, that if you remove these orders, you're going to have large quantities of subject imports coming in here and doing real damage to the market.

MR. PRICE: I would say I'd like to add one point. We're having a bit of feedback. Apologies here. Okay. So one of the other issues that we have seen with the subject imports here in this case, it's like a lot of cases, that often you have the case. You get a benefit for a year or two. Other imports rush in and have a negative effect and we file another case. You've seen this in wire rod, where you just actually had a sunset affirmative on China, but those imports were replaced about two years later by 10 other countries. We've seen it in all kinds of pipe products, we've seen it in all kinds of wire rod products, same type of pattern. If you accept Mr. Dougan's basic premise that if you have to file another case, that means this case has no value and does no good. Then, basically, you've made an interesting determination regarding a lot of your --

CHAIRMAN KEARNS: Yeah. Let me just stop you there though, Mr. Price, because, for one thing, I mean, again, let's focus on the CVD order here on Turkey, which is even in the investigation, original investigation, there were very small margins and we have antidumping duties on those same imports from Turkey in place that aren't affected by this. So I guess I'd like to hear more about that in a minute.

But first you were talking about the restraining effect on subsidies in this case. Again, I mean, even in the original investigation, these weren't big, big margins, and I guess one question I have is you say that Commerce says that, you know, if the order revokes, that we would be looking at 1.25 to 4 percent margins. One question I have is, do you know to what extent those are export subsidies and to what extent they're general subsidies?

MR. PRICE: We're going to have to address that or come back to you later with an answer on that. Sorry.

CHAIRMAN KEARNS: Okay. I'd appreciate that because it seems like, again, if they're export subsidies, that then I would think would be covered by the antidumping order because it will have a price impact in the dumping margins. So that's my thinking there. So, if you could help me with that, I would appreciate it.

Also, in terms of restraining effect on subsidies, I guess I'd like to know more about the subsidy programs. Is it easy for the Turkish government to use this existing program and increase the subsidies dramatically if the order is lifted, or is the program sort of contained, which is why we never saw big subsidy margins? So I guess, if you could address all of that post-hearing, I would appreciate it. My time is up, so --

MR. PRICE: We'd be happy to do so.

CHAIRMAN KEARNS: Thank you. Vice Chair Stayin.

VICE CHAIRMAN STAYIN: Thank you. The Turkish Respondents argue that the vertical integration partially insulates the domestic industry from import competition. Specifically, U.S. producers own a significant number of downstream fabrication facilities which are supplied almost entirely from U.S. producers' own mills, providing a profitable check to the market from which is captive is higher value and sales, as well as upstream scrap purchasing and processing operations through which U.S. producers obtain raw materials. What is your response to that?

MR. PRICE: Certainly. I'll start real quickly and then I'll go out to our client. These are the same arguments that were made and rejected in 2014 by the Commission and 2015 by the Commission and just, by the way, the amount of captive fabrication actually is less than the original POR and has actually declined during the -- or is less than the original POI and actually declined during the POR.

Would Mr. Barney like to address this answer?

MR. BARNEY: Yes. Good morning. Don Barney with Nucor. Really, that argument doesn't hold up because the fact is we have to sell at market prices to both affiliated and unaffiliated customers, and the majority of our tons are sold to unaffiliated customers. So, when they have to bid at a competitive market price for fabricated work, both do, and then we have to sell at a competitive market price in order to secure those sales. So, if the subject imports are driving the price and lowering the price and the volumes continue to drive the pricing ever lower, then we have to sell both affiliated and unaffiliated customers at the subject import pricing or we lose sales and reduce operating rates. So, from that side, it really doesn't insulate us.

On the scrap side of business that you alluded to, you know, the Mexican producers and the Turkish producers own scrap yards as well. What it does is it secures your supply, but at the end of the day, you have to pay the global market price for scrap in order to secure that volume. So it's a globally traded commodity. It doesn't insulate us at all, and it's evidenced by the fact that what was in an earlier testimony I heard where Deacero has scrap yards in the U.S. in order to secure scrap to take down to their mill operations in Mexico.

VICE CHAIRMAN STAYIN: There have been comments -- go ahead.

MR. PRICE: Yeah. I was going to ask Ms. Smith to answer or we can --

VICE CHAIRMAN STAYIN: Go ahead.

MR. PRICE: Barbara.

MS. SMITH: Thank you, Alan. I don't think I have much further to add. The way Don explained it is exactly the way it occurs. We're all, whether it's affiliated or unaffiliated, competing for the same construction projects, and whoever has the lowest price is going to win that contract and if imports, these subject imports, which generally they set the price in the marketplace, if that's what's setting the market price for that contract, then we have to lower our fabricating price and lower our mill price both to our internal fabrication operations and to our third-party fabricators.

VICE CHAIRMAN STAYIN: Thank you. Further along that line, purchasers were asked these questions and some of the comments were, for example, vertically integrated operations have gained more control and market share through the development of their downstream operations. Another purchaser said manipulation of market price of the fabrication to sell price level means cheaper loss at the shop left but greater profits for the mill.

MR. PRICE: So I would like to address that two ways. First of all, as I said earlier, there's a general sort of idea that the amount of fabrication that has been captive has been increasing. It's exactly the opposite of the case. The Turkish brief, by the way, says it's a very large majority of the domestic industry, and that's just wrong. Their actual data shows that they're misquoting and misciting the data point out there.

In terms of the competitiveness of the marketplace, I think the Commission has repeatedly, by the way, found that everyone has to be kept competitive; otherwise, you know, the industry would not be succeeding. Rebar is rebar, fabrication is fabrication. And it is a declining portion of the market.

With regard to the claims on competition, Mr. Kaplan, would you like to address the DOJ findings on this when they just reviewed the proposed merger? And then Mr. Sondgeroth can talk about their experiences.

MR. KAPLAN: Yes. The Respondents have continually complained about the uncompetitive or noncompetitive nature of the domestic industry and its concentrates, and an independent government department, the Antitrust Division of Department of Justice, has reviewed this on several occasions when there are mergers and acquisitions, most recently, the CMC acquisition of Gerdau, and they take it extremely seriously. They spent 11 months continuously investigating whether there would be anticompetitive effects of the acquisition, and they could actually try to demand divestitures or threaten to sue if they found them. And after 11 months, they let through the acquisition without any divestitures or suggestions of them, which says to me that the agency that was charged with looking at anticompetitive effects found none.

I would further add during the second request they asked for very -- typically, asked for very granular data from the companies involved, much more thorough than the questionnaire responses, more akin to what the Commerce Department does in looking at data on the respondents' side, and they typically interview market participants, including purchasers, to determine if there would be anticompetitive effects. So not only is this speculation or comments that are unsupported, but they've, in fact, been refuted by an agency specifically addressed to look at these issues.

Now I know the Commission believes in comity. They do not look behind the Commerce Department margins, and they have not looked behind the Department of Justice margins, a sister expert agency, in determining competition issues. Thank you.

MR. PRICE: And, Mr. Sondgeroth, would you like to address Gerdau's experience having disposed of its affiliated fabrication?

MR. SONDGEROTH: Certainly. Tom Sondgeroth with Gerdau. As everyone on the call knows, we had affiliated companies, fabricators within our group up until November of '18. Now we sell exclusively to the independent market and we have seen no difference between the two. It is, as Ms.

Smith mentioned earlier in her comments, it's all based on price. We have to come down to the lowest price if we want to keep that order. So it didn't really matter if we had an affiliated business back in the day or if we're experiencing it just with independent fabricators today. Our experience has been very much the same. So there's no difference whatsoever. Prices are king.

VICE CHAIRMAN STAYIN: Thank you very much. Another question. Mexico points to the agreement with the United States with respect to 232 tariffs, and their point is that under that agreement, if they exceed a certain level, that they would then be subjected to that 232 tariff and that they believe that this is a restraint on the volume that will come from Mexico into the United States. What are your comments on that?

MR. PRICE: So I think that, first of all, this argument has just been argued before in the wire rod case, so I'm kind of curious as to what the Commission's findings were, but that report is not out there. But moving more directly to the answer here is that, actually, what the Mexico agreement says, it says if you surge above historic levels, the administration may re-impose the duties on a specific item if they surge above historic levels. Generally, if you, by the way, look at the various negotiated agreement's historic levels of the 2015 to 2017 period, which would be about 17,000 tons if you average it together more or less I believe, clearly, this agreement has not acted on anything to restrain imports.

And, you know, keep in mind one of the things that's often not discussed is if action is taken, there is the countervailing issue of entitling Mexico to retaliate. So it's not clear what this agreement really is accomplishing on this one in terms of restraint. What we do know is so far it hasn't shown any restraint and who knows how long this program will be in place under 232? Clearly, it gets increasingly fuzzy as we look forward. And, obviously, as we look at an election, it becomes even fuzzier. Thank you.

VICE CHAIRMAN STAYIN: Thank you very much. My time is up.

CHAIRMAN KEARNS: Thank you. Commissioner Johanson.

COMMISSIONER JOHANSON: All right. I would like to thank all of you for appearing here today. My first question is somewhat similar to one aspect by Chair Kearns, but there is a difference in it. You argued that Turkish rebar producers managed to export through Section 232 duties of 25 percent and even 50 percent, and this is in pages 31 to 32 of your brief. If so, why should we expect revocation of a CVD order with rates in the low single digits to have a significant impact on imports?

MR. PRICE: So, first of all, let me ask Mr. Webb to talk about how small differences in price determine purchases.

MR. WEBB: Okay. Yeah, thank you. So our industry, it is cutthroat. It's a commodity product. We're not afforded margins like retail, you know? We're often working on 2.5, 3, 4 percent is a decent sale for us. So a small percentage like that is a huge impact on where we're moving steel. That'll redirect my purchase. Two percent would redirect my purchases entirely often.

COMMISSIONER JOHANSON: And, again, you talk about the low CVD duties compounded with the 232 and the AD duties. And so the -- go ahead.

MR. PRICE: Okay. Let me just, as a legal point, let me say each of these is additive and a benefit, some of which can be -- some of which are -- you know, there's always a question of how they're absorbed. What you can show is just the CVD duties themselves restrain the subject imports compared to the non-subject Turkish imports in 2015, 2016. And, you know, there was a difference in the rate of increase that was substantial. There was a difference in the amounts and who was shipping what that was substantial. So, you know, those had a big impact.

Moreover, the duties, going back partially to your question, Commissioner Johanson, and partially to Commissioner Kearns' question, were essentially based on a couple programs that Mr. Shane will address, and I believe those can increase substantially.

MR. SHANE: Yeah. In terms of the basis of the margins for Turkish producers, a lot of that was sourcing of both natural gas and coal from the Turkish government, Turkish government agencies, and so, obviously, to Chairman Kearns' question about could they jack up their margins or take advantage of these programs, if you remove the current order, it would certainly provide a huge incentive for them to start sourcing again this natural gas and coal at lower than market prices.

COMMISSIONER JOHANSON: Mr. Price, could you speak a bit more on what happened when this order was in effect but prior to the 232s and prior to the AD order going into effect?

MR. PRICE: Certainly. So, in 2014, the Turkish producers made the same arguments you saw here, and the Commission decided to impose an order. They said the 1 percent would not have an effect, and they said they would not increase any exports to the United States and they had no interest and all the markets were great, et cetera.

What happened right after the orders were imposed against Turkey and Mexico is that prices increased, profit margins increased, domestic industry did substantially better. But the Turkish producers continued to increase volume. A lot of that increase was Habas, which was a non-subject producer, which increased disproportionately and radically far more in this period. Just like other cases, another order was put in place and that helped address that, but this order by itself did address, did have a restraining effect on the Turkish subject producers in 2015, 2016. We'll go through the data when we unpack it in the post-hearing brief. A lot of it's confidential, so it's hard to fully unpack it here. I just apologize, but we have a limitation here.

As you move forward, obviously, imports from Turkey and Japan and Taiwan also continued to surge in the market and caused prices to collapse, captured volume, and domestic industry, you know, had to compete. We saw another dumping order. With that, obviously, we start to see a series of restraining effects increasing in the marketplace. We can again address it in more detail in the post-hearing brief with all the data and so forth, Mr. Kaplan.

And then, obviously, you have 232 which comes in and has episodic effects going on here. So the bottom line is this order did have an effect on Turkey and restraining it. The subsidies can increase and we think will increase absent what are largely domestic-based subsidies and so there is a clear benefit to this order, and the Commission actually rejected this argument on Turkey in 2014 when they said this order would have no -- would not impact the market. The evidence in 2015 shows that it did. Mr. Kaplan?

MR. KAPLAN: I think what this goes to show is in a commodity-like, extremely commodity-like product that any crack in the dam needs to be patched quickly, and that's why there have been a series of these cases, and so the subsidy order does, you know, patch over that crack in the dam and then another crack in terms of dumping was patched over years later and this why, like, in plate, which is another generic flat product, you see the same things. If there is an opening, it will pour through and that's why there's these series of cases and these series of orders, and each individual country can walk in and based on their trends at a particular time say no, it's not me, but, in fact, you know from your own history in all of these cases that unless all of this is covered it seeps around. It goes through the cracks in the dam and it then has to be patched.

The strength of the industry during the period of growth was the benefit of the orders. It's an odd situation. They're saying you had a dam up and you're not wet. That proves we can take the dam down, and that's just illogical thinking. That's what they want you to do in an area thoroughly traded where there was some benefit during growth, they're now saying since you remained dry and since you were successful under relief, that means you'll be successful without relief. And you have historically said no. I will look at whether there's a quantity of imports that could return, whether there's an incentive for those imports to return to the United States, and whether those imports would have an effect, and I think that's the right way to do it and I think if you do that you'll cumulate and keep the orders in effect. Thank you.

COMMISSIONER JOHANSON: Okay, yes, if you all could follow up in your post-hearing brief on this issue, I'd appreciate it. I have another question which involves Turkey. You point out at pages 27 to 28 of your brief that the AUV data in Table 4-9 indicate that AUVs in the U.S. market were higher than in all other Turkish rebar export markets. How, if at all, should we factor antidumping and Section 232 duties into that comparison?

MR. PRICE: So the U.S. has always been or has always tended to be one of the highest priced markets in the, and I'll have to open the page up in the brief, one of the higher, most attractively priced markets in the world. We will attract the Turkish imports. The Turkish volumes have enormous potential to displace the U.S. Each of these things is part of the dam that holds back what are enormous volumes. Each of them has a benefit. Each of them affects behavior. Each of them is important. Now some of them are more questionable in terms of duration. You know, if you have any insight into duration on a 232 program in an election year with a potential change in administration, please let me know.

Some of these are known to have effects here that do have important effects and we know from 2014, ‘15, ‘16 when we unpack the Turkish chart and address it, this has a benefit. Each of them are additive just like each part of the dam, and for this purpose, you know, the rest of the Turkish production is essentially non-subject production for dumping purposes and for subsidy purposes on Habas. The fact that there’s a subsequent round of cases doesn’t mean this round of cases is unimportant in preventing injury. It is and it did have an important benefit and it does have an important benefit.

Mr. Kaplan, do you have anything to add? Hello, did we lose you, Mr. Kaplan?

MR. KAPLAN: Hello. Yeah, if I understand your question correctly, please interrupt if I did not. Prices in the United States are higher in part because of all the orders making sure that the prices are above a dumped world price when there is a lot of excess capacity, and that means they're affected, so the comparison was made to the domestic market price, which is the price which is based on the protection and sales in the United States. The third-market prices were based on the export prices from Turkey and Mexico. They're third market and include with a comparison the transportation costs to the United States, so what we were trying to do is to say what's the incentive, where would it be more profitable, and we found that the price that was received in Turkey and Mexico would be higher if they could sell to the U.S. at U.S. prices than their current third market sales, and that's consistent with the U.S. price being above the world price.

MR. PRICE: I think part of the reason the U.S. prices are higher in the Global Trade Atlas data is that, obviously, the Global Trade Atlas data does not include tariffs in it. One of the reasons why the U.S. is attractive is because of each of these remedies out there. They each have an important additive impact and so, when you start eroding the duty-paid price in the U.S., you start increasing the ability for the Turkish producers to undercut the U.S. prices in the U.S. market by larger and larger amounts having substantial volume. Given the high elasticity of substitutability, even small margins do have a meaningful and a significant impact in a market. Now is it going to be a dam by itself? Probably not. But is it important? Absolutely.

COMMISSIONER JOHANSON: All right, thank you for your responses. My time is long expired. Thank you again.

CHAIRMAN KEARNS: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Hi, yes, I want to thank you all for being here and apologize that I do not have WiFi right now and so I cannot access the Go To Teams and see all of you, but I have been here the entire time and listened to all the speakers, so I have a few questions, although my colleagues have covered, I think, many of the things I wanted to talk about, so let me just ask a few maybe of peripheral issues here. I don’t know if anyone has asked you to respond to the cumulation arguments. You know, Mexico argues that they will compete differently than Turkey because they are impacted by different trade restrictions and different AD/CVD actions in third-country markets. Can you respond to those arguments?

MR. PRICE: Certainly. So Mexico basically says they’re subject to one dumping duty and the Turks are subject to three dumping duties, so somehow or other that’s going to be a major difference. But the reality is that both of these countries are major net exporters of rebar. They have substantial structural excess capacity. They are not going to compete any differently. If you want to know whether or not they're going to compete any differently, why don't we just ask the fabricators. We have three fabricators here who, do they see any structural differences in the way they compete? Why don't we ask our folks, Mr. Tim Johnson from Suncoast, do you see any difference in the way they compete and are likely to compete here?

MR. JOHNSON: No, I see no differences in the two. They both come to the market the same way through traders for me, no difference.

COMMISSIONER SCHMIDTLEIN: Do, you know, the fact that there are different restrictions in third countries impact how much they would be focused on the U.S. market?

MR. PRICE: This is Alan Price. The answer is no because they both have, you know, they both have substantial excess capacity. I mean, if you look at Turkey, for example, you know, they obviously have a huge structural imbalance, but so does the Mexicans. In fact, one of the things about this record is that a substantial amount of Mexican production is just not on the record and a substantial amount of Mexican imports are not on the record here, so there's a lot of excess capacity that's not on the record.

In the original investigation, you saw much higher coverage and you had much higher levels, and so you got an idea of what’s out there. If you look at the kind of Acerero data, you know that there’s much higher production and much higher levels of and substantial amounts of unreported production and unreported capacity out there. We’re seeing recently essentially large new entrants coming into the U.S. market from Mexico.

So what the difference is is that it’s a difference between someone who has huge amounts of excess capacity and really huge amounts of excess capacity, and the restrictions here are not going to make any difference. If you lift either of these orders, you’re going to see continued and increased price pressure and volume in the market.

Mr. Kaplan, do you just want to go to your point on consumption, excess capacity, and divertible capacity again for one second?

MR. KAPLAN: Sure. What the data shows is that there is excess and divertible capacity in both countries in the double digits relative to U.S. consumption and there is extraordinary volumes that are expected to increase given the recessions both in home and third markets. To the extent that there are orders against Turkish and Mexican rebar in third countries, they would have the normal effects in limiting the exports to those markets and redirecting them to the United States should our orders be removed. Is that part of the last question clear? Alan, is that where you were headed?

MR. PRICE: Yeah, it is. Jack, do you want to add something about the missing --

MR. SHANE: Sure, sure, because I think if you take a look at the brief, the pre-hearing brief of the Mexican producers, they're, I think, somewhat disingenuous in terms of how they portray available capacity in Mexico. They cite only the capacity that was reported to the Commission in the staff report. They ignore, as Alan indicated, substantial additional capacity of more than 2.7 million tons of production of long products, and that’s from producers like Ternium, Grupo Acerero, who have failed to provide any information to the Commission in this review.

The staff report itself recognizes that there's underreporting by about a third in terms of production that was provided to the Commission, and as Alan indicated, I think very telling, more recently, in terms of the increase of imports we've seen, it's from, to a significant degree, these nonresponding producers in Mexico that haven't bothered to provide a questionnaire response to the Commission. So I think it's critical in terms of analyzing, you know, what's the available capacity potentially to be to blame here. It's significantly above the capacity that has been reported to the Commission in Mexico and you really need to consider the substantial additional capacity from these non-reporting producers.

COMMISSIONER SCHMIDTLEIN: Okay, all right, I appreciate that. Thank you. All right, let me shift gears a little bit and ask a couple questions about price. How much time has elapsed, Bill?

MR. PRICE: Six forty-eight.

COMMISSIONER SCHMIDTLEIN: Six forty-eight, okay, since I'm not online, I was looking at my own watch here, but can someone comment on the argument that the price of scrap has a greater impact on the market price of rebar compared with the price of imported rebar?

MR. PRICE: Certainly. Ms. Smith, do you want to discuss that?

MS. SMITH: Thank you, Alan. Barbara Smith, Commercial Metals Company. The price of scrap really makes no difference, as I think several Respondents here today indicated. We're all buying scrap on the open market. It's traded worldwide. Price is very transparent. The Turks come here and buy scrap in the U.S. and export it. The Mexicans are here and they move scrap to Mexico to make their product, so we're all buying scrap on an equal price playing field, if you will, then converting it. So the price of rebar is really determined by the lowest price in the market and it's been true historically and it will continue to be true in the future that the lowest price in the market are the imports, and in this case, Mexico and Turkey have for a long period of time been the primary importers of rebar into this market, so price can get disconnected all of the time for, you know, a variety of reasons, but it really has no bearing on scrap.

MR. PRICE: So this is Alan Price. I'll just add one thing and ask Mr. Kaplan perhaps to step in too. The Commission has an interesting time series here where you can look at the profit margin that's constantly moving around in this industry. If everything was determined by scrap, then you would constantly see the same profit margin. In fact, the Commission rejected the Respondent's argument in this case and in multiple other cases that scrap is essentially the determinant of price. It's supply and demand. Dumped import supply obviously has a very negative impact on pricing. Mr. Barney, would you like to add anything, or, Mr. Kaplan, would you like to add anything?

MR. BARNEY: I would just agree with what's been said. I mean, it's, you know, supply and demand and we have to compete with legally dumped and subsidized imports that actually are driving the market price today. So that's what we see in all regions of the country. It's not isolated to the port areas or the areas where the load, the material discharge. It moves by rail and truck in all markets and it influences the market price, and that's what we have to address immediately.

MR. PRICE: Mr. Kaplan?

MR. KAPLAN: Seth Kaplan. Yeah. Scrap does have an effect on price, but as has been pointed out by all the members of the industry, the margin above the scrap price, which is the same for everybody, this is a world traded commodity, is heavily influenced by the imports, so imports will severely compress, dumped and subsidized imports, the margin above the scrap in ways that are injurious to the domestic industry.

MR. PRICE: Yeah. This is Alan Price. And, you know, one thing to point to and you can talk about here is that based upon public data for the first half of the year, for example, as these imports have surged in, prices of rebar have collapsed by $27 a ton more than the scrap price has declined, and so that's obviously real dollars and so it's real revenue that is foregone, and so it is very, very significant, again, all showing that the imports are having an effect on the marketplace. Thank you.

COMMISSIONER SCHMIDTLEIN: Okay, yes, thank you for that and I think that was the signal that my time has expired, so thank you.

CHAIRMAN KEARNS: Commissioner Karpel?

COMMISSIONER KARPEL: Okay. I think I'll move on to another question rather than where I left off. But, to the extent that you have more to convey in post-hearing on my last question there about why we haven't seen greater volumes from Mexico given the underselling and price being important and the low margins, I'd appreciate that. So let me ask another question.

So looking at the AUVs for Mexico's shipments to its home market as compared to Mexico's export AUVs to the U.S., the AUVs for Mexico's home market shouldn't appear higher, and I wanted to get your view about whether this tends to support Deacero's argument that it's focused more on its home market and doesn't see increasing its exports to the U.S. And a related question is whether there are any product mix issues I need to be aware of in looking at this data.

MR. PRICE: Hold on. Excuse me, what page is the AUV data on in the staff report? Do you have a cite? I just want to look at it for one second.

COMMISSIONER KARPEL: I didn't write it down when I wrote my questions. I'm sorry. I don't have it at the tip of my fingers either.

MR. PRICE: Okay.

COMMISSIONER KARPEL: If you have a follow-up in post-hearing, that would be fine as well.

MR. PRICE: We'll follow up in the post-hearing brief on that. I just want to make sure I have the data in front of me to answer fully.

COMMISSIONER KARPEL: And I appreciate that. I don't have it noted. Yeah, I just don't have it noted. I didn't write the page number down when I wrote my questions.

MR. PRICE: We memorize a lot of data points but not all of them.

COMMISSIONER KARPEL: Right, okay. Fair enough, okay. So sort of a broader question, this is really for the industry representatives. What is competition like between domestic producers? And I'm particularly interested in actually hearing from Ms. Byer or Mr. Graham or some of the smaller producers who may be trying to compete against the larger companies and what type of market dynamics that creates.

MR. GRAHAM: This is Chris Graham with Steel Dynamics. It's an interesting concept that somehow the domestic players are immune to having to fight for every order. Steel Dynamics, as you said, is a smaller player in rebar, but we've been trying to grow our position over the last few years.

