

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
CUT-TO-LENGTH CARBON STEEL PLATE) Investigation No.:
FROM CHINA, RUSSIA, SOUTH AFRICA) 731-TA-753-756
AND UKRAINE) (Review)

Pages: 1 through 214

Place: Washington, D.C.

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Tuesday,
 July 8, 2003

Main Hearing Room
 Room 101
 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 Deanna Tanner Okun, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:Commissioners:

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 JENNIFER A. HILLMAN, VICE CHAIRMAN
 MARCIA A. MILLER, COMMISSIONER
 STEPHEN KOPLAN, COMMISSIONER

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 WILLIAM DONNELLY, ECONOMIST
 DAVID BOYLAND, ACCOUNTANT

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APPEARANCES: (Continued)

Congressional Appearances:

THE HONORABLE FRANK W. BALLANCE, JR.
U.S. Congressman, 1st District,
State of North Carolina

In Support of the Continuation
of the Suspension Agreements:

On behalf of United States Steel Corporation:

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Dewey Ballantine LLP
Washington, D.C.

THOMAS CERA
General Manager, Plate Products
United States Steel Corporation

WILLIAM KLINEFELTER
Assistant to the President and
Legislative and Political Director
United Steelworkers of America

On behalf of IPSCO Steel, Inc. and Nucor Steel
Hertford County, a Division of Nucor Corporation:

ROGER B. SCHAGRIN, ESQUIRE
Schagrin Associates
Washington, D.C.

JOHN TULLOCH
Senior Vice President and
Chief Commercial Officer
IPSCO, Inc.

PAT McFADDEN
National Sales Manager, Plate
Nucor Steel Hertford County

TOM BALLOU
Director, Flat-Rolled Products
O'Neal Steel

APPEARANCES: (Continued)

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Professor of Economics
American University

On behalf of International Steel Group:

TERENCE P. STEWART, ESQUIRE
Stewart and Stewart
Washington, D.C.

ROBERT INSETTA
Division Manager, Commercial
ISG Plate East

MATTHEW HABENICHT
Plate Product Manager
ISG

In Support of the Revocation
of the Suspension Agreements:

On behalf of Highveld Steel
and Vanadium Corporation, Limited:

PHILIPPE M. BRUNO, ESQUIRE
VICTOR S. MROCZKA, ESQUIRE
Dorsey & Whitney LLP
Washington, D.C.

VOSSIE VORSTER
Senior Manager, Export Steel
Marketing and Order Services
Highveld Steel and Vanadium Corporation, Limited

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P R O C E E D I N G S

(9:30 a.m.)

1
2
3 CHAIRMAN OKUN: Good morning. On behalf
4 of the United States International Trade Commission,
5 I welcome you to this hearing on Investigation
6 Nos. 731-TA-753-756 (Review) involving cut-to-length
7 carbon steel plates from China, Russia, South Africa
8 and Ukraine.

9 The purpose of these five-year reviews is to
10 determine whether revocation of the suspension
11 agreements covering cut-to-length carbon steel plate
12 from China, Russia, South Africa and Ukraine would be
13 likely to lead to continuation or recurrence of
14 material injury to an industry in the United States
15 within a reasonably foreseeable time.

16 Schedules setting forth the presentation of
17 this hearing and testimony of witnesses are available
18 at the secretary's desk.

19 I understand the parties are aware of time
20 allocations. Any questions regarding time allocations
21 should be directed to the secretary.

22 As all written material will be entered in
23 full in the record, it need not be read to us at this
24 time.

25 All witnesses must be sworn in by the

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1 secretary before presenting testimony.

2 Copies of the notice of institution, the
3 tentative calendar, as well as transcript order forms
4 are available at the secretary's desk. Transcript
5 order forms are also located on the wall rack outside
6 the secretary's office.

7 Finally, if you will be submitting documents
8 that contain information you wish classified as
9 business confidential, your request should comply with
10 Commission Rule 201.6.

11 Madam Secretary, are there any preliminary
12 matters?

13 MS. ABBOTT: No, Madam Chairman.

14 CHAIRMAN OKUN: Very well. We will proceed
15 with opening remarks.

16 MS. ABBOTT: In support of continuation of
17 the suspension agreements, Roger B. Schagrín, Schagrín
18 Associates.

19 CHAIRMAN OKUN: Good morning, Mr. Schagrín.

20 MR. SCHAGRIN: Good morning, Chairman Okun,
21 Commissioners Miller and Koplán. For the record, my
22 name is Roger Schagrín and I appear on behalf of IPSCO
23 Steel and Nucor Hertford, a division of Nucor
24 Corporation.

25 When these cases were filed six years ago by

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1 two companies, Gulf State Steel and Geneva Steel, that
2 were major plate producers at the time, we did not
3 realize then that these cases were really a beginning.
4 They were the first dumping cases ever brought on
5 steel products from China, Russia and Ukraine and we
6 didn't really realize that it was the beginning of the
7 steel crisis at the time all this plate started
8 flooding the U.S. shores. But it was the beginning of
9 the steel crisis and it proved to be a tremendous jolt
10 to the industry, during a time of very, very strong
11 demand and healthy profits.

12 Of course, after the relief came against
13 these imports subject to this sunset review, the Asian
14 crisis began in imports of all steel products flooding
15 into the U.S. market, injuring the plate industry, as
16 you found again in yet another set of plate cases, and
17 the flat rolled industry as a whole, as this
18 commission found in the 201 case.

19 We are here today, producers, workers,
20 service centers, to ask that the commission not allow
21 the cycle of dumped imports and injury to the industry
22 to begin anew. It would indeed be ironic if just as
23 201 relief was ending the industry had to again
24 confront a deluge of dumped imports.

25 No industry could be more vulnerable to a

1 recurrence of injury than the cut-to-length plate
2 industry is today. Demand is abysmal, capacity
3 utilization is low and operating losses are
4 significant.

5 The foreign producers subject to these
6 sunset reviews will dump again at high margins if
7 their suspension agreements are sunset. The Commerce
8 Department has told the commission that. They will
9 undersell the U.S. industry again. Your staff report
10 has told you that. These foreign producers have
11 enough excess capacity to completely overwhelm the
12 U.S. market.

13 Just two years ago this commission made
14 decisions not to sunset plate orders as to ten
15 countries and the excess capacity of those countries
16 was much smaller than that of these four subject
17 countries and that is without questionnaire responses
18 from much of the Chinese industry.

19 Rarely has this commission seen so many
20 dumping orders, quotas, and TRQs in third countries as
21 to subject imports as we have in this case. Canada
22 just refused to sunset plate orders for three of these
23 countries earlier this year and currently has a sunset
24 investigation of Ukraine. That is why exports to
25 other countries have actually fallen even after the

1 U.S. suspension agreements went into effect.

2 Now, South Africa claims that its increased
3 exports will have no discernable impact. This should
4 ring as hollow here for this commission as it recently
5 did in the Canadian sunset review. While most of the
6 South Africa industry data is confidential, their
7 volume clearly poses a threat to the U.S. industry.

8 The Chinese argument about their allegedly
9 torrid market for plate preventing a recurrence of
10 injury is simply not true.

11 First, as we will explicate in our
12 post-hearing brief, the very market reports relied on
13 by the Chinese in their briefs appear to have been
14 translated as cut-to-length plate market reports, when
15 in fact they really describe middle thickness plate,
16 which covers the coil plate market as well and the
17 coil plate in both China and the U.S. is much larger
18 than the cut-to-length plate market.

19 Secondly, the hot Chinese bubble, which
20 really applied to sheet and not to plate, has burst.
21 Those facts and the lack of Chinese participation
22 demonstrate that a recurrence of injury is likely as
23 well from imports from China.

24 Little need be said at this hearing of the
25 continuing massive over capacity in Russia and

1 Ukraine. These countries, which built tremendous
2 plate mills in order to feed the Soviet Union's
3 military build up in the '40s, '50s and '60s have not
4 rationalized their plate capacity while the suspension
5 agreement has been in effect.

6 In all, as we argue to you in our briefs and
7 as you will see again later this morning, the amount
8 of excess capacity in these countries will simply
9 overwhelm a very weak U.S. market if these suspension
10 agreements are sunset.

11 For all of these reasons, we ask you not to
12 allow the cycle of dumping to start over. We ask for
13 an affirmative vote in order to continue these
14 suspension agreements in effect.

15 Thank you very much.

16 CHAIRMAN OKUN: Thank you.

17 MS. ABBOTT: In support of revocation of the
18 suspension agreements, Philippe M. Bruno, Dorsey &
19 Whitney.

20 CHAIRMAN OKUN: Good morning, Mr. Bruno.

21 MR. BRUNO: Good morning, Chairman Okun,
22 Commissioner Miller and Commissioner Koplan.

23 For the record, I am Philippe Bruno with the
24 law firm of Dorsey & Whitney, representing Highveld
25 and Vanadium Corporation, one of the two South African

1 producers of CTL plate.

2 As you know, South Africa is the only
3 country attending this hearing today. This is no
4 coincidence. South Africa was certainly not a
5 contributor to the alleged surge of subject imports
6 that led to the initial investigations. To the
7 contrary, during the original period of investigation,
8 South Africa's share of the U.S. market actually
9 declined while that of all the other subject countries
10 increased.

11 South Africa was never a major supplier to
12 the U.S. market. In fact, South Africa's market share
13 during the period of the original investigation could
14 easily be quantified as being insignificant.

15 Since completion of the original
16 investigation, a number of factors could have led the
17 South African producers to increase their sales to the
18 U.S. market and to take advantage of the vacuum
19 created by the dumping and 201 trade remedies imposed
20 against other countries. Yet, South Africa imports
21 have remained at historical low levels throughout the
22 period of review.

23 So the question is not why South Africa is
24 the only country that chose to attend this hearing
25 today, but why is South Africa here at all? If it

1 were not for the cumulation of all subject countries
2 in the original investigation, it is likely that South
3 Africa would have been excluded from these cases long
4 ago.

5 The sunset review allows the commission to
6 review accumulation under the no discernable impact
7 standard. We are here to say that it is time for
8 South Africa to decumulated and excluded from these
9 investigations. Our testimony today will show that
10 there is no South African excess capacity problem.
11 The historical data collected by the commission on
12 South Africa capacity utilization and export to the
13 United States show South African capacity is not
14 designed for the U.S. market.

15 In sum, we believe that all conditions are
16 met for the commission to not cumulate South Africa
17 with the other subject countries for its sunset
18 determination and that there is ample evidence on the
19 record to justify terminating the suspension
20 investigation for South Africa.

21 Thank you.

22 CHAIRMAN OKUN: Thank you.

23 Madam Secretary, will you please announce
24 the first panel?

25 MS. ABBOTT: The panel in support of the

1 continuation of suspension agreements. Members of the
2 panel have been sworn.

3 CHAIRMAN OKUN: Thank you.

4 MR. SCHAGRIN: Thank you, Chairman Okun.

5 CHAIRMAN OKUN: It looks like the panel is
6 all seated.

7 Mr. Schagrin, you may proceed.

8 MR. SCHAGRIN: Thank you, Chairman Okun.
9 Good morning again. Good morning, Commissioner
10 Hillman.

11 I'd like to begin today by first taking an
12 opportunity to thank Diane Mazur and the rest of the
13 staff for having put together a fabulous pre-hearing
14 staff report for you all. You all take it for
15 granted, so do the rest of us. We know the
16 Commission's work is always excellent, but I think we
17 also realize this is a busy summer for everyone.

18 She had some unique circumstance in this
19 case with some producers leaving the market, others
20 being acquired by other companies right in the midst
21 of this and the always difficult circumstances with
22 the Chinese as in any case, and I think it was worth
23 spending a moment to thank her and the rest of the
24 staff for putting together an excellent pre-hearing
25 staff report for these sunset reviews.

1 Secondly, I would just like to cover a few
2 issues in a little greater depth before your witnesses
3 begin speaking, and cover some of the main statutory
4 factors. We have little sheets that we passed out.
5 Most of the charts are from our pre-hearing brief.

6 First and foremost, we believe in this case
7 the criteria for cumulation are met as the staff
8 report amply demonstrates. These plate products from
9 all four countries are made to the same
10 specifications. These foreign countries focus on the
11 836 grade; that is, a grade that all U.S. producers
12 also focus on. That's the really heart of the
13 commodity segment of the plate market, probably
14 accounts for upwards of 80 percent of all plate in the
15 United States in that one commodity specification.

16 The imports from all of the countries are
17 sold in the same regions of the U.S. market. The
18 imports are all sold through the same channels of
19 distribution. Imports go through the service center
20 channel; very, very few direct sales ever of imports
21 to end users, and most of the U.S. industry sales go
22 through the service centers instead of being sold
23 directly to OEMs.

24 And then, as we will discuss mostly in our
25 post-hearing brief, we believe that South Africa fails

1 to meet the no discernable impact criteria.

2 The second chart just brings home how poor
3 demand is in this industry. The Commission has seen
4 the plate industry many times over the past 15 or 20
5 years; in fact, many times just since this original
6 investigation in both another set of cases and in
7 sunset reviews two years ago.

8 But the Commission has never seen the plate
9 industry in so dismal a state, and as this chart
10 demonstrate, between 1994 and 1998, which really
11 covered the first POI in this period, was basically
12 '95 through '97, demand was averaging 8 million tons a
13 year for cut-to-length plate in the United States.

14 In the years 2000 through 2002, demand has
15 been averaging 5.9 million tons -- excuse me -- 1999
16 through 2002 -- demand has been averaging 5.9 million
17 tons a year. That's a decline of 26 percent. And
18 unfortunately, in the first quarter of this year
19 demand was down a further 10 percent, and the
20 annualized demand for this year may be as low as 5
21 million tons, and that will be explained later by Dr.
22 Blecker as well as anyone on this panel in the plate
23 industry. Virtually all of the demand drivers for
24 plate are doing poorly at the same time. They are
25 really capital goods markets, and the capital goods

1 market in this country are very, very poor.

2 The next item just shows that this industry
3 cannot afford the significant increase in costs which
4 would occur from losing volume. That's the kind of
5 industry it is. They have significant fixed costs,
6 and as capacity utilization falls costs go up, as well
7 as if prices were to fall as a result of increased
8 import volume. That would cause losses to increase.

9 And as you can see from the chart on
10 industry operating losses, they remain significant.
11 This industry was profitable in the first period of
12 investigation. That's why the majority of the
13 Commission made a finding of threat of material injury
14 from these imports, because the industry had operating
15 profits which were down from the period at the
16 beginning of the investigation, but were still in the
17 range of 2.5 to 3.5 percent.

18 This industry went into a loss position in
19 1999, and losses have been very severe. And in the
20 first quarter of 2002 average losses, operating losses
21 for the industry exceeded 10 percent. The only place
22 an industry can go with operating losses of that size,
23 if they get hit with another surge of imports, is
24 really significant curtailment of production
25 facilities, more bankruptcies and more plant

1 shutdowns.

2 The staff report demonstrates the massive
3 amount of excess capacity compared to the U.S. market.
4 This next chart on excess capacity mirrors an exhibit
5 that we have in our brief. You have the confidential
6 numbers for South Africa and the Ukraine in the totals
7 before you, but just the public numbers, given the
8 number of producers in China and Russia, is somewhat
9 staggering.

10 And you have to remember that probably less
11 than two-thirds of the Chinese industry has replied to
12 the Commission's questionnaires, and we will be
13 providing information in our post-hearing brief that
14 can be used as adverse inferences including references
15 to the excess capacity that existed during the
16 original POI where there was excess capacity in China
17 of about 1.3 million tons out of approximately 6.5
18 million tons of capacity.

19 But just China and Russia together have
20 enough excess capacity that if it were shipped to the
21 United States it would be more than 50 percent of U.S.
22 commercial shipment, and the total numbers are indeed
23 quite scary and threatening to this industry.

24 And finally, just to address an issue which
25 was raised in briefs by some of the respondents, and

1 that is that this industry does not believe that 201
2 relief will prevent the recurrence of injury to this
3 industry of these suspension agreements are sunset.

4 The Chinese brief cited ad nauseam to the
5 Commission's cold-roll final determination. That
6 cold-roll final determination was made at the outset
7 of the 201 relief when duties on cold-roll were 30
8 percent. At the time that your decision in this case
9 will be made, transmitted to Commerce, and Commerce
10 publishing decisions it will be less than six months
11 away from duties on plate falling to 18 percent, and
12 the 18 percent 201 relief pales in comparison to the
13 average dumping margins in this case.

14 The average dumping margins as given to you
15 by Commerce in this case are roughly 100 percent. So
16 18 percent 201 duties will not prevent these countries
17 from exporting. Obviously, South Africa is not even
18 subject to the 201 duties, but they are subject to
19 normal value suspension agreements which is what is
20 keeping them out of the U.S. market. They simply
21 can't sell in this market if they don't dump into this
22 market.

23 And finally, we just have to address the
24 reality of the situation, and that is that we will
25 soon have a WTO dispute settlement panel ruling which

1 disagrees with the decision of this Commission and
2 this President as to 201 relief for the flat-rolled
3 industry, including plate.

4 I think you and I both realize in our
5 rational hearts and minds that after the U.S. appeals
6 to an appellate panel, regardless of the facts and
7 law, the appellate panel will rule against the United
8 States. We have seen it in every single safeguard
9 action taken before the WTO with the exception of wire
10 rod where there was no appeals.

11 And I learned very personally from the line
12 pipe safeguard that after appellate panel ruling was
13 made against the United States there is two choices:
14 either have the countries retaliate against you and
15 the administration pulls the relief in its entirety,
16 or the administration sits down with those countries
17 and negotiates weakened relief. Those are in reality
18 the only options that we will face, and the result of
19 that is that it's not likely that 201 relief will
20 prevent a recurrent of injury because it's not likely
21 that this industry will have the full relief in effect
22 on plate until the end of the 201 program.

23 I would like to invite John Tulloch to give
24 his testimony.

25

1 MR. TULLOCH: Good morning, Chairman Okun
2 and members of the commission. For the record, my
3 name is John Tulloch. I've been with IPSCO for 26
4 years in a variety of positions and currently am
5 Senior Vice President and Chief Commercial Officer.
6 IPSCO began construction of a green field, first of
7 its kind, direct slab cast mini mill for cut-to-length
8 plate production in 1995. Commercial production began
9 in 1997, just after a deluge of unfairly traded plate
10 imports from China, Russia, South Africa and Ukraine
11 had entered the U.S. market in late 1996 and the first
12 half of 1997.

13 The success of the Montpelier mill and the
14 relief from these dumped imports through suspension
15 agreements allowed us to proceed with plans to
16 establish a second mini mill in Mobile, Alabama. This
17 was in the midst of a large Gulf Coast plate market.

18 Just as our Montpelier facility was really
19 hitting its stride in terms of production capabilities
20 and quality and we achieved increased profitability
21 towards the end of 1998, yet another wave of unfairly
22 traded imports, this time the result of the Asian
23 crisis began pouring into the U.S. market. We filed
24 trade cases and those cases came to a conclusion as
25 our Mobile mill was ramping up. Then unfortunately

1 the recession came and there has never really been a
2 recovery from the recession in the capital goods
3 market.

4 Both of IPSCO's plants have the capability
5 of producing cut-to-length plate and plate in coil
6 form. Significant portions of this coil plate go to
7 our own cut-to-length facilities in Minnesota and
8 Houston. In addition, we supply coil plate to pipe
9 producers and service centers.

10 I want to stress IPSCO's innovative design
11 for these mills which we were the very first in the
12 world to construct and mills give us specific and
13 significant cost advantages over not only other mills
14 in the U.S. but other mills throughout the world.

15 Indeed, even if foreign producers in China,
16 Russia, South Africa and the Ukraine had zero labor
17 costs, there is still no way that their production
18 facilities could compare on a cost basis with our
19 IPSCO facilities.

20 IPSCO has dedicated nearly a billion dollars
21 of capital to the U.S. plate market in terms of two
22 new green field mini mills and our cut-to-length
23 lines. We believe that absent unfairly traded imports
24 and under normal market conditions that we will be
25 able to obtain a return on those investments. As we

1 obtain those returns, we'll continue to invest capital
2 and expand our product offerings to higher grades,
3 lighter gauges and micro alloyed plate products.

4 We ask that this commission not allow
5 foreign producers to resume dumping large quantities
6 of plate into this weak market. We are particularly
7 vulnerable to return of unfair pricing in the market
8 at present, not only because of the depressed market,
9 but because we are currently experiencing high scrap
10 costs and high energy costs. Both scrap and natural
11 gas costs are at or near their highest levels in the
12 last 10 years. With these increased costs, we cannot
13 afford a flood of dumped plate undercutting already
14 low U.S. market prices.

15 Thank you very much.

16 CHAIRMAN OKUN: Thank you.

17 MR. SCHAGRIN: Thank you, Mr. Tulloch.

18 Mr. McFadden?

19 MR. McFADDEN: Good morning, Chairman Okun
20 and members of the commission. My name is Pat
21 McFadden and I am National Sales Manager for Plate
22 Products for Nucor Hertford, a division of Nucor
23 Corporation.

24 Nucor decided to put a green field plate
25 facility in one of the poorest counties in North

1 Carolina. We are strategically located just off of
2 Albermarle Sound, barely 50 miles from the Atlantic
3 coast, which allows us to both obtain our scrap and to
4 ship plate whenever possible via barges.

5 Our investment has resulted in the creation
6 of thousands of additional jobs in the county, in
7 addition to the 400 jobs directly accounted for by the
8 mill. Our mill is the last green field facility built
9 by Nucor Corporation. It was the fourth thin slab
10 cast mini mill built by Nucor, but the first to make
11 plate.

12 I want to stress that this plant was built
13 pursuant to a well considered and sound business plan.
14 The mill's modern processes and other cost advantages
15 make it one of the world's lowest cost production
16 facilities.

17 In the wake of repeated surges of imports,
18 U.S. market prices collapsed with consequent negative
19 effects on U.S. producers. We have seen less
20 efficient capacity shutdown the U.S. market. This
21 includes the closure of Gulf State Steel, Geneva
22 Steel, Bethlehem's Sparrow Point facility, as well as
23 Bethlehem's 110-inch mill.

24 Notwithstanding our status as one of the
25 lowest cost producers, we are not currently earning

1 our cost of capital. Given the current demand
2 situation, we are extremely vulnerable to increased
3 low price imports.

4 As you know, plate products are mostly
5 utilized in the capital goods sector. Plate products
6 go into the construction of ships, barges, flat bed
7 trucks, containers, agricultural and construction
8 equipment, offshore oil platforms and bridges. We
9 believe the downturn in demand for plate has finally
10 bottomed out, but that the restoration of demand will
11 be a slow process, taking two or three years.

12 Most of our sales are through service
13 centers such as O'Neal because most plate is processed
14 in some manner by a service center prior to being used
15 by a manufacturer. We are certainly vulnerable to
16 unfair price competition from imports in making sales
17 to service centers.

18 Current weak demand simply makes it more
19 probable that the termination of relief would result
20 in injury to us and the rest of the remaining plate
21 industry.

22 I noted in the pre-hearing brief submitted
23 by the Chinese that they claim the Chinese plate
24 market is hot and is drawing lots of high priced
25 imports. That's not been my experience. My

1 colleagues who sell Nucor's other flat products
2 received numerous inquiries for exports to China on
3 hot rolled sheet, including coil plate, late last
4 year. As has been reported in the press, we sold over
5 100,000 tons of those products to China, mostly in the
6 first quarter. I did not get any exports to China for
7 plate, even though we have additional capacity.

8 The reported prices in the marketing
9 analysis for June 13-20 of 3750 yuan per metric ton is
10 \$452 per metric ton or \$407 per short ton. With my
11 freight cost to China, I would sell the mill out at a
12 delivered price to China of \$407 per ton. I would
13 also like to point out that as fast as the China
14 market got hot for coils, it died down just as
15 quickly. It's an extremely volatile market.

16 I also want to note that unlike IPSCO and
17 Bethlehem and U.S. Steel or Corus Tuscaloosa, Nucor
18 Hertford has no coiling equipment. The steel produced
19 in our melt shop can be transformed into our only
20 product, cut-to-length plate. Therefore, if this
21 commission allows large quantities of dumped plate to
22 return to the United States market, Nucor Hertford has
23 no place to turn. We would have to scale back
24 investments, lay off employees, and consider closing
25 the facility if dumped imports prevent us from

1 obtaining a profit even if market conditions improve.

2 Thank you.

3 CHAIRMAN OKUN: Thank you.

4 MR. SCHAGRIN: Thank you.

5 We're pleased to be joined today by Tom
6 Ballou. O'Neal is one of the largest, if not the
7 largest, service center processing plate and we think
8 the commission will benefit from his knowledge of the
9 plate market.

10 Mr. Ballou?

11 MR. BALLOU: Good morning, Chairman Okun and
12 members of the commission. My name is Tom Ballou.
13 I am Director of Plate and Flat Rolled Purchases for
14 O'Neal Steel. O'Neal Steel is one of the largest
15 service center chains in the United States and is
16 certainly the largest held privately held service
17 center chain. I've been in the industry for over 25
18 years.

19 I testified at both the staff conference and
20 the final hearing in these investigations six years
21 ago. At that time, I told the commission that the
22 huge influx of imports from these countries into the
23 United States had seriously disrupted our marketplace.
24 Further, I testified that there were huge amounts of
25 unsold imported plate sitting at the docks at major

1 ports on the Gulf Coast. I supported relief then in
2 spite of the fact that I had purchased import plate
3 from each of these four countries involved and are now
4 subject to the sunset review. I support continuation
5 of relief because O'Neal has a strong long standing
6 interest in preventing large volume of dumped plate
7 from ruining an already fragile domestic market.

8 We are a full line distributor with over 28
9 service centers in the United States. Plate is our
10 largest investment we have, both in tons and in
11 dollars. If unfairly traded imports cause plate
12 prices to fall, our main asset, our inventory of
13 steel, falls as well.

14 O'Neal Steel has built its business on our
15 expertise in cutting and processing plate into parts
16 for customers on plasma cutting or laser cutting
17 equipment. We feel that we do this as well as any
18 service center in the United States. However, we must
19 compete against other service centers for business
20 from end users. For that reason, my job as a buyer is
21 to make sure that I purchase raw material that meets
22 the ASTM specifications that we need at the lowest
23 price in the market.

24 We prefer to purchase plate from the
25 domestic sources, but because of the competitive

1 nature of our business, I am forced to buy at the
2 lowest price source, no matter where. I know that if
3 I buy imported plate that is offered at prices that
4 are lower than current market prices, then a buyer at
5 one of the competitor service center chains will do so
6 and my company will lose out.

7 You have already heard a lot from all the
8 company people about how bad the market is for
9 cut-to-length pate. I strongly agree with that
10 assessment. Our plate business is down by more than
11 25 percent over the past three years. We have seen
12 decreases in virtually every single market segment
13 into which we sell plate.

14 Six years ago I came here because I was
15 troubled by the fact that imports from these countries
16 had ruined a good plate market. As I mentioned
17 before, the current plate market is not even a good
18 one. Demand is very low and additional supply coming
19 back into the market at dumped prices would likely
20 have a dramatic and, from our perspective, extremely
21 negative impact.

22 Thank you very much.

23 CHAIRMAN OKUN: Thank you.

24 MR. SCHAGRIN: Thank you, Mr. Ballou.

25 Dr. Blecker?

1 MR. BLECKER: Good morning, Madam Chairman
2 and members of the commission. My name is Robert
3 Blecker. For the record, I am a professor of
4 economics at American University here in Washington
5 and I am the economist representing the domestic
6 producers IPSCO and Nucor in this review.