We don't own, nor are we affiliated with, any rebar fabricators. So we have to compete on price with the subject imports and with other domestic producers for every ton we sell. And our experience without question is that day in and day out, that competition is fierce, to the point where we have, at times, had to retreat to other products we make because of that fierce competition that we might find some other thing that we can spend our time making. Definitely a competitive environment.

MR. PRICE: Mr. Graham, can you also discuss imports versus the domestic producers in terms of harm and relativity there?

MR. GRAHAM: I'm sorry, Alan. Could you repeat that?

MR. PRICE: Are the import prices lower and more, obviously, it's a competitive market, are the import prices lower and driving things in a more substantial and harmful way?

MR. GRAHAM: Oh, yes.

COMMISSIONER KARPEL: Yeah, I think that's a helpful gloss from Mr. Price, but yeah. So I'm also interested in, you know, right, is the price competition you are facing with other domestic suppliers similar or different than what you're facing from the subject producers? I just wonder if you can talk about that.

MR. GRAHAM: This falls out of the realm of science, but we can understand the pricing tactics of the domestic producers. The import prices that are offered we don't understand and we don't know how to tie that to anything that a competitor could do to respond to it, other than go down to as low as you could go down without losing money on every order. So we think of it as a rational versus an irrational situation.

MR. PRICE: Ms. Byer, would you like to also respond?

MS. BYER: Hi, yes, I'd love to quickly, is I echo what he just said and the easiest way to say is that our competition within our domestic other producers is predictable, it's fair. And what happens is, when the Turkish rebar hits our ports, our docks here in Cincinnati, the pricing is so erratic and so fast and, because of the damages that they have to pay the storage fees daily, the price literally changes, drops daily. And so some of our most regular customers, our most loyal customers, they come back to us with a price that they can't even believe they're being offered and we just can't meet. So it's really that there's no bottom, it's like there's no bottom to their pricing because their profitability is not the motivating factor, like in the domestic realm.

COMMISSIONER KARPEL: And so is it -- are you -- how are you -- I guess, how are -- so that competition being communicated to you as a producer, are you having customers tell you who your competitors are and what their prices, or how is that communicated?

MS. BYER: For us, I'll just respond that yes. So it's customers responding back too, because most sales are done pretty much in the beginning of the month, so in stock sales. And so we have customers that come back with a price that because they're loyal customers, they'll say, I'm sorry, but this is what we're being offered. Or, in our fabrication side, you know, once we lose a job in a bid situation, we oftentimes will be let know the pricing that won the job and it's clear and then we can track it back to supply and it's clear that it's foreign rebar that we just can't compete with.

COMMISSIONER KARPEL: Okay. And they're telling you that it's the foreign product versus a domestic competitor that's winning out, your customers are, or sometimes it's more vague?

MS. BYER: Yes. No, they'll be really honest, especially because we're small and so our salespeople are very, very close and friendly with most of our customers. And we go visit their shops, their sites, and, you know, the foreign bar is right there, so it's obvious.

COMMISSIONER KARPEL: Is that the experience of other producers too?

MR. GRAHAM: This is Chris Graham at Steel Dynamics. We won't get information as granular as what competitor or what trading organization, but we will get information as to whether it's a domestic price or an imported price. That does come into play in our decision-making.

MR. SONDGEROTH: Tom Sondgeroth here with Gerdau. I would concur that obviously we do a postmortem of sorts if we lose an order, and we want to see if we can track it back. In many cases, our customers will be upfront with us and let us know that, if not the exact price that they paid, a general range of the pricing that they were able to get the material at. So it's usually a, you know, it's a fairly close-knit group of fabrication customers across the United States that we all know each other. So we do share information, but not always do we get the exact price or the exact vendor, if it's foreign, but most cases, as of late, Turkey and Mexico have been cited much more frequently than others.

MR. PRICE: This is Alan Price. I will just add that the underselling is consistent with lower bids coming in from imports. I've also heard a number of fabricators just tell you in their direct testimony that they'll go to the mills and tell them what the import offer price is for the subject imports and ask them to match it and keep them competitive, otherwise they lose the volume.

I actually do, Commissioner Karpel, have an answer to your earlier question regarding AUVs. I know we're just about out of time, but if you want to come back to that, happy to answer in the next round. I'll be a little careful because a lot of that data in that exhibit is confidential, but I can talk about it generally.

COMMISSIONER KARPEL: So I'll end here. I'll pass it back to Chair Kearns.

CHAIRMAN KEARNS: Okay, thank you. This question maybe Mr. Shane may want to address. It's something that he touched on before. I think we were talking about import volumes in 2020 being higher than they were earlier in the period of review, in particular with respect to Turkey. And I wanted to know your thoughts on whether the increase of the 232 duty to 50 percent, which I don't have that in front of me, I think it was from August of 2019 until maybe February of 2020, whether that had some impact on our data and if so, you know, what that sort of tells us.

I mean, it looks to me, given the recent Court of International Trade case, it seems pretty unlikely that the duty will be elevated to 50 percent again. So it seems to me that, to some extent, our data may not be particularly probative in determining sort of what we should expect going forwarded. So any thoughts you have on that I'd appreciate.

MR. SHANE: Sure. So I think a very telling data point is when the 232 duties when down from 50 to 25 and you see after that the Turkish producers are shipping, you know, right through that duty. So they're very aggressive. They want to come to this market. As we said, it's not only Turkey now in the first half of the year, it's both Turkey and Mexico are coming in and in substantial volumes and there is, as Mr. Price referred to earlier, you can already see an effect, a compression of the metal margins, which is pretty significant.

In other words, scrap prices have fallen, but the actual market price of rebar has fallen further, and so, in addition, and I think we pointed this out in our brief as well, our pre-hearing brief, shipments have also fallen for the domestic industry as a result of the amount of imports that are coming in here. So I think the bottom line is both Mexico and Turkey are interested in shipping large amounts of rebar here. The 232 duties are not going to stop Turkey and they're not going to stop Mexico from sending product in here. It hasn't, and as Alan said, I mean, it's anyone's guess as to what's going to happen with 232 going forward. Obviously, there's been changes both with regard to Mexico and Turkey with respect to the 232.

CHAIRMAN KEARNS: Okay, thank you. I don't think anyone's asked about product shifting yet, so I want to touch on that. Most producers have the ability to make different products on the same equipment. What are the main different products that can be produced to make rebar and what factors would be considered in deciding which product to make? Is there a significant difference in profitability, or is product demand the main driver and what does that mean sort of for capacity and excess capacity?

MR. PRICE: Certainly. So I'll start and then I'll turn it over and ask a couple of the producers to address some of this too, okay? So there's a lot of ability to shift production around here. Some of the main products are wire rod. Some are merchant bar, SBQ bar, and all of those tend to be made on, and in some cases, light structural shapes, beyond the merchant shapes.

The mills have, often depending on the mill, can have a substantial amount of flexibility and so the real decision you have to make is the relative profit margin at some level, I think is what your question is, right, and what you can actually move easily. One of the things about rebar, if you talk about some of these products, actually, you know, there's really a lot of variability in merchant bar sizes and shapes. There's a lot of variability in SBQ bar, a lot of variability in wire rod.

The beautiful thing about rebar is, you know, the market is basically threes, fours, fives, sixes, that's the bulk of the market, you know. It's really, really simple to move large volumes. It sells on one thing, price, and, by the way, do you know how much customer support you basically need? It's zero, okay? Because, essentially, this is all just, you know, sold to an ASP direct. If it sinks in concrete, it's good.

So you can move really large volumes really quickly and particularly when you're in a demand-challenged market, as both the Turkish and Mexican industries are. It is really attractive to move because you can really do it quickly. So there's that. I'd like to come back to Jack in one second, but also that, in terms of profitability and cost issue, there's switching around. Don, do you want to just quickly address that, because a number of your mills can really move back and forth and based upon, you know, I can tell you that, so that and we can talk about capacities and excess capacities and how much deferred upon excess capacity there is in a minute. Don?

MR. BARNEY: Yeah, so you can shift around. Most of the mills that we're talking about shift between merchant bar and rebar products. But you have to consider the fact that we have, you know, consistent schedules so that we have reliable schedules to take care of all of our customers. So we're producing merchant bar and rebar in order to do that.

So we don't flex all that terribly much unless there's more demand in one product than another. So, if there's more demand in rebar, we'll work to take care of our customers from a rebar perspective. If there's not sufficient demand in both products, which I think is what you're going to see from the subject countries that are being evaluated right now, it's very easy to shift to rebar, specifically to rebar to access, you know, attractive markets like the U.S. market.

So it can be done, if you choose to saturate a market with, you know, legally dumped and subsidized product, it can be easily done if there's no restraints on that. And the interest there is making sure we keep utilization up on our mills, right, which is what they would consider, and also, is it a little bit creative or, you know, is it more profitable to selling no tons. So I hope that answers your question, but that's a very big issue as it relates to mine.

MR. PRICE: Yep, and, Jack, do you just want to add something just tying back into the amount of excess and divertable capacity in the market these days?

MR. SHANE: Sure. Well, obviously, there's a tremendous amount, as we talked about earlier, of unreported capacity. And just looking at sort of the big producers there that did not respond, it's over, as I said, about 2.7 million tons of production that was not reported to the Commission. And I think if you're going to look at capacity and the ability to switch production, if you take a look at how we calculated available capacity in our pre-hearing brief, we did it a couple different ways.

One, the most conservative is we just looked at reported capacity and then boosted up for the unreported capacity of about 34 percent or so. But, realistically, that's not the complete amount of capacity that's available to the Mexican producers because, in addition, as we just talked about, they produced different products on the same equipment. So, to the extent they have available capacity that they've assigned to those other products, obviously, that can be switched to the production of rebar in the event the orders are revoked and, you know, they send more volumes here.

I think in addition to that, again, the Mexican producers have vastly understated the available capacity and I think in addition, if you look at the demand picture in Mexico, it is just a complete disaster. I mean, the Mexican government's own statistics show that, with regard to construction, from January to May of this year, it fell about 36 percent and that's from last year, which was already at a very depressed level. So this notion that the Mexican economy is going to be able to absorb the rebar that's produced in Mexico is pretty far-fetched.

CHAIRMAN KEARNS: Okay, thank you. I want to get one more question in here and maybe hearing from some of the industry witnesses. Is there a difference in the operations performed by related fabricators versus unrelated fabricators in the U.S. market?

MR. PRICE: Why don't we hear from both the independent fabricators and from the industry members. So, Don, do you want to kick it off, then Barbara, and then go to a couple of the independents, okay?

MR. BARNEY: Could you just repeat the question one more time? I want to make sure I understood it completely.

CHAIRMAN KEARNS: Sure. And my question is, is there a difference in the operations performed by related fabricators versus unrelated fabricators?

MR. BARNEY: I'd say there's no difference in the operations performed. They're bending and cutting rebar to length. You know, structural engineers will design buildings and then they have to cut the product to length. They have to fabricate it, bend it so that it can fit in, you know, the concrete can be poured around it. So no differentiation in what they perform and what they do. You know, a lot of the customers that we sell to are fabricators, distributors, and combination fabricator/ distributor, like Rob said earlier in his answer. So that should take care of your question, I guess.

MR. PRICE: Okay. How about Barbara? Okay, sorry, Barbara. Do you want to jump in?

MS. SMITH: Sure. Barbara Smith, Commercial Metals Company. I would just concur with what Don is saying. There's really very little difference between the type of fabricating work that we do in our own fabrication shops and what our independent third-party customers perform in their fabricating shops.

MR. PRICE: And, Jeff, would you like to jump in, followed by Tim and Rob?

CHAIRMAN KEARNS: Well, actually, my time is up. Maybe is there anyone who disagrees with that, that sees any differences between related and unrelated fabricators in their operations?

MR. VEILLEUX: There is no difference. Who buys it cheaper gets more work.

CHAIRMAN KEARNS: Okay, that's great. Thank you very much. Vice Chair Stayin?

VICE CHAIRMAN STAYIN: Yes. I think to follow up on that question with respect to fabricators that are owned in the integrated operations versus an independent fabricator would not be a fabricator that's owned by the vertical parent, and it would be an advantage in terms of the price of the rebar that comes as opposed to the fabricator who is on the opening market buying rebar.

MR. PRICE: Commissioner Stayin, this -- hold on. Jack, could you turn the volume up? I'm sorry.

Commissioner Stayin, you know, this issue has -- by the way, has been examined several times in the past and the record repeatedly shows that fabricators, similar to at large, other customers, get similar pricing and in fact there really is no difference in that regard and if I could get a couple of the producers to comment to the extent you can. A lot of this is proprietary but we'll be happy to share it, an analysis, that basically says that when you look at major customers, they're all basically getting the same price.

VICE CHAIRMAN STAYIN: All right. Thank you. As for the AD/CVD orders, would increased volumes of rebar from Mexico and Turkey be more likely to displace imports from other sources that are subject to the 232 restrictions rather than displace domestic industry volume?

MR. PRICE: So, the simple answer to that is if you look at the volumes in the first half of the year they have pretty much displaced virtually all of the non-subject volumes that are out there. So now the question comes out as -- if you look at the orders will even more volume come in, and the answer is yes. And that will be at the expense pretty much of the entire domestic industry. So at one point, you can say well it's non-subject displacement so maybe it's just having mostly a price effect. I would say it is having more than a price effect. But you're going to see increasing volume effects moving forward because there is nothing left other than domestic volume to -- for these guys to go after. Only it's going to be at unfair prices that undercut without disciplines and undercut the domestic industry even worse.

VICE CHAIRMAN STAYIN: With respect to the Buy America preference or limitation in the federal government procurement, and some state government procurements, is it not the Buy America provision creates a preference and a restraint on import competition?

MR. PRICE: So this issue has been repeatedly addressed by the commission and repeatedly argued. The Buy America portion of the market is actually quite modest. It's about 10 to 15 percent. It varies a little bit. Now based upon your every year, depending on the questionnaire responses, frankly I suspect the difference is between ten and fifteen and it's sort of rounding -- kind of around there -- tells you it is relatively minor. Two, it's just a price preference. It is actually not an actual requirement. It depends also by the way on the type of Buy America requirements because certain requirements outside the highway program -- a number of countries are qualified for, so it has a variety of different, yeah, loopholes to it.

The bottom line is as our clients, as Commissioner Stayin and our clients swill tell you, the customers don't call and say, hey, I've got a Buy America project, charge me more. So, while you may have some volume, modest, a very small amount of volume at 10 percent of the market that may theoretically have some restriction to it, if the pricing is competitive you certainly don't on the pricing side.

Would Don -- would you like to add anything or would anyone else like to add anything, Rob? For example, one of the fabricators?

MR. BARNEY: I'll just that I agree. I mean, I don't want to diminish the importance of Buy America because it is good but it's pretty insignificant when you, you know, apply it to the overall demand in the U.S. marketplace. And to Alan's point, you know, nobody comes to us and tells us that, you know, they have Buy America projects and they basically aggregate whatever private work they have and whatever, you know, Buy America work they would have and work to get the best price. So the volume that they're going to need in their shops for any given month. So we don't hear about it and it doesn't impact anything other than, you know, we've got to meet eh lowest market price which is the subject import pricing.

MR. WEBB: And I might add. I concur. I am not going to tell that I'm buying for a domestic project and I might add that I might not even know because I'm buying bar in advance often times and it's convoluted whether it is going into distribution or fabrication and which projects are going on and multiple projects are in process concurrently. We're not just doing one job today and another job tomorrow. There may be eight or 10 jobs going through my shop at one time.

VICE CHAIRMAN STAYIN: Okay. Thank you. There was a USMC agreement. They want an attractive market or easier access for Mexican producers.

MR. PRICE: Does it make easier? I think -- I'll have to think about that. I don't think, you know, the U.S. market is, you know, has no duties involved in it for rebar, period. It has -- it is simply open, attractive market. It is an attractively priced market. It is far more attractively priced for Mexican than it is to its alternate third country market. It's the same thing too with Turkey though. So there is really not a big distinction between the attractiveness of the U.S. market. You can use both large volumes, you can move it quickly. You've got a distribution system. It's attractively priced. It's attractively priced to compared to alternate markets and so I think there is really no difference between the two there.

VICE CHAIRMAN STAYIN: All right. Thank you. In the Turkish brief they state that their exporters began to ship rebar to Singapore after the countervailing duty on Turkey took effect in 2015 and so they end up -- Singapore is now its third largest export market. If the order were removed could we imagine that some of that product or all of that product that goes to Singapore will come to the United States?

MR. PRICE: So, the answer is absolutely, but the Turks have so much capacity and excess capacity that's available they don't even have to necessarily even fully shift from third country markets. These guys are just drowning in excess capacity as a country. But the U.S. is attractively priced. They're just going to move it around. You know, we have had cases over time where we see the Turkish market, the largest Turkish market vary in and out. And by the way, we see that going on with our -- with Mexico. You know, Canada was one of Mexico's major markets in 2019. There's not a stick of rebar that's going there in 2020. People are pretty opportunistic in this industry.

VICE CHAIRMAN STAYIN: Thank you. With the respect to imports from Mexico, with the Mexican agreement in place and with the rebar 232 in place, how is this going to -- how is it impacting the volume of imports from Mexico and with

Turkey?

MR. PRICE: So the question is with the 232 will each of them continue to have a discernible impact? Well, first of all the answer is yes. Okay. You can see large volumes coming up and we think the volumes will increase and be substantial. We see both of those start increasing in large amounts of supplies. We know that both of them appear to be willing to take whatever risks they want to take to move whatever volume they want to at this point. If there was going to be a restraining effect from the U.S.-Mexican agreement it doesn't seem like it's apparent in the data. If it was going to be a restraining effect from the 25 percent, 232 duty unfortunately given how desperate they are for volume not necessarily. What is out there long term are the subsidy rollers and the dumping orders. These things are important and we frankly -- we think of growing importance as we move forward in restraining imports.

Will they be perfect? You know, you know, I won't say they'll be perfect. I don't think, you know, you necessarily have a complete dam on all of this. You know, how much -- how desperate both of these countries are and how much excess capacity. But these are important and small price differences and price differences do ultimately have an impact in shifting this around.

If you remove these orders prices from both of these countries will decline substantially, volumes will increase substantially. The domestic industry will be forced to lower prices or cut volume and frankly if you look at the 2014 and 2017 cases you actually see an interesting thing that occurred.

So in 2014, in that record, what you see from 2011 to 2013, the industry tried as much as possible, it appears to maintain volume. You know, in a growing market and what happened was that there was enormous under selling. There was enormous volumes and there was enormous -- and there was material injury.

After the order was imposed in 2014, the industry did benefit. We saw the industry take enormous -- apparently tried to increase prices. So, the profits substantially or substantially increased compared to where they were and you saw -- but eventually the subject, that second round of subject imports -- and while Turkey's counted, it could be any country for a second -- overwhelmed the market and led to a conclusions that that had price effects and volume effects in that case.

The U.S. is not an isolated island. The industry is not an insular industry with -- you know, the dumping orders and subsidy orders are important and contribute importantly for both countries -- contribute importantly to maintaining discipline in the marketplace.

VICE CHAIRMAN STAYIN: Thank you very much. That is the end of my time. Thank you.

COMMISSIONER KEARNS: Commissioner Johanson.

COMMISSIONER JOHANSON: All right. Both Mexican and Turkish respondents argued that the domestic industry is not vulnerable and its financial performance was strong at the end of the period. Both citing to increases in the domestic industry's operating margin and investments over the period of review and this is seen in the Mexican brief at 22 to 26 and the Turkish Respondent's brief at pages 35 to 38.

What is your response to their arguments that the domestic industry is healthy and that it does not need these orders to continue to be healthy in the future?

MR. PRICE: All right. So why don't you start, Mr. Kaplan, and then I'll officially -- he popped up. I'll let you start this one and then I'll go.

MR. KAPLAN: Hi. Once again I wish to draw a distinction between subject and non-subject imports. The orders had the effect you would hope and expect them to have in a time of rising demand. You'd expect the industry to get better if they're operating under fairly traded imports and that's what the orders did. And then there's two points I wish to make following that. The first is, is that demand is falling now. So, the rise is in construction spending, as Mr. Cross talked about, is assumed to fall significantly with a lag and remain that way. The second point is the issue regarding susceptibility, which is different than vulnerability. Vulnerability has to do sometimes it seems with the condition, with the state of profitability of the industry. But susceptibility has to do with the effects of unfair imports and will the domestic industry be insulated or will they bear the full front.

And investigation after investigation you found that there was a high degree of substitutability between subject imports and the domestic product. They are completely fungible from everyone's point of view. That there is nowhere to hide in the sense that lowering prices do not increase demand for rebar. They are a small part of the construction projects that go in. So there is ton for ton replacement.

So, once again I think you are seeing a situation where the Respondents are saying that at least for a part of the POR, you're dry because the dam was there and now we could remove the dam. And the answer is everyone will get soaked and even worse because the demand in the market as a whole has fallen. So I don't think that argument has any merit. We saw when there is any holes in these orders the imports pour in and now the industry is completely susceptible due to the high substitutability falling in the construction market. Thank you.

MR. PRICE: Regarding vulnerability, yeah. I think you heard substantial testimony from Mr. Cross. We have a fundamental change going on in demand in the United States which radically increases vulnerability going forward. But as bad as things are here they're actually worse in Turkey and Mexico which have been falling longer and pre-dating COVID, so they have -- you know, every reason to continue to -- you know, seek out as much volume as they can.

Turning to your point about new investments -- actually new investment increase in vulnerability, because you have to get returns on that -- new investments, as you heard our witnesses say was really based upon -- you know, taking into account these orders. Don, do you want to jump in and just talk about that? Barbara, do you want to jump in and talk about that real quickly?

MS. SMITH: We have made recent investments and when you invest in a steelmaking operation that is a significant investment. In that decision you have to look over a very long time horizon. At the same there are very large investment and we have to generate a return on that investment. So all of those decisions we weigh very carefully. We take a long time horizon, but we are held accountable by our shareholders to generate a return. The whole U.S. market is based upon profit motive.

Subject imports have a different motivation because they are supported and then often subsidized by their governments, they are motivated for employment, not for profit. It creates a lot of uncertainty and a lot higher risk whenever we make those investments, which means our share holders demand an even higher and higher return if there is a higher risk associated with those investments.

To the earlier point we are at a cross roads right now where we are going to be facing significantly falling demand. We constantly reinvest in our business to lower costs, to improve quality, to remain competitive on a global basis and we have the uncertainty of whether the 232 orders will remain in place. We know they are not likely to remain in place forever and you have countries who from their past behavior are highly motivated to access the U.S. market. They don't access it fairly, they don't access it with a profit motive. They are only accessing it to sell volume and keep employment levels up. So I think any consideration of removing these orders is going to exacerbate a really, really bad situation that is evolving in this moment.

MR. PRICE: Don, do you have any -- I don't know if -- Don, if you're there, do you have anything? Do you agree to that --

MR. BARNEY: Yes. I apologize. I was having a little difficulty clicking. So what basically, the same situation. I mean, we are investing right now in two micro mills; one in Frostproof, Florida and one in Sedalia, Missouri. The Sedalia, Missouri operation is up and running and if you look at where those investments have been made it is in areas that are very sensitive to import volumes. So as we evaluated demand patterns in some of these markets we wanted to put these mills in proximity and areas where we had low logistics costs for inbound raw materials and then low logistics costs to access our customer bases.

The reality is those investments are made in confidence that the Commission is going to continue to uphold and enforce the trade laws and obviously one of these things that we are looking at today as Barbara alluded to -- you know, revoking these orders. Even though we talk about it being insignificant, they are significant because of the additive effect really jeopardizes the viability of the investments in those operations and they're going to employ, you know, approximately 400 people collectively and again, we have to generate a reasonable return on invested capital in order to justify those investments. So, I will stop with that I guess.

MR. PRICE: The one thing -- this is Alan Price. I'm going to -- those are great answers that pretty much summarizes it. Having been around the steel industry a long time, it's sort of like whichever -- if the industry doesn't invest, Respondents are going to argue, well, the reason why you are not competitive is you didn't invest. But if you do invest then you've got to earn a return and you are really vulnerable on that return and because you have got to continue to do that. And these are a really hard balance these guys are in and keeping this order around and these orders, they're really important for keeping these investments, moving and justify them, because of the hard state the industry has been in, in the past. And I think you heard Barbara talk about some of the facilities they acquired and their conditions they were in. And so, it's a treadmill and they don't want to fall off the treadmill. We've seen a lot of producers, unfortunately, who have over time, and these orders are critical for preventing them falling off the treadmill.

COMMISSIONER JOHANSON: Is it me or can -- oh, they're not here. David. They're not here.

MR. BISHOP: Commissioner Johanson, you're on mute. No, well, if it helps right now --

COMMISSIONER JOHANSON: Thank you. I put myself on mute. I have another question, but given the time I only have about a minute left. I will come back in another round and ask that.

CHAIRMAN KEARNS: Okay. Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Okay. Thank you. I just had a couple, I think, fairly straightforward followup questions, so I'm not sure. I don't think anyone's asked already. Can you all confirm whether the domestic industry can meet total U.S. demand?

MR. PRICE: Yes, the record clearly shows the U.S. industry can meet total U.S. demand, and in fact the demand currently even in 2019 was two million tons below where it was in the pre-financial crisis levels, so the industry has the ability to meet demand.