7 In my pre-hearing economic submission, which
8 is Exhibit 4 in our pre-hearing brief, I have used the
9 sunset compass model to simulate the likely effects of
10 terminating the suspended investigations for these
11 four countries.

12 Using realistic values for the elasticity
13 inputs based on established facts about this industry,
14 using conservative estimates of average dumping
15 margins, and using an appropriate model baseline in
16 terms of demand conditions and subject market shares,
17 I find that termination of the suspension agreements
18 would be likely to reduce domestic producers' revenue
19 by between 13.3 percent and 26.9 percent.

20 I also present alternative estimates using
21 the staff's elasticity assumptions, which show
22 somewhat smaller but still very significant likely
23 revenue losses for domestic producers.

24 In addition, I have analyzed the
25 vulnerability of the domestic industry in light of two

1 factors: first, the industry's high fixed costs which
2 create a cost-price squeeze when capacity utilization
3 falls, and, second, the current weak demand conditions
4 which have led to historically low utilization rates.

5 When an industry has high fixed costs, the
6 average total cost curve is decreasing or, in other
7 words, unit costs fall when output increases.
8 Conversely, when output falls, unit costs rise.

9 If at the same time prices are depressed or
10 suppressed, profit margins fall and can turn negative.
11 In the past, this industry has suffered cost-price
12 squeezes of this nature due to the repeated waves of
13 unfairly traded imports that have entered the U.S.
14 market. If the subject imports are allowed to return
15 to the U.S. market without the suspension agreements,
16 the result would be a new cost-price squeeze and a
17 further fall in income or greater losses for domestic
18 producers.

19 Today, an additional factor depressing
20 capacity utilization is the extremely weak demand
21 conditions prevailing in the U.S. plate market. This
22 market can only be characterized as severely depressed
23 and is likely to continue to be depressed for the
24 reasonably foreseeable future. Although the overall
25 U.S. economy began a slow recovery in the fourth

1 quarter of 2001, the sectors of the economy that are
2 the primary demand drivers for cut-to-length plate
3 have continued to decline and show no signs of a
4 recovery in the most recently available statistics.

5 The data of record on U.S. apparent
6 consumption really demonstrate the persistently
7 depressed demand for the subject product since 1999 as
8 shown in the second page of Mr. Schagrin's hearing
9 exhibit.

10 In Exhibit 2 of our brief, we also show
11 other data that graphically illustrate the weak demand
12 conditions in downstream sectors that consume plate,
13 such as non-residential construction, industrial
14 equipment, agricultural equipment and certain types of
15 transportation equipment.

16 As a result of these weak demand conditions
17 following on the import surges of the late 1990s,
18 capacity utilization in the domestic plate industry
19 has swollen to record low levels and the result has
20 been a severe cost-price squeeze.

21 As shown in Figure 4-B in my pre-hearing
22 submission, the price-cost margin has been inverted
23 and the industry is now operating at a loss, in spite
24 of all the efficiency enhancing investments and other
25 rationalizations that these domestic producers have

1 made in the past decade. The weak demand conditions
2 reveal a high degree of vulnerability in the even that
3 the suspended investigations are terminated.

4 When the commission conducted its original
5 investigation in 1997, the industry was still in the
6 upward phase of its business cycle. Now that the
7 industry has entered a deep and prolonged downward
8 phase, an increase in low price imports from the
9 subject countries at very significant dumping margins
10 would be likely to cause real and immediate material
11 injury to domestic producers.

12 Of course, the commission must also
13 determine that the subject exports will be likely to
14 return to the U.S. market in sufficient volumes to
15 cause such injury. On this point, even with
16 incomplete foreign producers' questionnaire responses
17 from China, the pre-hearing staff report shows that
18 the foreign producers have enormous amounts of excess
19 plate capacity. Although the exact numbers are not
20 public, our confidential brief shows that these
21 numbers are large enough to overwhelm the U.S. market,
22 causing further price depression and losses of output,
23 utilization and income.

24 Moreover, the foreign producers' excess
25 capacity is considerably higher than their former

1 level of exports to the United States in 1996 and into
2 1997. Furthermore, the subject countries have had
3 significant reductions in their exports to other
4 countries besides the United States since 1997 and
5 they are under restrictions from increasing their
6 exports in numerous important countries, including our
7 neighbor Canada.

8 Nor, contrary to some respondents' claims,
9 has domestic demand risen enough in the subject
10 countries to absorb the extra capacity. Even if just
11 the reduced exports to other countries were diverted
12 to the United States, the increased imports would be
13 sufficient to devastate domestic producers of
14 cut-to-length plate under present and reasonably
15 foreseeable conditions.

16 For these reasons, I urge the commission to
17 continue the suspended investigations and I would be
18 pleased to answer any questions.

19 Thank you.

20 CHAIRMAN OKUN: Thank you.

21 MR. DEMPSEY: Good morning, Chairman Okun
22 and members of the commission. I am Kevin Dempsey
23 from Dewey Ballantine. I would like to introduce now
24 Mr. Thomas Cera of U.S. Steel.

25 MR. CERA: Good morning, Chairman Okun and

1 members of the commission. My name is Tom Cera.
2 I am the General Manager of U.S. Steel's Plate
3 Products Division. It's a position I've held for
4 about two and a half years. In that capacity, I am
5 ultimately responsible for all aspects of U.S. Steel's
6 plate business, including manufacturing operations,
7 quality assurance, customer service, marketing and
8 sales.

9 Our plate business includes our plate mill
10 at Gary, Indiana, as well as a joint venture, ferro
11 alloy processing. That joint venture makes
12 cut-to-length plate from hot rolled coil.

13 I've worked for U.S. Steel for 22 years.
14 During that time, I've been involved with virtually
15 all of the product lines that U.S. Steel makes in its
16 integrated production process, ranging from coke to
17 hot rolled sheet to tin mill and coated products.
18 I have a Master's degree in business administration
19 from Indiana University.

20 I'd like to come right to the point. If you
21 make negative determinations in these cases, it will
22 cause chaos in the marketplace. Our plate business
23 will go into a tailspin and our prices, shipments and
24 proceeds will plummet. There is no question in my
25 mind that the four countries at issue in these

1 investigations, South Africa, Russia, Ukraine and
2 China, both individually and collectively can and
3 would wreck havoc on this market if the suspension
4 agreements that currently constrain imports from these
5 countries were terminated.

6 Two South African plate producers, ISCOR and
7 Highveld, have made clear in filings with South
8 African government authorities that each of them has
9 substantial excess capacity. It is common knowledge
10 that the excess plate capacity in Russia and Ukraine
11 is simply enormous. Each country has the ability to
12 single handedly swamp this market with imports.
13 Although I do not have exact figures, I have no doubt
14 that the excess capacity of each country is
15 significantly greater than the one million ton
16 capacity of our Gary, Indiana mill.

17 China is a little different in the sense
18 that it's steel market has been quite strong recently
19 and it has been importing plate, but I ask you to
20 remember that this was also true back in 1996, when
21 imports from China flooded the U.S. market and caused
22 significant harm to our business. All that has
23 changed since that time is that we know that steel
24 production in China has grown at an astounding rate.

25 As we discussed in our brief, if demand for

1 steel in China slows down, even a little bit, the U.S.
2 market is likely to be deluged with plate imports from
3 China.

4 The President's 201 remedy would not provide
5 us with a safety net that would prevent imports from
6 any of these countries from once again devastating the
7 U.S. plate market. To be sure, that remedy has helped
8 stabilize the U.S. market and has helped us to obtain
9 modest price increases, but the protection that
10 Section 201 tariffs provide against imports of this
11 product from these countries is by itself simply not
12 adequate to the task.

13 South Africa is, as you know, exempt from
14 those tariffs because it has been given special
15 treatment as a developing country. As for the other
16 three countries, China, Russia and Ukraine, the
17 dumping margins found in the original investigation
18 for just about all the producers in those countries
19 far exceeded the 18 percent Section 201 tariff rate
20 that will go into effect in March 2004.

21 This shows plainly that these producers can
22 and would easily sell large volumes of imports into
23 this country in the face of Section 201 tariffs if the
24 suspension agreements with those countries were
25 terminated.

1 Let me talk a little bit about demand.
2 During the past few years, while the manufacturing
3 sector of our economy has been in a deep recession,
4 demand for plate has been, in a word, abysmal. For
5 many end uses of plate, we project that there will be
6 only a small increase in demand this year.
7 Consequently, a new wave of imports into this country
8 would come at the worst possible time.

9 That said, we would also like to point out
10 that the danger that these countries pose would not be
11 appreciably less if and when demand increases
12 significantly. As you are aware, imports from these
13 countries came into the U.S. market at a time when
14 demand was very strong and volumes so high and prices
15 so low that they essentially destroyed this market.

16 I very much appreciate the opportunity to
17 appear before you today and welcome any questions that
18 you might have.

19 CHAIRMAN OKUN: Thank you.

20 MR. DEMPSEY: Next we'll hear from
21 Mr. William Klinefelter of the United Steelworkers.

22 MR. KLINEFELTER: Madam Chairman, members of
23 the commission, if I may, I'd like to introduce some
24 steelworkers that are here today.

25 If you would stand in the back?

1 These people are members of the steelworkers
2 internship program and you might notice that they are
3 all women and you might say that someday when they get
4 rid of us bald, white guys that this is the future
5 leadership of the steelworkers union because I really
6 do believe it is. It's been one of the best
7 internship groups we've had.

8 Thank you.

9 We're here today to ask for the continuation
10 of the suspension agreements in cut-to-length plate.
11 We think this is very important because the commission
12 knows the story and I really don't have to go into the
13 story. Somebody said that this has been a battle
14 that's been going on for five years. Well, it has
15 been and there have been a lot of casualties along the
16 way: 50,000 steelworkers have lost their jobs.
17 That's done, that's happened. Hundreds of thousands
18 of steelworkers have lost their retiree health care.
19 That's done, that's happened. Hundreds of thousands
20 of steelworkers have had their pensions reduced.
21 That's done, that's happened. Thank God for the PBGC
22 or they would have lost their pensions completely.

23 But the fact of the matter is in these
24 battles, in this war, we are winning something that
25 may be the salvation of the basic steel industry and

1 that is the consolidation that has been taking place
2 because the 201 and other steel trade remedies exist.
3 We have now agreements that cover ISG which took LTV
4 and Bethlehem Steel and we have agreements with U.S.
5 Steel and National. These are new innovative
6 agreements that talk about increased productivity,
7 that talk about different manning requirements, which
8 talk about consolidation of the job grades and the job
9 descriptions. These are highly innovative agreements
10 and so the union has stepped up to the task of the
11 consolidation of the basic steel industry.

12 Now, that's all well and good, these
13 agreements go into effect, the new management is there
14 in the plant. One of the things that has been a part
15 of these agreements is a tremendous reduction in the
16 amount of management that exists in these facilities.
17 But in order for this to work, things have to remain
18 in place. This is not a war that's over with yet.
19 There are still battles to be fought. There is still
20 consolidation, I believe, to take place in the basic
21 steel industry as well. I can't tell you exactly
22 where, but I believe that there is more consolidation
23 down the road.

24 In order for these things to come to pass,
25 we need to keep in place things like the suspension

1 agreements and we need to keep in place the 201 for
2 its full duration, which you'll be hearing about in
3 future weeks.

4 So it's all part of the whole, it's all part
5 of this pie that is going to be the salvation of the
6 basic steel industry in the United States and the
7 continuation of high paying, good wages, good benefits
8 jobs for the people who work in this industry which
9 have been drastically reduced.

10 Now, the final thing that I would like to
11 just add is I've been part of the negotiations that
12 have taken place at the OECD in regards to the
13 suspension agreements. There are also supposed to be
14 negotiations in regard to capacity reductions, but
15 I can tell the commission squarely those negotiations
16 have gone nowhere. Capacity reduction has gone
17 nowhere. Basically, what's happened is people like
18 the Russians and the Ukrainians and people like that
19 have made outrageous demands upon the rest of the
20 international community in dollars in order to close
21 their facilities. So I can't think that this is going
22 to happen, this capacity reduction, any time soon.

23 In regards to the suspension agreement
24 negotiations, those are serious negotiations. Are
25 they going to be successful? I don't think anybody

1 can guarantee that. They're a long way from being
2 done. There's a lot of bilateral negotiations going
3 on right now between the United States and China and
4 India and Brazil, but I can't guarantee you, I don't
5 think anybody can guarantee you, that the suspension
6 agreements will be completed either.

7 So in summation, I would like to say that
8 I come to this table a little bit different than I
9 have in the past. The past is the past. The future
10 is there for us to continue secure employment in the
11 steel industry, but we need to continue to have the
12 role that the ITC plays and the trade laws play in
13 that progress.

14 Thank you.

15 CHAIRMAN OKUN: Thank you.

16 MR. STEWART: Madam Chairman, I am Terry
17 Stewart of Stewart and Stewart. I'd like to introduce
18 Bob Insetta of ISG.

19 MR. INSETTA: Good morning, Chairman Okun
20 and commissioners. My name is Bob Insetta. I am the
21 Division Commercial Manager for International Steel
22 Group's Plate Division. I have been involved with
23 plate for 24 years as a sales and marketing manager
24 for both Bethlehem Lukens Plate and, before that, at
25 the former Lukens Steel Company. My responsibilities

1 include working with our commercial organization to
2 provide strategic direction, pricing guidelines,
3 obtaining competitive market intelligence and, of
4 course, helping to fill our mills with the best
5 possible mix of profitable business.

6 I am here today on behalf of ISG Plate to
7 support the continuation of the suspension agreements
8 associated with these reviews. I am accompanied by
9 Matt Habenicht, ISG Plate Division's Plate Product
10 Manager.

11 ISG is the largest producer of cut-to-length
12 carbon plate in the United States. We can produce
13 nearly two million tons of plate in three plants in
14 Pennsylvania and Indiana. Our plate products have the
15 capability to make a significant contribution to ISG's
16 profitability. However, this is only possible if the
17 current disciplines on imports from Russia, China,
18 Ukraine and South Africa remain in place.

19 ISG agrees with the analyses presented in
20 the pre-hearing briefs of the other domestic producers
21 concerning the likely effects of termination of the
22 suspension agreements.

23 When the commission conducts a sunset
24 review, I understand the two things you consider are
25 (1) what is the same today as at the time of the

1 original injury determination and (2) what is
2 different.

3 First, let me address what is the same.
4 Cut-to-length plate is still a price-sensitive
5 commodity product and cut-to-length plate from China,
6 Russia, South Africa and Ukraine is interchangeable
7 with cut-to-length plate produced in the United
8 States. The products from each country are also
9 interchangeable amongst each other. That means price
10 is a very important factor in purchasing decisions.

11 There are also some things about the
12 domestic industry that are the same today. For
13 example, the cut-to-length plate industry continues to
14 be highly capital-intensive, which means there is
15 significant pressure to operate at high levels of
16 capacity utilization.

17 As to how things are different, first there
18 is the business cycle. In 1997, the commission
19 determined that dumped imports threatened to cause
20 material injury to the domestic industry. That
21 determination was made during a period of up turn in
22 the market, as seen in the increasing consumption from
23 1994 to 1996. Today, the market is in the downward
24 phase of the cycle. Annual consumption has declined
25 since 1998 and was 20 percent smaller in 2002 than in

1 1997. In the first quarter of 2003, consumption was
2 down another 14.2 percent compared to 2002. These are
3 staggering declines.

4 As consumption has grown smaller, so, too,
5 has the domestic industry. According to the staff
6 report, there were 14 companies with 18 cut-to-length
7 plate mills in 1997. Today, there are nine companies
8 with 14 mills.

9 The industry's condition is also
10 significantly weaker today than in 1997 in many
11 respects. Back then, the industry was operating at a
12 small profit. That is no longer true. As the public
13 staff report shows, the domestic industry is in the
14 red and has been for the last four years.

15 Since the subject suspension agreements came
16 into force in 1997, our industry has been the victim
17 of dumping from other countries, which prevented the
18 industry from recovering as we might otherwise have
19 expected.

20 Prices are significantly depressed compared
21 to 1997, almost 20 percent lower in 2002 than in 1997.
22 Combined with a downturn in the business cycle, you
23 have an industry that is facing very difficult times.
24 Typically, cyclical industries obtain better prices
25 during upturns which permit them to ride out the down

1 times. Because of the repeated waves of unfair
2 imports, the domestic cut-to-length plate industry was
3 not able to do that. Now, the industry is facing a
4 downturn during which it will not be able to raise
5 prices, not even to cover increases in costs of
6 production.

7 One positive change is productivity, which
8 improved dramatically from 321 tons per man hour in
9 '97 to 874 tons per man hour in 2002. However, even
10 with the reduced domestic capacity in production and
11 dramatic improvements in productivity, the financial
12 condition of the industry has seriously deteriorated
13 since 1997, making the industry highly vulnerable to
14 dumped imports as the financial results in Table 3-6
15 of the public staff report attest.

16 The experience of ISG's Bethlehem plate
17 assets is consistent with what is reflected in the
18 staff report. The capacity of those facilities is
19 about 25 percent lower today when compared to the
20 original injury investigation. Those facilities also
21 experienced significant declines in production,
22 shipments and net sales and their financial
23 performance, as reflected in our questionnaire
24 response, has been bleak.

25 If this suspension agreements are removed,

1 there is no question in my mind that dumped imports
2 from the subject countries will increase and
3 materially worsen the domestic industry's already
4 weakened state. For three of the four countries, the
5 suspension agreements both restrict the volumes of
6 imports and require the producers to sell at or above
7 minimum reference prices. The agreement with the
8 fourth country, South Africa, requires producers to
9 sell at or above their normal value as determined by
10 Commerce. Simply put, removal of the suspension
11 agreements would restore the ability of producers in
12 the subject countries to reduce their prices in order
13 to sell more cut-to-length plate in the U.S. market.

14 As the public staff report and other
15 information of record attest, there is substantial
16 excess capacity in the four subject countries which
17 could be used to increase exports to the United States
18 in the absence of suspension agreements. In the case
19 of Russia, not only is there significant excess
20 capacity, but prices in the home market are so far
21 below U.S. prices that there is substantial incentive
22 to resume exporting large volumes of plate if the
23 suspension agreement is removed.

24 The Chinese respondents claim they don't
25 have substantial excess capacity and little incentive

1 to increase shipments to the United States because of
2 increasing demand in China, but you are hearing from
3 only five Chinese producers who account for a little
4 more than half of the estimated Chinese capacity
5 compared to 12 Chinese companies that accounted for
6 about two-thirds of China's production in 1997.

7 A recent report by World Steel Dynamics on
8 China's steel industry shows their capacity at
9 20.7 million metric tons in 2002. The report
10 estimates increases to 22 million metric tons in 2003
11 and 23.7 million metric tons in 2004. Recall that
12 China shipped 301,000 tons to the U.S. in 1996.
13 That's less than 2 percent of their total capacity in
14 2002 as reported by World Steel Dynamics and only
15 15 percent of the projected increase in capacity in
16 2003. It would not require very much effort at all
17 for China to quickly recover the market it held in
18 1997.

19 Finally, as the domestic producers' briefs
20 mentioned, Canada recently completed a sunset review
21 on their orders on plate, including plate from China,
22 and kept their orders in place. The South African
23 respondent, Highveld, argues that it also has neither
24 capacity nor incentive to increase exports to the
25 United States if the suspension agreement is removed.

1 I would note, however, Canada recently reviewed and
2 determined to maintain its antidumping measures on
3 South African plate.

4 In 1996, the subject countries shipped a
5 total of 1.2 million tons of cut-to-length plate to
6 our country. Back then, that equaled 14.6 percent of
7 the market. Today, that same amount would exceed
8 22 percent of our market. If market penetration of
9 14.6 percent was enough to constitute a threat of
10 material injury at a time when the domestic industry
11 was still profitable during an upturn in the business
12 cycle, market share exceeding 22 percent when the
13 industry is in the red during a downturn can only be
14 considered injurious.

15 Let me close by commenting on the recent
16 acquisition of Bethlehem Steel's assets by ISG.
17 Despite Bethlehem's significant efforts to reinvest,
18 to increase productivity, to reduce costs and to
19 endure the surges of unfairly traded imported steel
20 products through the 1990s, the corporation was unable
21 to exist as a standalone entity in the steel industry.
22 Now, under ISG's ownership, we have an opportunity to
23 continue and hopefully become a profitable member of
24 the industry.

25 We have worked closely with our workers and

1 have a precedent setting labor agreement with the
2 United Steelworkers of America that will make us more
3 productive going forward at both the shop and the
4 management levels. The agreement allows workers and
5 staff a voice in productivity improvements.

6 Additionally, our workers have secured the new owners'
7 commitment to reinvest in the facilities to maintain
8 them in a condition to compete in the global market.

9 We are greatly excited about this new
10 chapter in our business. Much of our success,
11 however, will depend on the enforcement of our trade
12 laws. While the Section 201 measures have provided
13 safeguards on key steel products most damaged by
14 import surges, this relief is temporary. The subject
15 countries still possess tremendous production capacity
16 that cannot be consumed in their home markets.
17 Elimination of the suspension agreements would result
18 in renewed dumping at pre-suspension rates and prices
19 to regain market share.

20 No matter how efficient or how much
21 reinvestment a domestic plate producer makes in their
22 facilities, there is no doubt the injury that will
23 occur to the domestic plate industry should these
24 agreements be terminated.

25 On behalf of ISG Steel Plate, I ask for this

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1 commission to help us meet the needs of our customers
2 and protect our investment by supporting the
3 continuation of these suspension agreements.

4 Thank you very much.

5 CHAIRMAN OKUN: Thank you.

6 Does that complete the testimony of the
7 panel?

8 MR. SCHAGRIN: That completes our testimony,
9 Madam Chairman. Yes.

10 CHAIRMAN OKUN: Thank you.

11 MR. SCHAGRIN: We would be happy to answer
12 your questions.

13 CHAIRMAN OKUN: Before we begin our
14 questioning, let me take this opportunity to thank all
15 the witnesses for being here today and presenting your
16 testimony and your willingness to answer our
17 questions. We greatly appreciate it.

18 I would also like to welcome the
19 participants in the Steelworkers' internship program.
20 As you can see at the commission, we've managed to
21 shift who's in control of the commission.

22 COMMISSIONER KOPLAN: Madam Chairman, if
23 I could just comment? Obviously, my days are
24 numbered.

25 MR. SCHAGRIN: But you still have hair,

1 unlike Mr. Klinefelter and myself.

2 CHAIRMAN OKUN: Notice I didn't say "balding
3 white men." I left it there.

4 COMMISSIONER KOPLAN: I'll leave it right
5 there.

6 CHAIRMAN OKUN: No response.

7 COMMISSIONER KOPLAN: I'll leave it right
8 there.

9 CHAIRMAN OKUN: Okay.

10 Welcome and I hope you find this interesting
11 and useful as you learn about a number of things
12 related to your industry.

13 And let me remind witnesses if you could
14 please restate your name and affiliation when you
15 answer questions, as there are three rows of you and
16 it's hard to see everyone's name tag and it helps our
17 court reporter.

18 With that, Vice Chairman Hillman will begin
19 the questioning.

20 COMMISSIONER HILLMAN: Thank you, Madam
21 Chairman, and I, too, would join the chairman in
22 thanking this panel of witnesses, not only for being
23 here, but for all the information provided in the
24 pre-hearing briefs, it's extremely helpful.

25 I also would join the chairman in welcoming

1 the interns from the United Steelworkers. I think it
2 would not have gone unnoticed, at least to me, that we
3 are having a hearing on steel and a third of the
4 people in the hearing room today are women. This
5 would have been a first.

6 So we appreciate it, Mr. Klinefelter, and
7 welcome our visitors.

8 I guess I can start in terms of questioning
9 by focusing a little bit on the demand issues that all
10 of you have touched on and obviously one of the things
11 that we're trying to understand, as I look at it going
12 forward, if I look at where you are and I look at
13 what's happened in terms of imports over this period
14 of investigation, it's clear that the domestic
15 industry has the highest market share, domestic market
16 share, that it's had at any point in the period.
17 I mean, imports are capturing less share today than
18 they have at any point that we've looked at. And yet
19 the financial condition is obviously among the worst
20 it's been throughout period of investigation.

21 So I'm struggling with how I assess the
22 impact that imports are having, again, given that the
23 share of the market captured by imports is the
24 smallest we've seen over this entire period and yet
25 the financial performance and other indicators are

1 poor. And, obviously, you're ascribing this to demand
2 changes.

3 I'm wanting to hear a little bit more about
4 kind of whether this level of a demand decline for
5 this many years indicates anything further. I mean,
6 is there any systemic or structural about it? Are
7 there any of your traditional uses of cut-to-length
8 plate that have switched to using something else?

9 I mean, is there anything that you can point
10 us to that's going on that would help us put into
11 context this notion that on the one hand you've gotten
12 back market share in terms of just percentage of share
13 and yet you're doing more poorly than ever and demand
14 continues to be down. I'm trying to put those three
15 kind of factors into some sort of context.

16 MR. SCHAGRIN: The numbers are plain about
17 the relationship between the decline in imports and
18 the decline in demand. Over this period of sunset
19 imports have fallen by approximately a million tons,
20 but demand has fallen by about 2.5 million tons, and
21 that is really what explains the dismal condition of
22 the industry in spite of the fact that imports have
23 fallen and the industry has regained much of its lost
24 market share. The demand has just -- the fall in
25 demand has significantly outweighed the decline in

1 imports.

2 As to why demand has fallen and what the
3 prognosis is, I would invite members of the industry
4 to answer the question.

5 VICE CHAIRMAN HILLMAN: Mr. Cera, you had
6 your hand up first. I'll let you start and then I'll
7 come back to you, Mr. Tulloch. Thank you.

8 MR. CERA: Thank you. Tom Cera from U.S.
9 Steel.

10 And yes, we have seen a number of our
11 industries decline in demand. For example, the rail
12 car market, which a number of us have invested in
13 facilities to accommodate, they estimated rail car
14 manufacturing numbers at 50,000 units in 1998, and
15 last year that number was about 15,000 units. The
16 rail industry went through a consolidation process.
17 They had to assess where they're at with their fleets.

18 We are seeing a modest recovery in that
19 industry this year, and we expect, and I don't want to
20 tell you that the demand would be down systemically or
21 that this would be a change forever. We do see that,
22 you know, demand eventually will improve.

23 The same thing with road construction. You
24 know, one of our major end uses for plate products is
25 bridges, and you know, road construction dollars have

1 not been available. Do we expect this country to
2 build aluminum bridges in the future? Not really. We
3 expect to continue to build bridges out of steel when
4 funding becomes available.

5 So basically we do see an eventual recovery
6 in a number of our industries, but I want to emphasize
7 that if we were to have these imports from these four
8 countries today or into the future as this demand
9 increases, it would just be devastating for our
10 marketplace. Thank you.

11 VICE CHAIRMAN HILLMAN: Okay. Mr. Tulloch.

12 MR. TULLOCH: Yes, John Tulloch with IPSCO.

13 In the demand sense, the economy is
14 certainly down and the capital goods sector of the
15 economy is down more than in general, and one of the
16 activity that's been keeping some of the manufacturing
17 statistics where they have been have been products
18 that don't use plate; automotive and appliances, some
19 house-related materials. So that part of the economy
20 is certainly down on the demand side.

21 You asked about structural changes, whether
22 there is something more fundamental going on. I think
23 all of us are concerned about the general shift of
24 some steel plate using activities to other countries,
25 and we watch that, and I think that is something that

1 is certainly something that has been well publicized,
2 and the exchange rates have helped that. But again,
3 we don't think that's going to -- some of that may be
4 resourceful, but that will not take away the plate
5 market.

6 VICE CHAIRMAN HILLMAN: Meaning, just so I
7 understand it, that ship building is occurring --

8 MR. TULLOCH: Ship building.

9 VICE CHAIRMAN HILLMAN: -- offshore as
10 opposed to occurring in the United States.

11 MR. TULLOCH: Or construction equipment
12 building and some of those. So we're watching that
13 and working with our customers to find ways to keep
14 them competitive, and we think that has some effect as
15 well.

16 But the other thing I just want to say about
17 imports. Even though imports are down, they still
18 have an effect measured other than by volume of
19 imports, and that's on the price side. And we still
20 get faced as recently as last week with in this
21 particular case a very large buyer coming to us and
22 saying I can buy this many tons at this price from
23 offshore. If you don't want to meet the price, I will
24 buy it from offshore.

25 So the imports can still have an effect on -

1 - that was not from one of the subject countries, but
2 it was an import nevertheless, and it illustrates the
3 mechanism where even though the volume may not be
4 there, it's a price effect, and certainly the revenue
5 side of the plate business now is seriously under
6 pressure.

7 VICE CHAIRMAN HILLMAN: Okay, Mr. Insetta?

8 MR. INSETTA: Yes. Thank you. Bob Insetta,
9 ISG Plate.

10 I think in addition to what my colleagues
11 have stated, I think it's important to note two
12 things. Number one, we are in the middle of
13 restructuring the industry, and ISG Plate is now the
14 owner of the Bethlehem plate facilities, and that is
15 really just beginning to get off the ground. It
16 remains to be seen how successful we are.

17 However, as noted in the record, capacity
18 has decreased for domestic production of plate, cut-
19 to-length plate in this country, so we are improving
20 our situation to match capacity to demand.

21 However, what we are experiencing right now
22 is a situation where we are at very low prices, and we
23 have entered a downturn in the market at low prices
24 that were pushed there by unfairly traded imports.

25 So obviously our health depends on the price

1 we can get for our product to cover our cost. We're
2 in a situation where the imports drove our prices down
3 to very low levels, and when we're operating in such
4 weak demand time frames it is very difficult to get
5 price increases. So I think that piece of the
6 business cycle needs to be factored into the equation.

7 VICE CHAIRMAN HILLMAN: Have any of you out
8 there recently been trying to get increases? You're
9 saying you're starting to see maybe a little up tick
10 in demand, at least modest in some sectors. Have any
11 of you been able recently to -- have any of you gone
12 out seeking price increase, and have you been able to
13 get them?

14 Mr. McFadden.

15 MR. McFADDEN: Pat McFadden of Nucor.

16 We announced a price increase in March to be
17 effective for June 1st, and we failed to collect that
18 increase. IPSCO has announced increases for this
19 summer, July and September, and most other mills in
20 the country have followed those increases, and we are
21 beginning to collect those, though at the same time
22 the import information that Mr. Tulloch described has
23 been related to us as well, particularly in the port
24 cities, and that's going to threatened that increase,
25 and I'm concerned about it.

1 So last year we collected significantly more
2 in increases in bringing our prices back than we are
3 able to collect this year. We have really -- if we
4 collect these increases in July and September, that
5 will be the first price changes we have made in over a
6 year.

7 VICE CHAIRMAN HILLMAN: Okay, and the order
8 of magnitude of these changes would be?

9 MR. McFADDEN: They are \$10 a ton each, two
10 separate increases, so \$20 a ton total.

11 VICE CHAIRMAN HILLMAN: Okay. Others want
12 to comment on whether price increases have gone into
13 effect?

14 MR. TULLOCH: Just on the pricing, it is a
15 very slow process. In fact, the increases we just
16 announced for July and September were announced
17 actually in May, so it's a long, slow process. At
18 that same time the costs have gone up dramatically,
19 and the pricing is all driven by what the market will
20 accept, and some of the earlier increases that were
21 attempted to be put in place based on the fact that
22 costs have gone up received no interest from buyers
23 because, you know, the net effect to them was a cost
24 as well.

25 So it's a very, very slow process. They

1 certainly are going up a lot, lot slower than they
2 came down.

3 VICE CHAIRMAN HILLMAN: Mr. Ballou.

4 MR. BALLOU: From our perspective, the price
5 increases that we have seen really relate more to what
6 I would refer to as the spot market. A large
7 percentage, and I don't know what that percentage
8 would be, is really contractual. A lot of the
9 business that we conduct over the course of the year,
10 we already have prices in place and an announced
11 increase won't have much of an effect.

12 So really the increases that Pat refers to
13 are real, but are probably impacting maybe 20 or 30
14 percent of the market on a specific spot basis rather
15 than on a contractual basis.

16 VICE CHAIRMAN HILLMAN: Okay. No, that's
17 very helpful. I appreciate those answers. Thank you.

18 CHAIRMAN OKUN: Commissioner Miller.

19 COMMISSIONER MILLER: Thank you, Madam
20 Chairman, and I thank you as well to the panel, and
21 all of our guests. Many of you have been here many
22 times before. We appreciate your willingness to
23 participate and be back again. And to those of you
24 who are spending some time in Washington, I hope you
25 will enjoy your experience here, and you learn about

1 the good side of Washington which you don't always
2 hear about outside of Washington.

3 It's been very interesting testimony and I
4 appreciate a lot of the focus on what's been going on
5 on the domestic side. I would like to ask some
6 questions about going to the issue of the likelihood
7 of the foreign countries shipping to the U.S. if the
8 suspension agreements were to be lifted.

9 In particular, a couple of you talked about
10 reasons why you thought -- Mr. Insetta, your testimony
11 in particular, you talked about your view that there
12 is a substantial incentive with respect to Russia
13 because U.S. prices are higher than Russian prices.

14 I'm going to come back to some specifics,
15 but as a general matter if anybody could address just
16 the questions as to why you think -- what is it that
17 creates the incentive for these countries to ship to
18 the U.S. if the agreements are lifted?

19 MR. SCHAGRIN: Before people in the industry
20 answer, Commissioner Miller, clearly it's their excess
21 capacity because the conditions for the U.S. industry
22 and operating very large facilities with very
23 significant fixed costs, there is incentive to
24 increase production and capacity utilization in order
25 to reduce costs. Even in this non-market economies

1 were often, when we did these cases, you know, we were
2 just amazed to find out that there were 200,000
3 steelworkers at Wuhan, that there was 150,000 people
4 at Magnagorisk in Russia.

5 I mean, these were really all, the major
6 play producers in China, Russia and Ukraine are almost
7 all World War II era facilities. They are not
8 competitive like we are though. In Russia and
9 Ukraine, it's still about half open-hearth furnace.

10 So they have got an incentive to, (a) keep
11 their people employed; to (b) to try to utilize their
12 capacity more. Whether they realize what their costs
13 are or not, they still have to have the sense that
14 we're better off utilizing this capacity more than
15 utilizing it less. And so that's really from our
16 viewpoint the incentive five years ago or six years
17 ago, and the incentive today, it's for them to utilize
18 their excess capacity.

19 Given some of the exchange rates, and Mr.
20 Insetta said, even though they have come back a little
21 bit in U.S. dollar terms compared to what things sell
22 for Russia in Ukraine, U.S. dollars look awfully good
23 compared to rubles.

24 MR. NARKIN: Steve Narkin with Sadden Arps.
25 If I could just add to that very briefly, Commissioner

1 Miller.

2 As several of the witnesses have alluded to,
3 and as we've discussed in our briefs, all of the
4 countries involved in this case are facing fairly
5 significant barriers to importation into major third
6 country markets, and that's another reason why they
7 would choose to use their excess capacity to ship here
8 rather than elsewhere.

9 COMMISSIONER MILLER: Okay.

10 MR. DEMPSEY: Commissioner Miller.

11 COMMISSIONER MILLER: Yes, Mr. Dempsey.

12 MR. DEMPSEY: Kevin Dempsey from Dewey
13 Ballantine.

14 Just to drive home the point, which I think
15 was implicit in some of Mr. Schagrin's comments, the
16 plate industry, both domestically and overseas, is
17 characterized, as the Commission has previously found,
18 by a high ratio of fixed to total cost. And so when
19 you're looking at excess capacity, it's not just the
20 total amount of excess capacity, but for any producer
21 it is economically rational to run your mill as at
22 high a capacity as possible, to cover your fixed
23 costs, and thereby reduce your per unit cost.

24 So for any producer, and certainly for these
25 foreign producers with massive excess capacity, high

1 fixed costs, to the extent that they can ship one more
2 ton and cover just their marginal cost is economically
3 rational for them to cover those fixed costs.

4 COMMISSIONER MILLER: Okay. Mr. Ballou.

5 MR. BALLOU: Tom Ballou with O'Neal.

6 If I could maybe come from that -- from a
7 different perspective, from the customer side, it
8 seems like maybe I'm the only one standing or left in
9 the plate business maybe.

10 I'm sure that the countries themselves, the
11 mills in China or Russia or Ukraine would move to come
12 back into the market. You know, whether they're
13 sitting there poised at the border, you know, with
14 train loads ready to come in is another matter. But
15 the way the kind of game goes a little bit in this is
16 that you have that middle party, the brokers, the
17 traders in the business. They are the ones that will
18 probably end up actually driving that market, if you
19 will.

20 Once that opening exists, they are very
21 quick, and I don't mean that in a disparaging way, but
22 they are very quick to go in and say we have access
23 now to product, and they are very quick to bring it to
24 people like myself and say, okay, this is available.
25 And the actual sale really doesn't even have to

1 happen, kind of what John was referring to earlier,
2 all that they have to do is really kind of bring me
3 this kind of opportunity, if you will, and then the
4 next thing you know I'm in Chicago visiting with John
5 saying, okay, guys, here is the market now. Do you
6 want to pay in it or do you want to let it come in?

7 And so it doesn't even actually have to
8 happen, just the threat of it alone can put a lot of
9 downward pressure on the pricing mechanism.

10 But as I said, I really think the
11 trader/broker, they really become the driver in this
12 whole process, and the foreign mills are welcome to
13 join with them. They bring opportunities to them. I
14 could say if the sunset case, if this was denied, it
15 wouldn't take long for somebody to be on a plane to
16 one of these countries to say, okay, let's talk about
17 a boat load into Houston, and within a couple of days
18 I would see that number, and within a couple of days
19 Pat or John or Tom or the rest of them would be facing
20 that in the marketplace.

21 I don't know if that answers it or not.

22 COMMISSIONER MILLER: No, I think it's an
23 interesting point. It's actually something that
24 sometimes in our steel cases this factor, I think,
25 does play a lot, have a lot of impact on what goes on

1 in the steel industry and perhaps more than we have
2 sometimes recognized in our cases.

3 Anybody else from the industry want to
4 speak? Yes, Mr. Klinefelter.

5 MR. KLINEFELTER: As you know, we have
6 discussions with various trade unionists who work in
7 the steel industry around the globe, and I can tell
8 you that one of the reasons that this is going to be a
9 chronic problem in the former Soviet states of the
10 Ukraine, Kazakhstan, Ubekestan, Russia, whatever, is
11 because these are the only employers in these areas.
12 There are no other employers. And when you talk to
13 either the Ukrainians or the Russians about what are
14 they going to do about these capacity issues, they're
15 not going to do anything. They are not going to do
16 anything until the west steps up and says here is X
17 billions of dollars to move these people into doing
18 something else or whatever they could do with them in
19 their economy.

20 But when you have facilities that, you know,
21 are supporting 100,000, 50,000 people, and their own
22 government is unwilling to do anything, I think it's
23 inevitable that if they are given the opportunity to
24 sell their product to get some cash they're going to
25 do it.

1 So our concern is for us is that this is a
2 chronic situation which needs to be corrected. I
3 don't have the solution for you, but I think that
4 there has to be some transitioning in these economies
5 into different employment opportunities in order for
6 this capacity to be reduced.

7 And if I was talking, if I said suspension
8 agreements the last time I was talking about subsidy
9 negotiations, I was corrected over here by counsel. I
10 want the record to show that when I said suspension
11 agreements negotiations in Paris, I meant subsidy
12 agreements negotiations.

13 COMMISSIONER MILLER: Okay. Mr. Insetta,
14 you referenced Russian prices when you were talking
15 about the incentive that you saw for them to ship
16 here. Do you want to elaborate on that, or speak to
17 anything you know about prices in the markets of the
18 other countries or internationally, the third country
19 markets?

20 That's sort of a big opening to another
21 question. My yellow light is already on. But I will
22 let you start and then I may come back to it with my
23 next round.

24 MR. INSETTA: Yes, Commissioner, I was
25 referring to the information that's in the staff

1 report that indicates that the Russian pricing and
2 counsels pointing out that it is now down under \$200 a
3 ton. And as you know, if I have my numbers correct,
4 and I'll be corrected if I'm not, but we are somewhere
5 around \$350 - \$355 a ton.

6 So the point would be that they have a lot
7 more to gain by exporting their product to the U.S.
8 versus selling it in their home market.

9 COMMISSIONER MILLER: Okay. Now you're
10 referencing --

11 MR. INSETTA: 4-12, the tables.

12 COMMISSIONER MILLER: That's what I thought
13 you were referring to but I wasn't sure. But I want
14 to come back to those tables. I'm going to have to do
15 it in the next round.

16 MR. INSETTA: Okay, thank you.

17 CHAIRMAN OKUN: Commissioner Koplan.

18 COMMISSIONER KOPLAN: Thank you, Madam
19 Chairman.

20 First, Mr. Kleinfelter, I just want to note
21 that when I came on board in 1998, I was outnumbered
22 five to one, so I've been working on it. So don't
23 give up.

24 (Laughter.)

25 COMMISSIONER KOPLAN: I also want to thank

1 you all for your testimony.

2 Let me start with U.S. Steel if I could, Mr.
3 Cero. Your counsel have urged that the Commission
4 expand -- in their prehearing brief -- that the
5 Commission expand the single like product from the
6 original determination to include cut-to-length plate
7 produced from micro alloy steel. They argue that
8 since the original investigations were suspended in
9 late October of 1997 there has been a change in the
10 cut-to-length plate market that has resulted in
11 increased development of micro alloy steels, and they
12 point to current technology.

13 I note that the domestic industry's capital
14 expenditures declined by nearly 85 percent during the
15 period examined, and that's in our staff Table C-1 in
16 our staff report, and that in 1999 and 2000, Nucor's
17 new mill dominated the domestic industry's capital
18 expenditures. That information is also in Chapter 3
19 of our staff report.

20 I also note the domestic total research and
21 development expenditures declined substantially during
22 the period examined; again, that's contained in
23 Chapter 3.

24 In addition, both Nucor and IPSCO have said
25 that they do not seek any change in the definition of

1 like product from that made in the original
2 determination. That's in their prehearing brief at
3 page 7. And I note that this morning ISG didn't make
4 reference to expanding the like product definition
5 when they did their direct presentation.

6 So I want to ask you specifically, what
7 technological changes took place at U.S. Steel in this
8 regard since 1997 that supports your request?

9 MR. CERA: Tom Cera from U.S. Steel.

10 We have made investments at U.S. Steel to
11 move up the value chain. We did invest in a \$35
12 million heat treat furnace in '97 that came on line in
13 '98.

14 COMMISSIONER KOPLAN: This relates to micro
15 alloy?

16 MR. CERA: Yes, it does. However, what's
17 important here is that the micro alloy steels and the
18 A-36 plate or the commodity plate are manufactured on
19 virtually the same facilities all the way through the
20 process, the steel making, casting, and rolling
21 facilities.

22 And the point we were trying to make is some
23 of these countries were trying to add minute amounts
24 of micro alloy to differentiate their products from
25 commodity plates and bring them in the country,

1 essentially getting around the rules in place.

2 COMMISSIONER KOPLAN: I appreciate your
3 response, but what I am looking to is specifically
4 technology-wise, because you all are standing alone on
5 this request as I understand it, and I'm trying to
6 understand. I don't have any detail in the brief as
7 to technological changes that have occurred that
8 relates to this specifically.

9 Mr. Dempsey.

10 MR. DEMPSEY: Yes. Commissioner Koplan, if
11 I could just add. The development of increased use of
12 micro alloy steel is one which the Commission has
13 addressed in previous cases, and it, of course, not
14 limited to plate. It's been seen in hot-rolled, and
15 in cold-rolled, and in other flat-rolled products
16 because the movement towards micro alloy steels in the
17 production process occurs actually before the rolling
18 process. It occurs at the very early steel-making
19 stages of the metal and the establishment of the
20 chemistry.

21 So the changes are not necessarily going to
22 be seen in terms capital expenditures for plate
23 equipment because the change actually occurs before
24 you get to rolling. It occurs when you're
25 establishing the metallurgy stage what the level of

1 boron you're adding or other materials.

2 So I think that because of where that occurs
3 in the production process, it's probably not going to
4 show up in terms of the capital expenditures data that
5 the Commission is collecting.

6 COMMISSIONER KOPLAN: Well, when you
7 mentioned earlier cases, I know on page 4 of your
8 prehearing brief you cited cut-to-length January 2000
9 determination, but that wasn't a sunset case. And
10 when I look at changing the definition of life product
11 in a sunset case, changing it now in the review, it's
12 a different test that I'm applying, and that's why I
13 was trying to get some specificity, if there had been
14 specific technological changes that you all have done
15 that would -- since '97. You see where I'm going?

16 MR. DEMPSEY: Yes, Commission, I see your
17 point, and you are correct. The cases that I was
18 referring to were all original investigations --

19 COMMISSIONER KOPLAN: Right.

20 MR. DEMPSEY: -- involving plate in '99,
21 hot-rolled in '99, cold-rolled in 2000.

22 COMMISSIONER KOPLAN: Right.

23 MR. DEMPSEY: And the only other time that
24 the Commission addressed this in a sunset review for
25 steel was in 2000, and the Commission chose not to

1 expand the --

2 COMMISSIONER KOPLAN: And you mentioned that
3 one in your brief too.

4 MR. DEMPSEY: -- domestic like product.

5 Our point, our position is simply that we
6 think given the position -- given the result that the
7 Commission has -- the determinations the Commission
8 has made in these other original investigations, that
9 the Commission should take that into account and
10 update the like product definition for purposes of
11 this investigation to reflect the market reality of
12 the increased use of micro alloys in cut-to-length
13 plate production.

14 COMMISSIONER KOPLAN: Well, let me stay with
15 you if I could, because as you're aware if we were to
16 include micro alloy steel in the like product, it
17 would add a very substantial amount of volume to
18 domestic cut-to-length plate shipments for purposes of
19 this sunset review.

20 As you are also aware, the Commission lacks
21 certain relevant data that would enable it to assess
22 the financial performance of domestic micro alloy
23 steel production.

24 Now, what I'm referring to is a confidential
25 table that you would have access to in the staff

1 report, that's Table F-1. I can't get into the
2 specifics of it because it's BPI, but the heading on
3 it is "CTL Micro Alloy Plate Available Data by
4 Sources, 1999 to 2002, January to March 2002, and
5 January to March 2003."

6 I would like you to tell me how you suggest
7 the Commission deal with these data problems. You can
8 respond to me now, and give it to me in detail in the
9 post-hearing but I'm curious as to what your answer is
10 to that.

11 MR. DEMPSEY: Well, Commissioner Koplan, let
12 me just say I don't underestimate the difficulty of
13 addressing this given some of these data problems.
14 Given the confidential nature of the data, if I may I
15 would like to suggest that we provide you with a more
16 detailed response in our post-hearing submission.

17 COMMISSIONER KOPLAN: Thank you. I
18 appreciate that.

19 Mr. Stewart, am I correct that ISG is not
20 joining with U.S. Steel in this record?

21 MR. STEWART: I think it is. ISG had a
22 questionnaire response that it submitted that lays out
23 their position vis-a-vis the issue which is not
24 dissimilar from what U.S. Steel has articulated. As a
25 matter of legal consequence, it is not clear to me

1 either that this should happen in the context of this
2 sunset review.

3 I do understand the logic that U.S. Steel
4 has put forward, namely, that it is the most recent
5 definition of a domestic industry and steel in a new
6 investigation, and we don't disagree with that, that
7 that is a logical plate.

8 There also is some confusion as to what is
9 covered by micro alloy in terms of whether that is
10 basically just high-strength low alloy steel, whether
11 that historically has been included in plate numbers
12 that companies have provided.

13 COMMISSIONER KOPLAN: That's exactly my
14 problem, because that's the kind of data problem I'm
15 referring to. So you understand the problem that I am
16 faced with on this issue. You do. Thank you.

17 Let me come back to U.S. Steel now. IPSCO
18 and Nucor argue on page 15 of their prehearing brief
19 that, and I quote, "The plate exported by the subject
20 countries here is most particularly a commodity
21 product that is sold primarily on the basis of price."

22 Staying with this for just one last second,
23 if this is true then wouldn't that suggest that the
24 Commission should not include micro alloy cut-to-
25 length plate which appears to be generally more

1 expensive in the like product?

2 MR. DEMPSEY: Commissioner Koplan, Kevin
3 Dempsey from Dewey Ballantine again.

4 COMMISSIONER KOPLAN: Yes.

5 MR. DEMPSEY: While it is true that I agree
6 the imports from the subject countries are largely
7 commodity product, I think it would be wrong to
8 conclude that those imports do not have an impact on
9 the domestic market for micro alloy plate, because it
10 is all, from our perspective, part of one carbon
11 quality plate market, and the pricing for commodity
12 products affects not just pricing for domestic
13 commodity price, but it affects -- that affects the
14 base price that is set for the full range of cut-to-
15 length plate products sold in the United States, and
16 so it has a direct impact on prices for micro alloy
17 plate in the United States as well.

18 COMMISSIONER KOPLAN: Thank you for that.
19 Thank you, Madam Chairman.

20 CHAIRMAN OKUN: Thank you. And again thank
21 you to all the witnesses.

22 I have a few questions about the domestic
23 industry that I wanted to get some input on. One
24 relates to the role of processors in the market. As
25 you are aware the Commission since 1997 has included

1 processors in the domestic industry in the plate
2 cases.

3 And in this current investigation we are
4 missing data from a number of processors, and it was
5 in fact one of the issues in the original remand that
6 we were asked to explain which was an incomplete data
7 set, and I guess this is best put to counsel on their
8 view of how we should treat this in this record with
9 regard to the data for processors, or the missing data
10 that we have.

11 MR. SCHAGRIN: This is Roger Schagrin.

12 First, Chairman Okun, why you don't have
13 responses from all the processors, we would point out
14 that since the original investigation till the present
15 time the role of processors, the market share of
16 processors has remained pretty static, haven't been
17 changes in the marketplace which has increased the
18 role of processors, and it's still a not
19 insignificant, but it's a relatively small portion of
20 the overall cut-to-length market.

21 And if anything in the past, probably two
22 years, maybe more, changes in the relationship between
23 the cost of coiled plate, which is what a processor
24 uses as their input to then cut it to length, and cut-
25 to-length plate have reduced the incentive for

1 processors to operate their cut-to-length lines. They
2 are not in a good competitive position if coil plate
3 is selling for more than cut-to-length plate, if their
4 input is selling for more their finished product.

5 As alternatives for you, obviously you can
6 utilize from the record of the original investigation
7 to make up for any shortfall of unreported domestic
8 shipments or from information broken out separately
9 for processors which I believe it was in the sunset
10 reviews and in the 2000 plate cases. You do have
11 other data points during this period of review on
12 information on processors. I'm not sure how much
13 better it is in the current review. But to the extent
14 that it is, I think the Commission can utilize that.

15 CHAIRMAN OKUN: Okay. Mr. Dempsey.

16 MR. DEMPSEY: Chairman Okun, just to follow
17 up -- Kevin Dempsey from Dewey Ballantine. In the
18 2000 sunset review of cut-to-length plate, you had a
19 similar problem. I don't know what the exact response
20 rate was there. But you had a relatively few
21 responses from processors compared to mill producers
22 of cut-to-length plate.

23 And I think, you know, the Commission was
24 left with the choice of using the best data it had
25 available, which was the questionnaire data from the

1 mill producers that still represent the lion share of
2 production of cut-to-length plate in the United
3 States. And while the issue of the lack of responses
4 from processors was raised on appeal to the CIT, the
5 CIT upheld the Commission's use of the data it had
6 available from mills as adequate to provide the record
7 for its determination in those sunset reviews.

8 And I don't know of any alternative
9 methodology for the Commission to adopt in this case.

10 CHAIRMAN OKUN: Mr. Stewart.

11 MR. STEWART: Chairman Okun, it is also
12 possible, of course, for the Commission to use its
13 subpoena power. You do have a six-month extension
14 possible under the statute to complete the sunset
15 review. And to the extent that the commissioners are
16 concerned about the level of response, that may be an
17 approach. It may be possible to subpoena sufficient
18 number either by size or geographic location to draw
19 conclusions about those that are not otherwise
20 present.

21 But I otherwise agree with the comments that
22 have been made by my colleagues.

23 CHAIRMAN OKUN: Appreciate that. Mr.
24 Tulloch.

25 MR. TULLOCH: As counsel just reminded me,

1 we did provide data, of course, on -- we operate two
2 processing lines in the U.S., which we did provide
3 data on.

4 I would also reiterate the point too about
5 the squeeze, the relative squeeze on the processors
6 because there is additional cost in moving the
7 material to the processing line and processing it, and
8 then sending it on the to customer. So that the price
9 pressure on the processing side is exaggerated, I
10 think, somewhat, or the effect of the margin of a
11 processor is really exaggerated by the pressure on the
12 pricing of the cut-to-length product.

13 CHAIRMAN OKUN: Okay. I appreciate those
14 comments, and Mr. Schagrin, my other question was
15 going to be whether there were changes in the
16 relationship between, or what the processors are
17 doing, which you responded to.

18 And I guess the other thing that strikes me
19 about that is in the staff report, Table 1-4 on page
20 I-21, which talks about changes in the -- actually, it
21 starts -- I'm sorry, the U.S. producers' bankruptcies,
22 mergers, acquisitions and new capacity.

23 If in post-hearing I could ask all counsel
24 to look through that carefully in consultation with
25 their clients to make sure that we have accurately

1 reflected there the changes that have taken place in
2 the cut-to-length plate industry, including with
3 regard to the processors, because I understand at
4 least one major processor and a minor mill producer of
5 flat bar have ceased operations, which I think we
6 don't reflect in here. But if there is anything else
7 that those of you in the industry could help in
8 identifying that, I think it would be helpful for the
9 completeness of the record.

10 MR. SCHAGRIN: Chairman Okun, we will be
11 happy to do that. I would point out, as we will also
12 point out in our post-hearing brief, that one of the
13 reasons that you wouldn't see a lot of processors
14 listed in closures of facilities is that the
15 processing lines are much smaller investments in
16 equipment, and since there is no hot end to them if a
17 processor decides it's not economic to buy coil plate,
18 run it through their processing line and make cut-to-
19 line plate, they simply don't feed the electricity to
20 the mill, and they don't buy the coil plate, the raw
21 material. But the processing line is perfectly fine
22 and stays there.