COMMISSIONER SCHMIDTLEIN: Okay. And then can you confirm that your data regarding the production of rod products such as wire rod and coiled rebar on the same machinery is consistent between this proceeding and the five-year review on wire rod.

MR. PRICE: I will --

COMMISSIONER SCHMIDTLEIN: You can do that in your post-hearing brief.

MR. PRICE: I will do that in the post-hearing brief. There are only -- in this -- there are other people -- I'll do that in the post-hearing brief, okay?

COMMISSIONER SCHMIDTLEIN: Okay.

MR. PRICE: I don't represent the entire wire rod industry either, so I can't do all of it.

COMMISSIONER SCHMIDTLEIN: Okay. And can you talk about what factors, you know, between the production of coiled rebar and wire rod on the same machinery what factors determine product mix and product shifting on shared machinery?

MR. PRICE: So, Don or Barbara, do you want to address those?

MR. BARNEY: This is Don Barney with Nucor. I guess it's similar to what we talked about the other products shifting in the merchant versus rebar, but it's based upon demand in the marketplace for the products, and we obviously have customers in both product mixes, so we want to make sure we have ample supply to the market for all of those customers, and you may make some decisions based upon available capacity. If one product's stronger than the other from a demand perspective or from a margin perspective, you might shift that way, but it's all made on the same equipment.

COMMISSIONER SCHMIDTLEIN: And does it take a lot of time to shift? Is it easy to shift?

Sm The best example I could give there's an alternative product, the coiled rebar, and it's called spooled rebar. This is an innovation, new technology that we brought to the U.S. a couple of years ago, and it's very easy for us to shift from trade rebar to coiled rebar, and I would point out that depending on the fabricator's equipment, handling equipment, the coiled versus straight rebar is interchangeable. You can use it for the same exact fabricating applications. It's just whether you cut and bend it out of the straight-length bar or you cut and bend it out of a spool or a coil.

MR. PRICE: Yes, and a spool, this is Alan Price. I'll just add that the spool is really a type of coil. It's just that it's on a -- it's like literally on a thread on a spool versus no spool in between the coil, around the coil.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. PRICE: Don, do you have anything to add about it? Essentially it's just changing -- I gather it's -- unless I'm wrong, it's essentially changing the last roll in many cases to put the indentations in the product.

MR. BARNEY: It's not only the last roll because rods could be shipped over to a rod block, but it's not a significant change to change it over, and I don't have -- if it's something we need to look at the change-over times so we can share that in a post-hearing brief, I guess, I don't have the specific change times associated with going from coiled rebar and rod and back.

MR. PRICE: Right. I assume we're talking about minutes or hours, not days or weeks or anything

MR. BARNEY: That's correct. It's relatively short. Correct.

MR. PRICE: Okay.

COMMISSIONER SCHMIDTLEIN: Okay. All right. Shifting gears just a little bit, and I apologize if this has already been answered and maybe response to a slightly different question, but can you please talk about the recent trends in scrap metal prices since the onset of the pandemic?

MR. PRICE: Don? Barbara? Maybe we're best off answering in the post-hearing brief. I don't see any --

COMMISSIONER SCHMIDTLEIN: Okay. That's fine, too.

MR. PRICE: Yeah, and I'm not sure that folk have the --

COMMISSIONER SCHMIDTLEIN: No one's springing into action here. Okay. That's fine. Yeah, I invite you to answer that in the post-hearing, and I have no further questions, so again, thank you all for being here today.

CHAIRMAN KEARNS: Thank you. Commissioner Karpel?

COMMISSIONER KARPEL: Let's just get to -- so this one is for post-hearing because we've already talked about it. I think it was Commissioner Johanson as well as Commissioner Kearns, but I wanted to add another element to it, and this is in regards to sort of the impact that revocation of the CVD order would have given the low current margins, but this relates to whether the AD order on Turkish imports would have a restraining effect, and Turkish Respondents argued that it would and so much so that it essentially would be that there'd be no discernable address impacts from revocation of the CVD order on Turkish imports, so if we've already talked about it a bit here, if you could just respond to that specific argument post hearing, I would appreciate it.

So in terms of -- I have two more questions. One is there is some distinction between the rebar links in which domestic producers are concentrated and those in which subject imports are concentrated. Nearly half of the domestic producer shipments are rebar greater than 60 inches in length, but just a very small percentage of subject imports are of that length. Why is that, and we also note that non-subject imports seem to be concentrated in the greater than 60 inches length as well.

MR. PRICE: So the concentrations, first of all, are very similar to the levels and concentrations in the original investigation. Regarding links produced, really not a material issue out there. Would our fabricators like to discuss their uses of 20-, 40-foot lengths and, you know, et cetera and how they are major users of those and it affects -- basically the pricing's the same for 20, 40, 60 and anything above 60?

MR. WEBB: Yeah, Rob Webb, Southwester. We purchase rebar in 20-foot, 40-foot, 60-foot, 30-foot lengths in variety, and the importers bring in all those lengths in just as the same as the domestic mills producers. There's really no difference in the usage. It's all used for the exact same purchase. The difference is only in the economies of, you know, sharing better lengths from, you know, from different-length bars to start with.

MR. PRICE: Pricing the same?

MR. WEBB: Pricing is the same. Pricing is the same. The importers bring in 60-foot, 20-foot, 40-foot just the same -- spool, coil, those are all -- all the same products are brought here into Florida the same as the domestic producers make, and there's no difference between them.

MR. PRICE: Okay. Tim Johnson?

MR. JOHNSON: Same for all of our locations, you know, we use 20s, 40s, 60s, maybe some specialty links, coil, spool. It's all available offshore and domestically. Same price.

MR. PRICE: okay. And Jeff?

MR. VEILLEUX: Yes, Jeff Veilleux, PJ's Rebar. On the west coast, it's the same thing as the Midwest and the east coast. It's interchangeable. It depends on the application. Much of the residential market or flat work as we call it, sidewalks and driveways, things like that are easily -- it's better to use a 20-foot bar. We are one of the only fabricators on the west coast or in the U.S. that actually has an 80-foot shear length in our Turlock facility, so you can get bars as long as 80 foot shipped, so it really just depends on the application and your minimization of scrap.

MR. PRICE: Right. And so there's something called drop in this, but it's usually not a material issue, and once you get out to 30-, 40-, 50-, 60-foot lengths, so it's -- which is the scrap issue, and I assume the pricing -- and just confirm the pricing --

(Technical interference.)

-- and so the imports as well.

COMMISSIONER KARPEL: So let me ask a followup, so is there any sort of -- I mean, do most producers make all the lengths or if they happen to be more focused in one length is it that much harder to then start producing a different length?

MR. PRICE: Barbara or Tom or -- thank you.

MS. SMITH: Right. Barbara Smith, Commercial Metals. It's very easy to set for the different lengths and to ship based upon the customer requirements.

MR. PRICE: Yeah, Don?

MR. BARNEY: Yes, it's very simple. It's just an adjustment on the shear stock, so you can change lengths very quickly in the process, and really any producer can make any length bar. Again, it's just adjustments of the shear stop and the length you want to shear the product to.

MR. PRICE: Right. And, Tom?

MR. SONDGEROTH: Agree completely with the other two Respondents. No change. No significant time to change length and it's readily done on the fly.

MR. PRICE: Right. I think Commissioner Johanson --

COMMISSIONER KARPEL: All right. Well --

MR. PRICE: Sorry. I was going to say Commissioner Johanson --

COMMISSIONER KARPEL: Yes, so --

MR. PRICE: Well, never mind. Go ahead. Sorry.

COMMISSIONER KARPEL: Okay. Yes, just time -- time's getting long here, so my last question is you've argued that the orders led to improvements in the domestic industry, but I wonder if you can walk us through how we can tell that, particularly when you see the biggest improvements in the industry beginning in 2018 and, of course, that coincides when the AD orders went in place on Turkey and Japan and the CVD orders on Habas as well as the 232 duties took effect in 2018, and also these are a point that we start to see Mexican imports increasing at that time.

So I know, Mr. Price, in your opening, and I think other points in your testimony that you've highlighted a change in operating income from 2014 to 2015 as one data point, but we also see, you know, sort of decline in performance in 2016 and 2017, so it's not a constant boost, so if you could talk us through what can we really -- what can we really see in the data in terms of evidence that there's been an improvement from imposition of the orders.

MR. PRICE: Sure, so in 2014 to 2015, you see a substantial improvement in financial performance. Just like many other cases, there can be interceding subsequent rounds of unfair trade. That doesn't mean this first round of unfair -- that this set of orders is unimportant or has no impact. As these orders are removed, the types of improvements you saw will disappear from '14 to '15. We see this happen in multiple industries across different types, and so yes, there was a --

COMMISSIONER KARPEL: But this -- I'm not unfamiliar with your -- so if I understand your argument, you're saying there was a second wave of injurious imports that kicked in between 2015 and 2016. Is that what the prior cases show, that those imports were either particularly underselling or having adverse price effects or finally coming into the market at that time, or how do we --

MR. PRICE: Yes, there is a second -- there is a second wave.

COMMISSIONER KARPEL: How do we know it's not just a theoretical argument?

MR. PRICE: No, there is a second wave, and you see a collapse, and you have an injury determination, and not only do you -- and you also see differential -- they're both increased, but you see far less increase with Turkish imports that were subject to the CVD than not subject to the CVD, so that is -- that indicates that the CVD orders were having a restraining effect. Clearly, the dumping orders on Mexico were having a restraining effect, so that means these orders were giving positive benefit to the U.S. industry.

You see it on the bottom line. It's there. It's something Dougan entirely ignores in every piece of his presentation and conveniently constantly shows charts from '14 and '16 but without '15 because it pulls apart his analysis. Listen, we're not going to say that there are not other unfair trade activities that also impact the marketplace, but these orders are effective. They are contributing to benefit out there, and it's all part of the patchwork of the dam as Mr. Kaplan likes to say.

Mr. Kaplan, do you have anything to add?

COMMISSIONER KARPEL: I think my time is up, so probably it's just best to end there. Thank you.

MR. PRICE: Okay. I guess not.

COMMISSIONER KARPEL: You're welcome to followup post hearing, too.

MR. PRICE: Okay.

COMMISSIONER KARPEL: It's a central point in your case, so feel free. Thank you.

MR. PRICE: Yes.

CHAIRMAN KEARNS: I have no further questions. Vice Chair Stayin?

VICE CHAIRMAN STAYIN: Mexican Respondents argue that the vast majority of Mexican imports had been subject to zero or near zero deposit rates throughout most of the period of review, so revoking the order on Mexico would not likely result in any significant increase in imports from Mexico. How do you respond?

MR. PRICE: Well, first of all what we're seeing now is a surge of several new importers in from Mexico into the United States, and so we're starting to see that.

Secondly, you know, the exact -- the orders do have a restraining effect on Mexico because they are balancing where their prices are in their markets, and it is having an effect. Just so you know, the prelim is already out on Mexico starting to increase their margins, and this is from about two years ago now, so it's really old.

There's yet another investigation going -- another review going on, so we think the markets are going to go up substantially, and that will have a significant restraining effect going forward and so the bottom line here is that the orders -- it's not just the current deposit rate, but that rate's going to change. They're going to increase, and we think that will further temper Mexican surges, and it's particularly important as we look at a marketplace where the Mexican market is clearly in a state of distress, and while the U.S. economy has substantial issues that we all understand, the situation is far worse in Mexico. It has been for a longer time.

VICE CHAIRMAN STAYIN: Thank you. The Turkish Respondents argue that the domestic producers are the low-price leaders in the U.S. market.

MR. PRICE: Your records fundamentally contradicts that. The underselling is pervasive here. And by the way, I've rarely seen levels of underselling across multiple reviews that you see pervasiveness like this because, listen, they've got to take whatever chance they can to move whatever volume they can, and you can't sell. The only reason they're here is not because of -- it's not because of lack of domestic capacity. It's not because of lack of domestic supply. It's not because of any reason other than the fact that they want them -- that they undersell. That's the reason they're here. It's a highly fungible product. It's sold on price.

VICE CHAIRMAN STAYIN: Okay. How, if at all, should the increasing concentration and vertical integration of rebar production in the United States factor into Commission's consideration of the significance of any increased value of rebar imports absence the order of review?

MR. PRICE: And Mr. Kaplan can help answer this, and we can answer it more thoroughly in the post-conference brief again. This has been looked --

VICE CHAIRMAN STAYIN: That would be fine.

MR. PRICE: What?

VICE CHAIRMAN STAYIN: That would be fine. In post conference would be fine.

MR. PRICE: Thank you.

VICE CHAIRMAN STAYIN: Thank you. That's all that I have. Thank you.

CHAIRMAN KEARNS: I think it's Commissioner Johanson's turn.

COMMISSIONER JOHANSON: Right. During the period of review, there were significant fluctuations in two related subject import market shares. Could you please explain how these correlated with the domestic industry's performance?

MR. PRICE: We will address that internally in the post-hearing brief if that's okay with you at this point.

COMMISSIONER JOHANSON: That's fine. Okay. Then that concludes our questions at least for now. I appreciate you all being here today.

CHAIRMAN KEARNS: Thank you. Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: I have no further questions. Thank you.

CHAIRMAN KEARNS: Okay. Do any other Commissioners have any further questions?

(No response.)

CHAIRMAN KEARNS: Does staff have any questions?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you. Staff has no additional questions.

CHAIRMAN KEARNS: Okay. Very well. Let's see, it's 1:00 now. I suggest we break for lunch until 1:45 and start with the second panel at that time.

MR. BISHOP: Mr. Chairman, you need to ask if Respondents have questions.

CHAIRMAN KEARNS: Oh, I'm sorry, excuse me. Do Respondents have any questions?

MR. NOLAN: No questions from Turkey.

MS. JEONG: No questions from Mexico. Thank you.

CHAIRMAN KEARNS: Okay, very good. So we will come back at 1:45 then. Thank you all.

(Whereupon, at 1:00 p.m., the hearing in the above-entitled matter recessed, to reconvene at 1:45 p.m. this same day, Thursday, August 6, 2020.)

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

(1:45 p.m.)

CHAIRMAN KEARNS: All right. Then let's begin. Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Mr. Chairman, I would note that the panel in opposition to continuation of the antidumping and countervailing duty orders are all present. This panel has a total of 60 minutes for their direct testimony. We welcome you. You may begin when you're ready, and if you would please ensure that your webcam and mic are activated when you are speaking or answering a question. Welcome. You may begin.

MR. NOLAN: Good afternoon. Can everyone hear me?

MR. BISHOP: Yes, we sure can.

MR. NOLAN: All right. So I thank you very much. Good afternoon, Chairman Kearns, members of the Commission. This is Matt Nolan. I'll be kicking this off on behalf of the Turkish panel, and then I will turn it over to our colleagues for the Mexican panel and they will speak, and then Mr. Jim Dougan will speak on the economics at the end of our presentation.

I am going to turn it over to our witnesses in just a minute, but I want to start for just a couple minutes to pick up on a couple of things that the other side left off on.

There was a lot of talk this morning about the dam and about how price-sensitive this product is and if you take away this order, the dam's going to break and there's going to be massive quantities of material coming in from the subject countries and Turkey in particular.

So let's examine the dam for just a second, okay. The order has been in place, the CVD order, which is all we're talking about here is the CVD order, not the dumping order, not the 232, just the CVD order, has been in place for about five years. During the investigation, we found Icdas with 1.25 percent duty rate, subsidy rate. Habas got at zero, so they got out.

So now we've gone through a series of reviews. What happened in the reviews? In the 2014 first review, de minimis, zero, de minimis, zero, de minimis, zero for all reviewed parties. Second review for 2015, what happened? Icdas, zero percent; Kaptan, zero percent; Colakoglu, zero percent. 2016, Icdas got 2.7 percent, okay; Kaptan, zero percent; Colakoglu, 1.8 percent. Now we're 2017, what do we have? Icdas, zero percent; Kaptan, zero percent; Colakoglu carryover because they weren't reviewed, 1.8 percent.

There's a pattern here, right? There are as many parties that are getting zeroes as there are getting small rates in the CVD review. So exactly what is the dam doing, as most exports coming from Turkey are receiving zero rates most of the time? So is this order actually accomplishing anything, only the CVD order, remember?

On the other hand, Turkish rebar is subject to a separate dumping order and the investigation that was 9 percent for Icdas and 3.5 percent for Habas and 7.4 percent for other producers, that order would remain in effect if this goes away. Most important, Turkey has been subject to 25 percent 232 duties from March to August of 2018, then 50 percent duties from August to May of 2019, then back to 25 percent, and that's where they are right now.

Now Mr. Price likes to make a lot of noise about how price is king here and how important price is. If the U.S. has a 25 percent price advantage over Turkey and it's there and has been there for two-and-a-half years, exactly what level of injury can be attributed or recurrence of injury attributed to less than 1 percent for a small or a percentage of the Turkish industry? I'm having trouble finding it here, and it's something that the Commission, I think, needs to take a very hard look at.

The only other point I would make is when the CVD order went into place in 2014, Turkish imports actually went up. And contrary to what Mr. Price says, I'm looking at Table 1.10 of the staff report and it does not say it was only Habas that went up significantly afterwards. So I would suggest that you look at the evidence on the record before we come to conclusions that the U.S. seems to be purveying out to the Commission these days.

With that, I'm going to turn over the mic to Ugur Dalbeler, CEO of Colakoglu. Ugur?

MR. DALBELER: Hi. Members of the Commission, good afternoon. My name is Ugur Dalbeler and I'm here today on behalf of the Turkish Steel Exporters Association. I am a member of the board called CIB, a business association of steel producers and exporters. Our main targets are improving the potential of the Turkish steel sector and obtaining a global sustainable, competitive strength based on free and fair trade. I'm also Chief Executive Officer of Colakoglu Metalurji, a producer and exporter of rebar entergy. I'm joined by my colleague and competitor, Murat Cebecioglu, the trade manager of Icdas and other Turkish rebar producers. Together, we have more than 40 years of experience in this business.

I will make a brief statement now, but along with Murat, my chief goal is to answer your questions. First, on behalf of the entire Turkish rebar industry, I want to state for the record that we do not receive any government subsidies. We've heard the domestic industry complain about Turkish steel industry being subsidized, but the rates under the countervailing duty order of imports from Turkey have been barely above de minimis since the order took effect. In the past five years, the rate of duty has never risen above 2.7 percent for any named producer and has been zero for chief exporters.

Turkish steel companies are profit-oriented private enterprises and receive no specific government support. This is required under the European Coal and Steel Community Agreement. To the contrary, our government imposes extra taxes and costs on our industry. Any subsidy margin found under the current CVD order have been dutifully related to support provided to natural gas users. In fact, Turkish natural gas prices have been three or four times higher than the U.S. prices. But, as of 2019, Colakoglu and other rebar producers in Turkey no longer rely on natural gas. We now use imported coal. So support provided to the natural gas sector can no longer be the basis of a subsidy margin for rebar producers in Turkey. We expect that the consistently low rates under the order will be even lower, if not zero, in the future.

As was the case five years ago, the Turkish rebar industry remains extremely efficient, productive, and experienced in competing in the world markets. We produce the highest quality of products and deliver these products all around the world with our advanced logistic infrastructure. Our country has a very favorable geopolitical location for reaching out to the world markets, and this enables us to export Turkish steel to more than 180 countries. We are a significant exporter of rebar to many markets, including U.S., until 2018. The U.S. was never our primary market, nor will it ever be. There are several markets we have shifted for the case and at prices that are higher than we get in the U.S. market.

Then the Section 232 tariffs went into effect in

2018 at a rate of 25 percent and then they're doubled to 50. The U.S. market became much less relevant to us. Colakoglu and other rebar producers in Turkey are now focused more on regional markets. We don't face the same restrictions in these local markets closer to home.

We intend to maintain a stable market presence in the U.S., but it's no longer a strategic market. Export markets in the Middle East and Asia are now our priority not only because of their growth potential but also because Turkish rebar has market recognition in these regions. In recent years, Israel, Yemen, and Singapore have become much more important to us. This shift in focus is evident in the export phased up for rebar from Turkey, which shows that exports to the U.S. accounted for less than 2 percent of producers total export shipments in 2019, while the share of exports to other three largest markets, Israel, Yemen, and Singapore, accounted for nearly 45 percent. These markets are growing faster and offer us more opportunity.

Since this order took effect in 2014, our home market in Turkey has also become more stable and profitable. Turkey consumes over 8 million tons of rebar annually. That is higher than U.S. consumption. Growth in Turkish construction sector in turn affects the consumption of rebar. Interest rates in Turkey have greatly reduced and have been strong enough for rebar as first sales and new construction in the residential sector. These trends are expected to continue as the population in our country continues to grow and urbanize.

Petitioners argue that the imports of rebar from Turkey will flood the U.S. market, take market share from domestic producers, and depress U.S. prices for rebar if CVD order is revoked. But the U.S. market is very different today than it was when this order took effect in 2014. The antidumping order in 2017 and later the special Section 232 tariffs on imports from Turkey, which were a staggering 50 for more than nine months in 2018 and 2019, have had a major impact on U.S. market. The prohibitively high tariffs turn Colakoglu and other Turkish producers away from the U.S. market almost entirely. This is in stark contrast to the trends when CVD order first took effect and (technical interference).

Compared to other regional export markets, those high tariffs will remain in effect regardless of whether this order is continued. I do not wish to offend, but in my experience, the U.S. is the most protected market as far as steel is concerned. As a result, the U.S. industry is profitable, as I'm sure you have seen. They have 25 plus percent price advantage. Unlike the steel industry in Turkey, the U.S. steel industry is further protected, especially at the state level, and with restrictive public works, why Buy America.

Since Section 232 tariffs took effect in 2018, domestic producers' share of the U.S. market has increased to 87 percent of the market. They are financially strong and vertically integrated. They incur no international shipping costs and control their raw material scrap through their subsidies. Given the structural advantage and the protections like 232 tariffs, which will remain even if the CVD is revoked, the U.S. industry will continue to enjoy robust positive results in the foreseeable future.

Unfortunately, across industry, Turkey has been a target of trade complaints in the U.S. and other countries. We have never been afraid of these proceedings and I have always had respect for the way they are conducted by the Department of Commerce and by this Commission. Unfortunately, in recent years, I'm concerned to see that the process is getting more politicized. The results we have received lately indicate political pressure may have more effects on decision-making. However, we are confident that the Commission will remain objective and we continue to see the cases as opportunities to demonstrate that we trade our goods at fair prices in accordance with the WTO rules. Thank you for your attention. I will do the best to answer any questions you might have.

MR. NOLAN: Thank you, Ugur. Murat, you're up. Murat, are you there?

MR. CEBECIOGLU: Something with my account, I'm sorry. Ladies and gentleman of the Commission, good afternoon. My name is Murat Cebecioglu, the Foreign Trade Manager of Icdas Enerji Tersane, a major Turkish rebar producer. I have over 15 years' experience in this industry. I'm joining Mr. Dalbeler here to speak on behalf of my company and the Turkish rebar industry. Although Ugur and I are indeed fierce competitors, but today we are together to answer your questions.

Icdas is a major producer of rebar and wire rod in Turkey. We pride ourselves on the quality, efficiency, and price competitiveness of our product. We compete fairly. We receive no subsidies and we're not dumped. In the investigation, we were disappointed when Commerce found a very small subsidy that was de minimis on Icdas's purchases that were recognizable from a Turkish government-owned company. Commerce's subsequent finding at that time was incorrect and contributed to the Commerce Department inquiry which calculated a 1.25 percent subsidy margin. This serious substantive finding is now further incorrect because the small amount of fault that Icdas previously purchased from government sources during the investigation was stopped by the end of 2012. However, Commerce persisted in creating margins where no subsidy rate exists. Even so, we have obtained zero subsidy margin in three of the last four administrative reviews and have appealed the ones over this margin as, reasonably, it is incorrect.

Finally, we cannot understand how Commerce calculated 4 percent in its sunset review. We acknowledge that Turkey did not participate in the Commerce sunset review because Commerce always found a margin. In this case, the facts are that the Turkish CVD generates 1.25 percent in the investigation and never exceeded 2.76 percent in the subsequent reviews. Indeed, Icdas and other major Turkish producers, like Kaptan and Colakoglu, receive zero rates in multiple reviews. The average actual CVD rate against Turkey is actually close to 0.5 percent, not 4 percent. Even recent reviews, it is hard to see how the CVD order provides any significant protection.

Icdas develops our rebar as all fairly traded prices in the United States. Icdas prices its products competitively because we're an efficient and integrated producer of rebar. Our mill is located right on the coast in an area called Canakkale. We have our own port at the mill and are able to move scrap in and steel out very efficiently. We make our own electricity from our power plant at the mill to reduce costs further. We even sell excess power back to the grid.

Icdas sells to many markets, including to Venezuela, Hong Kong, Singapore, North Africa, East and West Africa, South America, Caribbean, and the United States. We ship to more than 70 countries. Our location and long-term commitment to these markets are the keys to our success. Even today, we continue to adapt to the conditions that develop in each of these markets. When one market shrinks, another expands. Further, the domestic market is just as improved after significant reduction in interest rates. We are seeing significantly increased demand from local residential construction projects.