23 The producers obviously don't have that
24 option of not operating their facilities, and we think
25 that would explain why, while some processors have had

1 difficulties largely related to other aspects of their
2 businesses, not to the processing aspects, that you
3 don't see processing lines going out of business
4 because they don't have to be operated for stretches
5 of time. They can be operated when processors choose
6 to operate them.

7 CHAIRMAN OKUN: Okay. Again, I appreciate
8 those comments, and I think it would be helpful in
9 post-hearing to make sure that you go through that as
10 well with the relationship of processors to what's
11 going on there.

12 If I could now turn to -- let's see -- well,
13 let me ask a question about South Africa. I think I
14 have some more other industry questions, but I do want
15 to cover something with regard to South Africa, which
16 is the argument made by Mr. Bruno this morning, and
17 largely focused on in their brief is not to cumulate
18 based on no discernable adverse impact.

19 I wondered, though, if you could comment
20 here, and again this one goes to counsel, on whether
21 South Africa is situated differently or should be
22 treated differently based on again not being covered
23 by the 201, and as you are aware in the cold-rolled
24 case there were also distinctions among those
25 countries that we looked at, and I wonder if you could

1 further expand on how you view South Africa in this
2 marketplace given, you know, again looking at the
3 record of South Africa after the original period were
4 a small proportion of imports.

5 Mr. Schagrín, you want to start.

6 MR. SCHAGRIN: Yes. Roger Schagrín.

7 First, we believe the Commission should look
8 at South Africa again in the sunset review as you did
9 in the original investigation. While their quantities
10 were not as large then and would likely not be as
11 large in the future as imports from Russia, China and
12 Ukraine, they are selling the same commodity products.

13 They made arguments in the original
14 investigation to try to differentiate their products
15 from the other countries. The Commission did not
16 accept those arguments. Now they are making the same
17 arguments today. We again believe the Commission
18 should not accept those arguments. And they made the
19 same arguments in Canada before the Canadian tribunal
20 earlier this year, and we think for well- founded
21 reason the Canadian tribunal did not accept them.

22 They are a smaller industry than the
23 industries in Russia, China and Ukraine, but they are
24 making essentially commodity grade, A36 plate is their
25 major product, major product available to exports, and

1 that's the major product for all of the domestic mills
2 as well.

3 So we do believe that their likely volume
4 increase would be damaging to the industry and cause a
5 recurrence of injury.

6 CHAIRMAN OKUN: Okay. Mr. Dempsey.

7 MR. DEMPSEY: Yes. Chairman Okun, just to
8 follow up on that.

9 The argument made by the South African
10 producers really goes to no discernable adverse
11 impact. As Mr. Schagrin said, the South African
12 producers today, as before, are making the same basic
13 plate products that the other foreign producers are
14 making, and that the domestic industry makes.

15 They have, without getting into confidential
16 data, substantial excess capacity. They have
17 continued to ship though throughout the period of
18 review, so they have existing channels of
19 distribution. So combining their ability through
20 existing channels of distribution to ship with their
21 excess available capacity, and the incentives they
22 have to increase their exports if they have no
23 restrictions in terms of the suspension agreement as
24 was discussed in response in Commissioner Miller's
25 question, there is every indication that they would be

1 likely to have a discernable adverse impact, and
2 therefore should not be decumulated.

3 CHAIRMAN OKUN: Okay. Appreciate those
4 comments. I have some further questions with regard
5 to gross capacity, but my red light is on.

6 Oh, I'm sorry.

7 MR. DEMPSEY: Chairman Okun, just as a
8 procedural matter, Mr. Klinefelter has a commitment
9 that requires him to leave. He asked that if there
10 were any further questions, he could respond to them
11 now or in writing.

12 CHAIRMAN OKUN: Okay, thank you, Mr.
13 Dempsey.

14 Does anyone have a question for Mr.
15 Kleinfelter?

16 (No response.)

17 CHAIRMAN OKUN: Seeing none, Mr.
18 Klinefelter, thank you for joining us today. It was
19 good to see you. That wasn't on the record.

20 I'll turn now to Vice Chairman Hillman.

21 VICE CHAIRMAN HILLMAN: Well, thank you very
22 much.

23 I guess I wanted to turn a little bit to an
24 issue that Commissioner Miller was exploring, but
25 maybe starting from understanding your sense of what

1 has happened in terms of the imports from the subject
2 countries. It's my understanding for Russia, China
3 and the Ukraine they have both a quota and a reference
4 price, a minimum price.

5 I'm trying to get a sense from the industry
6 or maybe even, Mr. Ballou, from your perspective,
7 which has been the more limiting factor?

8 I mean, if I look at the numbers, you know,
9 they don't look like they are coming close to their
10 quote levels, which suggests to me that it's the
11 reference price that's really holding things down.
12 And on the other hand if I look at what those prices
13 are vis-a-vis their prices in their home market and EU
14 or other markets that we have data on, it's not so
15 clear to me whether there is still this incentive to
16 ship to the U.S. market.

17 So help me understand from your perspective
18 how you see how you have seen these agreements
19 actually working. I mean, is everybody focused on the
20 reference price or is the total quota amount been a
21 big factor in terms of what's happened in terms of
22 imports coming into the market?

23 MR. SCHAGRIN: You can answer after I just
24 say it's certainly, because I have lived with these
25 suspension agreements since the time they were

1 negotiated, Vice Chairman Hillman, it certainly has
2 been the reference price that has been the limiting
3 factor with Russia, China and Ukraine, and it's also
4 been in the case of South Africa which has no quota,
5 it's been their normal value.

6 And I think you do have to remember when you
7 look at the reference prices that they may look low in
8 comparison to U.S. market pricing, and you say, well,
9 why is that keeping them out, it's that that reference
10 price is a reference price that is FOB to foreign
11 port. A reference price is not a U.S. price. So
12 you've got to add about \$50 a ton in terms of freight,
13 unloading expenses --

14 VICE CHAIRMAN HILLMAN: Okay.

15 MR. SCHAGRIN: -- to those reference prices
16 before they would be compared to U.S. prices. And so
17 actually those reference prices have kept the prices
18 of Russia, Chinese, and Ukraine material fairly high
19 in comparison to domestic prices, and that has been a
20 limiting, significant limiting factor on the imports
21 from those countries under these suspension
22 agreements.

23 Mr. Ballou.

24 MR. BALLOU: I would agree with that. I
25 think it's primarily the reference price that, if you

1 go back to when these agreement first came into play,
2 the prices played at that time was in some cases
3 significantly higher than what it is today with Nucor
4 and IPSCO coming on in the market and adding 3 million
5 plus tons of capacity. Pricing pressure domestically
6 has been very strong, very fierce, let's say.

7 And so I think the reference price has
8 really kind of kept these countries out of it based on
9 the fact that the selling prices domestically have
10 been so low in addition to the reduced demand.
11 Consequently, you see the chart that Mr. Schagrin
12 showed about operating, the source of margins and
13 profitability. So I would say yes.

14 VICE CHAIRMAN HILLMAN: Okay. All right.
15 That though brings me to an issue that Commissioner
16 Miller was also touching on, which is getting to this
17 incentive of -- this issue of what the incentive is to
18 ship into the U.S. market, and I'm trying to
19 understand what role price plays in that market; I
20 mean from your perspective in terms of what you know
21 of prices in other markets.

22 I mean, how does the U.S. market stack up?
23 Are we an attractive market from a price perspective
24 alone? Or are there other markets that are higher
25 priced that would be more attractive to exports at

1 this point in time?

2 I'm just trying to get your sense of the
3 relative prices in the U.S. market versus the prices
4 in Europe or Asia or, you know, other markets for
5 plate.

6 MR. NARKIN: Vice Chairman Hillman, if I
7 could speak to that just briefly, and this is
8 something I touched on earlier. It's one thing to
9 look at a foreign market that might seem attractive on
10 the basis of price, say the European Union for
11 example, and say, well, if I were one of these four
12 countries, I see that price there, and it happens to
13 be higher than in the U.S., so I would send it into
14 Europe instead.

15 But that equation changes if you have
16 imports, if you have barriers to entry into Europe,
17 saying shipping from Russia, which you do.

18 VICE CHAIRMAN HILLMAN: Yes, Russia does,
19 but China to Ukraine and South Africa don't have any
20 restrictions going into the European Union.

21 MR. NARKIN: And that sort of leads me to
22 what I was about to say beyond that. You have seen,
23 certainly we have, a number of discussions and
24 articles in the trade press over the last year about
25 some of the reasons why prices in Europe are higher,

1 and that's because there seems to be a sense out there
2 that the major European producers are constraining
3 output so as to keep prices higher, and they have been
4 fairly successful at doing that.

5 Now, you can't be successful at doing that
6 if you are truly open to imports in the same sense
7 that the United States is. And there are experts
8 about the European market who would tell you that
9 things like the European mills control the
10 distribution system in Europe makes it much more
11 difficult to ship into Europe than it is to say to
12 ship into here.

13 VICE CHAIRMAN HILLMAN: Okay. Would others
14 in the industry comment on this sort of issue of the
15 relative prices in the U.S. market versus other major
16 markets for plate?

17 MR. TULLOCH: One of the -- perhaps an
18 indicator of the attractiveness is one of the
19 countries that has become quite significant in the
20 plate business, and in fact with the sources of
21 material I referred to earlier being offered to
22 certainly one of our customers was Romania, and
23 certainly the Romanians find it attractive, and Canada
24 has just filed a dumping case, in fact, against the
25 Romanians who are bringing very large quantities of

1 material, cut-length plate into North America, and
2 that's the same material we're seeing in the southern
3 U.S.

4 So certainly the incentive is there for
5 them, and they are close to those same markets that
6 you would think would be available to Russia and the
7 Ukraine.

8 VICE CHAIRMAN HILLMAN: Okay, but in terms
9 of, again, if they were trying to shop to Europe
10 versus Asia versus the U.S. versus Canada, you're
11 saying price-wise the North American market is a more
12 attractive market than the European market or the
13 Asian market.

14 MR. TULLOCH: I'm not sure I have all the
15 data to say that. I was just really saying here is an
16 example of they have made that choice, so that would
17 indicate that certainly it is. I don't have the data
18 to tell you that it is.

19 VICE CHAIRMAN HILLMAN: Okay. Okay.

20 MR. SCHAGRIN: Vice Chairman Hillman, I
21 would also add that the countries we're dealing with
22 in this sunset review, Russia, Ukraine, China, South
23 Africa, are not countries that vis-a-vis the U.S.
24 dollar have strong currencies. Their currencies have
25 all weakened over the past six years against the

1 dollar. There has been changes and the South African
2 rand up and down, but it's much weaker now than it was
3 six years ago. We know the uwan is always fixed, and
4 while the ruble has recovered somewhat it's still a
5 low, and I don't know about the Ukrainian currency, if
6 it has much value in the world for that matter.

7 So we think this market would be attractive
8 to them in terms of translating dollars back into
9 their weak currencies whereas, to be quite honest, it
10 might not be that attractive for producers in Western
11 Europe right now given how much the euro has changed
12 recently.

13 But the attractive nature of the U.S. market
14 for these foreign producers goes back to the size of
15 the U.S. market. Even though demand is down here,
16 this is a substantial market compared to other markets
17 in the world. Yes, China is a large market, but China
18 has all kinds of market distortions and problems in
19 the Chinese market. These countries don't have
20 significant home markets.

21 The availability to be able to ship volumes
22 to the U.S. market helps them out regardless of how
23 they price it because of the fixed-cost nature of the
24 plate industry. So we think in and of itself just the
25 attractiveness of being able to ship large volumes to

1 the U.S. market, as they did in '96-97, out of the
2 blue one and a quarter million tons. They were not
3 getting great prices here, but they liked the volume.
4 And at least from our perspective that would remain
5 most attractive thing for them for the U.S. market is
6 that there is volume available.

7 VICE CHAIRMAN HILLMAN: Well, your point is
8 what I am trying to make sure I understand, which is,
9 again, whether the issue in terms of why would imports
10 come back into the U.S. market, whether it really is
11 this, as you say, the volume issue, meaning high
12 fixed-costs, they have got to pump it out, the
13 marginal cost of making one more ton is the marginal
14 cost of making one more ton. I mean, it's a volume
15 issue as opposed to a price issue.

16 I mean, you know, that's what I'm trying to
17 get some relative sense of whether it is purely I've
18 got tons, I've got to sell it, or whether there is
19 something about the pricing, you know, distribution,
20 whatever system in the U.S. market that makes us a
21 more attractive market than Europe, than Asia, than
22 other markets.

23 Mr. McFadden.

24 MR. McFADDEN: Yes, ma'am. A steel mill
25 operates based on a series of events, not just any one

1 variable. So there are several variable that play
2 together to make a decision, you know, a smart
3 decision or not.

4 In the case of these mills there is a
5 threshold of pain that they would endure to come and
6 put product into this country. The penalties that
7 they have been having to pay for the last five years
8 have prohibited them from going over that threshold.
9 It's kept the steel down. By removing that you would
10 open up the door for them to step over again and start
11 to do it.

12 What motivates them may be price, it may be
13 volume, it may be mix, it may be several reasons why
14 they would do it, but I think the one thing that's
15 been proven in the last five years the penalties that
16 have been put into place have kept them out, and I
17 think that's the main reason why we're seeking to
18 continue that practice.

19 VICE CHAIRMAN HILLMAN: I'm afraid the red
20 light has come on so I may need to come back to this
21 on the next round. Or Mr. Tulloch? Mr. Tulloch,
22 please, go ahead.

23 MR. TULLOCH: Just quickly, just quickly,
24 and it goes to a point Tom Ballou made earlier, and
25 Commissioner Miller picked up on was they will also be

1 attracted in by a very active trading community that
2 will seek them out as, you know, themselves they want
3 to seek out other markets, they will certainly be
4 sought out by people who do have established channels
5 in this market, so it's not just a bilateral thing.
6 There is a middleman activity that is very active.

7 MR. SCHAGRIN: I would point out the
8 Canadian tribunal found that very fact, and it's on
9 page 14 of the Canadian tribunal's decision talking
10 about how trading companies would be material from the
11 countries subject to their sunset review into Canada,
12 and those same trading companies in Canada are in the
13 United States. They are international trading
14 companies.

15 CHAIRMAN OKUN: Commissioner Miller, go
16 ahead and start your time.

17 COMMISSIONER MILLER: Got that answer
18 without being attributed to my time, is that what
19 you're telling me?

20 That's alright, you can take it off.

21 Let me ask because, frankly, Vice Chairman
22 Hillman's question is the question I am probably most
23 interested today, is just whether anybody else wanted
24 to respond to her last -- you know, beyond Mr. Tulloch
25 and Mr. McFadden. Dr. Blecker.

1 MR. BLECKER: Robert Blecker with Schagrin
2 Associates.

3 Just very briefly, it's important to
4 remember that dumping involves necessarily sacrificing
5 price to achieve volume. That is the nature of the
6 beast. And so given the high margins here, I think
7 that's evidence that they would do that again as they
8 did in the original investigation.

9 COMMISSIONER MILLER: Yes, Mr. Insetta.

10 MR. INSETTA: Yes, Bob Insetta, ISG Plate.

11 And just very quickly just to make the
12 point, for instance, in the case of Russia we know
13 from the data that they are now operating at somewhere
14 around 53 to 55 percent of capacity, so they
15 absolutely have an incentive should this not stay in
16 place to ship product to the United States.

17 COMMISSIONER MILLER: Okay. Let me follow
18 up, Mr. Insetta, with our last exchange when you were
19 referencing the table in Part 4 of the report that I
20 had to scurry to find out what was in the public
21 version as opposed to the confidential version because
22 I thought, and in fact I still do, mostly have to
23 address this question to counsel because this is -- I
24 believe it may not be the first time we have collected
25 AUV data in a sunset case with respect to the home

1 market, but I think it is the first time we have
2 included this data that's in Part 4 regarding
3 shipments, AUV data for home market, and then exports
4 to the U.S. EU, Asia and other. So we have more
5 detailed information in this sunset case regarding the
6 average unit values of shipments.

7 And to counsel what I would like you to
8 address here is how informative you think this is for
9 us, and if need be for purposes of your post-hearing
10 submission because of the confidentiality of the
11 specific numbers, you know, you can elaborate more on
12 what you think it tells us, but only if you think it
13 is informative. So let me ask that first question.

14 How informative is this AUV data for us?

15 MR. SCHAGRIN: This is Roger Schagrin, and
16 you know, the natural predilection of lawyers is to
17 jump on data that's helpful and say, well, this is
18 really informative so you ought to use it. But when
19 you're before this Commission a lot, I think that you
20 have to think of the long term.

21 And I don't think the Commission should be
22 begin relying on data on home market AUVs, export
23 market AUVs, other than the U.S. Obviously, ours are
24 based on our Customs statistics, which we hope are
25 fairly good, because we don't verify these foreign

1 producer responses. And if the Commission starts
2 relying on this data heavily, what I am afraid of is
3 that foreign producers and their counsel will say,
4 boy, if we can show that, you know, our average AUVs
5 are higher than the U.S., it won't look attractive to
6 the Commission that we'll be coming to the U.S.,
7 depending on where the capacity data is, et cetera.

8 So we'll discuss the data itself in our
9 post-hearing brief regardless of our position on how
10 informative, but I'm troubled about the informative
11 nature in general. I'm not saying there is anything
12 wrong with this Russian data. We all know that given
13 the value of the Russian currency there is no question
14 that in Russia steel prices are awfully low when
15 translated into U.S. dollars. That's largely a
16 function of currency, and you know, going back in time
17 we see the drop from AUVs of 300 to 135 in two years.
18 That's cataclysmic. Prices in rules in Russia drop?
19 No, it happens to be the same period '97 to '99 that
20 the Russian currency was severely devalued as part of
21 the whole run on from the Asian crisis.

22 So you know, in general, you know, it's
23 helpful to us in this case, and we'll analyze it, but
24 I have my doubts upon the Commission using this
25 normally as something to rely on in a sunset decision.

1 COMMISSIONER MILLER: Well, now, the only
2 thing I have to -- you know, I take your point on the
3 issues of verification. The Commission is familiar
4 with that. We have tried to do a little bit of that
5 in these sunset investigations. But I just want to
6 understand. Is there some reason why you would have
7 me rely more on the capacity data but less on the AUV
8 data?

9 I mean, in other words, isn't that point
10 equally relevant to all the data we have from the
11 foreign producers?

12 MR. SCHAGRIN: No question, Commissioner
13 Miller, and we often suspect the capacity data here,
14 as was pointed out, even the Russians admit they are
15 only at 50 percent capacity utilization, so the
16 overcapacity in these countries is so large that in
17 this proceeding we don't have to quibble a lot about,
18 gee, how much excess capacity is there, are they
19 really fairly reporting their capacity. It is
20 obviously an issue in other sunset reviews; not this
21 one.

22 But, you know, we think --

23 COMMISSIONER MILLER: Is there any
24 difference with respect to AUVs as opposed to the
25 other information provided that may not be verified

1 that makes --

2 MR. SCHAGRIN: No.

3 COMMISSIONER MILLER: I mean, for example,
4 product mix issues are often an issue in AUVs. So
5 they may affect data.

6 MR. SCHAGRIN: Correct.

7 COMMISSIONER MILLER: Sometimes they are
8 more probative than others, depending on the case, you
9 know.

10 MR. SCHAGRIN: Correct. There is nothing
11 particularly special about --

12 COMMISSIONER MILLER: Okay.

13 MR. SCHAGRIN: -- the AUVs here or in other
14 cases. Obviously, you have to explore product mix
15 issues probably more so in other cases than this.
16 What the Russians make for their own market is
17 probably generally A36 plate, you know, or something
18 very, very similar because plate is a commodity
19 product and the specifications are fairly uniform
20 worldwide because the applications are fairly uniform
21 worldwide, so we don't think you have those issues.

22 But in this case it's not only our theory of
23 the case, it really is reflective of what happened
24 during the period of investigation and what is going
25 at the present. We have foreign producers of

1 commodity products who have huge amounts of excess
2 capacity, and we think that that is more important as
3 an issue in this case than the attractiveness of
4 pricing in the U.S. market --

5 COMMISSIONER MILLER: Okay.

6 MR. SCHAGRIN: -- at that through trading
7 companies, but these Russian, Ukrainian, Chinese,
8 South African mills would love to do to say, gee, you
9 can buy more of our plate, we'll sell you more of our
10 plate. And really the reason that it's not being sold
11 in other countries trading companies is while the EU
12 may just have things with Russia and China, now they
13 just let Ukraine out. Ukrainians know if trading
14 companies take a huge amount of plate into the EU,
15 they're going to be hit with another quota again.
16 Actually, right now they are subject to safeguards.
17 Maybe it wasn't listed here, but they are subject to
18 safeguards, I believe.

19 COMMISSIONER MILLER: Okay. Anyone else.
20 Let me ask Mr. Narkin if he wants to respond to my --

21 MR. NARKIN: Just very quickly, Commissioner
22 Miller.

23 One observation, which I don't think has
24 been made yet and I'm just focusing on a narrow subset
25 of the data, in some ways just stating the obvious, I

1 think. If you are talking about data on shipments to
2 the United States, whether it's shipment volumes or
3 AUVs, that's clearly been affected by the suspension
4 agreements that have been put into effect, and you
5 should not regard those data as indicative at all of
6 what would happen in the absence of those agreements.

7 COMMISSIONER MILLER: Okay. I think that's
8 a fair point. You know, but then I might ask you to
9 comment a little bit about the home market in EU, in
10 other, in Asia prices. We often hear in these steel
11 cases and talk about international prices worldwide.
12 It doesn't seem to be what you want to focus on today,
13 but I'm trying to understand as an indicator, you
14 know, in this case and as a general matter how helpful
15 it is. Mr. Stewart.

16 MR. STEWART: Commissioner Miller, there are
17 some things that make average unit value different, at
18 least in cases in which you are involved with
19 countries like China, and that is the prospect of
20 getting paid.

21 Many U.S. companies who have invested in
22 China find that even though they invest to service the
23 Chinese market the difficulty in getting paid locally
24 is so great that it often encourages them to export
25 simply to get hard currency so that they can keep

1 their facilities functioning. We do not as a general
2 matter get information on payment cycles whether in
3 fact people get paid, and with regard to China, there
4 is a lot of literature about the IOU network amongst
5 state-owned -- state invested companies, and the steel
6 industry is one of those sectors that is heavily
7 state-owned.

8 So I think that that is a complication that
9 may be country-specific. I think that there is also
10 problems from the domestic perspective with all of the
11 categories of information that you get in Part 4,
12 where you do not have a full representativeness of the
13 industry in the foreign country. In China's case you
14 go from 12 to five, but even at 12 you were dealing
15 with two-thirds of domestic production.

16 Obviously, the incentive or the willingness
17 for foreign producers to participate with data goes
18 down if they're not an exporter, but it doesn't say
19 anything about what is going on in the market or what
20 the full character of the market is.

21 And so I do think there are a range of those
22 qualifiers, and including product mix that don't exist
23 with capacity and other things that make it at least
24 more suspect than they give you opportunities to
25 improve what you ask for.

1 COMMISSIONER MILLER: I appreciate the
2 answer. My apologies to the industry folks, but I did
3 want to hear from counsel what they thought of that
4 new part of our record. So I appreciate it. Thank
5 you.

6 CHAIRMAN OKUN: Madam Secretary, I
7 understand our congressional witness has arrived.

8 MS. ABBOTT: Yes, Madam Chairman. The
9 Honorable Frank W. Ballance, Jr., United States
10 Congressman, 1st District, State of North Carolina.

11 CHAIRMAN OKUN: Welcome, Congressman.

12 CONGRESSMAN BALLANCE: Thank you. Good
13 morning, Madam Chairman, and members of the
14 Commission. I thank you for this opportunity to
15 appear before you today on behalf of the people of the
16 1st Congressional District of North Carolina.

17 If the 41 counties in North Carolina east of
18 Interstate 95 were a separate state, it would be the
19 51st poorest in the nation. My congressional district
20 comprises part or all of 23 of these counties in this
21 economically depressed part of North Carolina, and you
22 can imagine that I would commend Nucor Steel for its
23 investment in this region in Hertford County, North
24 Carolina where it operates a mill and has operated
25 mills since 2000, and employs 388 people.

1 A recent economic impact study by the
2 University of North Carolina estimated that the mill
3 will create an additional 4,000 new full-time jobs in
4 related industries both up and downstream.

5 And so I'm here to support Nucor Steel's
6 workers and those who work in related industries in
7 their request that import relief on carbon steel plate
8 be maintained. I believe that this trade restriction
9 is an important element of the protection we provide
10 our steel industries against the dumping practices
11 that have marred trade and steel imports in the past.

12 As you seek to determine whether revocation
13 of relief would likely lead to the continuation of
14 occurrence of material injury within a reasonably
15 foreseeable time, I would like you to please consider
16 the following items.

17 The U.S. industry is especially vulnerable
18 to unfairly traded imports because demand for steel
19 plate is weak. Demand has been depressed for the past
20 three years, and is unlikely to recover in the
21 foreseeable future. All U.S. producers are
22 susceptible to injury from dumping imports. The
23 Commission's prehearing staff report confirmed the
24 industry's vulnerability, reporting operating losses,
25 low production, and low capacity utilization.

1 The past failure of the government to
2 protect steel and prevent steel dumping has bankrupted
3 the steel companies, often steelworker pensions and
4 caused entire regions of our country to become
5 economically depressed. The foreign countries covered
6 by this relief have tremendous capacity to increase
7 exports of steel plate to the United States if given
8 the opportunity. Steel plate producers in these
9 countries have not decreased capacity, and due to
10 restrictions maintained by other countries do not have
11 alternate markets, alternative markets for their
12 exports. Removal of those trade barriers would
13 provide incentives to foreign countries to increase
14 their exports of cheap steel to the United States, and
15 further harm the domestic steel industry.

16 And it's for that reason that I strongly
17 urge the Commission not to create conditions that
18 would encourage export of cheap steel to our markets.
19 Tens of thousands of steelworkers who have worked for
20 decades in dangerous, demanding job have had their
21 pensions and benefits jeopardized. The companies for
22 whom they labor are now struggling to meet their
23 commitment to former steelworkers, and some have even
24 abandoned their pension plans, forcing the Pension
25 Benefit Guaranty Corporation to step in.

1 Dozens of domestic industries depend on
2 steel to build capital and the military relies on
3 steel for mechanical devices and steel plates. The
4 health of America's still industry is critical to so
5 many aspects of our economy. Tens of thousands of
6 hard-working, middle-class Americans who cannot simply
7 move to another job after 10 or 15 years in a blast
8 furnace depend on the industry's solvency for their
9 retirement and insurance.

10 I am almost complete.

11 Further dumping in our market would force
12 many of these people out of work and cripple regional
13 economies. With unemployment now rising, now is not
14 the time to take risks of steelworkers' jobs.

15 Again, I urge you not to create conditions
16 that could be the final blow, bankrupt many of our
17 steel companies. Our steelworkers and their families
18 depend on them. Our economy depends on them. And our
19 military depends on them. Learn from our mistakes of
20 the past and protect steel and steelworkers. America
21 is watching your decision.

22 Thank you for this opportunity to express my
23 viewpoints.

24 CHAIRMAN OKUN: Thank you very much for that
25 testimony. Let me check to see if my colleagues have

1 any questions or comments.

2 Vice Chairman Hillman.

3 VICE CHAIRMAN HILLMAN: I don't have a
4 question for you but as someone who spent six years
5 working for Senator Terry Sanford when he was here in
6 the Senate, I spent a lot of time in your
7 congressional district, and did want to welcome you
8 here to the Commission, and thank you for coming to
9 testify.

10 CONGRESSMAN BALLANCE: Thank you kindly.
11 Thank you.

12 CHAIRMAN OKUN: There are no other
13 questions. Thank you again for your testimony. We
14 appreciate you coming.

15 CONGRESSMAN BALLANCE: All right.

16 CHAIRMAN OKUN: We will resume our
17 questioning with Commissioner Koplan.

18 COMMISSIONER KOPLAN: Thank you, Madam
19 Chairman.

20 Let me come back if I could to the issue of
21 cumulating South Africa because it's still an issue
22 that I am reviewing and I know that I'm going to be
23 hearing from Mr. Bruno and Mr. Vaster on that this
24 afternoon.

25 If I can summarize, and I'm just following

1 up to my colleagues' questions on cumulation with
2 regard to them, but Highveld argues in its briefs that
3 its home market sales during the last four years show
4 rapid growth in that market fueled by numerous
5 infrastructure projects for which its a major
6 supplier, and that's on page 5 of their brief; and
7 that this places significant constraints on its
8 ability to expand export sales and divert home market
9 sales to the U.S. market.

10 It makes similar arguments with regard to
11 Iscor, the other South African producer, the details
12 of which are set forth in part on pages 6 and 7 of the
13 prehearing brief, but a BPI. It argues that its
14 capacity is both limited and relatively small in
15 comparison to China, Russia and Ukraine, and that it
16 has no plans to increase capacity in the future.

17 It also argues that even though South Africa
18 is an exempt country under the 201 neither Highveld
19 nor Iscor took advantage of its exempt status by
20 ramping up its exports to the U.S.

21 So based on such arguments they urge that we
22 not cumulate them with the other three countries. I
23 appreciate what you said thus far. I know I'm going
24 to be hearing this kind of detail this afternoon. I
25 note that in ISG's direct testimony your reference to

1 South Africa is to note that Canada recently decided
2 to keep its order in place on them, but I would like
3 to get as much detail now as I can because I know I'm
4 going to be hearing this this afternoon.

5 So why don't I start with you, Mr. Stewart,
6 and then move to the others.

7 MR. STEWART: Thank you, Commissioner
8 Koplan. We don't have the advantages yet because of a
9 late appearance of having the APO record so a lot of
10 the comments will have to be in our post-hearing
11 brief.

12 COMMISSIONER KOPLAN: I appreciate that.

13 MR. STEWART: I did want to point out one
14 fact from the Canadian tribunal record in their
15 determination that might suggest a follow-up request
16 to Highveld. It appears on page 13 of the report,
17 which is included as an exhibit, I believe, to both of
18 the other domestic parties' brief, and to I believe it
19 is Footnote 29.

20 In there the tribunal indicates that there
21 is no reason to believe that there won't be increased,
22 continued increased imports from South Africa and the
23 other countries that they were looking at, and then it
24 says, "The information provided by Highveld
25 corroborates this statement. It suggests that the

1 company's carbon steel plate production is
2 increasingly destined for export markets."

3 I would suggest, Commissioner, that that is
4 significantly different testimony than has been
5 presented in the prehearing brief by the South African
6 producers and it refers to a manufacturer's exhibit
7 that was presented to Canada. It would be interesting
8 if that exhibit were made part of this record so that
9 this Commission might have an opportunity to see why
10 the Canadian government perceived that Highveld was
11 increasing its total shipments for export.

12 COMMISSIONER KOPLAN: I appreciate that. If
13 that's not part of our record, I would ask that Mr.
14 Bruno include it as a submission.

15 MR. SCHAGRIN: Other than that, we will put
16 our comments in the post-hearing brief.

17 COMMISSIONER KOPLAN: And I would appreciate
18 that.

19 Mr. Narkin.

20 MR. NARKIN: Yes, Commissioner Koplan, if I
21 could just add to that briefly.

22 We have obtained a copy of Highveld's annual
23 report, and for the most part the information
24 contained in that report does not comport terribly
25 well with certain information that's presented to you

1 in this proceeding, and that's about as much as I can
2 say for now, I think.

3 COMMISSIONER KOPLAN: All right.

4 MR. NARKIN: We will discuss that in our
5 post-hearing brief.

6 COMMISSIONER KOPLAN: That is where I was
7 going with that. If you would, I would appreciate it.

8 Mr. Schagrin.

9 MR. SCHAGRIN: Commissioner Koplan, we will
10 also comment because of the confidential nature of
11 Highveld and Iscor data, we will really answer both of
12 your questions that you asked confidentially in the
13 post-hearing brief.

14 I would point out though that the statement
15 in the South African brief that they have not taken
16 advantage of their exemptions from the 201 to increase
17 their plate exports really rings a bit hollow based on
18 the facts of the case. It is very clear that it is
19 the normal value with South African which is at a
20 level that just does not permit them to export to the
21 United States without dumping.

22 They have a different agreement than the
23 other three -- suspension agreement.

24 COMMISSIONER KOPLAN: Theirs is based on
25 price.

1 MR. SCHAGRIN: Theirs is based on price --

2 COMMISSIONER KOPLAN: Right.

3 MR. SCHAGRIN: -- in the home market. There
4 the fact that prices in South African home market
5 would likely not allow them to export to the United
6 States given the significant amount of freight from
7 South Africa to the United States without dumping, and
8 they're not allowed to dump. That's what has kept
9 them out of the U.S. market, not any self-restraint
10 given their exemption under the 201. I think that's
11 very clear from the records.

12 COMMISSIONER KOPLAN: I appreciate each of
13 your responses, and I also look forward to your
14 supplementing it post-hearing. Thank you.

15 Let me turn if I could to the Chinese. I
16 know they are not here today but they did file a brief
17 and I know you have commented on that. Let me just
18 touch on this with you.

19 Chinese producers contend in their
20 prehearing brief that subject imports declined 61
21 percent from calendar year 2001 to calendar year 2002
22 as a result of the imposition of the 201 relief in
23 March of 2002; that domestic policies of CTL plate as
24 a result of the 201 relief reversed their previously
25 declining price trends, and they also cite an example

1 of a price increase during the January to March 2003
2 interim period, and I think, if I remember correctly,
3 relating to product three; and an 83 percent decline
4 in subject imports between the interim period. That's
5 at page 6 of their brief.

6 This is a long way of their getting to the
7 point that they're trying to make, that the 201
8 safeguard relief should be considered by the
9 Commission as a new and very important condition of
10 competition for these sunset reviews, similar to the
11 way it was considered by the Commission in the 2002
12 dumping and countervailing duty investigations
13 involving certain cold-rolled steel products.

14 I would like to hear from the domestic
15 producers first on this issue, and then counsel. Mr.
16 Tulloch.

17 MR. TULLOCH: I haven't gone through all the
18 tables and the references you made in there. I think
19 clearly the Chinese shipments into this market would
20 be -- based on the performance before -- very damaging
21 coming in. I'm not sure I have a lot to add to your
22 question the way it was asked. I will certainly
23 review that and see if there is anything we can add
24 post-hearing.

25 COMMISSIONER KOPLAN: Thank you. What I am

1 trying to get at is the emphasis that we should be
2 putting on the 201 safeguard relief --

3 MR. TULLOCH: Well, I think that --

4 COMMISSIONER KOPLAN: -- because that's
5 something new that has occurred since the original
6 determination.

7 MR. TULLOCH: Well, I think it is but it is
8 -- you know, clearly it is a temporary relief, the
9 201, and as Mr. Schagrin pointed out, by the time this
10 process runs its course we will be into the third and
11 substantially reduced phase of the 201 with the
12 margins that are applicable around 18 percent, I
13 believe it is. And clearly, given that number
14 relative to the margins of dumping found, it just a
15 totally different proportion.

16 So I think this particular sunset
17 consideration to me is much more significant, and
18 outlasts by far the 201 activity.

19 COMMISSIONER KOPLAN: Thank you. Mr.
20 Dempsey.

21 MR. DEMPSEY: Yes, Commissioner Koplan, just
22 following up on that point.

23 If you look at the range of antidumping
24 margins that the Commerce Department found as the
25 likely margins of dumping, in the case, I think, of

1 everyone of the Chinese producers, those margins are
2 going to be substantially larger than the level of the
3 201 relief, especially once the 201 relief is reduced
4 to 18 percent in March of next year. So that suggests
5 that the Chinese producers will be able to, if they
6 are freed from the restrictions of the suspension
7 agreement will be able to price aggressively even in
8 the face of the 201 duties.

9 COMMISSIONER KOPLAN: I think you made that
10 point earlier, but I'm still coming back to the
11 question. The 201 is still a new condition of
12 competition that has occurred since then, and we have,
13 as I referenced the cold-rolled decision, we have
14 considered that to be an important consideration for
15 purposes of the sunset review.

16 I see my light is on. I see hands are up.

17 CHAIRMAN OKUN: I looks like Mr. Schagrin
18 wanted to have a comment on that.

19 MR. SCHAGRIN: Commissioner Koplan. I'll
20 let Mr. McFadden make a point, but I distinguished
21 cold in my opening statements, but would also go to
22 the fact that China is one of the complainants at the
23 WTO. They have been a member of the WTO from the time
24 we made the 201 relief. They entered shortly before
25 that. They know they are going to win at the WTO even

1 though it would appear to many of us that with them
2 have \$110 billion trade surplus, yes, that would take
3 a lot of chutzpa to immediately retaliate against us.
4 There is no doubt that China will take steps to
5 retaliate or will expect the United States to lessen
6 the relief.

7 So I really think the Chinese arguments, and
8 they have the same counsel participating in the WTO
9 proceedings, it's a little bit tongue in cheek to say
10 to the Commission, oh, 201, it is different from the
11 original investigation, but this 201 relief is going
12 to be what saves the U.S. industry. It doesn't need
13 the dumping relief to continue for another five years.

14 On the other hand, they are doing everything
15 possible and will take steps within the next several
16 months to do away with that 201 relief.

17 Mr. McFadden, do you want to comment on the
18 pricing.

19 CHAIRMAN OKUN: Go ahead. If the secretary
20 could just sent the clock. Go ahead and let Mr.
21 McFadden comment on my time, and if there are any
22 other members of the industry who wanted to commented
23 specifically on the 201 and the condition of
24 competition.

25 Mr. McFadden.

1 MR. MCFADDEN: My comment just had to deal
2 with -- It's okay?

3 CHAIRMAN OKUN: Yes, Mr. McFadden? I'm
4 sorry.

5 COMMISSIONER KOPLAN: I'd just like to thank
6 you, Madam Chairman.

7 CHAIRMAN OKUN: I'm sorry. Yes. Is it Mr.
8 Insetta back there who would also like to comment?
9 Let's start with Mr. McFadden.

10 MR. MCFADDEN: My comment just had to do
11 with pricing. Our plate mill was built about three
12 years ago. At the time we did our study plate prices
13 were transacting over \$360 a ton. Our average price
14 per ton now we advertise on our website is about \$301
15 per ton, so we're \$60 below where we thought the
16 market would be when we invested.

17 When we finished the year 2001, our average
18 price per ton was about \$270. We've had some recovery
19 to get to the level of \$300 through the year of 2002,
20 but we have not had any price changes since the
21 beginning of this year. Actually, we haven't had any
22 price changes since July of last year, July of 2002
23 until the current date. There's been no price change.

24 CHAIRMAN OKUN: Mr. Insetta?

25 MR. INSETTA: Yes. Thank you. I just

1 wanted to get back to Mr. Koplan's comments or
2 questions on China.

3 I think a key fact would be that the imports
4 from China from 1996 to 2001 before the 201 dropped
5 from 300,000 tons to just under 100,000 tons, and the
6 reason they dropped was because of the floor price and
7 these suspension agreements, so there has been a
8 change, but that is due to the suspension agreements,
9 not the 201.

10 CHAIRMAN OKUN: Okay.

11 MR. INSETTA: Thank you.

12 CHAIRMAN OKUN: Appreciate those further
13 comments.

14 Did anybody else in the industry want to
15 comment?

16 (No response.)

17 CHAIRMAN OKUN: I listened with interest to
18 a number of the responses you've made to my colleagues
19 in particular with regard to what is the incentive of
20 the countries subject to the Order to come back into
21 the United States, and I think implicit in those
22 questions and I guess a point I want to make is we've
23 had a fair number of sunset Orders now and, of course,
24 a big transition case, and a number of them have been
25 reviewed by the Court of International Trade.

1 I think, you know, as we look over what the
2 Court has said, I mean, obviously capacity is a
3 statutory factor we're asked to consider, but I think
4 the Court has not thought just citing large capacity
5 numbers, capacity numbers that can swamp the U.S.
6 market, is sufficient to establish why it is that
7 these countries would move back into the United
8 States.

9 I think in a case like this where you do
10 have large home markets for all these countries that I
11 think the questions that were posed regarding, you
12 know, what the incentive is -- is it volume; is it
13 price; is it keeping the mill running -- I think are
14 particularly relevant and need further development by
15 counsel and by industry witnesses as well to help us
16 understand what you think the dynamics are that make
17 the capacity that you're citing likely to come back
18 into the market.

19 I don't know if there are any further
20 comments on that. Mr. Schagrín?

21 MR. SCHAGRIN: Yes, Chairman Okun. You
22 know, I think based on the Court decisions where they
23 want you to, you know, state the evidence for your
24 finding that it is likely that the imports are going
25 to increase and are going to cause a recurrence of

1 injury, you're still to do that on the basis of the
2 conditions of competition within an industry.

3 In this industry, I think the Commission can
4 say that this is an industry with high fixed costs
5 with foreign producers who have significant excess
6 capacity and significant incentive to utilize that
7 capacity, and we do have record information that
8 demonstrates that in the past it was trading companies
9 that brought those products to the U.S. market.

10 The same trading companies continue to exist
11 and continue to ply their trade today, and I think
12 it's a very reasonable assumption that excess capacity
13 and a large U.S. market will result in, as Mr. Ballou
14 described before, trading companies going to these
15 foreign producers and saying we'll take some of your
16 excess capacity. Here's the price we can offer you.

17 There will be price takers. It doesn't
18 matter if that price was \$350 a ton back in 1996 when
19 the U.S. market was at \$450. That's what it took to
20 get a million tons here. Today, with U.S. market
21 prices at \$320 or \$350, maybe those foreign mills have
22 to be price takers at \$250.

23 I think you put together with reasonable
24 analysis all of the factors, and it adds up to
25 conditions which the Commission can identify would

1 lead to the significant volume increases. After that
2 you're home free, given the vulnerability of the
3 industry.

4 Almost any significance in volume increases,
5 given the weakened state of this industry, will lead
6 to a recurrence of injury, but we think the record
7 establishes the basis for the Commission to make the
8 finding of a likely significant increase in imports.

9 CHAIRMAN OKUN: Mr. Dempsey?

10 MR. DEMPSEY: Chairman Okun, just to follow
11 up on that, having been involved in several of these
12 appeals from the Commission's determinations in the
13 previous set of sunset reviews for steel I know it's
14 been difficult with the Court pressing on what exactly
15 the term "likely" means. I do think that the
16 Commission has all the information it needs in its
17 record to put together to demonstrate a likelihood of
18 continuation or recurrence of injury.

19 It's especially true for an industry like
20 the cut-to-length plate industry where you have a very
21 extensive series of cases where the Commission has
22 found the high fixed cost nature of the industry makes
23 foreign producers, just as domestic producers, have a
24 strong incentive to operate at as high a capacity
25 level as possible, and when combined with the fact of

1 the continuing exports for these particular subject
2 producers to the U.S. maintaining, therefore, channels
3 of distribution the very substantial excess capacity
4 based on the responses from the foreign producers
5 themselves and the incentives that there is a clear
6 record.

7 It's a question perhaps of presenting it and
8 emphasizing how the incentive works to create the
9 likelihood of the increased imports of the suspension
10 agreements were terminated, but I think the record,
11 frankly, is as good as you're going to get here of the
12 facts to support an affirmative determination.

13 It's important to remember that, frankly,
14 this is a very difficult legal standard the Commission
15 is asked to deal with. As the statement of
16 administrative action for the URA noted, you're asked
17 to make a prediction based on a counterfactual
18 situation; with a change in the status quo, what is
19 likely to occur.

20 As the SAA notes, that is to some extent
21 inherently speculative, and the best you can do is
22 look at the data you have on the ability of the
23 foreign producers through their excess capacity, their
24 channels of distribution and their incentives to ship.

25 That record I think is clear here and

1 strongly supports an affirmative determination.

2 CHAIRMAN OKUN: Mr. Stewart had his hand up,
3 and then Mr. Blecker.

4 MR. STEWART: One of the issues, it would
5 seem to me, that confronts the Commission based on the
6 question that you asked, Chairman Okun, is who would
7 have the burden of coming forward with information.
8 The information that the domestic side can come
9 forward with is information that pertains to that
10 which we can research and the experience of the
11 domestic producers.

12 You've had sworn statements from all of the
13 domestic producers here that in a high fixed cost
14 industry one is driven to expand shipments where one
15 can do that. You have in terms of your database and
16 the import statistics, if nothing else, data that
17 would let you look at on a month-to-month basis the
18 fact that the foreign producers in the countries that
19 are covered by this review all have been willing in
20 the past during the period that you're looking at to
21 reduce prices in some cases as much as \$100 a ton in
22 the course of one month if it is a matter of securing
23 business.

24 You have a 201 remedy, which even at 24
25 percent is, depending on the price you're shipping it

1 for, somewhere between \$48 and \$72, meaning if you
2 have evidence that to get volume the foreign producers
3 during the period that you have before you have been
4 willing to lower their prices far more than any
5 relief.

6 It's a little hard for us to provide you the
7 motivation for foreign producers. Presumably that
8 would come from questions you'd have to ask them if
9 you're not going to make the types of connections that
10 the data before you looks at.

11 This is an industry that has had wave after
12 wave of surging imports, all at unfairly traded
13 prices, exactly because of the international trading
14 companies that are out looking for who's open, who's
15 got capacity, who can ship excess capacity to the
16 States or to North America as an exit market.

17 I would concur with Mr. Dempsey. If that
18 doesn't establish it, you can't look to the domestics
19 to supply it because the other proof would be in the
20 hands of the foreign Respondents, and my only reason
21 for intervening was a concern, having read the
22 decisions, understanding the concerns that you're
23 facing and the reason you asked the question.

24 You can't put on a domestic party a burden
25 which there is no possibility of fulfilling, and that

1 would be the concern of our ability to go beyond the
2 kinds of information that are already before you.

3 CHAIRMAN OKUN: I appreciate those comments.
4 My red light has been on for some time, Mr. Blecker,
5 but if you have something short if you just want to
6 give it?

7 MR. BLECKER: Briefly, this picks up on a
8 point Mr. Klinefelter made earlier. To put it in
9 context, as the Commission well knows we're in the
10 midst of a global steel crisis. There's enormous
11 excess capacity in the entire global steel market.
12 You've heard testimony today and you have the evidence
13 on record that this domestic industry has been making
14 the kind of adjustments and rationalizations that are
15 needed in this period.

16 In spite of the opening of the new mills by
17 Nucor and IPSCO, domestic capacity is down. The data
18 of record show that. In contrast, these subject
19 countries have not been making those kind of
20 rationalizations and capacity reductions that they
21 need to make as part of a contribution to solving the
22 global glut of capacity.

23 I think, if I might use a lawyerly term
24 without being a lawyer, you might draw adverse
25 inferences from that in the sense that this indicates

1 an interest in maintaining that ability to export
2 aggressively when import relief is removed. Otherwise
3 why are they not reducing capacity that is far in
4 excess of their current demand with the relief in
5 effect?

6 CHAIRMAN OKUN: Thank you for all those
7 comments.

8 Vice Chairman Hillman?

9 VICE CHAIRMAN HILLMAN: Thank you. Just a
10 couple questions to some extent related to this issue
11 of the vulnerability of the industry because I'm sort
12 of picking up to some extent on a comment, Mr.
13 Insetta, you made in your opening statement, which is
14 one of the things that we're looking at is what has
15 stayed the same over this period of review, and the
16 other thing is what has changed.

17 Obviously looking at our numbers, one of the
18 things that has changed pretty dramatically is the
19 productivity of the industry in this particular area.
20 I mean, when we started out our period you had labor
21 costs on the order of \$61 per ton. You were producing
22 something on the order of 321 short tons an hour.

23 If I look at those same numbers in 2002,
24 labor costs are down under \$30 per ton, you know, and
25 productivity is up to 875 tons per hour. I mean, a

1 dramatic, dramatic change in the productivity.

2 In fact, in all of the sunset cases I've
3 looked at to date I don't think I've ever seen as
4 substantial a change in the level of productivity, in
5 the amount of labor costs, that have come down and the
6 amount of tons per hour that have gone up; at least I
7 can't recall a case in which we've seen numbers like
8 this.

9 I guess I'm trying to make sure. One, I
10 understand sort of why they've come about. Are they
11 entirely the fact that we have, you know, put on line
12 new greenfield mini mill electric arc technology, or
13 are there other things that have gone on in the
14 industry that we should understand? I mean, I've
15 obviously heard a lot of the testimony about the new
16 mills coming on.

17 Is that almost entirely the reason for these
18 significant changes in productivity, or are there
19 other things, other technology changes, other changes
20 within the technology that, you know, would help drive
21 these numbers?

22 Mr. McFadden?

23 MR. MCFADDEN: I think that the new mills
24 that have come on do represent new technology changes,
25 and I think that reflects a large part of what you're

1 saying.

2 Just to say it in simple terms, we make
3 plate from slabs that are six inches thick. A
4 traditional plate mill might make it from slabs that
5 are 12 inches thick. If you're going to roll some 12
6 inch down to one inch or six inch down to one inch,
7 which one is more work?

8 We make slabs that may be 60 feet long. A
9 traditional plate mill might have sizes like Gulf
10 States that were 10 feet long. If it's going to go
11 through a reversing mill 10 feet and stop and turn
12 around and come back or it's going to go through 60
13 feet and stop, which one is more efficient?

14 We direct charge slabs where we take slabs
15 right from the caster and put them into the rolling
16 mill. A traditional mill might take a slab, let it
17 cool to room temperature, put it on a rail car, ship
18 it 60 miles, reheat it and roll it to finish gauge.
19 That would be more work as well.

20 Yes, I think technology has changed
21 significantly with the new mills that have come on,
22 and I think that's reflected in the efficiencies and
23 in the costs.

24 When I started in the plate business it was
25 1984, and one of the first transactions I remember I

1 was involved in we bought plate for 15 cents a pound.
2 I just said a few minutes ago our average price per
3 ton right now is \$300 a ton or 15 cents a pound, so we
4 sell plate today at the same price that we sold it for
5 in 1984, but the cost of energy, the cost of labor,
6 the cost of scrap, has certainly changed. The cost of
7 making steel has become more efficient.

8 VICE CHAIRMAN HILLMAN: Mr. Cera?

9 MR. CERA: Tom Cera from U.S. Steel.
10 Certainly Pat McFadden and John Tulloch representing
11 the mini mills are part of a substantial part of the
12 efficiencies that have been gained in the industry
13 over the last few years.

14 However, the traditional integrated mills
15 are not standing still. We have implemented
16 technology in our rolling mill to decrease our
17 rejection rate and our retreatment rate. That's
18 improved our yields, and that has helped with our cost
19 reductions.

20 We have worked very closely with the United
21 Steelworkers of America, and we have identified job
22 combinations and eliminations because they do
23 understand the crisis we're facing, so we have been
24 able to reduce our man hours per ton or our
25 productivity rates in our mills.

1 We have rising prices, energy price
2 increases. We have made substantial changes and
3 improved our energy efficiency using new technology
4 and new controls and new meters, which have helped us
5 reduce the amount of energy we use to reheat slabs and
6 convert them into plates.

7 We have made some substantial improvements.
8 We identify it as a continuous improvement process
9 throughout our manufacturing process, but we have made
10 incremental changes in a number of areas that have
11 resulted in significant cost reductions to our
12 process.

13 We do understand the crisis, and we are
14 facing that competition. However, what's important
15 here to note is all those cost reductions considered,
16 if the imports are allowed to flood the market again
17 they will be for naught. We will not see any
18 substantial gain from those productivity and cost
19 reductions.

20 VICE CHAIRMAN HILLMAN: I appreciate that.
21 Obviously part of the point of this question is to try
22 to get to exactly where you're getting. On the one
23 hand, I want to understand the changes that have
24 occurred because obviously we're going to hear the
25 argument from the Respondents of well, look what

1 you've done. You've achieved this tremendous increase
2 in productivity. You've really reduced your labor
3 costs.

4 You are no longer vulnerable because you
5 have, you know, really done all of this modernizing
6 and all of this productivity improvement and gained
7 back the market share, you know, that was lost and,
8 therefore, are no longer in a vulnerable position.

9 Obviously, Mr. Cera, I've just heard you
10 respond to that, and obviously, you know, I understand
11 you are looking also at not just this issue of
12 productivity, but at your sales values, at what the
13 prices are, and I understand that's clearly part of
14 the equation, but I'm just wanting to make sure I'm
15 understanding this issue of, you know, your sense of
16 where do all these productivity gains leave us in
17 terms of, you know, the relative vulnerability of the
18 industry given again the lesser share that imports
19 play in the market today.

20 MR. TULLOCH: If I can just make a comment
21 from the mini mill point of view as well? It's not
22 just a matter of investing and sitting back. I mean,
23 there's constant improvements going on, and we're
24 forced to do that. The effect right now is that you
25 lose less in the sense that, you know, you're still

1 losing money. Just now you're losing less.

2 The other point I wanted to make is that you
3 have to work very, very hard to reduce, for example,
4 your labor costs, so a lot of people do a lot of work,
5 and if you have your labor cost, you know, that can be
6 wiped out in a minute by a \$5 a ton price reduction.

7 It's an awful lot of hard work and
8 investment and technology learning how to operate
9 facilities to get small, incremental gains in the cost
10 given the high fixed cost, the cost of raw material
11 inputs going up. It's very hard to get that, and you
12 lose it all in a second when somebody offers a price
13 out there that you either have the choice of meeting
14 or not meeting.

15 MR. SCHAGRIN: Vice Chairman Hillman, one of
16 the ways we, of course, respond to the South Africans,
17 it's nice to have a \$31 a ton reduction in labor cost
18 when you have a \$75 a ton reduction in selling prices.
19 That reduction in labor cost doesn't really make you
20 less vulnerable.

21 The other thing, and that's why this
22 industry has over 10 percent operating losses, so
23 clearly it's very vulnerable. The other thing, which
24 was mentioned earlier by Mr. Tulloch, is that a very
25 large proportion of the domestic plate is scrap based.

1 Even Bethlehem makes a significant portion of its
2 plate in Lukens, which is electric furnace oriented.
3 It's not just these new mini mills.

4 Older plate producers have been scrap based.
5 City Steel in Delaware, Oregon Steel Mills, Corus
6 Tuscaloosa, so it's a very large percentage of the
7 industry that has always been electric furnace plate
8 production, and the price of scrap has increased very
9 significantly over this period, so that's yet a second
10 offset to those decreased labor costs.

11 You have reduced selling prices, but you
12 also have increased scrap costs and increased energy
13 costs, all of which result in more losses for the
14 industry in a period of weak demand, which makes them
15 so vulnerable to any increased imports.