Finally, we recognize that the U.S. market has become far less attractive. First, we were hit with the CVD orders, although it had no real impact at 1.25 percent. More significantly, we were penalized with an antidumping order in 2017, then 25 percent 232 duties, then in August 2018, 50 percent 232 duties. At 50 percent, we could not ship into your market and U.S. producers, as well as Italian and Spanish and other countries, took over our market share. After 232 duties were reduced back to 25 percent in 2019, we reentered the market but at a margin that was little as our market was taken over by those countries and U.S. producers.

The continued 232 duties continues to give U.S. producers an automatic 25 percent price advantage. I cannot believe any company could complain that a 25 percent protective barrier is insufficient to ensure production of goods. We cannot gain significant market share under these conditions and we believe they will persist for the foreseeable future. So we have moved on to other less protected markets that we can compete fairly.

Make no mistake, we know the U.S. is a huge market and we respect your need to maintain a viable industry. But most of the U.S. producers cannot satisfy demand in this market, especially given their desire to supply their own fabrication operation, and we know that U.S. producers are making a great deal of money behind 25 percent duty rules. Why do they need another 1 percent at this point? The CVD order does nothing relative to 25 percent 232 duties and other AD orders.

Finally, it was uncovered that U.S. producers say that they are impacted due to COVID. We are all impacted due to COVID, which negative impacted Turkish and the Russian Federation more than the U.S. The one-two punch of 50 percent duties, then COVID has affected our short-term utilization rate.

Thank you for your attention. I appreciate the opportunity to present Icdas to you and will do my best to answer any questions you may have. Thank you.

MR. NOLAN: Thank you, Mr. Altschuler and the rest of my colleagues.

MS. JEONG: On behalf of the Mexican Respondent side, we have Mr. Antonio Guerra, who will talk a little bit about Deacero's Mexican operations, followed by Miguel Bazan, who will talk a little bit about U.S. operations, and then we'll conclude with Jim Dougan of Economic Consulting Services. Thank you.

MR. GUERRA: Thank you. Good afternoon. My name is Antonio Guerra. I'm the Director of Market Strategy for Deacero. I have been working at Deacero for 23 years, and currently work in planning and developing global service and marketing strategies for the construction and infrastructure markets. I'm here to give you an overview of our company, our operations, and an outlook for the rebar business.

Deacero is a family-owned business that started in 1952 in Monterrey, Mexico, a small workshop that produced chainlink fences. Since then, the company has come a long way to become one of the leading steel producers in Mexico.

Deacero has been in the U.S. market for over 30 years, selling wire and downstream products. Over the years, Deacero has made substantial investments in the U.S., including its purchase of Septum (phonetic) Fence Manufacturing in Texas, the largest U.S. producer of fixed barb fencing, two wire rod facilities in Houston, and Mid Continent Steel and Wire, the largest U.S. producer of nails made in Missouri. Overall, Deacero employs about 700 workers in the U.S. and continues to invest in these U.S. operations.

Deacero is a vertically integrated steel producer. Our operations include scrap recycling centers, steel mills which produce billets, wire rod, merchant bars in certain shapes, and wire facilities that draw wire from wire rod and produce downstream products.

Rebar is an important part of our diverse product portfolio. They're of secondary importance to wire and wire products, which have been our core business from the beginning.

The wire we produce is used to produce over 4,000 downstream products in more than 80 categories, such as fencing, barbed wire, staples, nails, and many others, used by diverse industries, such as agriculture, construction, mining, automobiles, oil and gas, telecommunications, and hardware.

We produce rebar in two facilities in Mexico, Celaya and Ramos. In the past, near all of our rebar production was in Celaya. In May 2019, we installed a new rolling line in Ramos to improve logistics and efficiencies for our merchant bar and rebar production. The new railing line is primarily dedicated to producing merchant bars, which is a growing business in Mexico and produces only a small volume of rebar.

At the same time, one of the rolling lines in Celaya was taken offline because this line was one of the oldest lines and was less efficient. Even if this line was restarted, we will only produce wire rod in that line, not rebar.

At the remaining lines in Celaya, one is primarily dedicated to wire rod and produces coil rebar in limited quantities. We would not shift production from wire rod to rebar in that line because wire products are our core business and the market for coil rebar is small.

The other lines at Celaya that produce rebar can only produce short rebar up to 42 feet in length because our packaging line is not equipped to handle longer rebar.

At our Ramos mill, we produce merchant bar, structural shapes, and straight rebar. The vast majority of production at Ramos is for merchant bars and structural shapes. We would not shift production to rebar since merchant bars and structural shapes are more profitable than rebar and there is insufficient production in Mexico for these products.

We understand that the U.S. industry has alleged that we have expanded rebar capacity with our new Ramos rolling line. This is not accurate. As I mentioned, we have basically realigned a portion of our rebar production from Celaya to Ramos to improve market logistics and efficiencies. Any expansion of capacity has been only for merchant bars. Our overall capacity has been consistent for years, and we have no plans to expand rebar capacity or production.

Most of our rebar production is served in Mexico. We have over 1300 customers in Mexico, many of which we have served through 1990s and early 2000s. Our Mexican customers include large construction companies and distributors throughout the country, as well as large retail chains and small hardware stores, and these customers rely on us to supply consistent volumes on a regular basis.

In the last few years, our Central and South American markets have grown significantly. The growth came about after several years of efforts. We have employees living in those countries and have established distribution networks through long-term agreements to ensure stable and continued presence in those markets. Having devoted tremendous time and resources to develop these markets, we will not be giving up any part of them any time soon.

Our efforts in developing this market started well before the anti-dumping case in the U.S. With that said, I will say that the efforts increased after the duties, not because the U.S. market was closed to us due to the duties but because the trade cases emphasize the importance of having diverse markets.

This strategy has become more important in light of the unpredictability of the U.S. trade policy in the recent years. We have spent a lot of time and money diversifying our markets, and we will not be abandoning them even if there are no antidumping duties.

Our Mexican and Latin American markets for rebar remain strong even with the COVID-19 pandemic that has impacted many parts of the worldwide economy. In fact, demand and sales of rebar in 2020 have grown from 2019 levels. In Mexico, construction activities were interrupted for a short time but have continued since then, as well as the essential industries. Even though the Mexican economy as a whole may be seeing a decline, the construction sector has been very good.

In addition to long-term projects, such as the Santa Lucia airport, the Maya train route, and the Dos Bocas refinery, the Mexican government recently announced new plans to stimulate the economy through numerous projects to construct schools, highways, hospitals, housing, and other projects.

We note that the statistics of INEGI, the Mexican government statistical agency, regarding the construction sector only include activities of large construction companies and do not capture activities of small companies in what we call the self-construction sector.

In Mexico, many people build their own homes and use concrete to do so. It's been estimated that around 70 percent of homes in Mexico are built by individuals rather than large construction companies. These years, our sales industry numbers in Mexico have increased. A big of these sales goes to the self-construction sector. We are guessing that people are taking on more home projects during these slowdowns.

We do not see any slowdown in sales in either Mexican or other markets. For example, our "confirmed contacts," our pre-commitments from Mexican and Latin

American markets, account for more than two-thirds of our production for next year. Since there will be no orders beyond those already booked, our sales for next year will likely exceed 2019 levels.

We schedule our production based on confirmed sales and anticipated sales that are already committed to customers. We do not produce just to keep our lines running or to build inventory. Deacero is not interested in disrupting our long-term production and supply strategy just to address any potential short-term decline in capacity utilization.

Thank you very much, and I will be happy to answer your questions.

MS. JEONG: Miguel?

MR. BISHOP: Miguel, you're on mute.

MR. BAZAN: Okay. My name is Miguel Bazan, and I'm a senior manager for Deacero USA based in Texas. I oversee Deacero sales of rebar, merchant bars, and beams in the United States.

Deacero USA has been selling rebar since 2006. Our volumes of rebar sold to the U.S. market's very low even before the antidumping duties and remain low even though

Deacero has duty rates of zero or close to zero for the past several years.

Our low volumes reflect the fact we have been a steady source of rebar to the U.S. markets and serve to a small group of long-time customers. The low volumes also reflect the fact that we sell to limited segments of the market and are unable to expand ourselves very much.

The vast majority of our sales are in the range of number three to number six size rebar and are in 20 feet to 40 feet in length. These smaller and shorter rebar products are mostly sold to distributors for residential construction.

We do not sell much to the fabrication market. Fabricators typically require a broad assortment of different sizes, length, and grade of rebar, which Deacero is unable to supply on a timely basis. We also cannot supply the big and substitute volumes because those volumes are usually subject to Buy America requirements and can only use U.S.-produced steel. Because of these limitations, the fabrication market is largely closed to us and we sell very little to fabricators.

Our sales are also limited because we keep more available and have longer lead time. Due to freight costs, our sales are mostly around the states that border Mexico. As far as we know, other rebar producers in Mexico have similar limitations. In our experience, the U.S. mills prefer to make the longer lengths and larger sizes of rebar, which are more efficient to produce and are more profitable for them.

Our customers tell us that they have trouble sourcing the smaller and shorter length rebar from domestic mills. In fact, we have sold type number three rebar to the big two mills or their related companies because they were unable to supply even themselves in those wire-type rebar products.

The U.S. market has been dominated by three large producers which used to be known as the big three: Nucor, CMC, and Gerdau. Now that CMC has bought Gerdau's rebar operations, we are down to the big two: Nucor and CMC. Even before Gerdau left the market, Nucor and CMC were the price leaders and essentially controlled the market.

Some of our customer have told us that companies like Nucor and CMC have refused to sell rebar to them and that imports are needed to continue their business. However, they have declined to appear here today to share their experience because they are afraid of negative reputation basically in a market that is dominated by these two big players.

Finally, I want to address some statements made by the domestic industry regarding a recent circumvention case involving fabricated rebar. The case involved the actions of an unrelated U.S. purchaser who, after buying their fabricated rebar from Deacero, may have intended to alter the bent rebar to use it as straight rebar.

As we explained to the Commerce Department, neither Deacero, nor Deacero USA, were aware of customers' intention or were involved in any alteration of the merchandise after importation. Deacero has been selling rebar in the U.S. market for many years and has been a responsible and stable supplier to the market.

We are also mindful of the volume limits imposed by the Section 232 agreement and take it to maintain our imports at consistent levels. We have no intentions to disturb the market by either increasing our achievements significantly or lowering our prices.

Thank you for the opportunity to testify before the Commission today.

MR. DOUGAN: Good afternoon. This is Jim Dougan from ECS. Let me just share my screen here for one moment. All right. Can everyone see and hear me okay? All right.

The record in this review demonstrates clearly that the revocation of the orders at issue will not lead to a recurrence of injury to the domestic injury within the reasonably foreseeable future.

To begin with, the domestic industry is not in a vulnerable condition. As summarized on Slide 1, the industry's condition improved over the POR and it achieved its best results in the most recent periods. Domestic industry's market share reached its highest point of the POR in 2019 and interim 2020. This was the industry's highest year since 2011. The domestic industry's operating margin increased from 2014 to 2019 and between the interim periods. Its absolute operating income grew more than sixfold, and its cash flow more than quadrupled.

In all, over the POR, the industry generated more then $2 billion in cash flow and over $500 million in pre-cash flow after its capital expenditures. And speaking of capital expenditures, they more than doubled from 2014 to 2019 and also grew between the interim periods. The cap X, the depreciation ratio, exceeded 100 percent throughout the POR. And the industry's employment and hourly wages increased between 2014 and 2019 and between the interim periods. None of these statistics indicate --

MR. BISHOP: Could you pause for a moment? Stop the clock.

MR. DOUGAN: Sure.

MR. BISHOP: Can you go ahead and make your screen landscape? Because we can't see your entire chart.

MR. DOUGAN: Oh, interesting. Okay.

MR. BISHOP: Do you know how to do that?

MR. DOUGAN: I had it on full screen, so hang on. I'm sorry about that.

MR. BISHOP: If you did that, that's better than us not being able to see the entire slide.

MR. DOUGAN: Sure. Okay.

MR. BISHOP: Thank you.

MR. DOUGAN: Can you see it now?

MR. BISHOP: Yeah. We can see your entire screen. Yep. There you go. Thank you.

MR. DOUGAN: Is that better?

MR. BISHOP: That's perfect. Thank you.

MR. DOUGAN: Okay. All right, I'll resume. None of these statistics indicate that the industry is vulnerable to injury in the event of revocation. Petitioners argue that conditions of competition and the potential impacts of COVID-19 render the industry vulnerable or susceptible to a recurrence of injury. Nowhere do they actually address the current financial and operational condition of the industry.

And it isn't just the strong current condition of the industry that weighs in favor of lifting the order. In a sunset review, the Commission has the discretion to analyze imports from each subject country on a decumulated basis, and, for the reasons presented in the pre-hearing brief of the Mexican Respondents, we submit that the Commission should do so here.

The fact pattern in this review is such that the Commission has an unusual opportunity to observe the effect of subject imports from Mexico on the domestic industry in something of a natural experiment, and this is because subject imports from Mexico and imports from Turkey followed completely different trajectories over the POR. The evidence show the complete absence of causal links between imports from Mexico and the condition of the domestic industry.

As shown on Slide 2, between 2014 and 2016, imports from Mexico effectively exited the U.S. market, declining by 96.5 percent. The market share of imports from Mexico fell to basically zero. The domestic industry enjoyed no measurable benefit as its market share, production, net sales value, operating income value, operating margin, cash flow, and employment and PRWs all fell.

The domestic industry's condition did not show signs of improvement until after 2017, when the antidumping orders on Japan, Taiwan, and Turkey were imposed, shown on Slide 3. As a result of these orders and, additionally, the imposition of the Section 232 tariffs in March of 2018, between 2016 and 2019, imports from Turkey for all suppliers, including Habas, fell by 94 percent. The domestic industry's key indicia all increased.

During this same period, the volume of subject imports from Mexico increased from only about 3500 short tons to just over 140,000 short tons, and their market share increased from zero to 1.7 percent.

This increase in the quantity and market share of imports from Mexico had no discernible adverse effect on the domestic industry's performance. This lack of impact cannot be traced to any specific differences in volume and pricing behavior between high imports from Mexico between the POI and the POR and is not attributable to any discipline of the order.

First, with respect to volume, as shown on Slide 4, imports from Mexico held a steady market share during the POI, ranging from 4 percent to 4.4 percent, and increased in volume by only about one-tenth of a percentage point and 55,000 short tons. This is an insignificant figure in the context of the market. For 2013, apparent consumption was 7.7 million short tons.

It is hard to see how subject imports from Mexico alone would have had a discernible adverse impact on the domestic industry. The information on lost sales and revenues from the POI is BPI, but, as explained in our pre-hearing brief, it likewise shows no injury by subject imports from Mexico alone.

As shown on the prior slide, the increase in subject imports from Mexico between 2016 and 2019 was far larger in absolute tonnage and percentage terms than the increase during the POI, yet, as also shown on that slide, the domestic industry's condition improved substantially by virtually every metric recorded by the Commission.

Turning to Slide 5, importantly, the improvement in domestic industry performance also was not attributable to any apparent difference in pricing behavior by imports from Mexico. The dumping margins calculated in annual reviews have been either zero or extremely low, indicating that the extent of any unfair trading by exporters from Mexico was not commercially significant.

As shown on Slide 5, the relationship of prices of imports from Mexico to U.S. producers' prices did not appear markedly different than during the POI, showing underselling in the majority of comparisons and with an even higher margin of underselling.

Now we understand, we recognize, rather, that the imposition of the Section 232 tariffs in March 2018 also impacted the volume of U.S. imports, but this only makes the distinction sharper because Mexico was exempted from these tariffs between March 2018 and June 2018 and then again from May 20, 2019, forward.

In contrast, imports from other sources, with a few exceptions, have been subject to the tariffs since they became affected. Imports from Turkey were subject to rates alternating between 25 and 50 percent over time. As the analysis above proves, however, Mexico being largely exempt from the tariffs had no measurable effect on the U.S. industry.

In summary, the exit of subject imports from Mexico from the U.S. market between 2014 and 2016 had no measurable positive impact on the domestic industry, and their return to the U.S. market from 2017 forward had no measurable negative impact on the domestic industry. It follows then that the revocation of the order on Mexico will not lead to a recurrence of injury to the domestic industry.

In the alternative, if the Commission elects to analyze imports from Mexico and Turkey on a cumulated basis, the evidence likewise shows that the revocation of the orders will not lead to a recurrence of injury to the domestic industry.

With regard to volume, if the orders subject to this review are revoked, the likely volume of subject imports will not lead to recurrence of injury, and the most important reason for this is the constraints on subject import volume from other trade remedy measures.

With regard to imports from Mexico, even in the absence of the current order, the May 2019 Section 232 agreement between U.S. and Mexican governments creates a severe disincentive, that is, the reimposition of the 25 percent tariff, for imports from Mexico to increase in such a way that they would constitute a surge or to exceed historical levels.

With regard to Turkey, even if the CVD order at issue in this order -- in this review, rather, is revoked, all imports from Turkey, including those not covered by the current order, would still be covered by the 2017 antidumping order and extended CVD order for the reasonably foreseeable future as the AD order will likely not come up for a sunset review until 2022 or 2023.

Petitioners' pre-hearing brief appears to have been beamed in from an alternate universe where the 2017 orders are not in place. They even go so far as to state that imports from Turkey and Mexico compete under similar conditions of competition, which is simply not a credible statement. Consequently, the Commission should give Petitioners' analysis of the likely effects of revocation little weight.

Lifting the CVD order at issue will not by itself have any measurable restraining impacts on the volume of imports from Turkey. This can be seen because, as shown by 7, the imposition of the CVD order did not by itself have any commercially meaningful effect on the condition of the domestic industry or any measurable restraining impact on subject imports from Turkey.

The original rate was very low, 1.25 percent, and excluded the very significant producer/exporter Habas. Rates from the first few annual reviews were effectively zero, as Mr. Nolan pointed out. Between 2014 and 2016, the volume of imports from Turkey behaved accordingly, that is, as if there were no commercially significant constraints in place at all. They grew in total by 52.8 percent and gained eight percentage points of market share.

In contrast, the antidumping and expanded CVD orders imposed in July of 2017 and Section 232 tariffs imposed in March 2018 did have significantly restraining effects on imports from Turkey. In total, between 2016 and 2019, imports from Turkey plummeted by 94 percent and lost 21.6 percentage points of market share. The CVD margins calculated in the latest administrative review in January 2020 ranged from only .19 percent to 1.81 percent for named

Respondents and only 2.29 percent for all others.

Revoking a CVD order with such tiny margins would be unlikely to have any significant effect on the pricing of imports from Turkey in any circumstance, but this is doubly true when those imports are still subject to much higher antidumping duties. Moreover, imports from Turkey are still subject to the 25 percent Section 232 tariffs.

Together, these trade restraints will cause import volumes from Turkey to remain at their current low level for the reasonably foreseeable future.

Petitioners present a graph at page 40 of their pre-hearing brief and, indeed, in their hearing presentation that purports to show that the Section 232 tariffs have had no restraining effect, but their graph actually proves the opposite point.

As shown on Slide 8, the bar at left covering the first half of 2019 represents a period where Mexico was subject to the tariffs through
May 20, so for all but 11 days of the period, and Turkey was subject to the 50 percent tariffs. The bar at right, which represents the first half of 2020 where Mexico was exempt from the tariffs and Turkey was subject to the tariffs at a

reduced 25 percent level, is clearly taller than the bar at left. This indicates that the volume of imports from Turkey and Mexico was restrained to a larger extent when both countries were subject to the higher Section 232 duties.

Furthermore, even though imports from Turkey and Mexico were less restrained by the Section 232 duties in 2020 than in 2019, the most reliable data we have, the questionnaire data and the staff report, show that domestic industry profits grew in both absolute terms and as a percentage of sales between the first quarter of 2019 and 2020, indicating that these increases in subject import volume had no adverse impact.

The data presented in this chart also suggests that should imports from Mexico increase by enough to trigger the surge provision in the agreement and the tariffs are reimposed, that volume would shrink back to the volume on the left-hand bar, which is the 2019 bar when the 25 percent duties were in effect. Mexican producers therefore have a very strong disincentive to trigger that surge mechanism.

Turning to price, in the event of revocations, cumulated subject imports would be unlikely to enter the U.S. market at prices that would cause adverse price effects to the domestic industry.

As a first matter, Respondents note that in their pre-hearing brief Petitioners make the false claim that in the original investigation the Commission found that subject imports caused price depression and suppression. The Commission expressly found otherwise, tying price declines to changes in scrap prices and saying that the subject imports did not prevent price increases that otherwise would have occurred.

At pages 46 to 47 of their pre-hearing brief, Petitioners try and fail yet again to blame subject imports for declines in prices. They claim that the decrease in rebar prices between January and June of 2020 is "far sharper than that seen for scrap," but even using their own data presented on the same page, that's not a true statement, or, rather, it's only true with respect to dollars per ton.

As we will demonstrate in post-hearing with the confidential data, the percentage change in rebar prices is almost exactly, if not lower than, the percentage change in scrap prices, in other words, what you would expect and consistent with what you found in the original investigation.

What the Commission did find in the original investigation was that underselling led to shifts in market share. As mentioned earlier, all imports from Turkey would remain subject to the discipline of both the 2017 AD/CVD orders and the Section 232 tariffs.

The combination of these two trade remedy measures has already had a significant effect on restricting any unfair trade from Turkey, while the CVD order under review appears to have had no such effect.

With regard to imports from Mexico, the record does not support the findings that underselling by imports from Mexico alone has ever caused material injury to the domestic industry. In the original investigation, the sole price effect found by the Commission again was that underselling led to the loss of domestic market share. Yet, as I just noted, the market share of imports from Mexico increased by only one tenth of a percentage point over the POI and remained within the very tight range of 4 percent to 4.4 percent.

So had Mexico had not been cumulated with Turkey, it seems unlikely that the Commission, by following its own logic, would ever have found adverse price effects by reason of subject imports from Mexico at all. From the current investigation, imports from Mexico also undersold domestic producers in the majority of comparisons in quantity and at a higher average margin than in the POI. Yet, at the very same time that imports from Mexico were reentering the U.S. market from 2016 to 2019, domestic industry market share grew by more than 11 percentage points and domestic industry profits and cash flow skyrocketed.

Thus, the record does not support a finding that underselling by imports from Mexico alone had any measurable adverse effects on the domestic industry either during the POR or the POI. But, even if some degree of underselling by subject imports from Mexico were to continue in the event of revocation, it would not lead to a recurrence of material injury to the domestic industry.

Finally, with regard to the future outlook for demand and the implications for the condition of the domestic industry, before the Commission draws a straight line connecting downturn in demand and recurrence of injury to the domestic industry by reason of subject imports, it should consider what actually tends to happen to import volume during recessions. It doesn't grow, it drops.

As shown at Slide 10, the great recession featured by far the lowest import volume in market share over the last 20 years. And this was a time period where imports from Mexico, Turkey, Japan, and Taiwan were not covered by any trade remedy order. There is no basis to conclude that any coming downturn in demand will coincide with an increase in imports that would lead to a recurrence of injury to the domestic industry in the foreseeable future. Thank you.

MS. JEONG: That concludes our panel. Thank you.

MR. NOLAN: Respondents would like to reserve the balance of our time for rebuttal.

MR. BISHOP: We sure will. Thank you so much.

Mr. Chairman, that concludes direct testimony from this panel.

CHAIRMAN KEARNS: Okay, great. Thank you all again for appearing before us today. Your testimony is very helpful. I think questioning will begin with me. Let's see, I guess I want to start with you, Mr. Nolan, the points you made about de minimis. I mean, one question I guess I have is, what you seem to be saying is the margins are only a little bit over de minimis and so, therefore, if we revoke the order, there won't be any recurrence of injury because the margins are just too small to be meaningful. Is that basically what you're saying? You may be on mute.

MR. NOLAN: Yeah, I was on mute. Sorry about that.

CHAIRMAN KEARNS: That's all right.

MR. NOLAN: So that's a piece of it. I mean, the history of the order indicates that a fair number of foreign producers, the major producers in Turkey that actually export to the United States have gotten zero rates in multiple review segments. And even in 2015, or 2014 to 2015, when the reviews were across the board zero percentage rates, that was not an impediment of any sort to Turkey rebar producers.

You didn't see really an impact on Turkey until the dumping order put in place. I can guarantee you Mr. Price is going to make me eat these words when we come back for the sunset review on the rebar antidumping order. But, right now, the answer to this is the dumping case and the 232 duties have had an impact on Turkey and have a significant restraining effect. That much is clear. What is not at all clear is if it had any impact --

CHAIRMAN KEARNS: Okay. But we're still talking margins are above de minimis and it feels a little bit like what you're asking us to do is set a higher de minimis rate than is set by, I believe it's set by statute. In other words, I mean, you want us to sort of say, yeah, 3 percent subsidy rate, that's not that much, if we revoke the order, everything will be fine. Well, hasn't Congress said a 3 percent subsidy rate is not de minimis and is the basis for putting an order in place? So why should we go against that?

MR. NOLAN: Right. Well, clearly, the Commission found with 1.25 percent that that was enough of a subsidy to put an order in place in the first place. So, clearly, you are correct about that, Commissioner. There's no question about it. The question for me is, is there a likely recurrence of material injury as a result of taking this order off? And given the history of it, taking into account the history of the way the order has been administered and how the administrative reviews have shaked out, would you really logically conclude that there is a significant chance of material injury recurring in the foreseeable future if you remove only the CVD order against Turkey, right? Does that create a cause and effect?

My view of that is that the CVD order does not itself have a restraining effect, has not had a material impact on the condition of the U.S. industry, and its removal is not likely to lead recurrence of material injury in the future, in the foreseeable future, particularly in the context of the AD order in place and the 232 duties in place. And contrary to what Mr. Price said about 232 duties being fuzzy, we've had them for two years and almost six months now and there is absolutely nothing on the record in the press or in any tweet that would suggest those 232 duties are coming off any time soon. I think we have to assume they're in for the duration.

MR. DOUGAN: Sorry, Matt. Chairman Kearns, if I may add something. I agree with everything that Matt said. I don't know that we're asking you to or that you have to find that any particular level of CVD rate is sort of by itself or a priori de minimis or make any finding on that. The question is, does the evidence that you have tell you whether there's been a restraining effect? And I think that, as Mr. Nolan said, the evidence suggests that it didn't. And have the CVD rates changed in such a way that might lead them to, you know, be larger and we could expect there to be a future restraining effect, and that answer is also no.

CHAIRMAN KEARNS: Okay. Let's see. Where to go from there. Well, one question I have is and I asked this of the Petitioners as well. Are these export subsidies we're talking about, or are they, you know, general subsidies? And if they are, to the extent they are export subsidies, those would be captured by the dumping margin, is that right? There's overlap there. In other words, assuming we do a normal calculation in a dumping case, the home market price, the U.S. price will be lower than the home market price by the amount of the export subsidy. So to what extent is there overlap between those two remedies?

MR. NOLAN: So I'll start us, but I'm going to turn it over to Bulent because he is our consultant. There is a small proportion of it that would be considered an export subsidy. They have an XM bank equivalent in Turkey that gives somewhat low-interest loans to put exports, but it's a relatively small number.

In the investigation, the predominant cause was the pricing of coal that they were purchasing from the government, which was used in powering the mill, the rebar mill, and the melt shop. And that's a domestic input, right? There's been some other small things, but, Bulent, do you want to comment on it?

MR. HACIOGLU: Yeah. Chairman Kearns, this is Bulent Hacioglu with TRC. As Matt said, I work extensively with most of the Turkish rebar exporters and in those CVD investigations as well. The CVD margins announced by the Commerce Department are largely general subsidies.

But I think it's very important to emphasize again what Mr. Dalbeler said in his testimony. Traditionally, the only major subsidy finding for the Turkish industry comes from the natural gas and there's been, actually, except for Habas, which is subject to a different order, nobody in Turkey, none of the steel producers in Turkey, are producing, generating energy from natural gas anymore. And as a result, I'm pretty sure there's going to be no CVD margins in the future reviews for the Turkish industry.

CHAIRMAN KEARNS: Okay, thank you. I wanted to turn to something else that, Mr. Dougan and Mr. Nolan, I think you both sort of suggested, which is to what extent has the order had a restraining effect, and I think it was you, Mr. Dougan, or I'm not sure, maybe it was you Mr. Nolan, who pointed out that, actually, what you didn't hear from Petitioners is imports from Turkey went up after the order was put in place, and that's an interesting fact and I'll take a closer look at that, although, you know, I don't know if their market share went up, for example, after. That would be an interesting fact. In other words, is it just because consumption increased?

But my question too is even if it did go up, given, as Petitioners point out, that price really does seem to be paramount here and the products do seem to be completely interchangeable, you know, even if volumes may have changed a bit from year to year, going up where you would have expected them to go down, how can it be that the order didn't have some restraining effect, you know, in this kind of a market?

MR. DOUGAN: If I can begin, Matt, and if you want to add on to it later, by just looking at the information in the C table, there is no total Turkey numbers. So I want to be careful of the individual subject, non-subject are broken out as BPI, but the market share, both the volume and the market share of subject Turkey and non-subject Turkey increased between 2014 and 2015. And, actually, in absolute volumes, the volume from Turkey that's subject to this CVD order increased by more. That's largely, I'm sure, a function of it representing multiple producers and not just one, but it certainly does not support the idea that there wasn't much of a restraining effect.

CHAIRMAN KEARNS: And just to carry that forward a little bit further, sorry to interrupt, but rather than looking at just 2014, how about, you know, the original POI? How did the imports in the years following, in particular in 2015 but I suppose 2016 as well, how did those import levels compare to the POI, import volumes throughout the POI?

MR. DOUGAN: I believe they were still significantly higher. I think I'm not off base here when I say that the Turkish volume and market share began the POI below Mexico and ended higher than Mexico. So my suspicion is that the growth from that period to, say, 2015, you know, remains, still would have remained still a significant increase. I can get back to you on that.

MR. NOLAN: Yeah, we can get back to you, but that is, in fact, the case. They did increase and, in fact, that was the trigger for the subsequent, part of the trigger for the subsequent dumping investigation that took place, right? So we had the CVD order that goes into effect in 2014, but then a dumping case starts in 2016 and the Commission has to go through the injury analysis all over again. And, of course, you did find the injury analysis, because Turkish imports increased on a volume basis, and that triggered the second order that we're dealing with now.

CHAIRMAN KEARNS: Okay, thank you. My time is expired. I believe Vice Chair Stayin is next.

VICE CHAIRMAN STAYIN: Thank you. The staff report at Roman 517 shows that subject imports from both countries undersold the domestic product in the majority of comparisons. The subject industries available capacity shows subject import volumes increasing in the first quarter of 2020 relative to the first quarter of 2019. Can you explain how increasing volume of low-priced imports would have no discernible adverse impact on the domestic rebar industry?

MR. DOUGAN: Commissioner, if I may begin with that. The difference in, as I pointed out during my presentation, the difference between the first half of 2019 and 2020 largely was not attributable to any of the trade restraints related that's under review here but rather to the Section 232. And in the first quarter of 2019, Mexico was subject to the 25 percent duty and Turkey was subject to the 50 percent duty.

When you got to the first quarter of 2020, Mexico was exempt from the Section 232 and Turkey was subject to 25 percent instead of 50. So you can trace the line directly between those two things in terms of what it was that was having that restraining effect.

In terms of its impact on the domestic industry, though, the domestic industry, their profits both in terms of percent of sales and in absolute dollars increased between those two periods. So whatever increase there may have been, it didn't have any impact that we can see on the condition of the domestic industry.

And let me just double-check. The domestic industry, yes, the domestic industry's market share also increased. So all the domestic industry's key indicators improved over those periods over which you see that increase that's between the interim periods.

VICE CHAIRMAN STAYIN: Thank you. You argued that the joint 232 agreement constitutes the level of subject imports from Mexico -- restrains, I'm sorry, the level of subject imports from Mexico. Yet, Table C1 shows the market share of Mexican imports increasing steadily beginning in 2018 through first quarter 2020, albeit at low numbers, but higher than earlier in the POR. How do you reconcile this? Does the 232 exemption for Mexico make the United States a more attractive market, as most other imports are subject to 232 duties?

MR. DOUGAN: Rosa, did you want to go first, or shall I begin?

MS. JEONG: Why don't you go ahead.

MR. DOUGAN: Okay. Commissioner Stayin, this is Jim Dougan from ECS. I think there are two things here. One, the restraining effect of the agreement is predicated on the existence of a surge and whether imports from Mexico exceed historical levels, and neither of those happened. So there was an increase, you mentioned it was larger than earlier in the POR, but it was also effectively zero earlier in the POR.

So imports from Mexico came in. It looks like a big increase because the base is so small. You know, if your denominator is zero, your percent increase is infinity, right? So I think a lot of it just has to do with how very small they were in terms of actual volume. And over this same period of increase, all of the domestic industry's indicators also increased, including market share.

And finally, I think, again, between the first half of interim of 2019 and the interim of 2020, you see the restraining effect because, when the exemption was granted again to Mexico, you saw the volume increase, but you could apply that in reverse and if the order were reimposed after a surge, you could see the volume go back down.

MS. JEONG: Yeah, I don't really have much to add. But this is Rosa Jeong, Greenberg Traurig. I don't have much to add, but you are comparing periods where it was effectively zero and also during the period of review when 25 percent duties were in place. So, naturally, when those, you know, when you're looking at 2020 after the duties were listed, there is a slight, very small increase, but I think, when you are looking at from zero to any small increase, it is, you know, percentage-wise it is an increase.

MR. NOLAN: You might also look at it from the standpoint that Turkey exited the market, right? Turkey left. When Turkey got hit with 50 percent, they're out of the market essentially. Now, you know, that tonnage was picked up by a lot of different countries. Mexico picked up a little bit of it because it had to go somewhere. Most of it went to Spain and Italy. But the fact of the matter is that when Turkey goes from, you know, 300 to 30, there's a gap there and you've just put a huge dent in the market in a very short period of time. Some of that's got to go and spread around.

VICE CHAIRMAN STAYIN: With respect to the 232 exemption for Mexico, does this provide for the United States being a more attractive market as long as you stay within the confines of that 232 agreement?

MS. JEONG: Are you speaking?

MR. ALTSCHULER: Sorry about that. Can you hear me?

VICE CHAIRMAN STAYIN: Yes.

MR. ALTSCHULER: Thanks, Commissioner Stayin. I think the answer is no, because the terms of the bilateral agreement that ended 232 duties on Mexico in exchange for Mexico dropping its retaliation against U.S. products was very clear and is very clear that imports won't exceed certain historical levels. And the two governments, and we can detail this more in our post-hearing brief, but the two governments are in constant active discussions to make sure that there's not what the two countries, especially the U.S., would consider a surge.

So it's not in any way a free pass for Mexico to increase its exports to the U.S. They're very much living with the understanding that a surge based on historical levels would result in renewal of 232 duties.

VICE CHAIRMAN STAYIN: Has that historical level been established? Do you know what it is? Is that a specific amount?

MR. ALTSCHULER: My understanding is that the two governments know what it is, but I'm not sure or I'm quite sure that I do not know what it is. If we find out anything more interesting, we'll certainly share with the Commission in the post-hearing.

VICE CHAIRMAN STAYIN: All right. Thank you very much.

MR. DOUGAN: Commissioner, if I can just add one thing to that, is that even after the increase, it's been observed in imports from Mexico, their market share is still below where it was during the POI. So, you know, I don't know what historical levels means either, but --

VICE CHAIRMAN STAYIN: Okay, but the governments know this. I think the companies and the trade lawyers would like to know what that is too. So, to the extent you can, Mr. Altschuler, please let us know.

MR. ALTSCHULER: We will if we can.

VICE CHAIRMAN STAYIN: With respect to the Turkish shipments, how have the safeguard actions on rebar taken by the European Union and Egypt affected Turkish producers' decisions on where to ship rebar?

MR. NOLAN: Murat, would you like to take a shot at that, or Bulent?

MR. HACIOGLU: Yeah, Matt. This is Bulent Hacioglu. I can answer that. The EU safeguards are in its second year and they're due to expire as of June 2021. And also, the safeguards allocated to Turkey was set based on the three-year historical average, and in that period, EU was not a major export market for Turkey. So it really didn't have a limiting impact on Turkish exports to the EU and, as I said, the safeguard measures are due to expire as of June, I mean, in nine months actually.

And RTAC in their brief cite to several other restrictions. And if I may just also explore that. They cite Morocco, for example. Morocco has never been a major export market; in fact, based on the last 20 years, they ranked number 62 in Turkish export markets. And also, actually, they don't mention the other trade investigations Turkey has been actually quite successful at. For example, Australia initiated a case against Turkey and all four exporters. They both got zero CVD margins and zero dumping margins and were exempted from the orders, and also, in Malaysia, one Turkish exporter got zero percent and the other exporter got 3 percent.

So they got the lowest margin among all the countries being investigated. So, actually, these trade investigations did not have a limiting impact. On the contrary, it's actually helping Turkey eliminate other competitors when other countries are also included in these measures. And, actually, I've been working with this industry for a long time and since 1998, there's been one crisis after the other. There was the '98 Asian market crisis and in 2001, there was the Turkish economic crisis. In 2008, there was a global economic crisis, but despite all of that, despite all the attempts to restrict Turkish exports via trade remedy investigations, including many brought by the U.S. industry, Turkey has been able to maintain their export volumes.

VICE CHAIRMAN STAYIN: Thank you very much for that. I'm out of time now. I'll talk again later.

CHAIRMAN KEARNS: Commissioner Johanson?

COMMISSIONER JOHANSON: All right, I would like to thank all of you for appearing here today. Petitioners this morning argued that prior to the antidumping duty and 232 duties in 2017 and 2018 a small CVD duty rate on Turkey had a major impact compared to no CVD duty at all, yet the question we have to look at is what impact would removing a relatively small CVD duty have given the AD and 232 duties? Does the impact of the rate of CVD duties increase in a linear way? That is, is the impact of going from zero to two percent the same as, say, the impact to going from 30 percent to 32 percent or would the import duties have a smaller marginal impact as duties grow?

MR. NOLAN: That's a good question. I guess the answer to that is when you get at a higher level you get to a point eventually where the duties become prohibitive and when you get 40, 50 percent, you know, basically an exporter looks at that and says, well, unless there's a huge, enormous profit margin we're out of the market. The difference between two and 32 is obvious to see. The difference between 30 and 32 is a little harder for me to show that that's a difference that makes a whole lot of, gets a whole lot salt, but, Jim, I mean, any news on your side about that, I mean?

MR. DOUGAN: Yes, Commissioner, that is a very interesting question. I'd like a chance to think about it more, perhaps can come up with something for post-hearing but I tend to agree with Mr. Nolan and I think you can also, again, sort of look at the evidence that you have which is what happened. I mean, petitioners made a lot about the change from 2014 to 2015 but as I pointed out earlier, you know, there was a significant increase in the volume and market share of imports that were covered by the CVD, not just the ones that weren't covered. So I don't -- I think our position would, is, that the removal of the smaller rate is not going to have any freeing effect because there was no significant restraining effect at the beginning but that is only strengthened by the presence of the AV/CVD from 2017 and the Section 232.

COMMISSIONER JOHANSON: All right, thanks for your responses there. I am also getting back to the petitioner's arguments of this morning. Petitioners this morning described how subject imports from Turkey increase less than non-subject imports after the CVD order was imposed which suggests that the CVD order had an effect. How do you all respond?

MR. DOUGAN: Sorry, if I can just go first. That's only true in percentage terms and absolute tonnage. The volume of imports from producers who are subject to the CVD order increased by more. The reason the percentage change was different is because the non-subject Turkish exports were at a lower base.

MR. NOLAN: I would direct you to Table 110 of the staff report which pretty shows a fairly robust increase whether you're included or excluded from the CVD order. It was -- you're talking about some percentage differences but not -- it was robust on both sides. If the CVD order was really going to have a significant impact on subject imports you wouldn't have seen them go up the way they went up. That's just to me what happened.

MR. HACIOGLU: And if I may add just one point when the 2017 dumping case was brought the targeted company at that time was Icdas and Habas. The Habas was not subject to the CVD order and Icdas was and their volumes were nearly equal and that's available in the public record at the time of the investigation.

COMMISSIONER JOHANSON: All right, thanks for your responses there. And this is a question for the Mexican Respondent parties. The domestic industry provides data from the National Institute of Statistics and Geography of Mexico showing a sharp decline in the production value for Mexican construction businesses in 2019 and 2020. This is in the domestic brief at page 14. Could you all please respond to these statistics?

MR. GUERRA: Yes, this is Antonio Guerra, Deacero. Yes, Commissioner, as we mentioned the nation reports show the large construction and formal construction companies of Mexico. Normally the data comes from large construction projects. Significant part of residential in Mexico, which is made out of concrete by the way, not wood, most construction in Mexico is made out of concrete and bricks and they use rebar, the informal part of the economy, or what we call the self-construction part of the economy, which doesn't mean that an individual is being in control. That can be the case but it can be an individual that hires a small crew of maybe an architect and a contractor and he builds his own house. That data is not shown in the initial statistics.

Actually our own data from the current sales we compare projects or private projects to this year's results and what has been the result of the self-construction market which goes basically through distribution has increased. So, yeah, the formal data that the record shows shows that decline definitely but it has all the data, all the parts that go through the self-construction or informal construction is not shown there; so that skews the information.

Also another part of the data that isn't going to be shown there is that the government is promoting a very strong self-construction program for the low income states of Mexico in which they are assigning a significant amount of money that is going to go directly in debit cards to the home owners and they will be used to use that money to build houses, to rebuild, to build a new house or most probably to maybe add a room to his house or something like that so all that doesn't show into the statistics, but definitely it shows in the flow of product that goes through that type of residential construction, or I would say popular housing construction.

MS. JEONG: And if I may add, this is Rosa Jeong, and also from what I understand, and correct if I'm wrong, Antonio, is that the data is not also showing the large consumption they're expecting from these long term government projects and I know that, the witnesses in some of the statements mentioned that they characterized those big government projects, the airport, the refinery and the train rounds to be small projects. That’s not the case. And perhaps, Antonio you could add a bit more about what you think of the consumption would be for those commercial projects.

MR. GUERRA: Yes, thank you. Actually there was a mention that either those projects were either cancelled or have been delayed. Basically the three main projects of infrastructure in Mexico are the Santa Lucia airport, the routes, Mayan train routes or route and the refinery. Just those three projects with the, they’re just starting. The airport is the one which is a little bit more in stage two. The other ones are just in stage one. They’re just starting, the first flow of product is starting to go. They’re just working on the foundations right now and the estimation just based on the actual numbers that we have seen and the actual drawings and blueprints that we have seen we’re talking about more than a half a million tons of rebar going to those projects and those have not happened yet. Those will happen and those will, of course they will not happen in a short period of time. They will happen within this year and next year and they’re just starting so we definitely expect a significant amount of business at the country and the demand will increase. It will take a significant amount of the production capacity of Mexico just to fund those projects in Mexico.

COMMISSIONER JOHANSON: And, just to inform me, the Mexico City airport is that project off?

MR. GUERRA: The original one is off. They cancelled that one and they started building a new one. The new one is called Santa Lucia. That is in --

COMMISSIONER JOHANSON: Okay, so that's Santa Lucia then?

MR. GUERRA: Yes, Santa Lucia is the one that is going on right now as we speak. The first one was cancelled, yes.

COMMISSIONER JOHANSON: Okay, well, my nine minutes are up and so I'm going to move on to the next Commissioner but thank you for your responses.

CHAIRMAN KEARNS: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Yes, thank you, I'm here. Thank you and I apologize again that our, my wifi, it's not been restored. Apparently it's an issue in our, quote, "area" and they hope to have it restored soon but I have not been able to get back on yet, so -- but I have heard all the arguments so let me start with some questions for the Turkish producers.

I wanted to follow up on a couple of things that you argue in your brief. At page 16 you argue that you are "largely shut out of large portions of the market controlled by the domestic industry due to the domestic industry's vertical integration," and I wonder if you could elaborate on that? What parts of the market do you feel you're shut out off and how does it relate to their vertical integration?

MR. NOLAN: So, I will start and Leah if you want to chime in on this please do. You know, there has been increasing concentration in this industry over time and we're not saying it rises to the level of antitrust behavior although Mr. Kaplan seems to want to exaggerate it. What we're saying is it has become more concentrated and it has become more vertically integrated and the rebar producers have their own fabrication operations that they are supplying and it shows up in the staff report both in terms of the internal sales to related parties and to the pricing that goes on to those related party transfers that are taking place, and the Commission can review those.

The other side like to say that there is no price differential as a result. I'm not sure I agree with that based on what's in the staff report but let's assume that is true for a minute but there is another factor about this that gives them an advantage. They are supplying their own fabrication downstream operations with rebar for a certain percentage of their stock and you can say that it isn't price sensitive but if you look at the Nucor 2019 annual report it states, and I can quote, that there is an up to one year backlog for their orders going into the U.S. market for unaffiliated customers but that doesn't apply to their transfers to their affiliated customers. In other words, they're not standing in line the same way as an unaffiliated customer does.

Now, what does that do? It gives them an insulation because their buyers, their fabrication facilities downstream get first dibs from material and if there's a shortage of material who gets it first, their internal operations do. That would be a tendency, if I were in business I would want to do it that way too, honestly, because I've got to feed my own profitable downstream operations if I can so what's happening or should be happening, I think, is that they're giving a preference to their downstream production operations in rebar fabrication business that's soaking up a certain amount of the business and in the end what happens is if there's less material on the market it tends to change the price in the spot market and drive it up.

COMMISSIONER SCHMIDTLEIN: Okay, I would invite the Petitioners to respond to that in the post-hearing brief. Let me go into another argument that the Turkish producers refer to which is the Buy America and the, what's it called, let's see, yes, Buy American, I guess preference program but you all refer to these things as barriers as reserving a segment of the U.S. market market to domestic producers, and so my question is given that these have been around for a while what would be the basis for the Commission to come to a different conclusion than it did in the final investigations regarding the effect of these programs? Has something changed, in other words?

MR. NOLAN: I would not say they've changed, Commissioner. You make a fair point. I think the point we're trying to make with that is, that the Buy America Act and buy local restrictions as Mr. Price acknowledged is a price preference and so a higher price gets charged on those projects so the US, which is reserved to the US, but that price preference is able to charge a somewhat higher amount for those transactions. Now what does that do to your average unit price analysis or your pricing analysis if a certain percentage of the market is subject to a 20 percent increase and that goes into the pricing data that you're looking at it tends to create and inflate an underselling analysis. I'm not saying it's a huge number but it's certainly a factor and it should be factored in when you consider underselling. If 15 percent of the market is going to Buy America and that part of the market gets a 20 percent plus price preference what does that do to the pricing analysis?

COMMISSIONER SCHMIDTLEIN: And do you know whether for sure whether those sales have been captured in the pricing product analysis?

MR. NOLAN: Mr. Price and the others in the petitioner group said this is a simple product. There aren't that many models of it, right? You've got a fairly few number of sizes and lengths and everybody sells it apparently and it's a commodity product and it's interchangeable so my position is that's what they said and that makes sense to me.

COMMISSIONER SCHMIDTLEIN: Okay, all right, let me switch gears and talk to the Mexican Respondents.

Deacero's pre-hearing brief on page 12 implies that importers of subject imports from Mexico cannot serve as many geographical areas as importers of subject imports from Turkey. What is your basis for that if that indeed is what you're intending to imply?

MS. JEONG: This is Rosa Jeong. I'll let them, well, we can only speak about our own experience and Miguel Bazan will add a little more color to that but if things, you know, the data does show with respect to the overall industry data that where Mexican imports are concentrated versus where Turkish imports are concentrated so I think there is a clear, distinct pattern and Miguel could share a little bit more about his own experiences.

MR. BAZAN: Hello, this is Miguel Bazan from Deacero, yes. As a matter of fact most of the Mexican sales are very close to the border and we are focusing more on the states that are close to the border like, that can -- in the West, and basically when we compete with the Turks for export basically only in the Texas and a little bit on the central, but the Turks are basically more on the east and we are more on the west end, and basically we only compete on the middle of the country.

COMMISSIONER SCHMIDTLEIN: So you don’t attempt to compete, are you saying that you absolutely don’t attempt to compete in the other parts of the country or that you’re just in the, it sounds like in the, do you say you’re concentrated more in the central, what you would call the central part, right, Texas?

MR. BAZAN: That is correct, yes, the central part in the middle, in the middle of the United States and the west, and the Turks are more concentrated, they’re also in the center but they're also found on the east side. They also sell in the east. We don’t sell on the east.

COMMISSIONER SCHMIDTLEIN: You don’t sell in the east. Go ahead.

MR. DOUGAN: Okay, sorry. There is, it’s Exhibit 7 to Deacero or the Mexican Respondent’s pre-hearing brief has some information about specifically which state, it is a concentration. The numbers aren’t zero everywhere that doesn’t border Mexico but there is a significant concentration along the states that border Mexico.

COMMISSIONER SCHMIDTLEIN: All right, let me switch back to the Turkish producers and I'm not sure if you want to, you can comment on this now but if not please do so in the post-hearing. Can you talk about in more detail the specific instances of the buy constraints that are mentioned on pages 12 and 14 of your pre-hearing brief?

MR. NOLAN: Leah, unless you want to comment then I think we'll talk about that in the post-hearing. I don't actually. I'd have to pull it up and find it. I've got so many papers in front of me right now.

MS. SCARPELLI: Yes, I think we'll follow up on that in the post-hearing. I'm pulling it up as well.

COMMISSIONER SCHMIDTLEIN: Okay. All right, let's see.

MR. BISHOP: You have one minute remaining, Commissioner.

COMMISSIONER SCHMIDTLEIN: Oh, thank you. I wondered how much time was remaining. Let me ask about direct imports. Are direct imports a significant issue in this market? In other words, purchasers instead of buying from importers they're buying directly from foreign mills?

MR. NOLAN: Yeah, I mean most of the Turkish material is going to go to stockers or distributors, right.

COMMISSIONER SCHMIDTLEIN: It goes to distributors.