16 VICE CHAIRMAN HILLMAN: Dr. Blecker?

17 MR. BLECKER: Commissioner Hillman, since
18 you mentioned again the issue of the increased market
19 share of the domestic producers, I would just remind
20 you that given that the whole market has shrunk by
21 over 25 percent, the higher share of a much shrunken
22 market is actually a reduced amount of production and
23 shipments by the domestic producers.

24 That means that even with these extremely
25 efficient new mills and refurbished and improved

1 mills, their output is down, and they're operating at
2 capacity utilization rates far below what they had
3 projected based on the market conditions of the 1990s
4 when they made these investments.

5 VICE CHAIRMAN HILLMAN: Mr. Ballou, did you
6 want to comment?

7 (No response.)

8 VICE CHAIRMAN HILLMAN: Okay. All right.
9 That does bring back this issue of the price
10 competition because obviously, I mean, what you're all
11 telling me is even a small volume of these imports, if
12 they're at the right price, you know, does, as you put
13 it, Mr. Tulloch, take away all of these productivity
14 gains because the prices go down.

15 Help me understand a little bit about the
16 price competition. Who would you describe currently,
17 and maybe this is more to you, Mr. Ballou. Who would
18 you describe currently as the price leader in the
19 market?

20 MR. BALLOU: That's an ever changing, day-
21 to-day event so it's really hard to say that one
22 particular mill. If you took ISG, they have more
23 capacity than maybe anybody although maybe the two
24 mills now at IPSCO that's probably comparable, a
25 little bit of a different product mix.

1 The largest player doesn't necessarily set
2 the price. It's done more geographically where the
3 Nucor mill may be in the east or the southeast, say
4 for instance Mid-Atlantic. They may set the price
5 there, where John may set the price in the Gulf Coast
6 region where U.S. or ISG may be more of a leader, a
7 price leader in the midwest.

8 It's probably more of a geographic scene,
9 but there's no one so-called leader, price leader out
10 there. I don't know. They may disagree with me.
11 They may all like to stand up and say no, they're
12 leading. If they are, it's pretty darn low.

13 VICE CHAIRMAN HILLMAN: All right.
14 Unfortunately, the red light has come on, so I will
15 come back to this on the next round. Thank you, Mr.
16 McFadden.

17 CHAIRMAN OKUN: Commissioner Miller?

18 COMMISSIONER MILLER: I only have one
19 question I want to clarify. I've heard comments about
20 increasing costs. Mr. Tulloch, you referenced it in
21 your initial statement, and Mr. Schagrín was just
22 talking about it as well.

23 In our data, and this is the public data, it
24 does show in the first quarter of 2003 a pretty
25 significant increase in other factory costs,

1 particularly when I look at the number as compared to
2 the history of what I see from 1997 to 2002.

3 Is that the energy cost issue? I just want
4 to make sure we understand if this is an aberration or
5 what's going on. This is a pretty big increase.

6 MR. TULLOCH: I think in terms of the
7 numbers, I'd like to come back to that maybe later.

8 COMMISSIONER MILLER: Okay.

9 MR. TULLOCH: In general, there seems to be
10 a bit of a disconnect certainly in our business.
11 Scrap prices today, you can go back and find higher
12 scrap prices, but typically scrap would move, for
13 example, with the general market so you tend to have
14 your pricing for the finished product and scrap
15 tending to move somewhat in concert.

16 If you plot those two out, right around the
17 latter part of last year or early part of this year
18 there was a real disconnect, and all of a sudden scrap
19 prices were rising and selling prices were decreasing,
20 so the problem was the gap in this thing or the way it
21 was going. Certainly natural gas prices are
22 exceptionally high, so there's been other pressures on
23 those products.

24 In the case of scrap, we believe a lot of
25 that has to do with export activity of scrap moving

1 offshore, which raised those prices, but in terms of
2 the specifics of what drove what numbers I'd like us
3 to look at that --

4 COMMISSIONER MILLER: Okay.

5 MR. TULLOCH: -- and get back to you.

6 COMMISSIONER MILLER: That would be fine.
7 You could help us with understanding that in your
8 post-hearing submission if you would.

9 MR. TULLOCH: I might add too just quickly
10 that labor costs tend to increase as well, and
11 certainly health care costs and those things.

12 While we in our structure don't have a lot
13 of the legacy costs, we certainly do carry a lot of
14 the benefits and those sorts of things for our
15 employees, and that's been a pretty rapidly
16 increasing --

17 COMMISSIONER MILLER: Well, this one number
18 in particular kind of jumps out, so if you want to
19 help us understand it that would be useful.

20 MR. SCHAGRIN: I'm going to guess,
21 Commissioner Miller, it's mostly energy.

22 COMMISSIONER MILLER: Yes. Yes.

23 MR. SCHAGRIN: Unfortunately, as you hear
24 from Chairman Greenspan and many others, it used to be
25 natural gas would spike, and then you knew it would

1 come back down. Now, unfortunately, for everyone in
2 this industry, because they all use a lot of natural
3 gas, it just seems that the retreat on gas is not
4 going to occur.

5 You've had cases on energy products. You've
6 heard people say that before. The next thing you know
7 three months from now it goes from \$6.50 mcf down to
8 \$2. I think that most folks think that energy costs
9 are not going to retreat as they have in the past, and
10 that's a problem for this industry.

11 COMMISSIONER MILLER: Okay. I appreciate
12 all your answers today. I have no further questions.
13 Thanks very much.

14 CHAIRMAN OKUN: Commissioner Koplan?

15 COMMISSIONER KOPLAN: Thank you, Madam
16 Chairman. I've got a few matters I'd still like to
17 cover.

18 Let me come back to U.S. Steel if I could.
19 On page 19 of your prehearing brief, you note when you
20 were talking about South Africa and South Africa's
21 coverage under the 201. Then you have this statement
22 at the end of that paragraph. You say: "Moreover, 26
23 cut-to-length products have been excluded from the
24 Section 201 tariff as specified in the U.S. Note 11 to
25 Chapter 99 of the HGS."

1 My question is this. For purposes of the
2 posthearing, could you all provide to me some
3 specificity on that? How many of these 26 products
4 were contested when the exclusions were being
5 considered?

6 Was there or is there domestic production of
7 each and every one, if you can go through them for us?
8 Could you quantify the effect that these 26 products
9 would have on the original relief that was granted?

10 In other words, can you spell that out so
11 that I have a sense of what we're looking at --

12 MR. DEMPSEY: Yes.

13 COMMISSIONER KOPLAN: -- and what countries
14 these products are coming from? I could go on, but
15 you see where I'm heading with it.

16 MR. DEMPSEY: Yes, Commissioner Koplan.
17 Kevin Dempsey for Dewey Ballantine. We'd be happy to
18 provide some greater detail on that to the extent it's
19 available.

20 I will note in terms of the exclusions in
21 terms of where the products are coming from --

22 COMMISSIONER KOPLAN: In quantity?

23 MR. DEMPSEY: Yes. On a country by country
24 basis, that is not provided by the Customs Service.
25 They're not releasing that data, but what data is

1 available on what was contested and where there's
2 domestic production, we'll be happy to provide that.

3 COMMISSIONER KOPLAN: Right, because not all
4 exclusions were contested.

5 MR. DEMPSEY: That's correct. We'll provide
6 you with further detail on that in the posthearing
7 brief.

8 COMMISSIONER KOPLAN: Thank you. Let me
9 stay with you, if I could.

10 On page 21 of your brief you mention duty
11 absorption and that that's a factor that the
12 Commission is required to consider. Then you go on,
13 and you say the only administrative review that's been
14 conducted by the U.S. Department of Commerce did not
15 involve an examination of duty absorption and,
16 therefore, no administrative reviews of these
17 suspended investigations has to date examined duty
18 absorption by any of the subject countries or foreign
19 producers.

20 You footnote off that and indicate that
21 recently Congress concluded an administrative review
22 of Ukraine, of that suspension agreement. Did the
23 Ukraine one, did that include a discussion of duty
24 absorption?

25 MR. DEMPSEY: Commissioner Koplan, that's

1 the one suspension, the one administrative review I'm
2 aware of, and it did not, as far as I understand.

3 COMMISSIONER KOPLAN: Can you tell me why
4 Commerce didn't do that with regard to the countries
5 that we're looking at now?

6 MR. DEMPSEY: Commissioner Koplan, Kevin
7 Dempsey again. I will have to check the record on
8 that and get back to you. I'm not familiar with the
9 reasoning on that at this particular moment.

10 COMMISSIONER KOPLAN: Okay.

11 MR. DEMPSEY: I'll be happy to provide that.

12 COMMISSIONER KOPLAN: I appreciate that
13 because it's open-ended for me at this point. You
14 raised it, but I don't know. I don't know what the
15 cause was for that not having occurred. If you could
16 do that posthearing, I'd appreciate that.

17 Let's see. In response to the Commission's
18 questionnaires discussed in Chapter 2, page 9, of the
19 staff report, it indicates that purchases of cut-to-
20 length plate "really change suppliers." Then it
21 states, and I quote: "Most reported little change in
22 their purchasing pattern over the past three years.
23 Five purchasers reported that they have not changed
24 suppliers in the last five years."

25 My question is doesn't that suggest that

1 most U.S. purchasers are unlikely to change to
2 suppliers of the subject imports should the suspension
3 agreements be terminated?

4 MR. BALLOU: Commissioner Koplan, it's going
5 to strictly be based on price. We wouldn't
6 necessarily want to make a change, but if the price
7 dictates it, as I said in my statement.

8 If we were going to compete and keep our
9 manufacturing base that we supply, if we're going to
10 keep them competitive, we're going to buy from the
11 lowest price. Yes. We would prefer not to make that
12 change, but if the price dictates it we will, yes.

13 COMMISSIONER KOPLAN: If the suspension
14 agreements were terminated, what would the effect be
15 on your company?

16 MR. BALLOU: If the suspension agreements
17 were taken away and the assumptions from some of the
18 questions that the countries were to bring the steel
19 back in --

20 COMMISSIONER KOPLAN: I'm not --

21 MR. BALLOU: I'm sorry?

22 COMMISSIONER KOPLAN: If they were
23 terminated, what would your immediate response be to
24 that? What would you do, if anything?

25 MR. BALLOU: I think price would go down,

1 and we'd buy from them.

2 COMMISSIONER KOPLAN: You'd buy from them?

3 MR. BALLOU: Yes, sir.

4 COMMISSIONER KOPLAN: All right. Could I
5 ask you for purposes of the posthearing to go back to
6 your submissions to Commission staff earlier and
7 compare that to your response to me now for purposes
8 of the posthearing?

9 MR. BALLOU: Sure. No problem.

10 COMMISSIONER KOPLAN: Okay. I'm referring
11 to your questionnaire.

12 MR. BALLOU: Yes.

13 COMMISSIONER KOPLAN: If you would go back
14 and just look at that and then respond further, I'd
15 appreciate it.

16 MR. SCHAGRIN: Commissioner Koplan, may I
17 just add that in the context of asking purchasers in
18 this product area, which most of the purchasers are
19 service centers, about changing suppliers, I think a
20 lot of them would think not of the foreign mill if
21 they're thinking about import supply, but really of
22 trading companies.

23 Mr. Ballou and O'Neal, they're not going to
24 think about well, I'm buying domestic. If I'm going
25 to buy import is it going to be from Russia, Ukraine,

1 China, South Africa? He testified earlier that he had
2 bought from all four countries during the period of
3 the previous investigation or Japan, Korea. He's
4 going to work with a trading company, so the supplier
5 really to him of import or to any service center is is
6 it Pharistol? Is it Tissen? Is it Cargill? Which
7 major international trading company is it?

8 They may not be "changing suppliers" in
9 their own minds and changing to lots of foreign mills
10 from domestic mills. The question is whether they
11 are, you know, changing the trading companies they're
12 dealing with versus domestic mills.

13 COMMISSIONER KOPLAN: I appreciate you
14 trying to help him out here. I'm still looking
15 forward to his posthearing response.

16 MR. SCHAGRIN: We'll go over his response.
17 He did it on his own. We don't send tip sheets to
18 anybody about responses.

19 COMMISSIONER KOPLAN: I'm not going there,
20 Mr. Schagrin.

21 MR. SCHAGRIN: I'm not either. I'm not
22 either.

23 COMMISSIONER KOPLAN: Okay.

24 MR. SCHAGRIN: Anyway, to the extent it
25 conflicts, whatever his response is it is, and he'll

1 explain it. It's just more evidence that people do
2 their own things, which is perfectly fine.

3 COMMISSIONER KOPLAN: If you want to go
4 there, that's a subject of a whole other round for me,
5 you know.

6 Yes? I saw a hand up. Yes?

7 MR. CERA: Tom Cera, U.S. Steel. I just
8 wanted to add to that that although the suppliers of
9 customers like Tom Ballou might be the same
10 composition, the mix among them might be significantly
11 different.

12 For example, a supplier like Tom would buy
13 from U.S. Steel, IPSCO, ISG and Nucor, and U.S. Steel
14 and imports. U.S. Steel might have 80 percent of that
15 business, and imports might be, you know, five percent
16 and other producers or other suppliers make up the
17 difference.

18 Well, if the imports come in or Tom makes
19 decisions based on price, which he stated and I
20 believe in, U.S. Steel's participation, for example,
21 could go down to 10 percent or five percent. Imports
22 could go up to 80 percent. It's still the same
23 supplier base.

24 That's the point I wanted to make because I
25 think it's very important to note that his suppliers

1 don't change, but the composition certainly can.

2 COMMISSIONER KOPLAN: Thank you for that,
3 Mr. Cera.

4 Let me stay with U.S. Steel, if I could. I
5 note on page 18 of your prehearing brief that you
6 state, and I quote: "The domestic CTL plate industry
7 is also vulnerable to material injury upon termination
8 of the suspension agreements because of recent new
9 capacity that's come on line at this time of weak
10 demand."

11 However, in Table 3-2 of the Commission's
12 staff report it indicates that U.S. capacity has been
13 steadily falling each year since 1998. Hasn't any new
14 capacity been more than compensated for by capacity
15 reductions during the period of investigation?

16 MR. DEMPSEY: Commissioner Koplan, Kevin
17 Dempsey. It is correct that while there's been new
18 capacity coming on there's also been older capacity
19 that has gone out of the market such as Gulf States
20 and Geneva, so that is a factor.

21 That does offset the new mills coming on
22 line to some extent, although I don't think in those
23 particular cases maybe the volumes that went out were
24 quite as large as the volumes of new capacity that
25 came in.

1 COMMISSIONER KOPLAN: Thank you. I
2 appreciate that.

3 Thank you, Madam Chairman.

4 CHAIRMAN OKUN: Thank you. I think that you
5 all have been here a long time answering a lot of
6 questions, so while I have a couple of things I
7 actually think I'm going to forego my questions other
8 than I think it's for posthearing to note that at the
9 end of Vice Chairman Hillman's round she was asking
10 questions about the role of IPSCO and Nucor and
11 pricing and in the market.

12 Since one of the arguments not just with
13 regard to vulnerability, but with regard to likely
14 impact on the industry, is the role of the new
15 entrants in the market and their pricing practices and
16 cost structure, if for posthearing you can address the
17 Respondent's arguments on that.

18 With that, I'm not going to ask any further
19 questions, but appreciate your answers.

20 I'll turn to Vice Chairman Hillman.

21 VICE CHAIRMAN HILLMAN: Thank you. The
22 Chairman has just stated part of the reason I was
23 asking this question about price leadership, but at
24 the end of my round, Mr. McFadden, you had your hand
25 up, and I did want to give everyone in the industry

1 the opportunity to comment on this issue.

2 Again, I'm trying to understand, you know,
3 sort of this issue of who are the price leaders, how
4 prices are getting set, you know, in conjunction with
5 this notion that you're nonetheless arguing that a
6 smaller volume, a smaller percentage of imports, is
7 nonetheless having a big impact on prices.

8 I'm trying to understand from your
9 perspective how you see prices getting set and the
10 nature of the price leadership, including this issue
11 of the competition to the extent that it's out there
12 between, you know, the mini mill producers versus the
13 integrated producers.

14 MR. MCFADDEN: I think right now that the
15 price setter in the country is Romania. They have the
16 lowest plate price available in the United States, and
17 there's very little doubt in my mind that that's 100
18 percent accurate.

19 I'd like to describe just how that will
20 interplay in the marketplace. Right now, if you
21 wanted to buy Romanian plate for October/November
22 arrival in the Port of Houston, you would be able to
23 buy it at a price at least \$20 a ton below any other
24 domestic producer who ships into the Port of Houston.

25 My mill ships 10 percent of our product into

1 the Port of Houston. That puts me in a bit of a
2 dilemma because now my main buyers are threatened with
3 a \$20 a ton price spread between my price and the
4 import price. If any one of them doesn't buy the
5 import product, they're afraid somebody else will.

6 If I hold my price, because we've just
7 elevated prices as we have announced through July and
8 September. If I hold my price firm, we're going to
9 have a conflict and a situation that will end up with
10 someone will buy the steel, and someone will use that
11 \$20 a ton to try to grow their market share, and
12 they'll undercut the rest of the plate buyers, people
13 like O'Neal Steel.

14 Gravity takes hold when dumped steel comes
15 into the country, and it ends up forcing the domestic
16 buyers to have to move down to purchase at that level
17 for fear that they'll lose market share to competitors
18 who buy the import product.

19 It also forces domestic producers to have to
20 lower our prices because 10 percent of my productivity
21 -- you know, I can't lose that market share without
22 some substantial change in how we're marketing our
23 product, so a 10 percent loss would be just too
24 significant. It reverberates all the way through the
25 food chain of steel, both for the buyers and for the

1 sellers.

2 As far as who's the market leader or the
3 price leader when imports are not at stake, that's a
4 constantly changing thing I think is what Tom Ballou
5 said, and it depends on geography, and it depends on
6 market considerations. It depends on industries and
7 what's strong and what's not, and it changes.

8 In my experience in 20 years, the domestic
9 price leader has always been import product.

10 VICE CHAIRMAN HILLMAN: Okay. Mr. Tulloch?

11 MR. TULLOCH: On the price leadership side,
12 through 2002 and then a couple times now in 2003 there
13 have been price increases announced, and those price
14 increases always seem to come from the domestic mills.
15 You know, clearly the leadership in that direction is
16 coming from domestic mills, and there are a number of
17 different mills that have in fact attempted that.

18 It's an imperfect science, and there are a
19 number of people in the market who actively work
20 against that because everybody is trying to get their
21 own edge. It's sort of a one step forward and hope
22 maybe half a step back or something like that.

23 I spend a lot of time in front of customers
24 explaining to them about price increases. We don't
25 try and explain them on the basis of cost increases

1 because it's not a cost plus pricing system. It's
2 based on what the market will pay. The thing I talk
3 about a lot is sustainability. You just can't sustain
4 an industry at below cost pricing for a long period of
5 time, and that's why prices go up.

6 The pressure certainly from the domestic
7 industry that I see is going up. It's other factors
8 that hold it back or pull it down, and importers are a
9 very, very major player in that game.

10 VICE CHAIRMAN HILLMAN: All right. Mr.
11 Ballou?

12 MR. BALLOU: Let me add just one thing to
13 that that I didn't mention before, and that was really
14 quality.

15 All the producers here would love to tell
16 you that they've birthed the best baby in the
17 industry, and sometimes as a buyer we in a way are
18 telling them that they have an ugly baby. We will buy
19 from a quality standpoint, but by and large we are in
20 a commodity business, so price is going to drive it.

21 I didn't want to leave the implication that
22 quality never enters into the pricing mechanism that
23 we go through, but in most cases what John produces is
24 similar to what U.S. produces, to Nucor and on and on,
25 ISG, et cetera, but quality is an issue out there at

1 times.

2 VICE CHAIRMAN HILLMAN: Okay. Mr. Insetta,
3 did you want to add anything?

4 MR. INSETTA: Yes. Thank you. I just
5 wanted to agree and go on record by saying that
6 there's no question that commodity prices are driven
7 by imports. That's the way the market works, and
8 that's been our experience also over the years.

9 VICE CHAIRMAN HILLMAN: All right.

10 MR. INSETTA: Thank you.

11 VICE CHAIRMAN HILLMAN: Okay. With that, I
12 have no further questions, but I would like to join
13 the Chairman and others in thanking you for your
14 testimony and for answering all of our many questions
15 this morning. Thanks.

16 CHAIRMAN OKUN: Commissioner Miller?

17 (No response.)

18 CHAIRMAN OKUN: Commissioner Koplan?

19 COMMISSIONER KOPLAN: I have no further
20 questions either, but I want to thank you all because
21 obviously from the length of questioning it's been
22 very helpful. Thank you.

23 CHAIRMAN OKUN: Let me turn to staff and see
24 if staff has questions for this panel?

25 MS. MAZUR: Diane Mazur, Office of

1 Investigations. Staff has no questions.

2 CHAIRMAN OKUN: Thank you, Ms. Mazur.

3 Let me turn to counsel for Respondents and
4 see if they have questions for this panel?

5 Is there a mike back there for you, Mr.
6 Bruno? If not, I can just do it for the record. Mr.
7 Bruno has no questions for this panel.

8 All right. This is a good time to take a
9 lunch break. I will remind everyone that the room is
10 not secure, so if you have confidential business
11 information please take it with you.

12 We will break until 1:45, and again thank
13 you very much for all your testimony this morning and
14 to all the industry witnesses.

15 With that, this hearing is recessed.

16 (Whereupon, at 12:38 p.m. the hearing in the
17 above-entitled matter was recessed, to reconvene at
18 1:45 p.m. this same day, Tuesday, July 8, 2003.)

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1 I am responsible for the sales and marketing
2 of all Highveld's exported steel products, including
3 cut-to-length plate, to the United States. I am
4 located at Highveld's corporate headquarters in
5 Witbank, South Africa, and have been involved in the
6 management of Highveld's export sales for 12 years.

7 Highveld supports termination of the
8 suspended investigation on imports of CTL plate from
9 South Africa and maintains that such imports are not
10 likely to lead to the continuation or recurrence of
11 material injury in the future.

12 Highveld is the largest exporter of CTL
13 plate from South Africa and currently represents 10
14 percent of all South African exports of the subject
15 goods to the United States. South Africa has been a
16 long-time supplier of steel to the United States since
17 the early 1970s. Highveld in particular started to
18 supply CTL plates to the United States market in 1978.

19 Highveld's position in the U.S. market has
20 always been that of an alternative supplier rather
21 than that of a primary supplier. By this, I mean that
22 Highveld supplies U.S. end users mostly with specific
23 products not readily or sufficiently available from
24 U.S. sources such as thick, thin and wide, and special
25 quality steel.

1 South African producers have not had a
2 commercially significant presence in the U.S. market
3 not only since the suspension agreement took effect,
4 but even before. Prior to the initiation of the
5 original investigation in 1997, South Africa's share
6 of the U.S. market was already small and declining.
7 It went from 1.5 percent in 1994 to 0.9 percent in
8 1996, the last full calendar year of data prior to the
9 original investigation. By any definition, a 0.9
10 percent market share is insignificant in commercial
11 terms.

12 After the suspension of the investigation
13 this trend continued, and South Africa's share
14 fluctuated between a low of 0.1 percent and a high of
15 0.2 percent from 1997 to 2002. Furthermore,
16 throughout the period of review, South Africa's
17 capacity has remained constant, and, in fact Iscor's
18 capacity to produce CTL plate is somewhat theoretical,
19 which I'll explain later.

20 Finally, since its entry into the U.S.
21 market in 1978, Highveld has only sold on a quarterly
22 basis through negotiations with customers. More
23 specifically, Highveld sells on a made-to-order basis
24 to end users.

25 Historically, Highveld has sold tonnages to

1 customers who demanded specialty CTL plate in specific
2 sizes and qualities that they could not otherwise get
3 from U.S. producers. For example, thin wide and
4 special pressure vessel quality plates requiring
5 normalizing have consistently been in demand from
6 Highveld's customers and have consisted of the
7 majority of Highveld's shipments into the United
8 States.

9 Highveld has purposely refrained from
10 selling CTL plate in the mid range thickness. Mid
11 range plate is the bread and butter of all plate
12 producers worldwide, and this is the one that
13 producers prefer. However, prices for plate in this
14 mid range are typically very low, and Highveld has not
15 developed this market segment in the United States due
16 to the weak prices for these products. Therefore,
17 given all the above comments, Highveld is unable to
18 take advantage of any short-term opportunities in the
19 U.S. market.

20 South African producers also remain heavily
21 oriented to their home market and, therefore, do not
22 have the capability to divert surplus or excessive
23 sales to the United States after termination of the
24 suspended investigation. We reported that demand for
25 CTL plate in South Africa has grown since 1998 and

1 will continue to grow over the next five years.

2 This growth is being fueled by the numerous
3 infrastructure development projects in South Africa,
4 almost all of which Highveld and Iscor are the primary
5 suppliers. As a result, our limited production
6 capacity has been increasingly dedicated to the South
7 African home market. Highveld will be constrained for
8 some time in its ability to expand export sales to all
9 markets, including the United States, beyond its
10 historically low volume levels.

11 I would also like to take this opportunity
12 to make some personal observations in relation to the
13 overall CTL plate situation in South Africa. As with
14 Highveld, Iscor's marketing strategy has entailed that
15 their first priority is to supply the South African
16 home market, then to dominate the Sub-Saharan Africa
17 region and, lastly, to supply other export markets.

18 We know, and I think the information
19 collected by the Commission will confirm it, that
20 Iscor has not exported to the United States since
21 2000. It also is common knowledge that Iscor's
22 facilities do not allow it to produce quality CTL
23 plate because its mill is over 60 years old and
24 technologically outdated.

25 Under these circumstances, future Iscor CTL

1 plate sales will be very limited wherever they are
2 made. This leaves Highveld, with its limited
3 capacity, to supply the South African market, as well
4 as other export markets, including the United States,
5 which Iscor had supplied in the past.

6 As the lone South African supplier to the
7 U.S. market with fixed and limited capacity and strong
8 existing and future home market demand, the volume of
9 imports from Highveld will continue to have a
10 commercially insignificant presence in the U.S. market
11 and, therefore, cannot have any adverse on the impact
12 on the U.S. industry.

13 Highveld had ample opportunity during the
14 period of review to increase its share of the U.S.
15 market, but did not do so. First, the suspension
16 agreement with the South African producers provides
17 for a minimum price that is adjusted quarterly. It
18 contains no quantitative restrictions.

19 The South African rand depreciated
20 significantly vis-a-vis the U.S. dollar during most of
21 this period during which the suspension agreement was
22 in effect. For example, in 2001 and at the beginning
23 of this year the normal values greatly favored an
24 increase in exports to the United States.
25 Nevertheless, Highveld continued to export at its same

1 historic levels, and South Africa did not increase its
2 U.S. market share.

3 Second, in 2001, the Commission conducted
4 the Section 201 safeguard investigation of steel
5 products that included CTL plate. South Africa was
6 exempted from the measures ultimately imposed by
7 President Bush last year. This provided a competitive
8 advantage to South Africa in the U.S. market.
9 However, neither Highveld nor Iscor rushed to fill the
10 vacuum left by the non-exempt countries. Instead,
11 South African imports continued at their normal
12 historically low levels.

13 Third, Highveld has a conscious policy to
14 market CTL plate in most world markets. However,
15 prices have historically been higher in the United
16 States than elsewhere in the world. Nevertheless,
17 South African market share remained extremely low.
18 Hence, it is reasonable to conclude that Highveld will
19 continue to ship to the United States at its limited
20 historical level in the foreseeable future.

21 A lot has been alluded to by Petitioners in
22 their prehearing briefs regarding low capacity
23 utilization in the subject countries, including South
24 Africa. However, even if the Commission assumes that
25 Iscor could produce at its theoretical capacity, which

1 we know it cannot, the historical data shows that when
2 South Africa operated at what I believe was a maximum
3 capacity in 1994-1995, the volume in terms of market
4 share remained low at 1.5 and 0.7 percent. It should
5 be noted that in those years, South African demand for
6 CTL plates was much weaker than it is today. Thus,
7 South African producers had to rely on export markets.

8 For these reasons, Highveld maintains that
9 termination of the suspended investigation on CTL
10 plate from South Africa would not be likely to lead to
11 the continuation or recurrence of material injury to
12 the U.S. CTL plate industry in the future.

13 I thank you.

14 CHAIRMAN OKUN: Thank you.

15 MR. BRUNO: This completes our presentation.

16 CHAIRMAN OKUN: Thank you, Mr. Bruno, and
17 thank you, Mr. Vorster, for your testimony. We
18 appreciate your willingness to be here and to answer
19 our questions.

20 We will begin the questioning this afternoon
21 with Commissioner Miller.

22 COMMISSIONER MILLER: Thank you, Madam
23 Chairman, and thank you to the panel. I expected more
24 time to sort out which questions I wanted to ask you
25 first, but I appreciate, Mr. Vorster, your willingness

1 to be here and to travel to Washington to answer our
2 questions.

3 Let me start with a question about industry
4 and market conditions in South Africa if I could. I
5 did want to ask you, from looking at the record of the
6 information that we have about the South African
7 market. I noticed that more of your production in
8 South Africa is going to the South African market.

9 You alluded in your testimony to what was
10 going on, but perhaps I could let you expand a little
11 bit on why that is. You alluded to infrastructure
12 projects in particular.

13 MR. VORSTER: That is indeed right.

14 COMMISSIONER MILLER: Could you just expand
15 a little bit more on conditions in your home market?

16 MR. VORSTER: Yes. As you are aware, the
17 statistics show that last year we had a tremendous
18 increase in consumption in the South African market,
19 and that was hugely based on infrastructure projects.
20 There are also a huge amount of projects in the
21 pipeline that have been released and are just in the
22 process of being released.

23 COMMISSIONER MILLER: Okay. Have you
24 supplied --

25 MR. VORSTER: We have indeed supplied to

1 some of those projects. There were some big projects,
2 some of them just completed. In Mozambique there was
3 a project where we supplied a huge amount of cut-to-
4 length plate in fact.

5 COMMISSIONER MILLER: Okay. I'm just trying
6 to remember whether I remember reading about that,
7 about the different projects, whether you've supplied
8 any details on them in your brief. I was just looking
9 back to remember how specific you were in terms of the
10 details of what we were provided. You're shaking your
11 head yes.

12 MR. BRUNO: Commissioner Miller, we did
13 provide a list of I believe 60 projects with the
14 questionnaire response --

15 COMMISSIONER MILLER: Okay.

16 MR. BRUNO: -- of Highveld.

17 COMMISSIONER MILLER: The questionnaire
18 response?

19 MR. BRUNO: Yes.

20 COMMISSIONER MILLER: Okay. Good.

21 MR. BRUNO: I think it was mentioned in our
22 prehearing brief as well.

23 COMMISSIONER MILLER: Right. Right. Okay.
24 How would you characterize prices in the South African
25 market or other markets that you export to as compared

1 to U.S. prices? You noted in your testimony that U.S.
2 prices are generally higher. Can you characterize
3 prices right now in the markets that you serve?

4 MR. VORSTER: Yes, indeed. Generally the
5 prices in South Africa are obviously very favorable to
6 us right now. Therefore, the majority of our capacity
7 is going to that market. However, some of the
8 capacity that we have which is going to the export
9 market we obviously look to find the most attractive
10 markets.

11 You know, market prices fluctuate in various
12 parts of the world, and right now I would guess that
13 the European market has been or is indeed one of the
14 most attractive markets for us, such as the United
15 States has been for us.

16 COMMISSIONER MILLER: Okay. Mr. Bruno, in
17 your prehearing brief you focus on the issue of
18 cumulation mostly in making the argument for the
19 Commission's finding that there would be no
20 discernable impact by virtue of any increase in
21 imports here. I note that you do towards the end of
22 that discussion go the next step, even if don't find
23 no discernable impact.

24 That's really my question to you. Can you
25 elaborate on if we did not find the notice of

1 discernable impact test to be met, given the
2 Commission's precedent on applying this provision,
3 could you elaborate now or posthearing on how you
4 think we could reach a decision not to cumulate South
5 Africa with the other three countries?

6 I mean, I know this was an issue in the
7 original investigation and that there was some
8 argument about product mix, which the Commission
9 rejected at that time because there was a significant
10 overlap in terms of commodity plate. Really what I
11 want you to do is sort of go to the next step; not
12 just looking at the no discernable impact test, but
13 beyond that.

14 MR. BRUNO: Commissioner Miller,
15 unfortunately we did look into this issue again for
16 this case and would have loved to argue that there is
17 no overlap of competition between the South African
18 imports and other imports on the U.S. industry's
19 products.

20 Unfortunately, there is overlap. We have a
21 product mix which is a little bit less broad than
22 other exporters. We tend to focus on certain types of
23 plate, but those plates are imported by other
24 countries and also produced by the U.S. industry.

25 In terms of the competition, we have if not

1 a significant overlap, we do have overlap with what is
2 being produced and imported. In this regard, we
3 cannot make I would say in good faith arguments with
4 respect to the first prong, if you will, of the
5 cumulation argument regarding sunset reviews, but I do
6 believe we have a good case on the no discernable
7 impact cumulation standard that you can apply even
8 though you have overlap of competition among the
9 products.

10 My understanding is that you can look at the
11 cumulation from both angles, and even when in
12 situations where you had overlap of cumulation and you
13 could not go through the traditional, if you will,
14 cumulation factors and use these characteristics and
15 so forth for decumulating a country, you still have
16 discretion under the statute for sunset purposes to
17 decumulate if you determine that there is no
18 additional adverse impact by that country.

19 We are definitely focusing on the second
20 prong of that analysis, and we believe that this case
21 is a pretty good one for South Africa. We mention in
22 our prehearing brief a precedent in which the
23 Commission decumulated a particular country,
24 Venezuela, and we put together a matrix actually of
25 what factors and what was the facts involved in that

1 particular precedent compared to the facts in our
2 present situation, and we believe that we meet every
3 single one of the factors that the Commission
4 considered for decumulating Venezuela in that
5 particular case.

6 That's the reason why we're focusing on that
7 particular prong of the analysis and not on the other
8 one that you I assume asked questions about.

9 COMMISSIONER MILLER: Right. I understand
10 that point.

11 The Commission has, though, also looked at
12 other conditions of competition with respect to
13 cumulation and sunset reviews. Perhaps for purposes
14 of posthearing submission you could look to that issue
15 of whether there are other conditions of competition
16 that would justify not cumulating South Africa with
17 the other countries in sunset reviews because my
18 practice has been a little bit different than it is
19 with respect to the traditional cumulation test beyond
20 the no discernable adverse impact test as well.

21 I would like to ask you the question that I
22 posed to the last panel as well about the information
23 that we have gathered for this investigation on
24 shipments and the average unit value. What is your
25 view of how informative that -- perhaps I should ask

1 Mr. Vorster actually. Let me ask Mr. Vorster first.

2 MR. BRUNO: Some of this information is APO.

3 COMMISSIONER MILLER: You're right. That
4 information is APO, but I could ask him the question
5 more from just a general business perspective how
6 informative you would find things like average unit
7 values to different markets.

8 I mean, are there product mix or other
9 issues that affect what, you know, will turn up as an
10 average unit value in data that your company would
11 have and would be submitting to us that we should be
12 aware of?

13 MR. VORSTER: All I could say is we have our
14 cost structure, and we know the price levels that we
15 can achieve worldwide. We, obviously, see articles
16 from, say, for example, the Crude Monitor, where they
17 state the average prices of other countries and what
18 levels they are at, and those are the sort of
19 guidelines that we look at in terms of trying to
20 ascertain average unit price levels worldwide. You
21 know, we've clearly seen in some of the recent, and I
22 think we also submitted that in our questionnaire,
23 that those countries, some of them, have exceptionally
24 low sales, dollar prices, on an FOB basis, for
25 example.

1 COMMISSIONER MILLER: Okay. Mr. Bruno, if
2 you want to add any comments about how informative you
3 think those tables may be for the Commission, now or
4 in your post-hearing submission --

5 MR. BRUNO: I will just make one remark,
6 Commissioner Miller, and then we'll provide additional
7 information in our post-hearing brief on this issue.
8 I heard the debate this morning. This is not the
9 first time we've dealt with this issue. I remember a
10 recent case involving ferro-vanadium where we had the
11 same type of issues, and those average unit values
12 were suggested as a way to compare with U.S. prices
13 and determine whether or not there was underselling.

14 I think that we have to take those values as
15 perhaps a way to help understand what we often
16 characterize as market prices, world market prices,
17 and I think, in that regard, they are helpful because
18 they tend to show what trends are going on in other
19 markets and why certain producers or exporters will
20 sell more to a particular market as opposed to another
21 in terms of higher pricing and so forth. But, on the
22 other hand, it presents some problems to the extent
23 that, and I think those were underlined this morning,
24 in terms of product mix, in terms of the level of
25 trade at which you capture those AUVs. Some of them

1 may be CNF. Some of them may be FOBs and so forth.

2 So there are some problems in terms of using
3 those and comparing them with the right apples, if I
4 may say so. But in this particular case, to the
5 extent that I can comment on some of these values, I
6 think they were helpful in sort of indicating how the
7 prices fluctuated in markets other than the United
8 States, and for that particular reason, particularly
9 if you look at South African AUVs for their home
10 market, you will see that there is definitely an
11 incentive for those producers to sell in that
12 particular market.

13 COMMISSIONER MILLER: Okay. To the extent
14 you're going to add anything regarding this question
15 in your post-hearing submission, one question I would
16 ask that perhaps you would answer because it may be
17 business proprietary is whether there is a difference
18 in the product mix in what you sell in your home
19 market versus what you're selling in the United States
20 or the other markets. Particularly if you're alluding
21 to that price differential, then we do need to
22 understand if there is a difference in product mix.

23 MR. BRUNO: We will do so.

24 COMMISSIONER MILLER: Thank you. I
25 appreciate your answers.

1 CHAIRMAN OKUN: Commissioner Koplan.

2 COMMISSIONER KOPLAN: Thank you, Madam
3 Chairman, and I thank you for your responses.

4 Could I just follow up with that? In
5 responding to Commissioner Miller, and I can't get
6 into it because it is BPI, if you could take a look,
7 for purposes of the post-hearing, again, Mr. Bruno, at
8 Tables 5-8 and 5-9 -- let me make sure I'm right on
9 that -- 5-8 and 5-9 in the confidential staff report
10 and weave that into your post-hearing response for me,
11 I would appreciate it.

12 MR. BRUNO: Certainly.

13 COMMISSIONER KOPLAN: Okay. Those tables
14 relate to overselling and underselling in that chapter
15 because South Africa is in there, and I'm struggling a
16 little bit with that. Okay?

17 Let's see. At page 27 of their prehearing
18 brief, the domestic producers, IPSCO and Nucor, claim
19 that, and I quote, "foreign producers with the current
20 capability to manufacture CTL plate can easily shift
21 production of CTL plate from other types of flat-
22 rolled products. Hard-rolled sheet and coiled plate
23 can be manufactured on the same equipment as cut-to-
24 length plate." That's the end of the quote.

25 To what degree is this statement true with

1 respect to Highveld's production capacity?

2 MR. BRUNO: I will direct this question to
3 my witness.

4 CHAIRMAN OKUN: Mr. Vorster?

5 MR. VORSTER: Thank you, Commissioner. As
6 stated in our reply, Highveld Steel has the facility
7 on our flat products mill to produce both plate and
8 coil through the same facility. Both products our
9 sold on our domestic market or our home market, both
10 through the IPSCOR channel and through our channel,
11 and both of us have market share of those products
12 within our home market. For us to be able to swing
13 capacity from one to the other would mean that we
14 would deliberately then deny ourselves certain orders
15 from our domestic market.

16 Hence, over the years, we've gotten to a
17 happy medium, if you want to call it that, whereby we
18 have a plate campaign and then a coil campaign, and
19 whereby in those campaigns we produce the appropriate
20 orders that are required from us from the domestic
21 market. If we were to swing all of the coil capacity
22 to plate, we would have limited plate capacity because
23 it's a much slower rolling product. But as I've said,
24 then we would be denying ourselves from a coil market
25 in the domestic market.

1 COMMISSIONER KOPLAN: At what level of
2 capacity utilization are you operating at right now?

3 MR. VORSTER: Currently, on the flat
4 products mill, we are at 100 percent capacity
5 utilization.

6 COMMISSIONER KOPLAN: Do you have any excess
7 capacity to produce?

8 MR. VORSTER: We do not have any excess
9 capacity at this point in time. In fact, we have just
10 recently had to cut some of our production because of
11 weak market conditions.

12 COMMISSIONER KOPLAN: Okay. Is there
13 anything else you want to add to that response?

14 MR. VORSTER: No, thanks.

15 COMMISSIONER KOPLAN: Thank you very much.

16 On page 29 of their prehearing brief, the
17 domestic producers, IPSCO and Nucor, state, and I
18 quote: "The recent imposition of antidumping and
19 countervailing duty orders on cut-to-length plate from
20 other countries makes it likely that the former
21 purchasers of those products will seek new sources of
22 low-priced plate and that this demand for low-priced
23 plate likely would be satisfied by the subject
24 countries if the orders were revoked." Do you want to
25 respond to that?

1 MR. VORSTER: I beg your pardon. Could you
2 please just repeat the question? I didn't understand
3 it.

4 COMMISSIONER KOPLAN: Certainly. This is on
5 page 29 of their prehearing brief. They say that "the
6 recent imposition of antidumping and countervailing
7 duty orders on cut-to-length plate from other
8 countries makes it likely that the former purchasers
9 of those products will seek new sources of low-priced
10 plate and that this demand for low-priced plate likely
11 would be satisfied by the subject countries --" that
12 would include South Africa "-- if the orders were
13 revoked."

14 MR. VORSTER: The record states or shows
15 that we have always been supplying a very minimal
16 amount of plate to the United States market, and we do
17 not have the capacity to either increase that or to
18 supply any additional plate to this market. That's
19 all I could really say.

20 COMMISSIONER KOPLAN: Okay. On page 2 of
21 your prehearing brief, you argue that because South
22 African producers remain heavily oriented to your home
23 market, you are unlikely to increase your exports if
24 the suspension agreement is terminated, but the data
25 collected by the Commission indicate that South

1 African producers anticipate increasing their
2 production of cut-to-length plate in 2003 and 2004
3 relative to 2002 and at the same time project that
4 shipments to the South African home market are lower
5 in 2003 and '04 than they were in 2002 by quantity.
6 And in addition, data collected by the Commission
7 shows that exports to the United States from South
8 Africa increased by a quantity between 2000 and 2002
9 and that the percentage of total exports from South
10 Africa are also projected to increase.

11 There is a Table 4-6. I can't get into the
12 specifics of that here, but it's the basis for that
13 part of it, and what I'm asking you is, how are these
14 facts consistent with your claim that South African
15 producers, that you're focused on your home market and
16 that you don't have the interest, incentive, or
17 capability to significantly increase shipments to any
18 export markets, including the United States? I'm
19 referring to the statement you have on page 2 of your
20 brief. Can you respond to me on that?

21 MR. VORSTER: All right. To answer that,
22 the --

23 COMMISSIONER KOPLAN: If I could just
24 interrupt you for a second. The question is clear to
25 you, is it not, Mr. Bruno?

1 MR. BRUNO: Well, you have to look at the
2 historical data that the Commission has collected with
3 respect to Highveld and IPSCO, and to get into that,
4 we have to get into the questionnaire responses that
5 those two have provided. I think if you look at the
6 historical data, you will see that it confirms the
7 trends that we have stated in our brief in terms of
8 increased sales to the domestic market and a strong
9 domestic market. I cannot get into the percentage of
10 increase, but it is very significant. If you look at
11 the export markets, you will see that there has been a
12 decline in the export market, which is also
13 significant. And yes, you have fluctuation from year
14 to year --

15 COMMISSIONER KOPLAN: But the exports from
16 South Africa to the United States increased
17 significantly between 2000 and 2002.

18 MR. BRUNO: They have increased, but --

19 COMMISSIONER KOPLAN: And the percentage of
20 total exports from South Africa are also projected to
21 increase, and that's in our tables as well.

22 MR. BRUNO: Well, that's correct, but they
23 are not necessarily going to the United States. I
24 have a little bit of a problem to comment on those
25 numbers because I have the IPSCO and the Highveld

1 questionnaire in my mind, and I'm trying to avoid
2 providing too much information from those
3 questionnaire responses. I would prefer to comment on
4 this in our post-hearing brief, if I may.

5 COMMISSIONER KOPLAN: Could you do that in
6 some detail for me?

7 MR. BRUNO: Yes, we will.

8 COMMISSIONER KOPLAN: Is there anything that
9 Mr. Vorster can say to this now or not?

10 MR. VORSTER: I have nothing to add to that.

11 COMMISSIONER KOPLAN: No?

12 MR. VORSTER: No.

13 COMMISSIONER KOPLAN: Okay. If you could do
14 that, I would appreciate it.

15 MR. BRUNO: We will do so. We will do so.

16 COMMISSIONER KOPLAN: How do we take into
17 account the fact that in recent years the domestic
18 industry has already been suffering considerable
19 injury but battered by import price competition?
20 Doesn't that suggest that we should be reluctant to
21 find no discernable adverse impact on the U.S.
22 industry by reason of South African imports?

23 MR. BRUNO: Well, you have two standards to
24 apply: volume and price effect. The U.S. industry
25 can be vulnerable and still you may find that a

1 particular country, that imports from a particular
2 country would not have any discernable adverse impact
3 on the U.S. industry. The fact that the U.S. industry
4 claims that it is vulnerable does not necessarily
5 defeat the purpose of the cumulations standard, which
6 is essentially to determine whether or not the imports
7 from that particular country will have a discernable,
8 adverse impact on the industry in whatever state that
9 industry is.

10 Our position is that, given the low volume
11 of historical imports from South Africa and the
12 anticipated low volume of those imports in the future,
13 whether the U.S. industry is or is not vulnerable will
14 not change the essential conclusion, which is that
15 those imports will have no discernable impact on that
16 particular industry. And if you look at, really, the
17 last full calendar year before the initiation of the
18 investigation, the original investigation, and you see
19 that the South African imports represented 0.9 percent
20 market share, how can you determine that, with market
21 shares at that level, South Africa could have any
22 discernable, adverse impact on the U.S. industry?

23 Bear in mind that the U.S. industry
24 currently has in excess of 80 percent market share and
25 has the lion's share of the market here, and there is

1 no reason why a very small volume of those imports can
2 have any adverse impact, even on an industry which is
3 vulnerable.

4 COMMISSIONER KOPLAN: Thank you for that. I
5 see my light is on. Thank you, Madam Chairman.

6 CHAIRMAN OKUN: Thank you, and, again, thank
7 you to the witnesses.

8 Before I begin my questions, Mr. Bruno, let
9 me join in Commissioner Miller's request that for
10 post-hearing you take a look at Commission precedent
11 in sunset review cases where we've exercised our
12 discretion not to cumulate and see if you believe
13 South Africa fits along any of that precedent. I
14 understand your no-discernable-adverse-impact
15 argument. I haven't done it very often. I think I've
16 done it maybe even less than my colleagues, so, for my
17 purposes, I would like you to take a look at the other
18 way to look at it.

19 MR. BRUNO: We will do so.

20 CHAIRMAN OKUN: Okay. Thank you very much.
21 Let me turn, then, if I could -- one of the other
22 factors we look at -- of course, there are barriers in
23 other markets and what that means if the order is
24 lifted, and I note, and I believe you've said this as
25 well, that South Africa is subject only to orders in

1 Canada. Is that accurate?

2 MR. VORSTER: That is correct.

3 CHAIRMAN OKUN: Okay. In addition to the
4 United States, they may be undertaking, obviously.

5 And this might be better for you, Mr. Bruno,
6 but is there anything else you would distinguish South
7 Africa in relation to the other subject countries in
8 terms of the orders or the other countries where those
9 subject countries are subject to orders, and South
10 Africa is not? Are they big markets? Maybe, Mr.
11 Vorster, you could comment on that, you know, in terms
12 of -- you responded to Commissioner Koplan, but what
13 I'm trying to understand is, to the extent that you
14 said you've got this production for the home market,
15 and we concede what statistics are there, and then you
16 were saying, to the extent that you have, and will
17 continue to have, export markets, you look for -- I
18 don't know if you said "favorable" -- the best place
19 to take that export product.

20 In terms of other countries, where would you
21 say that is right now? I think you talked about the
22 EU as being attractive right now. Does that have to
23 do just with price or that some of these other
24 countries aren't in there? I guess that's the point I
25 was trying to understand: Is it attractive just

1 because of price or because other countries can't sell
2 in there that you would compete with?

3 MR. BRUNO: Thank you. No, it's not
4 necessarily just the price issue. Highveld has always
5 had the marketing strategy of marketing our products -
6 - in this case, cut-to-length products -- similarly to
7 all of our other products that we sell into various
8 parts of the world in order to sort of keep a foot in
9 the door.

10 As I explained or alluded to earlier,
11 marketplace prices fluctuate in the world, different
12 prices for different countries, and at times prices
13 are a little bit lower than anticipated. However,
14 we've always tried to keep a small tonnage within
15 those markets just to keep the continuity there
16 because we've come a long way in the export market
17 with customers that we both have had very good
18 relationships with in the past. So we will always try
19 to continue to put volumes, albeit small volumes, into
20 those markets.

21 CHAIRMAN OKUN: With respect to the Canadian
22 order, the Petitioners have made a number of
23 arguments, both today and in their briefs. Noting the
24 similarities in the arguments that were raised here
25 and that were raised in Canada and rejected by that

1 tribunal, is there anything that you wanted to respond
2 to on that in terms of how the ITC should evaluate
3 that?

4 MR. BRUNO: Well, there is one point that I
5 would like to make, and I will develop it in the post-
6 hearing brief because obviously it involves
7 confidential information, but a lot has been made
8 about the finding by the Canadian tribunal concerning
9 the capacity of production of Highveld being destined
10 for export markets. There is a timing issue. We're
11 going to get a copy of the questionnaire response from
12 Highveld and provide it in the post-hearing brief.
13 But there is a timing issue.

14 If you look at the questionnaire response
15 provided by Highveld in this case, and if you look at
16 the period ending in 2001, you will see that you could
17 reach a similar conclusion as the Canadian tribunal
18 reached in that particular proceeding. However, you
19 have now the 2002 and the 2003 data here in this case,
20 and you will see that that conclusion does not hold
21 when you look at more years of data.

22 So I think there is a question of timing
23 here which explains why the tribunal in Canada made
24 the remark it made, but I think that this Commission
25 has a lot more data to look at and will see that in

1 historical context that that particular conclusion, in
2 my view, does not hold.

3 I cannot go into the specifics, obviously,
4 but we will provide more specific information on this
5 in the post-hearing brief.

6 CHAIRMAN OKUN: Okay. Well, obviously I
7 appreciate you saying that in post-hearing brief and
8 having you lay out your differences with how it was
9 portrayed earlier today.

10 The other thing I wanted to turn to was the
11 effect of the current suspension order, and I believe
12 it was in response to Vice Chairman Hillman's
13 questions this morning to the Petitioners talking
14 about what was it that made a difference: Was it the
15 price undertaking, or was it the volume undertaking?
16 And I think the Petitioners' point was with respect to
17 those countries where there was a quota in place, they
18 never got there, so, in effect, it really was about
19 price and that that would apply equally to South
20 Africa so that your arguments with regard to what was
21 going on during these different periods when South
22 Africa didn't come into the market when it had the
23 opportunity, which is, I think, your word, isn't
24 relevant because of the price undertaking, and I
25 wanted to hear your response to that, and Mr.

1 Vorster's as well.

2 MR. BRUNO: I will ask Mr. Vorster to
3 comment as well, but I would like to make the
4 following comment with respect to the suspension
5 agreement. We have a price, a minimum price,
6 agreement, which is adjusted quarterly. Given the
7 fluctuation in the exchange rate between the Rand and
8 the U.S. dollar, the minimum price at times has been
9 below U.S. market prices, which means that Highveld
10 could have sold a lot more in the U.S. market while
11 abiding by the terms of the minimum price. In other
12 words, they were not limited by the minimum price. If
13 the minimum price is way above the U.S. market price,
14 then you have a situation where you can say, "Well,
15 look, yeah, you can sell, but, in fact, you cannot
16 find any customers because you will not be price
17 competitive in the marketplace."

18 That is not been the case. There have been
19 instances, and quite a few of them, I believe, where
20 the minimum price has been below U.S. market prices,
21 and they were able to sell at much higher prices than
22 the minimum price required them to do so.

23 So, in that particular respect, the
24 suspension agreement has not been an impediment to
25 Highveld making more sales or importing more in the

1 U.S. market, and if you add to that the fact that they
2 had no quotas and no higher tariffs under the 201
3 proceedings, they had the market for themselves, to a
4 certain extent, not constantly because, obviously,
5 we're talking about fluctuations in the exchange rate,
6 but there are quarters, or even years, in which they
7 could have made a lot more sales in the U.S. market,
8 and that did not happen.

9 CHAIRMAN OKUN: Mr. Vorster, did you have
10 anything to add on that?

11 MR. VORSTER: Yes, thank you. As my counsel
12 has referred to, there were those periods where the
13 normal values were below U.S. market price levels, and
14 we did not capitalize on that. In fact, we have,
15 during that period, exported to other countries at
16 higher price levels.

17 CHAIRMAN OKUN: Okay. I know you made the
18 argument in your brief, and I recall reading it, but
19 I'm trying to remember, did you have tables attached
20 to that or exhibits that would have laid out linking
21 up those time periods where you're saying that the
22 price was lower, and you didn't take advantage of
23 that? Was that in there?

24 MR. BRUNO: No. We didn't provide those.
25 We will be happy to provide those in the post-hearing

1 brief.

2 CHAIRMAN OKUN: Okay. If you could do that
3 and lay it out with the periods that you're talking
4 about, I think that would be helpful to look at.

5 Another question for you, Mr. Vorster. This
6 morning, we heard testimony about the role of trading
7 companies in the exportation of plate to the U.S.
8 market, and I think it was Mr. Ballou who testified
9 that it is the trading companies or the brokers who,
10 if the orders were lifted, would have available
11 product from any of these subject countries, and that
12 would, in fact, drive down the prices. And I wondered
13 if you could talk about South Africa's position on
14 that or your experience with the trading companies,
15 how that would work if the order were lifted.

16 MR. VORSTER: We've always acted very
17 responsibly in terms of our market strategy, our
18 policy within the United States, and we have basically
19 just exported through two channels in the past. These
20 are through two trading agencies, and we feel that the
21 marketing of our steel through those channels was very
22 responsible. We never really pushed the limits to try
23 and push more volume to this market, which was not
24 possible, and we feel that we just acted very
25 responsibly through those channels.