MR. NOLAN: Right, Murat? Or are they customers, primary, are you mostly selling to --

MR. CEBECIOGLU: Yes, Murat Cebecioglu from Icdas. Thank you for this question, Commissioner. We are, in general, one of the biggest producers in Turkey for rebars and we do sell to US and our main buyers are, as Mr. Nolan just said, are either traders or distributors and they buy and they distribute there. And that is what basically we have been doing for all of these years. We don’t have direct customers and we don’t deal with some of the larger companies. We deal with the guys who are buying from you and we don’t do that, just distributors we sell to.

MS. JEONG: And this is Rosa Jeong, with respect to Mexico the two main exporters to the U.S. market which are Grupo Simec and Deacero, who’s here today, and they both have affiliated importers in the U.S. market which they’ll sell through and as we discussed in our brief and our arguments that they also sell to predominantly to this distribution segment of the market.

COMMISSIONER SCHMIDTLEIN: All right, thank you very much. I think my time is probably close to being up now.

CHAIRMAN KEARNS: Thank you. Commissioner Karpel?

COMMISSIONER KARPEL: Thank you. What are the current antidumping margins and cash deposit rates on imports of rebar from Turkey?

MR. NOLAN: The current for the dumping case, the most current review --

COMMISSIONER KARPEL: Yes.

MR. NOLAN: -- is at zero.

COMMISSIONER KARPEL: Okay. So can you explain to me in light of that how the restraining effect on import volume that you argue would exist from the antidumping duty order? Do you see how it gets to there? It doesn't seem like the margin is going to have much of a restraining effect.

MR. NOLAN: So in the initial order, the initial investigation, it was nine plus percent for the main producer and 7.4 all other's rate, right. The all other's rate remains in effect and the, how shall I say it, the interim effect going back to nine percent is still quite live in the minds of all buyers of that product in the United States.

So let's assume for a second you're a U.S. purchaser and you're looking at who you're going to buy from. You've got five years of reviews on the CVD case, where most guys are getting zeros or one or two percent and it doesn't seem like it's affecting you very much. But then you have this dumping order out there and there was a nine percent number hanging out there, right. And so in your mind, you've got that number and they've got a good review, this past review, but that's just one review cycle and you're in the middle of another one and there might be another big margin coming up on that. So we don't know what's going to happen. If you have three or four years of that, you might say, well, that sounds like a safe bet, but not in one year. If you layer on top of that the 25 percent current duties on 232, then you've got a huge amount of uncertainty you've created in the market.

You know, the Turks are able to compete at a level with 25 percent because most of the industry, most of the imports are cut subject to 25 percent, right. The field is relatively level for us, relative to other parties that bring in from other countries. Spain, Italy, whatever, they're all paying that 25 percent we are. So the price level goes up, but you can compete. At 50 percent, they can't compete at all, right, because they're the odd man out.

So the dumping order, the combination of the dumping order with that nine percent hanging and the 25 percent on the 232 is really to me what causes people to pause and be concerned. And relatively speaking, the collective impact of multiple investigations against Turkey, do you really want to trade with a country that keeps getting investigated over and over again and has all these potential duties hanging around or do you go to a country that doesn't have that issue associated with it? I'm not saying it's preclusive by any means, but it does make it more difficult for them.

COMMISSIONER KARPEL: But your saying the uncertainty that the margin will stay at zero is a matter of --

MR. NOLAN: Let me back up. Let me back up.

COMMISSIONER KARPEL: -- is the restraining effect of the antidumping duty order on import volume from Turkey.

MR. NOLAN: Yes. Now conversely with the CVD order, it's never been very much, right? I mean the predominant numbers, if you look at the history of that order, one percent, zero percent, one percent, two percent, zero percent, there's no pattern that would suggest that's a material impediment.

COMMISSIONER KARPEL: Yes, go ahead.

MR. HACIOGLU: Commissioner Karpel, this is Bulent Hacioglu, TRC. As Matt said, it's zero for certain Turkish producers, but the all other's range or most Turkish producers remain that 7.26 percent. That applies to Demir Group, which is one of the largest producers in Turkey, Kardemir, IDC, and unlike the all others rate at CVD is 1.25 percent. So it covers only four producers that have been exporting in the most recent period, the '08. For most of the industry, the antidumping rate is 7.26 percent.

COMMISSIONER KARPEL: Okay, thank you. I want to clarify your argument here with respect to the restraining effect of the AD order and the 232. Are these arguments supporting a position that there will be no discernible adverse impact for cumulation purposes or is it supporting an argument under volume, there won't be a likely volume increase?

MR. NOLAN: I think it goes to both. The discernible impact is that you have 25 percent and if you're in the all other's region they're dumping another 7.2 percent, so you now have got 32 percent import duties on a lot of the stuff coming in from Turkey, which is going to restrain volume, right? It also suggests that that has a far more important impact in restraining the market than the current and more recent zero percent, one percent, two percent, zero percent numbers you're getting out of the CVD order.

What does the CVD order actually accomplish in view of everything else that's going on in the environment involving Turkish imports, right? The evidence indicates that the CVD order after it was imposed did not impact or restrain volumes from Turkey. And as Mr. Dougan's slides pretty poignantly indicate, the volumes from Turkey were greatly restrained and dropped 35 percent plus per year when the dumping investigation started and when that dumping order got put in place and accelerated even further when the 232 duties got put in place.

Now, you know, the U.S. likes to say, well, look, there were 30,000 and they've gone back up to 400,000. That is true. Thirty thousand is almost a zero penetration rate into the U.S. market. Four-hundred thousand is less than the

Turks were bringing in back in 2011 or '12, I think. So, you know, you're talking about relative levels. Remember at the height when Turkey was being investigated in the 2016 dumping case, you're talking 1.4 million tons coming in per year. We're talking a fraction of that number now.

COMMISSIONER KARPEL: Okay. So another question and we talked a little bit about this already, but the increase in imports through both countries Mexico and Turkey and from interim 2019 to interim 2020, I heard your response or response from Mr. Dougan about the role of 232 duties in that. But I wanted to ask when we saw that increase, it looks like the increase is coming at the expense of non-subjects, but non-subjects declined significantly in that period. Do you know why that is?

MR. DOUGAN: I don't have -- Matt, yeah, I was going to say I don't know, but I'll look into it and perhaps it may have to do -- well, you know what, I don't want to speculate. I don't really know, but I'm happy to look at it more, perhaps the industry folks would have a better sense.

MR. HACIOGLU: This is Bulent Hacioglu, TRC. One reason, especially for the European producers, was -- were less interested in the U.S. market was the safeguard measures imposed in the EU. So the quantitative restrictions in the EU created an additional need for the European rebar. And in the U.S. the result, Spanish and Italian producers who took most of Turkish market share along with the U.S. producers were less interested with competing with other sources in the U.S. market.

MR. NOLAN: I'd also say, I'm looking at the data web, and we'll put this in the post-hearing brief, but I have the data web imports as public data I'm looking at and it shows from 2017, for example, Spain and Italy were running about 150,000 metric tons. In 2019, it was 250, 350, 420 and in interim 2020 or interim 2019 it was still 250 and then you're back down to 104 in interim 2020. So what's happened to me is when Turkey got completely knocked out, the volumes had to go somewhere and the Italians and the Spaniards came in because there's an opening, right? The Turks can't bring any volumes in. They're out of the market. They're down to 30,000 tons from, what, 300,000 or more. So there's a market. They come in because the market is very hot and it's very high for them. Then the duties go back down to 25 percent to Turkey after August of 2019. Then Turkey has the ability to compete on the same level playing field as the

Italians, as the Spaniards, and you have the EU safeguards in place, so they pull back out and Turkey fills that void back in again. So it is a replacement of non-subject.

COMMISSIONER KARPEL: And do you see that increase through first quarter 2019 to first quarter 2020 as sort of a temporary increase that are responding back to 232s going down on Turkish imports and going away for Mexican imports or do you see -- I'm sure Petitioners think it's a trend in which if you keep going upwards, but what can you say to support a view -- is your view that it's more of a temporary to step up back to maybe a more level place?

MR. DOUGAN: I'm sorry, if I can answer with respect to Mexico. They have a disincentive to continue on anything resembling that trend. What their increase to define as a surge and the 232 is reimposed, which will push them back down to those 2019 levels. So they may increase, but this is not a beginning of a long upward slope. This is a temporary increase that has to deal with the listing of those -- putting that exemption in, in the first place.

MR. NOLAN: For Turkey, it's a return from basically exiting the market when the 50 percent duties were put in place, right? The question is at what level do the

Turks come back into. And if you were to look at the data from back in 2017, they're only coming in at a much lower level than what happened before the AD and the 232 levels got put in place based on the current data on the record for interim 2020. If you look at it, we may be looking at 500,000 tons a year, whereas they were working 800,000, a million tons before. I don't think it's going to go up from that simply because the trend line shows -- and Murat, Bulent, and Ugur, you can comment on this because you guys are the ones selling this stuff -- is that the import orders coming in are a lot smaller than they used to be.

MR. CEBECIOGLU: Yes, Murat Cebecioglu from Icdas. It's correct, we have started to ship to U.S. market, but we cannot bring in as much as we used to do. We have, you know, it's been several, you know, Italians, Spaniards, and Algerians took on those and once our 232 rates are lowered back to 25, we were able to get into the market. But in this time, during this time we were able to focus in some other markets, in our regional markets, Yemen, Israel, Hong Kong, Singapore. They are very active and I think we will be active. We have orders coming in. And in U.S., we don't have as much customers as we used to have now. Our portfolio has shortened and not many buyers. And one of our best buyers used to buy every month; but today they buy every other month). So I don't think we will see the numbers we had earlier. There's no way we will see those numbers.

MR. HACIOGLU: And this is Bulent Hacioglu here again and I think we should not forget the psychological impact in the our market. When the Section 232 duties for Turkey was raised to 50 percent, not once, but twice, a lot of buyers, especially the newer customers, the newer buyers of the Turkish rebar producers are thinking, why should I take that risk? Who guarantees that with another tweet that the rate is going to go again to 50 percent? And then Turkey is only able to sell to the most loyal customers with which the producers have a longstanding relationship with. There's no way Turkey can go back to the volumes in 2016 and 2017, even if there were no dumping or CVD duties.

MR. DALBELER: Hello, this is Ugur. I find it's something. I mean, I've been selling in the U.S. for the last 30, 35 years. I've started selling with the wire rod, then rebars, and I'm also selling HRC for the time being. And if I could just mention, we have lost a greater confidence when the administration doubled the tariffs overnight. And as a company, we've lost $10 million because of our two boats were about to unload their goods when the declaration was signed. Ever since, of course, things became so difficult for all of us, for exporters and importers as well. And that's the reason I will never allocate over a certain quantity of my sales into the U.S. U.S. is a good market for us. It's an important market, just like the European Union, the reason being we're talking about the two biggest markets of steel in the world and the most favorite economies. So U.S. will always be in our portfolio, but it's not going to have that same importance as it used to be because we will always have that fear in the back of our minds that we might get hit unfairly, unfortunately, at any time. So we will try to take a risk at a certain point, not beyond that. Thank you.

COMMISSIONER KARPEL: Thank you.

CHAIRMAN KEARNS: Thank you. I guess just to continue on those same lines, in what I remember from staff report is almost always fails I think are spot sales, short-term sales, not long-term contracts. So can you just speak a little bit more to given that, how much of a risk is there -- well, first of all, I mean, how much of a risk is there that we're going to have 50 percent duties imports again or even separate duties on Turkey given that Court of International Trade decision?

And apart from that, I mean, you're still talking about short-term contracts. So if you could just help me understand why I wouldn't want to buy Turkish rebar because I think there's going to be a greater risk there. When it's a short-term contract and the price is the price and I'm getting it, you know, soon, I don't see a real risk there.

And then more generally to the question, I mean it seems to me -- I think Mr. Dougan had a slide up towards the end of his presentation, I don't have a number on it, but I think it's Petitioner's graph proves -- it looks to me, and I think we would all agree, that 2020 is a better indicator of what imports look like right now versus 2019 because, you know, we now have Mexico, you know, exempt from 232. We now have Turkey back at 25 percent.

So if you could just answer some of those two baskets of questions. You know, one is, you know, how much uncertainty is there really when you have short-term contracts and when you have the Court of International Trade case saying you can't give Turkey a different rate?

And the broader question, isn't 2020 a better basis point to see -- to expect what volumes will be like from these two countries rather than 2019?

MR. NOLAN: So, I'll start. Since I am Plaintiff's counsel in the 232 case, I suppose I probably know a little bit about what's going on.

CHAIRMAN KEARNS: Congratulations.

MR. NOLAN: Thank you very much. But, you know, the fat lady hasn't sung on that case yet. We haven't had an appeals for the federal circuit yet. We don't know what the Justice Department is going to do. Are they going to challenge that decision? That case was brought to recover a large amount of duties that were paid by the Turks on boats that were on the water for orders that were already confirmed, that they could not pull back, and very many, many millions of dollars in duties were paid and as a result, which I am now seeking to recover on their behalf.

But what does that do to the market dynamic of your buyer when the ship is coming into port and the next day duties are 50 percent? Somebody has got to pay that. You know, buyers have memories. I have memories, too. If you were buying something and all of a sudden the price that you had to pay for those duties doubled overnight and you were stuck with that, you know, psychologically it has to have an impact. Now I'm not saying it's going to last forever. And, Commissioner Kearns, you're right, you have some skepticism about exactly how far that goes.

I will say that the 25 percent duties that exist today have a significant price break or control factor associated with them, right. The United States has an automatic 25 percent advantage on pricing into the U.S. market. When you look at Turkish prices on an FOB basis, you've got to add the 25 percent to those and that's the real price in the U.S. market. So the U.S. has an automatic 25 percent advantage.

I fundamentally have difficulty understanding why that isn't enough to keep them from having a problem in the future. I have no doubt that these duties are going to stay in effect for a very long period of time. There's nothing that will suggest that they're going to anywhere else. As far as whether the duties go back up again, if I could figure out what's going on in this administration's mind, I would be a very rich man right now. But I don't think I have any idea what policy is going to be like in the foreseeable future, the way things have gone for the past three years. I will not try to extrapolate.

CHAIRMAN KEARNS: I don't have any follow-up on that 2020 versus 2019. It seems like that's a better basis upon which to judge what will happen with imports going forward.

MR. NOLAN: And I think you can look at the levels that are coming in now and look at those relative to where we were back in 2017 and you will find that the stabilization level is at a much lower place than where it used to be.

CHAIRMAN KEARNS: Thank you. And, actually, this is just a question for Petitioners, following up again, and I think it was you, Mr. Nolan, who pointed out that that would seem to have an impact on our pricing product data and perhaps suggest greater underselling than we might -- or we should at least take that into account, so I'm hoping the Petitioners can respond to that post-hearing.

MR. NOLAN: I'd also like to make sure we take into account that the 25 percent duties have an impact on it because we're looking at FOB values again. So just think about what happens to the underselling analysis when you change the numbers and add that 25 in. It makes a big difference.

CHAIRMAN KEARNS: Okay. Fair enough, although -- yeah, okay. Fair enough. Let's see. Turning to Mexico here a bit, Petitioners claim in their pre-hearing brief the Mexican capacity and production numbers are underreported in the staff report. They list Ternium, Tidyeras (phonetic), de Acielos (phonetic), and for Jeff Doss and Grupo Acerero as Mexican producers who did not provide questionnaire data. They also claim that responding Mexican producers underreported their capacities. How do you respond to these claims? Can you provide estimates of capacity and production for these or any other non-responding producers?

MS. JEONG: I think, first of all, we'll look into providing an estimate as to capacity and production of the Respondents, of the producers in Mexico's post-hearing brief. But I do want to say that we do have fairly good representation with respect to you have the largest from my just informal knowledge, you have the largest producers who have responded and we do have virtually 100 percent of import data of the exporters from Mexico. And I think Antonio could respond to there's no basis -- and I think Antonio mentioned in his testimony that there is no basis on the reporting producers that there is any underreported capacity. I think their allegation that I understand is related to a new ruling there that was put into place in Deacero's plant. But there is no increase in capacity. There's a real line in the capacity where certain part of rules of production were moved from one place to another and for better efficiencies and logistics. But there was no increase in capacity and there was no underreported data by part of this or anybody else.

CHAIRMAN KEARNS: Okay, okay. And then --

MR. DOUGAN: Sorry, I thought Antonio was going to answer there. If I may, Chair? One thing that I want to point out is that in the staff report, I believe it's 204-12, I think there is an error with respect to capacity for Mexican producers in the interim periods. We know that one Mexican producer reported full year capacity for the interim periods, and you can imagine what that does to utilization rates. So I think it would be -- well, we pointed this out in our brief, but I think it would be helpful to look at the calculation that we did to try to correct for that or perhaps staff is already following up with them to correct that.

CHAIRMAN KEARNS: Okay. Thank you. And this is for both Turkey and Mexico. You have already the Turkish producers, well, now also Mexican producers, now have customers in other export markets. So there's no reason to think imports to the United States will grow meaningfully. But Petitioners point out that U.S. AUVs are much higher, U..S prices are much higher. How do you respond? And it doesn't look to me like this is a market where long-term contracts lock in and supply those relationships, so it seems like it would be pretty easy and fairly lucrative to move from supplying other markets to supplying the U.S. market. How do you respond to that?

MR. NOLAN: You want to go, Rosa? Go ahead.

MS. JEONG: I'll just start off on the Mexican side. As Antonio mentioned in his testimony, you know, at least at Deacero and, to my knowledge, a lot of the Mexican producers, it's not just about AUVs, that for Deacero, they made a conscious effort to diversify their market, in part because of things like 232 in the U.S. market that made things unpredictable and uncertain. So, you know, they learned their lesson and they're not putting all their eggs in one basket. They spent a number of years to diversify, develop markets in Central and Latin America, and they're not going to snap their fingers and stop doing that, having diverted a lot of time and money into those markets.

And pricing, you know, I mean, we're looking at AUVs, which is, you know, a little bit tough to determine whether pricing on a product by product level basis is more or less expensive, but prices do move up and down from market to market and, you know, it's more of a business strategy for a company like Deacero to diversify in order to reduce risk and uncertainty in any one place, and there's no plans for, you know, the Mexicans to change that strategy in the foreseeable future.

MR. GUERRA: Also, let me just add to that that our presence basically in Latin America, we have very few countries where we participate in Central America. And in those, as I mentioned in the statement, we developed long-term relations and agreements with a whole list of distribution. We even have people living in those countries. So in terms of, since we don't have that much excess capacity right now, basically, we are focusing on those, what we consider strategic markets. We're not looking for just where to locate capacity at this point, especially with the expected growth of the domestic Mexican demand. So that's pretty much our approach to the other markets, to other countries.

MR. DOLAN: And there I'll just add this, that they're limited in the amount of -- even if they decided that they did want to take advantage of this arbitrage opportunity or potential arbitrage opportunity and disregard every strategic reason that Antonio just mentioned, they're limited in how much they can shift in terms of volume without triggering the surge provision and then being subject to the 232 again, which would eliminate their advantage vis-a-vis other exporting countries.

CHAIRMAN KEARNS: Okay, thank you. My time is up. Vice Chair Stayin.

VICE CHAIRMAN STAYIN: Yes. With respect to cumulation, which is an issue that you both have raised, regarding the no discernible adverse impact standard in our cumulation analysis, discernible seems to be a low bar. The dictionary defines it as able to be perceived. The high degree of substitutability among subject imports and the domestic product and the importance of price in purchasing decisions may make it easy for low-priced imports to gain sales, as the Commission found occurred in the original investigations. Given the commodity-like nature of rebar and continued underselling by both Mexican and Turkish imports, would any appreciable volume of rebar shipped to the United States, in the event of revocation, be likely to have a discernible adverse impact on the domestic industry?

MR. NOLAN: I'll start for Turkey. It is our position that it would not have a discernible impact if the CVD order removed because the CVD order simply has not had a discernible impact on volumes or pricing in the market post-order. If you look at the import levels in 2015, they all went up. Whether you were subject or non-subject from Turkey, they went up. If you look at the pricing data, it does not reflect any changes as a result of the CVD order coming into place. It does show a huge change after the dumping and the 232 duties were put in place. You will see unit price changes in the pricing series if you look at it with that lens in mind. But you won't see it with the CVD order on Turkey in place. Since it had no discernible impact on the market being put in place, it won't have a discernible impact if it's taken off, particularly in the context of a dumping order in place, with 7.5 percent covering a large section of the market and a 25 percent 232 duty in place which clearly has had a limiting, controlling impact on both volumes and pricing.

MR. ALTSCHULER: Jim, would you want to talk about the lack of a causal relationship and go from there on the question of --

MR. DOUGAN: Sure, yes. Irwin, thank you. Commissioner, Vice Chairman Stayin, Jim Dougan from ECS. I think, with regard to Mexico and in terms of discernible adverse impact for Mexico alone, I think it's instructive to look at the record from the original investigation and in terms of what could be attributed to the impact of Mexico by itself when not cumulated with Turkey, and what you see is the Commission found price effects only with regard to underselling leading to a shift in market share. But the imports from Mexico only gained one tenth of a percentage point in market share. I suppose that's perceptible in that, you know, you don't need a microscope to see it and it's not zero. But is it material? I would argue it's not. A 55,000 ton increase in the context of a market that increased by 1.2 million tons I would argue is absolutely not significant. This is again with no trade remedy in effect at all. No 232, no orders of any kind.

The other is while the numbers specifically are

BPI, the record with regard to lost sales and revenues also did not support injury by reason of imports from there and Mexico alone. So, just in the POI, Mexico by itself, you don't have the basis to conclude that it's going to behave in such a way now even if there was underselling. But, if that underselling only led to a tenth of a percentage point gain in market share, that's not very much.

The pricing behavior didn't change all that much under the orders. There's still underselling. In this case, over the POR, they did gain market share from zero, they're still below their POI levels and the domestic industry also gained market share and all the profits and employment and everything else went up. So I don't think that there's anything that you can point to either from the original investigation or from the POR that suggests that Mexico by itself is going to have a discernible adverse impact on the domestic industry.

VICE CHAIRMAN STAYIN: Okay. Thank you. And the other one, you want to comment?

MR. NOLAN: On the discernible impact?

VICE CHAIRMAN STAYIN: No. I thought Jeff wanted to --

MR. NOLAN: Right.

VICE CHAIRMAN STAYIN: Okay. Since the AD and CVD orders, would increased volumes of rebar from Mexico and Turkey be likely to displace imports from other sources that are subject to the 232 restrictions rather than displace domestic industry volume?

MR. NOLAN: Clearly, the answer seems to be yes from the data that I'm looking at. I'm just looking at data web information off the Commission's website on rebar imports. You had a huge increase in material coming in from Spain and Italy. They became the number one and number two exporter to the U.S. starting in 2019 it looks like, and they've retreated significantly back now. And so what you've had is just a shift in the Beck chair, subject versus non-subject in large part.

VICE CHAIRMAN STAYIN: Any other comments? Go ahead.

MS. JEONG: Not much for them. We agree with everything that Mr. Nolan had said. But, you know, our position is also that there is then going to be a lot of displacement because for all the reasons that we discussed, imports from Mexico is not likely to increase significantly.

VICE CHAIRMAN STAYIN: Okay. Discussing the vertical integration in the United States, I think this was talked about earlier, but it is significant where they are integrated terms from the purchasing of the scrap all the way down to the selling. In terms of being able to sell in the United States from the concentration in certain companies, how difficult is it to sell rebar in the United States in competition with the U.S. industries?

MR. NOLAN: So, Ugur, Murat, would you like to comment for Turkey, or, Rosa, do you want one of your folks to talk about it?

MS. JEONG: Miguel, maybe it's something you could add a little bit about how we normally sell to. I mean, as we mentioned in our testimony, in Miguel's testimony, that there is for the Mexican imports, there is very little direct head-to-head competition with U.S. products because of the limitations that we face. Miguel, do you want to add a little bit?

MALE VOICE: You're on mute, Miguel.

MR. BAZAN: I'm sorry. Yes, actually, our main segment that we targeted to be traditional levels, most of the fabricators related to the districts would only buy from their related companies. So most of the public participates on the data in section two products for reasons they need to be domestic still. For this reason, they don't buy imports because they would need to maintain separate inventory if they were to buy imports. So public companies don't maintain extensive inventory and this general sector is already tight. The way we sell there (technical interference) Mexican imports are usually shipped by rail, we could not meet the request to deliver on schedule and find enough fabricators for the order and in a number of different types, grades, and lengths of product in quantities that are less over normal production costs. I don't know.

MR. DOUGAN: I agree. I mean, demand is generated by the fabricators because they are the ones who are in contact with the real consumers and these fabricators being related to the producers, the rebar producers, domestic, means, of course, it makes very limited for us to reach the independent ones.

VICE CHAIRMAN STAYIN: So you basically sell to sellers, distributors rather than direct to fabricators?

MR. DOUGAN: Of course, we're selling to the stock holders or distributors who have contact with the independent fabricators. But, again, the fabricators are the one who will have the connection with the consumers.

MR. NOLAN: I mean, you know, I point the Commission to look at Table 3-11 of the staff report on internal transfers and the percentage of material that is going to related parties in this. It's not insignificant, number one. Number two, it's naturally good business. You know, if I have a downstream operation, I am going to want to supply that operation first because it's my operation, right? It's my profit index that we're talking about. Everybody takes advantage of their own on their own special competitive advantages. Turkey takes advantage of the fact of their logistics position right on the water, on the Mediterranean. They build their mills right on the water. They have their own port. The scrap comes in, goes straight into the mill. Rebar comes out, goes back in the boat and comes back out. It's very efficient on the logistics side.