1 CHAIRMAN OKUN: This might be in the record,
2 but I don't remember. Are the trading companies you
3 reference, are they global trading companies? Would
4 they be carrying product other than South African, or
5 are they South African exclusively?

6 MR. VORSTER: The one trading company was
7 Nuco Steel Trading in the USA. They were an
8 affiliated company at the time, but, unfortunately,
9 now they are no longer in existence.

10 CHAIRMAN OKUN: And the other one?

11 MR. VORSTER: The other trading company was
12 Max Steel International.

13 CHAIRMAN OKUN: Okay. I do remember reading
14 about them. And then could you comment -- I don't
15 know if it's business proprietary, but do you or IPSCO
16 use related importers or trading companies?

17 MR. VORSTER: I don't know.

18 CHAIRMAN OKUN: The other South African
19 company; do you use the same --

20 MR. VORSTER: We use them in our home market
21 as well.

22 CHAIRMAN OKUN: In the home market.

23 MR. VORSTER: They are stockists within our
24 home market. We also use the on the international
25 market to trade our business into other markets.

1 CHAIRMAN OKUN: Okay. And how about IPSCO?

2 MR. VORSTER: IPSCO has a sole agreement
3 with Max Steel International.

4 CHAIRMAN OKUN: Okay. I just wanted to make
5 sure I understood that. Thank you very much for those
6 answers.

7 Vice Chairman Hillman?

8 VICE CHAIRMAN HILLMAN: Thank you, and I,
9 too, will join my colleagues in thanking you for
10 taking the time to travel all the way from South
11 Africa to be with us this afternoon. We very much
12 appreciate it.

13 I guess I wanted to follow up just a little
14 bit on that to make sure I understand this issue of
15 how you sell in the U.S. market and how it may relate
16 to these issues about the overlap in competition or
17 other factors.

18 In your testimony, you said that you supply
19 U.S. end users mostly with specific products that are
20 not readily available in terms of certain thin, thick,
21 wide, you know, particular products. I'm just trying
22 to make sure I understand that in light of what you
23 just said to the chairman in terms of selling through
24 these two particular trading companies. Are you also
25 selling direct to certain end users these specialty

1 products?

2 MR. VORSTER: Thank you. Our marketing
3 policy or strategy is to visit the United States
4 market on a quarterly basis. We visit the market,
5 together with our agent within the United States.
6 Those visits are planned purely to gain market
7 information, see what the market is doing, where
8 prices are going, et cetera, and on those visits we
9 visit, together with our agent, some end users and
10 some stockists. That's the strategy that we've been
11 following all over the years.

12 VICE CHAIRMAN HILLMAN: Okay. So you
13 ceased. But do you sell directly to the end users, or
14 are all of your sales actually through your agent?

15 MR. VORSTER: All of our sales go through
16 the agent; however, they are representatives through
17 to the customers and/or stockists, albeit end users.
18 They are, indeed, end users which we see, and we don't
19 directly sell to the end user as Highveld, but there
20 is always the trader in between.

21 VICE CHAIRMAN HILLMAN: Okay, okay.

22 MR. BRUNO: If I may, --

23 VICE CHAIRMAN HILLMAN: Mr. Bruno?

24 MR. BRUNO: -- add to this question,
25 Commissioner Hillman. Typically, what they do is that

1 they go with their agents, visit end users and see
2 with the end users what their requirements would be
3 for the following quarter in terms of specific sizes
4 and specific types of plates. And once that is agreed
5 upon, then they start producing those products, and
6 those products are then sold to what he refers to as
7 "the agent," and the agents sell that to the end
8 users.

9 VICE CHAIRMAN HILLMAN: Okay. Just so I'm
10 clear, again, because we, obviously, sought pricing
11 data only for this kind of A-36 in very specific sizes
12 but largely for a commodity product, and yet, again,
13 your testimony references this issue of being, if you
14 will, a niche supplier, an alternative supplier rather
15 than a primary supplier, and I'm just trying to square
16 the data that we have that would show some shipments
17 in this A-36 area versus your testimony in terms of
18 this going to the specialty users.

19 First of all, I just want to make sure I
20 understand, when you say "end user," whether you're
21 including within that what we would call a "service
22 center," or are you distinguishing the actual final
23 user of the product? When you say you're selling as
24 an alternative supplier supplying U.S. end users with
25 specific products, is that a service center, or is

1 that the actual company that's going to apply that
2 plate directly?

3 MR. VORSTER: It's a case of both of those
4 conditions. We do supplies to a physical end user,
5 and if I may quote a name, it's Texas Plate
6 Processors, who directly burn the plate into
7 fabricated products, et cetera.

8 VICE CHAIRMAN HILLMAN: Okay.

9 MR. VORSTER: But, of course, as I said,
10 there are also the service centers that do purchase
11 some of our material.

12 VICE CHAIRMAN HILLMAN: Okay. I just wanted
13 to make sure I understood it.

14 Then you commented a fair amount on this
15 issue of your product going both to the home market
16 and to other export markets, and, obviously, this is
17 tricky in the sense that the data itself is
18 confidential, but I think it's fair to say that if you
19 look between 2001 and 2002, it looks from our data as
20 though your exports generally, again, not going into
21 the specifics of where, but generally went down quite
22 considerably. Can you tell me your sense of that, and
23 was it different? Again, that's sort of the overall
24 trend. Can you tell me a little bit about what
25 happened in terms of your exports to any of the

1 specific markets and why that would be, why we would
2 see this big decline in exports?

3 MR. VORSTER: Yes, I could. 2001 and 2002
4 both have been very good years for our domestic
5 market, and, as the records would show, we've had
6 continuous growth within the domestic demand for cut-
7 to-length plate, and our prime objective is to service
8 the domestic market initially and then look to other
9 markets where we could export whatever balances we do
10 have left. But typically, we would serve the domestic
11 market first of all.

12 VICE CHAIRMAN HILLMAN: Okay. The one that
13 leaps off the page is what we would have described as
14 the "all-other market," which, from your testimony, I
15 would assume for you -- again, if you're not shipping
16 to the U.S., the EU or Asia, your other market, I
17 would assume, is largely sub-Saharan Africa. Is that
18 fair to say?

19 MR. VORSTER: Yes, indeed. Africa does play
20 a huge role in our exports as well, but there are
21 other markets which we regularly ship to, such as
22 Australia, the Middle East, South America.

23 VICE CHAIRMAN HILLMAN: Okay. Well, again,
24 if in the post-hearing, there is anything that you can
25 say, particularly on what happened in terms of whether

1 there is some change there that would have resulted in
2 this big change in your export levels -- obviously,
3 I've got the data. You can see what it was from 1997
4 through 2001, and then all of a sudden it's quite
5 different in 2002, and I'm just trying to see if there
6 is something that we could understand about whether
7 that means there is more product available to come
8 into the U.S. market or what happened there.

9 MR. BRUNO: We will do so.

10 VICE CHAIRMAN HILLMAN: Okay. I appreciate
11 it.

12 Mr. Vorster, you heard us talking with the
13 domestic industry this morning. I was asking them a
14 little bit about who they perceive to be the price
15 leader in the U.S. market. As you're doing these
16 marketing visits -- you say you come over every
17 quarter and visit both your customers and others in
18 the U.S. market -- what is your sense of who is the
19 price leader in the U.S. market, and how do prices get
20 set?

21 MR. VORSTER: Our perception of the price
22 leader in the United States market is the biggest
23 producer within the United States market, and in this
24 case, Nucor. There are other mills, the likes of
25 Chaparral, but that's probably more towards the

1 structural market. We perceive those to be the market
2 leaders within --

3 VICE CHAIRMAN HILLMAN: Nucor.

4 MR. VORSTER: -- Nucor -- within the United
5 States market.

6 VICE CHAIRMAN HILLMAN: Okay. And, again,
7 I'm trying to get your sense of your understanding of
8 how the prices get set, either through the trading
9 companies or at the end-user level. Are you told, I'm
10 not going to buy from you at that price because I've
11 got a better offer from somewhere else at a different
12 price, or, from your perspective, how do you see
13 prices getting set?

14 MR. VORSTER: We believe prices are set by
15 Nucor. Obviously, being an importer into this
16 country, the competition that we face are from subject
17 countries and, for that matter, from other importing
18 countries within this country. We, at the time of
19 traveling, try to ascertain what the market prices are
20 within the market and then try to obtain the best
21 price possible for our corporation, obviously within
22 the limitation -- not the limitation but ensuring that
23 the price that we ultimately do achieve coincides, or,
24 at least, improves, on the normal values as set by the
25 DOC because we have to, obviously, maintain those

1 levels.

2 VICE CHAIRMAN HILLMAN: Okay. All right. I
3 appreciate that.

4 I think that's all I have for right now,
5 Madam Chairman. Thank you.

6 CHAIRMAN OKUN: Commissioner Miller.

7 COMMISSIONER MILLER: Thank you. I only
8 want to follow up with one thing because I know we've
9 had some discussion here about the excess-capacity
10 question. It's one sentence in your prepared
11 statement that you say: "It's also common knowledge
12 that IPSCO's facilities do not allow it to produce
13 quality CTL plate because its mill is over six years'
14 old and technologically outdated." And I just wanted
15 to make sure that your common knowledge is my
16 knowledge in some way other than through the common
17 knowledge. I don't know exactly how to accomplish
18 that except perhaps to either ask you to expand on it
19 or to submit something to us that would in some way
20 substantiate or provide some supporting information
21 regarding that comment.

22 MR. BRUNO: We will do so. There is
23 information on the record already on that one.

24 COMMISSIONER MILLER: Okay. I appreciate
25 that.

1 MR. BRUNO: So we will point you out --

2 COMMISSIONER MILLER: I'm just not finding
3 it right in front of me. Okay. I appreciate it.
4 Thank you. I have no further questions.

5 CHAIRMAN OKUN: Commissioner Koplan.

6 COMMISSIONER KOPLAN: Thank you, Madam
7 Chairman.

8 Let me say if I can walk through this with
9 you. Mr. Vorster, you indicated earlier -- I noted
10 that you said you always try to keep a foot in the
11 door with countries, and the record here shows that
12 you have managed to do that with regard to exports to
13 the U.S. You've managed to keep a foot in the door
14 here. What I'm trying to understand is, if the
15 suspension agreement is terminated, and we terminate
16 this order against South Africa in the sunset case,
17 why wouldn't this become a favorable market for you to
18 turn to, given the fact that Canada recently decided
19 to continue its order, and they noted that, of course,
20 we have an order against you, and also the European
21 Union does. And when I look at what --

22 MR. VORSTER: Not the European Union.

23 COMMISSIONER KOPLAN: I'm looking at their -
24 - I just noted it, if I can find the page again, but
25 I'll stand corrected if I'm wrong on that, but I just

1 saw them mention both the United States and the
2 European Union. In Exhibit 1 to Mr. Schagrín's brief,
3 I thought they mentioned the European Union as well.

4 But I'm looking at their discussion of
5 likely volumes of plate coming from the cumulated
6 countries. They cumulated the countries in the
7 Canadian determination, and I'm just extrapolating
8 from that. There is a quote: "The tribunal notes
9 that during the period, January '99 to the end of the
10 first six months of 2002, imports from the cumulated
11 countries captured only between 0.3 and two and a half
12 percent of the Canadian market, with South Africa
13 representing the majority of those imports in 2001 and
14 2002, and that South African imports of carbon-steel
15 plate into Canada had all but ceased after the
16 finding. However, in the second half of 2000, those
17 imports began to increase and became significant by
18 2001 at a time when the South African Rand was
19 severely devalued."

20 I understand the argument you're making, but
21 it's difficult for me to follow along as to why, if we
22 removed you here, given other orders that are
23 outstanding against you, why you wouldn't turn to us
24 as a favorable market. Why else would you have kept
25 your foot in the door here?

1 MR. VORSTER: We have longstanding
2 relationships with many customers in the United
3 States. As I said before, we've been coming to this
4 market with CTL plate since 1978. Where normal values
5 allow us, we have made sales, and we would continue to
6 make sales if it's at all possible.

7 The Canadian question, unfortunately, I
8 cannot answer for you.

9 COMMISSIONER KOPLAN: Okay. Perhaps, Mr.
10 Bruno, if you go back and reconcile for me some of the
11 things I'm seeing in the Canadian decision, I would
12 appreciate it.

13 MR. BRUNO: We will.

14 COMMISSIONER KOPLAN: Thank you. I have
15 nothing further at this time.

16 CHAIRMAN OKUN: Thank you. I think I just
17 have one final question, and, Mr. Vorster, you may
18 have mentioned it in your original testimony, but
19 that's just whether your mix of products has changed,
20 the mix of products that you export to the United
21 States, has it changed at all? And, I guess, wherever
22 you export, has the mix of products that you export
23 changed in terms of what type of products?

24 MR. VORSTER: On the CTL side, there has
25 been no change to the mix of products.

1 CHAIRMAN OKUN: Okay. So it's the same.

2 MR. VORSTER: It's the same.

3 CHAIRMAN OKUN: Okay. Vice Chairman
4 Hillman?

5 VICE CHAIRMAN HILLMAN: I guess, just two
6 good questions. One of the things that is obviously
7 very clear on the record is that there has been a
8 significant change in the U.S. market in terms of U.S.
9 producers of cut-to-length plate, with a number of
10 green field minimills coming on stream during this
11 same time, as well as a number of the former producers
12 completely shutting or going out of business, with
13 Gulf States and Geneva shutting, Nucor and others
14 starting new green field plants. From your
15 perspective, Mr. Vorster, would you say these changes
16 have -- I'm trying to understand whether you think
17 they have changed your ability to sell product into
18 the U.S. market?

19 COMMISSIONER HILLMAN: There is obviously
20 less capacity in the U.S. than there had been in the
21 past, so I'm just trying to understand whether this
22 change that we've seen has made the U.S. market more
23 open to you, more available to you, or has changed any
24 way in which you compete in the U.S. market.

25 MR. VORSTER: It has indeed changed. For

1 example, in very earlier years of our export, a lot of
2 the material was in the, as we term it, the thin-wide,
3 which is three-sixteenth by 96 inch wide plate. That
4 was a product that was fairly sought after in the
5 United States market in the earlier years which we
6 participated in. However, that situation has changed
7 with the introduction of new mills within the United
8 States.

9 COMMISSIONER HILLMAN: Meaning they can
10 produce it so there's not as much demand for your
11 product?

12 MR. VORSTER: That's correct.

13 COMMISSIONER HILLMAN: Okay. But on the
14 flip side, has the overall decrease in U.S. capacity
15 created more draw for imports to come into the market?

16 MR. VORSTER: I could not really comment on
17 that. The records show that our volume has been very
18 low and really the exports that we have made during
19 the last five years have only been exports that were
20 possible for us to make within the constraints of the
21 normal values.

22 COMMISSIONER HILLMAN: Okay.

23 MR. VORSTER: We could not really increase
24 the numbers.

25 COMMISSIONER HILLMAN: Okay. And then

1 I guess my last question goes to this issue of kind of
2 the relative prices in the market that you discussed.
3 Your testimony says prices have historically been
4 higher in the United States than elsewhere in the
5 world and I guess I'm wanting your sense of whether
6 that's true today. Are prices in the U.S. higher than
7 elsewhere in the world?

8 MR. VORSTER: It's not true today. There
9 are markets where we have seen prices that are better
10 on an FOB and S basis. When we compare various
11 markets, there's definitely markets that are currently
12 paying better prices.

13 COMMISSIONER HILLMAN: Okay. And those
14 would be, I guess I should ask, which markets would
15 you describe right now as a better market for you?

16 MR. VORSTER: It would depend on product,
17 but indeed we have seen better prices from Australia
18 and from the E.U.

19 COMMISSIONER HILLMAN: And would there be
20 markets in which you audit report currently selling at
21 below what would be the U.S. normal value price?

22 MR. VORSTER: Yes, there are.

23 COMMISSIONER HILLMAN: Okay. And they would
24 be where?

25 MR. VORSTER: Colombia, for example, and

1 actually for certain African countries.

2 COMMISSIONER HILLMAN: Okay. All right. So
3 you are to those countries exporting at a price that
4 would be below what the current normal value price is.

5 MR. VORSTER: That's correct.

6 COMMISSIONER HILLMAN: Okay. If there are
7 any further details on this issue of kind of relative
8 prices in these various markets and how it does or
9 doesn't compare to the normal value price that you
10 want to add for a post-hearing brief, I would welcome
11 that, Mr. Bruno.

12 MR. BRUNO: Thank you.

13 COMMISSIONER HILLMAN: And with that I have
14 no other questions, but do thank you very much for
15 traveling to be with us today.

16 Thank you.

17 CHAIRMAN OKUN: Let me check to see if my
18 colleagues have a question.

19 Commissioner Koplan?

20 COMMISSIONER KOPLAN: Yes. Thank you Madam
21 Chairman.

22 Let me just come back, I don't want to
23 belabor this, but let me come back to this Canadian
24 determination and I found what I had in mind.

25 Let me read this to you, Mr. Vorster. I'm

1 quoting from it. This is on page 13, January 10th.
2 It says, "Furthermore, carbon steel plate producers
3 around the world, including producers in the cumulated
4 countries, have been faced with increasing
5 restrictions on export sales of plate and similar hot
6 rolled products. The tribunal notes that antidumping
7 measures are currently in force in the United States
8 against China, South Africa and Russia and in the
9 European Union against China and South Africa. In
10 addition, Russian flat products, including plate, are
11 subject to import quotas in the European Union. The
12 United States and the European Union have also both
13 recently imposed safeguard measures in respect of,
14 among other products, carbon steel plate. China and
15 Russia are subject to the U.S. safeguard measures and
16 China and South Africa are subject to the E.U.
17 safeguard measures. Given the circumstances described
18 above, the tribunal has little doubt that if the
19 finding is rescinded, exporters of potentially
20 significant volumes of carbon steel plate from the
21 cumulated countries will see Canada as an attractive
22 market. The tribunal notes that in 2000, China, South
23 Africa and Russia combined exported 4 million tons of
24 plate to various major export markets, which is more
25 than four times the size of the Canadian market."

1 So if that's incorrect with regard to the
2 European Union, I am only relying on what I'm reading
3 in this exhibit. Is it possible that you were
4 mistaken?

5 MR. VORSTER: They are referring to the coil
6 case.

7 COMMISSIONER KOPLAN: They're referring to
8 the coil case?

9 MR. VORSTER: There is a coil case in the
10 E.U. Yes. Where we have a minimum price undertaking
11 level that we have to maintain to export to that
12 market.

13 COMMISSIONER KOPLAN: I see. Thank you for
14 that. I did not realize that.

15 Thank you, Mr. Bruno.

16 I'm glad you cleared that up for me.

17 I have nothing further.

18 CHAIRMAN OKUN: Vice Chairman Hillman?

19 COMMISSIONER HILLMAN: Just a quick
20 follow-up, Mr. Bruno, more for the post-hearing, which
21 is Mr. Vorster's answer to me on this issue of the
22 changes in the U.S. market in terms of the new mini
23 mill production, et cetera, he described a specific
24 product that, in essence, as I understood the
25 testimony, used to be very competitively sold by South

1 Africa and basically now the U.S. is making that
2 product and so it's harder to sell.

3 I'm trying to understand whether there's
4 other examples and/or any quantification that you
5 could help me understand to what degree the U.S.
6 ability to produce thinner and wider and other
7 products has changed South Africa's ability to sell
8 into these more kind of niche markets. If there's
9 anything that you could help me put my hands on to
10 understand how significant a phenomenon that is, for
11 the type of product that South Africa used to be
12 selling in the U.S. market before these mini mills
13 came on and in essence came into some of these --
14 I don't want to call them niche markets, but into
15 these slightly different product mixes. Any help you
16 could give me in terms of quantifying that, if there's
17 other examples and/or if there are numbers that would
18 help me understand how much this has affected South
19 Africa, I would very much appreciate it.

20 MR. BRUNO: We will do so in a post-hearing
21 brief.

22 COMMISSIONER HILLMAN: I hope you understand
23 the --

24 MR. BRUNO: Yes, I understand the question.

25 COMMISSIONER HILLMAN: Okay. Great. Thank

1 you very much.

2 CHAIRMAN OKUN: Let me turn to staff to see
3 if staff has questions of this panel.

4 MS. MAZUR: Diane Mazur, Office of
5 Investigation. Staff has no questions.

6 CHAIRMAN OKUN: Thank you, Ms. Mazur.
7 Let me ask counsel for petitioners whether
8 they have questions for this panel.

9 MR. SCHAGRIN: This is Roger Schagrin. We
10 have no questions for this panel, Madam Chairman.

11 CHAIRMAN OKUN: Thank you very much.
12 With that, I want to thank the witnesses
13 very much for being here, again, for traveling to
14 attend these hearings and to answer our questions.
15 I will go through the time remaining and then the
16 panel is free to go back to listen to the closing
17 statements.

18 The domestic parties have a total of 17
19 minutes, which includes five for closing. The
20 respondents have a total of 55 minutes, which includes
21 five for closing. If the parties are ready, we will
22 proceed with Mr. Schagrin once these witnesses have a
23 chance to move back.

24 Thank you again.

25 MR. SCHAGRIN: Thank you, Chairman Okun and

1 members of the commission. You'll be happy to know
2 that I will not use anywhere close to 17 minutes. I'm
3 sure Mr. Bruno will not use anything close to his 55
4 minutes. Just a few general comments and I will start
5 with the South Africans because that's really all we
6 have to rebut here.

7 It was a little bit like deja vu from the
8 hearing, I guess, five and a half or almost six years
9 ago in 1997 to hear Highveld saying we really don't
10 compete with the U.S. producers because we make and
11 sell products that aren't really made by the U.S.
12 producers. And the commission found in the original
13 investigation that that did not hold water and I
14 really think based upon his answers to your fairly
15 piercing questions shows again that that just simply
16 is not the case, that in fact Highveld is selling
17 products in the U.S. market that are identical to the
18 products made by the U.S. industry and well within the
19 capabilities of the U.S. industry.

20 Even Mr. Bruno in response to your questions
21 on cumulation said that they had to admit that there
22 is lots of overlap between the South African products
23 and the products from other countries and the products
24 of the U.S. industry. And, in fact, Mr. Ballou's
25 testimony harkening back to his testimony in 1997

1 demonstrated a lot of overlap because he stated that
2 back in the 1997 hearing, I think he reiterated it in
3 his testimony today, that he had bought plate from all
4 four of the subject countries, showing that at a major
5 service center there certainly was a great deal of
6 overlap amongst imports from the four countries.

7 Highveld's witness admitted that today they
8 are selling through apparently just one trading
9 company, Max Steel. Max Steel, while a South African
10 based company, is a very major international steel
11 trading company. They would be a trading company that
12 would handle product from lots of different countries
13 and, as you heard in the testimony this morning from
14 the domestic industry and from Mr. Ballou, that is the
15 way that other countries go to market. They go to
16 market through international trading companies.

17 Also, we heard admitted today that Highveld
18 sells both to service centers and end users and that's
19 just the way the U.S. industry sells, both to end
20 users and to service centers.

21 Now, the explanations that no one in the
22 U.S. market should have to worry about Iscor's mill
23 because it's 60 years old, that might sound okay, you
24 would think 60-year-old mills can't be that
25 competitive. There's only one problem when it comes

1 to plate and that is most of the U.S. industry's
2 competitors in the other subject countries are also 60
3 years old. The mills in Russia, Magnitogorsk,
4 Severstal, Azovstal in Illich, these were really
5 mostly communist, pre-World War II era mills. These
6 were the mills that, for students of history and World
7 War II, when the Germans took those parts of Russia at
8 Krupenin, because these were fairly new mills in the
9 1930s, started stealing the equipment back to Germany
10 because they wanted the fairly modern equipment from
11 what were then new Russian steel mills. And the same
12 is true in China. The big Chinese plate mills, many
13 of them are 50, 60 years old. So certainly we don't
14 think that's going to prevent Iscor from supplying
15 product to the U.S. market.

16 One other interesting item about Iscor,
17 which is a change, and that is the company recently
18 had the majority of its ownership purchased by Ispat
19 International, a very big, I think, maybe now the
20 fourth or fifth largest, steel company in the world.
21 They're a very international company, they have every
22 reason to export plate from Iscor to the United States
23 and, in fact, Ispat has no disincentive in terms of
24 dumping plate from South Africa to the United States
25 because, while it owns Inland Steel, which is now

1 called Ispat Inland, Inland stopped producing
2 cut-to-length plate several years ago so they would
3 not be ruining any of their investments in the U.S. if
4 now having made the acquisition of Iscor they decide
5 to operate at higher rates of capacity utilization and
6 dump plate into the U.S. market.

7 That's it for South Africa.

8 I wanted to make just one or two conclusory
9 comments. One, in a question that I think Vice
10 Chairman Hillman asked earlier today about any
11 structural changes in demand in the marketplace, is
12 this very low level of demand something that's going
13 to be somewhat more permanent or will it bounce back
14 as the market comes back or is cut-to-length plate
15 being replaced by the products.

16 And we heard from, I think, some industry
17 witnesses saying, no, we're not seeing plate replaced
18 by other products and what, unfortunately, we didn't
19 have a chance to hear from Mr. Ballou, who deals with
20 so many users of plate. As someone from a company
21 with 28 service centers processing plate for a variety
22 of hundreds, if not possibly thousands, of end user
23 customers, what he shared with last night and which I
24 think is a great concern for all service centers and
25 members of the domestic industry is in fact there are

1 structural changes taking place in demand from his
2 perspective and that is because so many of the medium
3 size end users of theirs who are making products using
4 plate such as truck parts, parts of agricultural
5 equipment, parts of construction equipment, who are
6 really subcontractor part producers to the
7 Caterpillars and John Deeres, it's all getting moved
8 to China. And when these parts move to China or when
9 the producers of a whole variety of products using
10 plate move offshore, those plants are not going to
11 come back here.

12 And so, unfortunately for this industry,
13 while we wish every industry in the United States
14 nothing but booming demand, better times, higher
15 profits, higher stock markets, the fact is that there
16 likely is a structural demand change occurring in
17 plate and even as some of the capital goods markets
18 come back, it's just very unlikely that we're ever
19 going to return to the demand levels we had in the mid
20 1990s.

21 We think the record in this case is clear.
22 We think cumulation of these countries is appropriate.
23 We do not think that South Africa meets the no
24 discernable adverse impact standard. We think the
25 excess capacity in the foreign countries poses a real

1 threat of recurrence of injury to the U.S. industry in
2 the reasonable foreseeable time. For that reason, we
3 urge you to continue these orders.

4 Thank you very much.

5 CHAIRMAN OKUN: Thank you.

6 MR. BRUNO: We have no further statement to
7 make at this point.

8 Thank you.

9 CHAIRMAN OKUN: Thank you, Mr. Bruno.

10 Post-hearing briefs, statements responsive
11 to questions and requests of the commission and
12 corrections to the transcript must be filed by July
13 17, 2003. Closing of the record and final release of
14 data to parties is August 17, 2003. Final comments
15 are due August 11, 2003.

16 With no further business before the
17 commission, this hearing is adjourned.

18 (Whereupon, at 3:02 p.m., the proceedings in
19 the above-captioned matter were concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Cut-To-Length Carbon Steel Plate
INVESTIGATION NO.: 731-TA-753-756
HEARING DATE: July 8, 2003
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: July 8, 2003

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Gabriel Rosenstein
Signature of Court Reporter