The U.S. does it differently. We integrate vertically scrap all the way down into the downstream rebar application and it's been going on for years. We had this argument and debate back in 2014. We had this discussion back in 2016, and each time we looked at it, there seems to be a somewhat greater degree of concentration in the industry with downstream fabrication and upstream purchases. So the integration is taking place. It is material and it is a limiting factor in the stock market.

MR. DOUGAN: May I play off what you just said? It's related to Buy American issue. And every fabricator knows what sort of project that he's sending his material to, even the domestic rebar producers or even us in Turkey know where our material is heading to. So they do know if the material is going to be used in a public project. So they are aware of whether they can enjoy the Buy American Act.

VICE CHAIRMAN STAYIN: Okay. Any other comments?

(No response.)

VICE CHAIRMAN: Okay. Thank you. My time is up.

CHAIRMAN KEARNS: Commissioner Johanson.

COMMISSIONER JOHANSON: All right. Just a question for the Turkish Respondents. You argue that the Turkish industry has shifted focus from the United States to other export markets, and in particular, Israel, Yemen, and Singapore. What makes those markets attractive?

MR. NOLAN: All right. Brad Moore, you're on because I can't answer that, please.

MR. DALBELER: Let me go first. I mean, Israel is a nearby country. It's just next door. Yemen, yes, there is quite a good consumption in that region that has increased recently, and if you look at their production, it's sufficient, they are bound to import material, and Turkey is almost the only option that they can get their rebars, so that makes these markets grow in areas that we can sell more.

Coming to Singapore and Hong Kong, since the Chinese have dropped their exports, there again the room has opened. Those are the areas that we were very active in the past. I mean, between the early '90s up until like early 2000, we were shipping almost 60 percent of the rebars into the region, the southeast Asia, Hong Kong, northeast, but after '97, collapse of the southeast Asian countries, and plus, after 2000, the demand was dropped, but it's back again. China today is the main market for most of the steel exporters. They will probably consume around one billion ton of steel and expect it to do 1.1 billion next year, so for the next two or three years, we see southeast Asia, far east, going to remain to be a good market for all steel exporters.

COMMISSIONER JOHANSON: When you mentioned Israel, Yemen, and Singapore, those are all relatively small markets compared to the United States, right?

MR. DALBELER: For us, it's how much they import. I mean, the consumption is one issue, but the import is another issue. I mean, yes, Singapore is a small city, country let's say. I mean, it's a city, but they consume around two and a half million ton of rebars, which compared to the population is a lot bigger than per capita consumption in the U.S. Hong Kong as well or Yemen as well or Israel. Ten million population. They're consuming almost a million tons of rebar just like Turkey. The 80 million population were consuming almost 8 million tons where, in U.S., the same amount, the 8 million tons are consumed by 350 million people. I don't know if, Mark, you wanted to add something?

MR. HACIOGLU: Yeah, I don't have much to add on it. As you rightly said, Hong Kong and Singapore has been very important markets, strategic markets for us, and we've been shipping to these markets quite good quantities every year, and since China is focusing in their local market and that area is open to us, and Israel, Yemen, as you rightly said is number one and two in long products, so now it's not much to add on it, and so we've been selling to these markets, and those markets are also developing. There are more and more business competing from these markets. Hong Kong is opened up, and this year especially, it's been very good since China's been out from this market, and logistic to Turkey is probably the best market to ship to Hong Kong, best place to be shipped from.

MR. CEBECIOGLU: Commissioner Johanson, if I could also add a few things? Yemen and Israel, they're not small markets at all. In 2019, Turkey exported to both markets over 1 million tons each, and I think the domestic industry is also arguing that the U.S. prices are always going to be higher, so it's going to be more attractive, and I'm really having a hard time understanding how they could even make that argument. Up until four months ago, Turkey was paying 7 percent dumping duties, 25 percent Section 232 duties, and as two producers pointed out, Turkey gets most of its scrap, 20 percent of its scrap, from the U.S.

So this is an argument that the U.S. industry has been making for a long time that Turkey gets its scrap from the U.S., brings it to Turkey and then ships it back to the U.S., and I'd like to redirect that question to them, so if Turkey gets its scrap from the U.S., takes it to Turkey, produces rebar and ships it back to the U.S., then pays 25 percent 232 duties and 7 percent dumping duties until four months ago, and if still the U.S. prices are the highest prices Turkey can get, just what sort of profit should the U.S. industry be making? I really would like them to answer that if they can, and, I mean, what's related to your question is that it's not true that the U.S. prices are going to be more attractive when considering all those duties to be paid.

MR. HACIOGLU: And on top of that, I think we have to add into calculation twice the freight cost bringing the scrap to Turkey and then shipping it again when -- so twice the freight cost should be added on top by the Commission.

MR. DALBELER: Absolutely.

COMMISSIONER JOHANSON: It's a very sad situation in Lebanon with the need to rebuild part of that. Would that potentially go to Turkish exporters?

MR. DALBELER: Yes, for sure. I mean, I started a business in '87, and my first market was Lebanon. Ever since, unfortunately, this is the destiny of this area, this part of the world, but they just destroy and rebuild, they destroy and rebuild, and the same is going to go with Iraq and the same is going to go with Syria, and, I mean, that's our destiny, I guess. You know, I can't just say that we're taking advantage of it, but, yes, there is a huge potential in this area because it looks like the buildings doesn't remain over 10 years unfortunately.

MR. NOLAN: For better or worse, they're perfectly positioned for Middle East and North Africa for Turkey, right? Look at the geographic location.

MR. DALBELER: But there's another issue. The African continent is now developing, huge developing. Ethiopia became number 4 market among Turkish rebar exports, West Africa as well, south Africa as well, so there is a huge potential in our area. As Murat had just rightly said, I believe we're sitting right in the middle of steel trading. We have equal distance to east and west. This is what makes Turkey so flexible and so quick to adapt a new situation, but, again, I should repeat once more U.S. is an important market to us as European Union is an important market to us, but not to the extent that we had in two, three years ago. So we will keep our presence, but we will focus more on these developing areas, which will be beneficial to us.

COMMISSIONER JOHANSON: To follow up on my question, Petitioners state on pages 28 and 131 of their brief that Turkish rebar exports are no longer competitive in some Middle Eastern markets due to increased local capacity. How do you all respond to that contention?

MR. DALBELER: True. Like Emirates or Qatar or Bahrain, who build up their own capacities, no longer has the potential that we used to have. Just to give you an example, 2008, we were able to ship approximately 7 million tons of rebars to Arabian Peninsula including Saudi Arabia, but today, the quantity has dropped and even they have started exporting, but this didn't affect our total exports. As I said, there are new areas, Iraq, Syria, Yemen, Israel, Lebanon, nearby countries and the Southeast Asia, not only in Singapore and Hong Kong but Malaysia, Indonesia start becoming important areas to import, so that 7 million tons still has room to go.

COMMISSIONER JOHANSON: Okay. Thanks for your responses. I only have about a minute left, so I'm going to turn it over to the next Commissioner.

CHAIRMAN KEARNS: Okay. Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Yes, hi. Yes, I'm here. All right. This is a question for the Turkish Respondents. I don't believe this has been asked and answered, but I apologize if it has. In your brief, you argue that the prices for rebar in the U.S. market are comparable to prices in the Turkish market and other export markets. Our pricing data in Table 5-9, however, show underselling by subject imports from Turkey compared to domestically produced product in the U.S.

Furthermore, Table 4-24 in the staff report shows that transaction prices for rebar are generally higher in the U.S. than in other markets at least from 2017 to May 2020. Can you comment on these data in light of your statement on rebar prices?

MR. NOLAN: Well, I'll start, and I'll let Glen and others jump in. Part of it becomes of how you're measuring price, right? If you measure price FOB before duties are paid, you'll find an underselling analysis there. If you add the 25 plus the 7 percent in, you get a very different picture in terms of what pricing -- when the Turks talk about prices, they're talking about what its landed price to go into the sell market -- into the U.S. What's it going to cost to get it to the customer. That's inclusive of the duties. The U.S. producers and their counsel very wisely take those numbers out. It's 30 plus percent.

COMMISSIONER SCHMIDTLEIN: But I don't think the staff report -- aren't the pricing products landed duty paid?

MR. NOLAN: The pricing products that I'm looking at say FOB. I'll have to go look at it.

COMMISSIONER SCHMIDTLEIN: Okay. Well, this is without the transportation cost, but I thought it included the duties.

MR. NOLAN: I'll go back and look, but I'm looking at the chart. It says weighted average FOB prices for domestic and imported product.

COMMISSIONER SCHMIDTLEIN: Okay. All right. Can you comment on whether your total export volume has changed for the Turkish Respondents?

MR. NOLAN: To the United States?

COMMISSIONER SCHMIDTLEIN: No, total.

MR. NOLAN: Total. Murat, Ugur, I mean, we have the data from the Turkish Steel Institute that we put on the record, I believe.

MR. DALBELER: No, I can say that Turkey exports between say 6 and a half to 7 million tons of rebars on an annual basis for the last, I guess, six or seven years, so that hasn't really changed.

COMMISSIONER SCHMIDTLEIN: It's been roughly the same, so --

MR. DALBELER: Yes.

COMMISSIONER SCHMIDTLEIN: And you don't expect then, you know, given that you've had a shift to other export markets, are you saying you don't expect any of that to shift back to the U.S., and if you do expect some to shift back, where would it --

MR. DALBELER: Yes, we have certain market share in the U.S. I mean, there is some ups and downs as it was discussed over here over the course of this hearing. Yes, we have reached about a million and a half because the Mexicans were out and most of the countries were out, so we were all alone, and we had captured the majority of the import of rebars in the U.S. The U.S. also imports pretty steady. I mean, it imports approximately 2 million tons a year, so we capture major of it, and then we got 232 and then the tariffs were doubled, and so we went down to zero.

Now we're regaining the reasonable presence, as we say, but just as I mentioned, at Colakoglu, at my company, I won't be allocating the same quantities as I did in the past because of the risk that I'm carrying, but I still want to keep connection with all these clients that I've been serving for the last 30 years, so Turkey will definitely remain in the market but with a certain limited quantity because there are only few mills who are capable of selling in the U.S. taking this risk and managing it.

I mean, no one will be able to sell or give any commitment to anybody before making sure that everything 100 percent is right, so there is no dumping, there is no CVD, so he won't be able to face anything afterwards as we have faced these double tariffs. Imagine that a mill -- we go on a review every year, so we don't want to get any surprise in future with what we have committed in the earlier phase, so I guess the quantities has to be limited. We won't be allocating anything more than what we are doing today.

MR. NOLAN: So this is Matt Nolan again. Yeah, Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: You don't expect your shipments to go up from what they were in interim 2020?

MR. DALBELER: I think 2020, the first half more or less indicates what will be the shipments out of Turkey. Don't take 2019 because the first half we weren't in.

COMMISSIONER SCHMIDTLEIN: Right.

MR. DALBELER: We had 50 percent, 25 percent disadvantage just, you know, to make everything down to zero.

MR. NOLAN: Yeah, I was going to say that I would look at the ending of the 50 percent duties in August of 2019 as your starting point for stabilization or return to stable market share and so what you got from then for the last three or four months of 2019 and the first half of 2020 is a return to level playing field conditions in terms of tariffs paid with us vis-a-vis Italians and the Spaniards and other parties, so that would be more indicative to me of the normal pattern.

Now the U.S. side has argued this morning that there's this huge, you know, volume of Turkish material that's going to come flooding in. What I would ask is well, okay, there has been a return, but this flood that we're talking about has not occurred, and if there's this excess capacity, then one would have expected a million tons to be coming in, and it's not. What you got is --.

MR. DALBELER: A mess.

MR. NOLAN: Yes.

COMMISSIONER SCHMIDTLEIN: Go ahead.

MR. DALBELER: No, I mean, even the double tariffs was left within 2019 August, but we haven't shipped anything up until like almost beginning of 2020, and do you remember it was in October that President Trump again threatened Turkey to double the tariffs once more.

MR. NOLAN: Yeah.

MR. DALBELER: So, under these circumstances, as I've said, as responsible for mill, it's not easy to make that decision, so we waited quite a long, and we will be very cautious from now on.

COMMISSIONER SCHMIDTLEIN: Okay. Would the Mexican Respondents, and I'm not sure if anyone's asked you that, what do you estimate your imports will be going forward from Mexico?

MS. JEONG: We are expecting stable volumes going forward.

COMMISSIONER SCHMIDTLEIN: How does that compare to, you know, what we've seen over the period of review? Is that what you mean by stable? Like, what exactly do you mean by stable?

MS. JEONG: Well, the period of review, you know, you had a time -- early in the period of review is when there was essentially no Mexican imports, so, obviously, we're not saying there's going to be zero imports, but I think when you're looking at 2019 volumes especially going toward the latter part of 2019 is probably where we're falling into the more normalized volumes, but, you know, with the surge provision in the 232 agreement that hangs over our heads, there isn't going to be a significant increase in the volumes going forward, nor, I mean, and you heard Deacero's witness, you know, Mr. Bazan, speak earlier that everyone's very mindful of this limitation and be careful in making their stable volumes going forward.

MR. ALTSCHULER: Yeah, that's what I was going to say, Commissioner, and if it's okay, maybe we can expand a little bit on that in our post-hearing.

COMMISSIONER SCHMIDTLEIN: Okay. I would invite you to do that.

MR. ALTSCHULER: Great.

COMMISSIONER SCHMIDTLEIN: So, Mr. Nolan, I did get confirmation that the pricing data does include the duties.

MR. NOLAN: Okay. So I stand corrected. I apologize.

COMMISSIONER SCHMIDTLEIN: Okay. Well, do you want to comment on that just in light of your argument that prices are comparable?

MR. NOLAN: So we still have the issue of the pricing data being reflective of the fact that Turkey does have to pay a much higher level of duties, which makes the U.S. market less attractive to them. There is a pricing discipline there for them. You also will see from the pricing data that I believe the numbers will have gone down significantly in 2018 once the 25 percent duties were put in place, and it remained much smaller going forward. Whatever underselling exists, it's been much more muted, and that is likely to maintain and retain going forward as long as the 232 duties are in place, as long as the dumping order is in place.

COMMISSIONER SCHMIDTLEIN: Okay. Okay. I think my time has just -- I'm not sure if that was the nine-minute mark or the 10-minute, but I have no further questions.

MR. BISHOP: It was the nine-minute, Commissioner.

COMMISSIONER SCHMIDTLEIN: It was nine minutes? Okay. Well, I have no further questions at this time.

CHAIRMAN KEARNS: Commissioner Karpel?

COMMISSIONER KARPEL: Thank you. Do you have information on import volumes in the second quarter of 2020?

Is that on the record, or could you put that on the record? Trying to see if we can get any more sense of, or data to support your projections of what will happen going forward.

MR. NOLAN: I'm sure we can get monthly import data.

MR. DOUGAN: Agreed. We can provide --

COMMISSIONER KARPEL: Thank you.

MR. DOUGAN: -- whatever we can up to the most current month available.

MR. NOLAN: I've got cumulative up to May in front of me, but I didn't break it out by month, so --

COMMISSIONER KARPEL: Okay. Okay. And after May, just since you have that data, is that showing basically the same volumes you were seeing in the first quarter?

MR. NOLAN: Through May it shows -- so for Turkey we're showing 230,000 tons January through May. What was the first quarter number? We'll look it up now. I've got it here. Well we can't say specifically --

(Simultaneous discussion.)

MR. NOLAN: Yeah, so I can't -- yeah, it is in brackets. I can't --

COMMISSIONER KARPEL: Yeah. Okay. So follow up post-hearing if you can.

MR. NOLAN: Yeah.

COMMISSIONER KARPEL: Yeah, let's just follow up post-hearing.

MR. NOLAN: Yeah.

COMMISSIONER KARPEL: Okay.

MR. NOLAN: We can probably show that by itself.

COMMISSIONER KARPEL: Yeah. Okay. So how do you respond to Petitioners' argument that evidence that the order has benefitted the domestic industry can be seen in looking at the improvement in the domestic industry's performance between 2015 and 2016?

I know you all have argued that improvement in the domestic industry didn't really start to occur until after 2017 in the AD orders, but, looking at the data, there is a bump up in the industry's performance, a pretty significant one, from 2015 to 2016, so -- and then if I ask Petitioners, of course, well -- but then what happened afterwards? It didn't seem to stick. And then they talk about essentially the hammering effect of another surge of unfairly-traded imports.

I wondered if you had a response to that argument.

Like, is there some merit in saying, gee, there was a benefit of the orders under the review because we see this bump up in the domestic industry's performance between 2014 and -- yeah, 2014 and 2015?

MR. DOUGAN: Commissioner Karpel, this is Jim Dougan. I think, first of all, as we pointed out earlier, the imports and market share of -- sorry -- the volume and market share of imports from Turkey both increased between '14 and '15, and, actually, the total volume increase from those subject to the CVD order was greater than the producers not subject to it, so it's not clear that there was a restraining effect in terms of import presence in the market. Well at least not from Turkey. Mexico did go down.

In terms of performance of the U.S. industry, we'll have to take a look at exactly what the factors attributing to that were, but I do know that domestic market share was down, prices went down, other factors, other things happened in 2015. So I'd like to give a more complete answer in post-hearing.

But the fact that it turned around so quickly can't all have been attributable to the imports that weren't subject to this order. I don't think that -- you know, is it

Habas only affecting them in 2017, 2016? I bet you that's not what Petitioners were arguing in front of the Commission in that case. They were saying it was all imports from Turkey, and a lot of those are subject to this order. And then, of course, we have Japan and Taiwan which is a separate issue.

But specifically with regard to Turkey, I find it very hard to believe that, you know, the one year improvement is evidence of the effectiveness of this order.

COMMISSIONER KARPEL: Okay. Well that's sort of the crux of my question, so if you could think about it for post-hearing, you know, what might explain that. I take your point on what happened with subject imports in that period and market share, but I suppose there could be a benefit of the order other than a volume restraint. So, anyway, anything you can do to sort of put some light on that post-hearing would be appreciated.

MR. DOUGAN: Sure. I will think about it and give you a more complete answer in post-hearing. Thank you.

COMMISSIONER KARPEL: Okay. And I think this is a question for post-hearing as well because all the numbers in the tables I want you to talk about look like they're in brackets.

But I'm looking at the AUVs for Turkey's shipments to its home markets as compared with other export markets and how they compare, and what that might say about incentives to want to export more to the U.S. versus those other markets, and I'm also looking at the table Commissioner Schmidtlein was looking at, Table 4-24, which has a different data source. I think it's ME -- MESMKS (phonetic) data on prices in different markets, the U.S, the EU, Japan, in terms of rebar pricing.

Again, interested in what your evaluation of that is in relation to incentive to want to export more to the U.S. If you could try to address that post-hearing.

Another question is something in response to what we heard this morning from Petitioners regarding length of rebar, and, also, I think we heard this in your opening statements as well. According to Petitioners, it's easy to make, you know, different lengths of rebar, the machine can be changed very quickly to be able to do that, but I thought I heard this morning, or from -- this afternoon from you all that certain Turkish and Mexican producers only make certain lengths, and it's -- they're not actually set up to be making other lengths. Can you comment on that?

MS. JEONG: Sure. I'll start. It is not correct that you can make any length in any machine. Antonio Guerra could add a little more detail about it. But Deacero does make some of the longer length, but a large -- and correct me if I'm wrong -- large percent of their machines are -- some of their machines could only make coiled rebar, not any straight length rebar, which is a different market. And, also, some of their machines are only set up -- it only goes up to about 40 feet.

So there is a limitation, at least in Deacero's side, of not being able to make the longer length, depending on the machinery.

MR. GUERRA: Commissioner Karpel, yes, this is Antonio Guerra. Exactly. Our physical capacity in the line that we have in Celaya is just 42 feet long. That's as big as we can do just because of the physical constraints of the whole equipment that we have. There is no way that we can go longer than that.

And regarding the other point that also was discussed this morning about the coil rebar, or -- our lines are basically doing either wire rod or coil rebar. We cannot make straight in those lines, so they're pretty limited to that.

The coil rebar is a pretty small market. Very, very, very small. So, basically, we're using the coil products or the wire rod lines to make wire rod, and that's about it. That's as much as we can do. We cannot make straight rebar at those lines.

COMMISSIONER KARPEL: And would it be costly to adapt your lines to do that? Is that a major undertaking or?

MR. GUERRA: It would be a huge investment. Yeah. And at this point, just to convert, it would be difficult. It would have to be a whole new investment, because right now it would have to shift from wire rods to rebar, and at this point, all our wire rod, as we discussed in the previous case, goes mostly for our internal consumption to produce downstream products. Not only physically, but also commercially, it would not be possible to move from wire rod to rebar. So we would be talking about a whole different --

COMMISSIONER KARPEL: So you're saying to make the longer lines of rebar you would have to convert some of your wire rod production over to doing that versus converting some of your shorter rebar to doing that?

MR. GUERRA: No, it would have -- no. Excuse me if I got the message wrong. Coil is one thing. The straight rebar that we go all the way to 42, making it to 60, it would be a major investment because it's not only the cooling bed of the line, but it's also just the whole building, the way it's set up. So we would have to expand even the building.

So I think that we would be talking about a whole new line if we even wanted to go into that direction, which we're not thinking of right now, mostly because, also, the Mexican market, which is our main market, doesn't use any of the longer rebar. Forty-two is the longest that it uses. So it wouldn't be, really, feasible to build a whole line just for the exports. It wouldn't go.

Miguel, do you want to --

COMMISSIONER KARPEL: I'm over my time, but I'm curious about this question from the Turkish producers as well, so I don't know if the other Commissioners want to indulge me or if I should have you just answer that in post-hearing. Okay. Go ahead. Briefly.

MR. DALBELER: Spooling is another issue. I mean, you have to have the equipment to do so. And some of the producers who are exporting rebar into the U.S. doesn't have that spooling ability. I mean, installing as if your set up is suitable, you can do, but us, for example, we're not in a position to put, even if we want to have a spooling facility.

The other issue is it all is related with the length of your cooling bed, how short or how long you can cut the rebar.

Another issue is the rebar is bundled afterwards. The weight of the bundle is more or less standard, it's about -- sometimes 2,000 pounds and sometimes it's 4,000 pounds, but the number of bundles has to be -- number of pieces -- I'm sorry -- in a bundle has to be equal, so if you go with thin gauges and short lengths, so -- the number of pieces that you have to bundle, it becomes enormous. And you have to count these all. And it requires a lot of manpower.

So domestic mills in the U.S. intend not to produce those, you know, tiring sizes or lengths, so they rather let the importers feed the market with those material. So there's a cost and efficiency issue involved as well, although they can produce most of it, but they prefer not to.

COMMISSIONER KARPEL: Thank you.

CHAIRMAN KEARNS: Okay. I think the other Commissioners have asked most of the questions I wanted to ask. I think I have just one left for you, Mr. Nolan.

In response to my question about 2020 versus 2019, you made an interesting point about market psychology and memory following the increase in duties on Turkish steel products to 50 percent, but doesn't the Turkish model of importing rebar, which, according to Table 1-9 of the pre-hearing report appears to rely on either Turkish-domiciled firms or wholly-owned subsidiaries of Turkish producers as importers of record, doesn't that suggest U.S. customers were insulated from the shock of increased duties?

MR. NOLAN: A number of the Turkish companies have had to set up importing operations simply because they can't sell otherwise. Like, nobody in the U.S. will take the risk of undertaking a purchase if they're not sure what duties are going to apply to it, particularly after 50 percent or whatever, or even in the dumping case context.

So, yes, some of them have set up their own importing operations in order to be able to say, okay, post-importation, here it is. That works --

CHAIRMAN KEARNS: That means it wasn't set up that way, you know, five, 10 years ago?

MR. NOLAN: It depends on the producer you're talking to. I think, if you talk about Icdas, it was -- I think Colakoglu set up Metalurji, what, in the late 2000s, if I remember right. But that only works for manageable risks.

And let me try to explain it this way. Hate to say it this way. They pay me a fair amount of money to try to help them to not be found to be dumping or subsidized, right?

They hire Mr. Hacioglu for the same reason: to try to make sure when we're selling into the U.S. market, or they are, that they're not selling at dumped prices or at subsidized levels, which is one of the reasons the rates get so low, because they're very careful about what price levels they can sell into. They have to sell at a level that isn't gonna be perceived as dumping or subsidized, and we argue with the U.S. incessantly about what that means.

That only works for predictable risk. So if there's a dumping order in place, I can help them manage that dumping order in order to price the level that is not being dumped, or that they're not taking inordinate subsidies, right?

I cannot deal with the risk of a tweet that puts 50 percent duties in place, I cannot deal with an unknown situation where they got threatened about whether some additional duties or some additional penalty will be put in place at various junctures. That psychological impact still exists in the market when you do that. It's almost unavoidable.

We are in relatively uncertain territory, or un -- won't say uncharted, but uncertain territory for importers. For countries like Turkey that have been in the cross-hairs of U.S. trade actions for a fair amount of time, and we're singled out for the single highest 232 duties of all countries, and probably the highest duties imposed outside of the dumping cases in a long time in this country, that's a significant impediment, and it creates the same level of anxiety and uncertainty for purchasers that you may not get with an Italian, or with a Spaniard. So it still exists.

CHAIRMAN KEARNS: Mr. Hacioglu?

MR. HACIOGLU: Chairman Kearns, the period immediately after the duties were raised 50 percent was, I mean, probably one of the worst days and worst periods of anybody involved in U.S. trade, so it's not as simple as you are the importer of record, it's your problem.

I mean, an average rebar cargo is 20,000, 30,000 tons, and at an average price of $500, $600, those extra duties add up to millions of dollars, so, as a result, ships were diverted to Canada on the way, some ships were ordered to come back. People were frantically searching for ways to get goods onto free trade zones and try to find alternative places. It was a horrible, very traumatic experience for the sellers, for the buyers, for everybody involved, and I don't think a lot of people -- nobody wants to go through that.

And a lot of buyers involved in this process are not really knowledgeable, and they don't really understand that there's a Court case, and they just say, I mean, why should I be -- why should I take that risk again? So there was a lot of disruption, and then it was very chaotic, and then a lot of people, except very long time customers of Turkish suppliers, want to go through that again. And it happened not just once, twice.

MR. NOLAN: The lead plaintiff in the Trans-Pacific 232 litigation, in that case, they were shipping quantities of steel from Turkey to Puerto Rico post-Maria hurricane for rebuilding purposes. When those duties hit, they almost went out of business because they had to put all this in a free trade zone or in a special customs-bonded area and try to figure out what to do with the material.

And, to this day, they're having trouble with that, and I'm hoping we can get some refunds for them because they really need it.

MR. HACIOGLU: And in the morning session the U.S. industry argued that even one percent is very important because profit margins are razor thin. Imagine what an extra 25 percent would do. I mean, they -- for some small businesses, it would wipe out their entire year's earning.

CHAIRMAN KEARNS: Okay. Thank you very much.

MR. HACIOGLU: Okay.

CHAIRMAN KEARNS: Okay. Thank you. I think that question was answered. Vice Chair Stayin?

COMMISSIONER STAYIN: Yes, to the Mexican Respondents, in your brief you differentiate between distribution and fabrication segments of the U.S. market. What distinguishes these two segments of the market? Who purchases rebar from distributors and who purchases it from fabricators.

MS. JEONG: I will let them -- this is Rosa Jeong of Greenberg Traurig. I will let Miguel give you some more details about it, but with Mexican imports, by and large, it's almost completely focused on distributor market, and they sell very little to the fabricator market, and Miguel could explain a little bit about the differences.

MR. BAZAN: Yes, that is correct. Normally, multiple. They normally -- most of our sales are on the distribution level. But we also sell more products -- parts to the fabrication rebar, but most -- we sell, the majority of the products that we sell to the United States is the 20 foot rebar. That goes mostly directly for the residential purposes. So the people who use this type of product are the distribution. And the distributors sell to the end users, I mean to the people who use it for their own residential purposes. So at the request of the fabricator, they fabricate and they bend, they cut, they prepare everything for the job site for the big project, not for the residential. So basically those are the type of customers that we sell -- that we can explain to.

COMMISSIONER STAYIN: Okay. Thank you. On page 32 of your prehearing brief for Mexico, you point out that U.S. producers market share was at its highest point in part year 2019 and its second highest point in 2000 and a part-year of '20 be for the four-year two types in '19. You then say domestic industry is not in a vulnerable condition. Do you want to expand upon that?

MR. DOUGAN: Vice Chairman Stayin, this is Jim Dougan. I think the idea here is that the domestic industry is in a strong position such that it's not vulnerable to future injury. I mean, market share is as high as it's been for 10 years, and that goes along with its financial performance. And the reason that we emphasize it being at the end of the POR is that because in many ways that sort of what's most relevant to your determination as to whether there would be a recurrence of injury if the order is lifted, and given that there is such a strong position, we believe that that indicates that there will not a recurrence of injury if the order is lifted.

COMMISSIONER STAYIN: All right. Well, thank you. I have no further questions.

CHAIRMAN KEARNS: Commissioner Johanson?

COMMISSIONER JOHANSON: I have just two more questions, one for the Turkish Respondents and one for the Mexican Respondents. The first one is for the Turkish Respondents. What would happen if the 232 duties went away completely, and I'm asking this because, as you all know, we will have an election here in the U.S. in just a few weeks and that might impact what happens with the 232 duties.

MR. NOLAN: I honestly can't speculate. I mean, I think there will be a reticence to jump into the market, but obviously 25 percent is not an immaterial number, so it has a material impact on both price discipline and desire to come into the U.S. market. Having said that, there is no evidence currently in front of us that would suggest that those 232 duties are going to be removed anytime soon. We have had them now for two years and almost six months. I actually remember back in the wire rod investigation with Turkey where they were in place, just in place.

And the argument was well, you know, they're ethereal. They'll disappear within three or four months. Two and a half years later, we're still in the same place we were back then, only we went through 50 percent and then back down to 25 percent for Turkey, but there's been no public announcements, there's no evidence on the record to suggest those duties are going to go away and for the foreseeable future, our position is they are probably going to stay here. And there's nothing coming out of the Biden campaign that would suggest they would change course. There's certainly nothing coming out of the Trump Administration that suggests they're going to change course.

COMMISSIONER JOHANSON: And with the AD duties in place and the 232s gone, what would that mean?

MR. NOLAN: The 230 -- well, the AD duties are going to be in place until we get to a sunset review in 2022 or 2023, and we've got 7.4 percent in effect or 7.2 percent in effect for those producers Icdas, which was reviewed got a zero rate, but that's being reviewed again right now, and we're having a bloody contest with the U.S. counsel over whether or not duties should be reimposed. They may come back, you know, I mean, but then again I would be speculating for you now if I said that dumping duties are going to get put back in place and you would be skeptical about well why would I say that Mr. Nolan, the review's ongoing. Well, we have 232 duties in place now. They are extant. They have been there for a long time. I do not see how we can say that they would come off anytime soon, certainly not in the foreseeable future.

COMMISSIONER JOHANSON: All right. Thank you for your response. Did you have an answer for Mexico? Go ahead. Yes, go right ahead.

MR. HACIOGLU: If I could --

COMMISSIONER JOHANSON: I'm sorry.

MR. HACIOGLU: Just one addition, small addition, Commission Johanson. There was another order against Turkish rebar that was imposed in 1997, and it was sunseted in 2008, and Turkey didn't ship any rebar to U.S. for two years. So just an example how Turkish exports might behave in an environment where there are no duties or restrictions. Thank you.

COMMISSIONER JOHANSON: All right. Thank you for your responses there. I now have a question for the Mexican Respondents. Can you please respond to the Petitioners' assertion that Colombia was the only non-U.S. market to export significant quantities of Mexican rebar, but a new Ternium mill there will displace those exports this year?

MS. JEONG: We'd like to address this question in the post-hearing brief because it involves confidential company information, but one of the things we want to point out is that for a company like Deacero, they have invested into a third-country market not just selling -- just sending vessels or just raw shipments, but they invested in a stable distribution network and not, you know, or not in any certain countries but in all of their third-country markets where they made in-roads, and they have planned for stable continued presence with the market, and we don't believe there is going to be a lot of displacement with respect to Mexican imports, but with respect to details, we'll address it in the post-hearing brief.

COMMISSIONER JOHANSON: All right. Ms. Jeong, I look forward to reading that. That concludes my questions. I'd like to thank all of you for appearing here today.

CHAIRMAN KEARNS: Commission Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Yes, thank you. I have no further questions. I'd also like to thank the witnesses for appearing today.

CHAIRMAN KEARNS: Commissioner Karpel?

COMMISSIONER KARPEL: I wanted to understand a little bit more about the 232 agreement and what the mechanism is for the imposing duties, if there is a so-called "surge" and particularly does that apply to -- if there was as surge in rebar, would that apply just to rebar or are there certain categories or broader categories of products that are being looked at for the surge? How does that work?

MR. ALTSCHULER: Rosa, you, me?

MS. JEONG: So there is certainly a mechanism we're monitoring, you know, one of the things that as you may know is Department of Commerce has, as you probably know, some of the -- Commerce monitoring system and there's been adjustments to the program to make it easier to monitor for the purpose of the 232 agreements. I actually don't know exactly if there is a surge what would have to happen to import duties. My sense is it could just be a tweak that accomplishes that, but to my knowledge it applies to categories of products, so I think it's going to be rebar, wire rod or, you know, and we typically defined categories under the steel import monitoring system, but we'll try to get come more details on it as we can.

COMMISSIONER KARPEL: Great.. All right. That'll be fine. Yes, some more detail on how that might work would be appreciated. That's all I have for today. I really appreciate all your testimony. Thank you for your time. I thought they were very useful exchanges we had, so thanks very much.

CHAIRMAN KEARNS: Okay. Any other Commissioners have questions? Vice Chair Stayin, did you --

COMMISSIONER STAYIN: I just wanted to stay I do, too, appreciate all of your testimony and cooperation and all the prehearing submissions as well. Thank you.

CHAIRMAN KEARNS: Okay. Does the Staff have any questions?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you. Staff has no additional questions.

CHAIRMAN KEARNS: And do those in support of continuation of the orders have any questions for this panel?

MR. PRICE: Petitioners have no further questions for this panel.

CHAIRMAN KEARNS: Okay. Thank you. Then, we will turn to rebuttal and closing. Those in support of the orders have six minutes total left. Those in opposition have 17 minutes.

MR. SHANE: Okay. Thank you. Good afternoon. Jack Shane, Wiley Ryan.

(Technical interference.)

MR. BISHOP: Somebody else has their speaker on in the room with you.

(Asides.)

MR. SHANE: Okay. All right. I think we're good to go. Thank you.

Good afternoon. Jack Shane again from Wiley Ryan. Let me just start with a couple of key points before I turn to rebuttal. You heard this morning's subject in domestic rebar are completely interchangeable. This stuff is all made to the same AFTM standards. Rebar's purchased on the basis of price. Purchasers candidly admitted that they would buy more subject rebar in the event of revocation as it would be available at a lower price. At the same time, Turkey and Mexico are export focused and the large and attractively-priced U.S. market will be their market of choice if the orders go away.

Despite the Mexican Respondents' claims you heard this afternoon, their construction market is in free fall. It's not going to be bailed out by infrastructures projects or other third-country markets. As you've heard, Colombia market's going to disappear. That's their other primary third-country market with the startup of production of the Ternium Mill in November of this year. They have significant access to divertable capacity to direct to the U.S. market. They're all already doing so. In fact, their exports here actually increased in the second quarter versus the first quarter, and we put that information on the record in our prehearing brief.

With regard to Turkey, their export platform, they're number one rebar exporting country in the world. They're increasingly being shut out of their third-country markets. You see the results already just like Mexico. They're coming in here. They're coming in here in a big way. Again, their exports here have increased in the second quarter versus the first quarter, so in the original investigation you found injury even while U.S. demand was growing. Now, as you've heard, all key indicators signal that there's a correction in the near future. These likely demand declines make the orders all that more critical.

In terms of rebuttal, just a couple of key points. First, on the CVD margin, the Turkish producers are really trying to just re-litigate an issue that was already decided in the original investigation. The Commission already found with a 1.25 margin that the domestic industry was materially injured. Nothing has changed. As you heard from Rob Webb this morning and others, this is a highly price-sensitive product where small margins can make a big difference.

Further, their argument is really a technical one. If the CVD order and AD order had been imposed at the same time, this would not be an issue at all. Simply because the CVD order was imposed first and then you have the follow-on AD order, does not mean that the CVD order should be disregarded. It's a critical part of the relief, and it should be considered jointly with the AD order.

The point Alan was trying to make with regard to subject imports versus non-subject imports after the imposition of the orders in 2014, it shows that the CVD order did, in fact, have an effect. It did restrain Turkish subject imports.

If you take a look at the import trends for subject versus non-subject, rebar imports from Turkey -- when we're talking about the subject imports, they did not increase as much, and that's for an absolute basis as well as a relative basis, and you can see that on table I-10.

In terms of the adverse impact issue, I think when you hear Mr. Dougan and Mr. Nolan talk about that issue, they're really conflating the issue. It's not in terms of adverse impact. It's not a question of what happened during the period of review where, during this time because you have the order in place, the producer switched to non-subsidized, more expensive energy sources to avoid subsidy margins.

The question is what will they do if the orders are removed, if they're taken away, where they can then switch back to being heavily, you know, subsidized through these lower-priced energy sources that they can obtain from the Turkish government. As we've shown given the massive volumes that the Turks have to ship into the U.S. as well as Mexican producers as well, you're going to see large volumes come into the U.S. very quickly if the orders are removed.

I think just as a quick data point, in June of this year, imports from Turkey were $390 a ton. If you add a 25 percent 232 duty to that, you'd end up with about $490 a ton. That's still below U.S. price. I mean, this is why every single percentage point counts and why the CVD margins are critical.

This notion that Turkey wants to or won't increase its shipments is -- I think the Commission should look at that quite skeptically. They said the same exact thing to you in 2014, and then they quickly flooded and overwhelmed the U.S. market in short order. I think the same thing is true here. It's simply not believable given the fact that the third-country markets are not open to them or are closing down, are contracting and the huge volumes that they need to ship elsewhere.

That concludes my rebuttal. Thank you.

MR. BISHOP: Irwin and Matt, you have a total of 17 minutes. You can go ahead and begin when you're ready.

MR. NOLAN: Irwin, should I go first or you want to go first? We've got a lot of time. We probably won't use all of it. If we do, you could blame me. So, okay, not hearing anything, I'll go ahead and start.

MR. ALTSCHULER: I would just note for Bill that Rosa and Jim might want a few minutes as well, but I think we're going to have those few minutes after you --

MR. NOLAN: Yeah. I won't take that long. I promise. Okay. So let's go back and talk where we started this conversation this morning with the dam. All right. The order on the CVD has been in place for five years. In that space of time, there was an investigation rate of 1.25 percent. Assume that's in evidence. We won't argue about whether that was correct or not. Fine. After that, we have several reviews where zero percent subsidies were found. We have one review where Icdas got 2.7 percent, but in the next year they went back to zero percent. We have one review where Colakoglu had 1.82 percent and then they didn't get reviewed again, so they're stuck with that.

But, for most of the industry, for most of the major producer exporters, you're looking at it more as zeroes or de minimis numbers than you are actual subsidy numbers. So, exactly as Mr. Shane said, what subsidies are they going to go back to if this order goes away? They're going to get some massive unknown subsidy which didn't exist before this was in place when, in fact, you know, the largest subsidies we found were 2 percent or less. I'm having trouble seeing where this massive subsidy thing is going to come from.

The fact of the matter is the order has been in place for five years. The fact of the matter is that the rates that are found in the reviews and in the investigation were quite small. The Commission found on the basis of the volume of imports that there was an issue, but the volume of imports now have changed and the U.S. side, Mr. Shane and Mr. Price like to say that nothing's really changed. Everything's the same and if you take this off, all these bad things are going to happen. But that's a fundamental miscalculation and a misstatement.

The facts have changed. Fundamentally, they have changed. Turkish rebar is subject to a separate dumping order with rates of 7 percent for many or most of the producers, 1.0 for Icdas, but they're under review and we're having an argument. We have the 232 duties that were 25 percent, then 50, and are now back to 25. Those are very different fact patterns than we had when the CVD order was put in place.

Turkey is subject to several types of trade remedy positions and the 232 duties. Habas is subject to a separate order completely from this CVD. They're not impacted by this. So the question is does this CVD order have a discernible effect on keeping the U.S. protected and does removing it, is it going to have any discernible impact or not? And at the rates we're talking about, I suggest and submit to you that it does not have a discernible -- Turkey has not had a discernible impact if the order is removed, and having an order in place hasn't done very much of anything. What's far more important has been the dumping case and the 232 duties. Those duties have been up to 50 percent and in the 50 percent you can't shift. That has skewed the numbers between 2018, 2019 and 2020. If you look at the increase in the Turkish numbers, you've got to take that in the context of when you're under 50 percent duties, you do not shift and so you're coming from a very low base back in.

Moving to the recurrence of energy given these minimal CVD rates found over five years and the existence of the dumping and the 232 duties, those conditions will persist for the foreseeable future and far more significant than anything that could happen with the CVD rate.

Now let's look at the indicators after the CVD order was put in place. Turkish imports actually did rise in 2015, suggesting that the 1.25 percent number was not impacting the market. Whether you say it's because Habas was excluded or whether you say it's because 1.25 percent isn't very high, you still get to the same place. Turkish imports were not impacted. Subject impacts were not significantly impacted.

And I do take issue with, okay, maybe Turkish subject imports went up a little bit but somewhat less than non-subject, but they all went up and they all went up significantly. So exactly what kind of breaks did the order have on subject imports? Later, after the AD case was filed in 2016, Turkish producers began to pull back from the U.S. market with significant reductions in imports in 2016 and 2017. Mr. Dougan's chart amply demonstrates what happened.

In fact, in 2017, Turkish imports fell over 36 percent relative to 2016. The trend accelerated in 2018 after the 25 percent tariffs were imposed, and Turkish imports pretty much disappeared from August 2018 to after May of 2019, when the punishing 50 percent duties were released.

While imports have recovered somewhat in 2020, they are still about half of the 900 plus thousand tons reported for 2014 and far less than the 634,000 tons reported in 2012. We are in a different environment. The reality is that Turkish rebar will not return to anything like the levels it expected in 2015. Why? One, the AD order and the 232 duties will restrict market access in a meaningful way and give U.S. producers an automatic 25 percent price advantage. Two, Turkish market share has been replaced by imports from other countries, Spain and Italy and yes, even producers from the Dominican Republic who are affiliated with some of the U.S. producers here. Three, Turkish producers understand quite well that the U.S. is a protected market. Importers are less likely to buy knowing that Turkish imports have been in the cross-hairs of U.S. trade actions even if they act as their own importer.

While Turkey will continue to supply its traditional customers and cannot ignore the U.S. market, they're not going to focus on the U.S. market because they have other markets closer to home that are more profitable or at least not as protected and problematic.

Finally, with the 25 percent and 50 percent duties in place, U.S. producers have done quite well, with significant increases in capacity, production, market share, gross profits, operating income, net income, investment, and in the unit values reported in the staff report. For 2019, for example, based on their own reporting, CMC reported a 26 percent increase in sales over 2018, a 47 percent increase in earnings in 2019, major acquisitions and ramp ups of new micro mills in Oklahoma, capacity, new capacity at their Arizona mill, all of this happening over the last two years.

Nucor reported opening new mills in Florida, 380,000 tons, and in Missouri, another 380,000 tons, with significant increases in earnings and indicated that they have order backlogs for their external customers of up to one year. These are the same companies that have their own upstream scrap buying operations and their own downstream fabrication facilities. We note that Nucor's annual report specifically says reported backlogs exclude orders to their affiliated companies. They're traded separately. They are first in line and that's a decree of an industry that has its own internal protections.

With the 25 percent duties in place against Turkey and the current antidumping duty order, the U.S. has plenty of protection and plenty of protection from unfairly priced Turkish imports. The CVD order simply does not generate anything significant. The rates are de minimis for the most part. They're ineffective and they should be removed because they do not impact U.S. producers one way or the other. Thank you. I'll turn it over to Mexico.

MS. JEONG: I'll start with a -- okay. I'll start with a few rebuttal points. Counsel for Petitioners keep talking about the cratering demand in Mexico, and as we explained, you know, during the Q&A section and also in our testimony, there is no cratering demand in Mexico, as evidenced from the data presented by the Mexican Respondents. In fact, they're doing just fine with the rebar in Mexico and we've explained reasons why just in data statistics and one segment of the construction demand doesn't show a complete picture of the demand in Mexico.

Second, the discussions of divertible capacity and whether there's excess capacity, the reported data on the record shows that there is very little excess capacity in Mexico, and we of course do recognize that there are I think maybe two or three producers who did not respond to the Commission's questionnaires. But those producers, Mexicans, with respect to going back a few years even before the order, you basically had two exporters exporting to the U.S. market, Deacero and Grupo Simec, and that has not changed. And I think earlier in the day Petitioners' counsel had mentioned that these entities did not have their own deposit rate. That's actually not correct. There was a review where I think most of the companies in Mexico got an all others rate with respect to that particular review, which brought them to I think a zero rate. We'll provide information on that as well. One thing to note is that, even when they were subject to the zero rates, the other exporters did not export. As we saw, we only had Grupo Simec and Deacero exporting very low volumes, as they have done for a number of years.

Finally, there was a question posed by I think Commissioner Karpel about the monetary system under 232. Just as we were looking at this, I just saw a popup in my email saying President Trump confirms he's reimposing tariffs, 232 tariffs in steel and aluminum, so here is your mechanism, and I think he just signed a proclamation based on what he foresaw as an import surge. So there is monitoring. It's working, and we believe that it's going to constrain imports from Mexico.

MR. ALTSCHULER: Thank you. I'll consider that our rebuttal and I'll do a brief closing and I can't help myself from taking another run at the ill-conceived dam metaphor, and I even go back a little bit before the dam metaphor to Congressman Katko, who really made an interesting statement when he said that trade remedies have been effective for U.S. rebar producers. It's interesting, it's even provocative because it raises the question, what remedies have been effective and against what violations? That really is the question. So, when I listen to our friends from Nucor talk about words like aggressive and attacks, it probably put me in a more military mind, so my metaphor is the Maginot line, the defenses that France set up to keep Germany out during World War II. That line didn't work. It didn't work because the Germans didn't quite follow the French idea that they would go after the particular fortifications with particularly susceptible attacks.

So, when I think of that, I think that there are some significant fortifications against various segments of imports from Turkey and Mexico, but the fortifications aren't really apt in a number of the cases, especially the ones that are under review here. The idea that a countervailing duty order on Turkish imports had any impact or will have any impact I think has been totally contradicted today and by the record. So, so much for Turkish CVD.

I think the Mexican antidumping also, as I will go through some points in a couple minutes, I think it's pretty clear that on Mexican antidumping, the need for an antidumping order just doesn't exist because there seems to be no causal relationship between improvement in the U.S. industry and the effect, if any, of the antidumping order.

Now it is interesting as far as the Turkish antidumping order whether and how that effects trade. But that's not an issue for today. That has nothing to do with what we're looking at today and with 232 duties, the threat of them from Mexico and the actuality of them for Turkey, I think we've spoken pretty loudly to those.

So I think that these orders need to be looked at in a fashion that lets us look at them and their effect on particular trade cases, particular trade violations. So the data show as we read the record that there's really no relationship between U.S. industry performance and imports from Mexico. Why do I say that? Well, the U.S. industry improved drastically when Turkey became subject to the antidumping order and 232 as well, conditions which prevail regardless of the outcome of the sunset review. Mexico's exports did not increase when antidumping rates were low, and the domestic performance didn't decrease when Mexican product undersold as described in the staff report.

So the data show to us that Mexico's imports have not and will not harm the domestic industry and that some of these fortifications, specifically the ones that are under review today, should go away.

MR. DOUGAN: Irwin, are you all set?

MR. ALTSCHULER: I'm done.

MR. DOUGAN: Okay. I'd just like to make two last points here. Sorry, Irwin. One thing that we heard from Petitioners quite often was that purchasers had said that they'd be willing to, you know, buy if these orders were lifted, but based on my experience with purchasers and both helping put together their responses sometimes or reading them, that I question whether they are fully aware of the distinctions between the CVD order at issue in this case and the AD orders or even the Section 232 duties.

And that brings me to the other point that I wanted to make, which is the distinction between the CVD order at issue for Turkey and the AD order for Mexico and the AD order from 2017, and in the closing, Petitioners said, well, it's just a technicality and if they had been imposed at the same time, this wouldn't be an issue. Yeah, exactly. If they had been imposed at the same time, we wouldn't be arguing about this because the Commission, there would not be evidence that would allow for it to distinguish between efficacy of these orders. But here the Commission has the evidence, has the record to distinguish between the efficacy of the orders, and I believe they have an obligation to make that assessment based on the record in front of them rather than a hypothetical record that the Petitioners wish they had. And on the basis of the record that actually exists, these orders in place did not have a constraining effect on imports and if they are lifted will not cause a recurrence of injury to the domestic industry. Thank you.

MR. BISHOP: You're on mute, Mr. Chair.

COMMISSIONER KEARNS: Thank you. On behalf of the Commission, I want to thank all the witnesses for participating in today's hearing. Post-hearing briefs, statements responsive to questions and requests of the Commission, and corrections to the transcript are due no later than 5:15 on Friday, August 14. The Commission appreciates everyone's patience and flexibility in adapting to our modified procedures during this time. Seeing no other business before the Commission, this hearing is adjourned.

(Whereupon, at 5:15 p.m., the hearing in the above-entitled matter adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Steel Concrete Reinforcing Bar From Mexico & Turkey

INVESTIGATION NO.: 701-TA-502 and 731-TA-1227(Review)

HEARING DATE: August 6, 2020

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 8/6/20

SIGNED: LaShonne Robinson

Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 206
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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Signature of Court Reporter