

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
CUT-TO-LENGTH CARBON STEEL) Investigation Nos.:
PLATE FROM CHINA, RUSSIA) 731-TA-753, 754 and 756
AND UKRAINE) (Second Review)

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 AND UKRAINE)

Wednesday,
 September 9, 2009

Room No. 101
 U.S. International
 Trade Commission
 500 E Street, S.W.
 Washington, D.C.

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

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On behalf of the International Trade Commission:

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 DEANNA TANNER OKUN, COMMISSIONER
 CHARLOTTE R. LANE, COMMISSIONER
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THE HONORABLE JO BONNER, U.S. Congressman, 1st
District, State of Alabama

In Support of the Continuation of Antidumping Duties:

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In Support of the Continuation of Antidumping Duties:

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Evraz NA Claymont:

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GLENN GILMORE, Trade Supervisor, SSAB NAD
KENT THIES, National Marketing Manager, Evraz NA
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On behalf of Nucor Corporation:

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Corporation
JEFF WHITEMAN, Sales Manager, Hertford County,
Nucor Corporation

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1 questions regarding time allocations should be
2 directed to the Secretary.

3 Finally, if you will be submitting documents
4 that contain information you wish classified as
5 business confidential your requests should comply with
6 Commission Rule 201.6.

7 Madam Secretary, are there any preliminary
8 matters?

9 MS. ABBOTT: Madam Chairman, there are no
10 other preliminary matters except that all witnesses
11 have been sworn.

12 (Witnesses sworn.)

13 CHAIRMAN ARANOFF: Thank you. Will you
14 please announce our first congressional witness?

15 MS. ABBOTT: Our first speaker is the
16 Honorable Peter J. Visclosky, United States
17 Congressman, 1st District, State of Indiana.

18 CHAIRMAN ARANOFF: Welcome back to the
19 Commission, Congressman, and please proceed.

20 MR. VISCLOSKY: Madam Chair and members of
21 the Commission, it is good to be back today,
22 especially to testify before you with respect to this
23 extension of antidumping orders on cut-to-length steel
24 plate from China and extension of the suspension
25 agreements for the same imports from Russia and the

1 Ukraine.

2 Others will obviously be addressing the
3 actual merits of the issues before you. I just want
4 to, as I have in the past, reiterate my appreciation
5 for your attentiveness to detail, the seriousness on
6 which you take your charge and my recognition that we
7 will not always agree.

8 I would note that since 2000 through the
9 year 2006, as far as antidumping cases negative
10 determinations were made about 47 percent of the time,
11 positive determinations about 45 percent of the time.
12 Relative to countervailing duty matters, negative
13 determinations were entered about 39 percent of the
14 time, positive determinations about 53 percent of the
15 time, but clearly a record where people were looking
16 at a factual basis.

17 Obviously I have an urge for more positive
18 determinations, but a seriousness as far as looking at
19 the details. It is also not lost on me that your
20 caseload has significantly increased since 2005 and
21 2006. I think a lot of that has been precipitated
22 because of the economic crisis we have faced worldwide
23 where others will be looking to export their
24 unemployment. I do recognize that between
25 countervailing duties and antidumping orders there are

1 about 110 in place relative to the domestic steel
2 industry.

3 As we continue to rebuild our economy, we
4 cannot leave ourselves vulnerable to illegally
5 subsidized imports from others who will be tempted to
6 dump their steel here and must continue to ensure that
7 the letter and the spirit of the law is followed and,
8 when appropriate and necessary, to impose warranted
9 sanctions under the law.

10 Therefore, I simply would conclude by
11 strongly urging you to maintain the antidumping orders
12 on cut-to-length steel plate from China and the
13 suspension agreements from Russia and the Ukraine, and
14 again thank you very much, one, for the opportunity to
15 testify before you today and again to thank you for
16 your diligence and hard work over the years.

17 CHAIRMAN ARANOFF: Thank you very much.

18 Does anyone have a question for the
19 congressman?

20 (No response.)

21 CHAIRMAN ARANOFF: Thank you for coming
22 today.

23 MR. VISCLOSKY: Thank you very much.

24 MS. ABBOTT: Our next speaker is the
25 Honorable Jo Bonner, United States Congressman, 1st

1 District, State of Alabama.

2 CHAIRMAN ARANOFF: Good morning,
3 Congressman. Welcome to the Commission.

4 MR. BONNER: Good morning, Madam Chair,
5 members of the Commission. Thank you for allowing me
6 to join my colleague, Pete Visclosky, and introduce
7 myself, although I've been to the Commission before.
8 My name is Jo Bonner, and I have the pleasure of
9 representing Alabama's 1st Congressional District in
10 the United States Congress.

11 Our district includes the 300 plus year old
12 city of Mobile and some beautiful beaches -- Gulf
13 Shores, Orange Beach and Dauphin Island -- as well as
14 other small towns and cities that make up some 635,000
15 people in the southwestern corner of the state of
16 Alabama. Today I'm pleased to appear before the
17 Commission on behalf of the hundreds of employees and
18 management of the SSAB cut-to-length plant that is
19 located in southwest Alabama.

20 Madam Chair, just a few days ago I had an
21 opportunity to visit this plant, as I have done many
22 times before, to talk with the employees and
23 management and hear from them firsthand about how they
24 have managed to cope with the global economic meltdown
25 that has so negatively affected their business and the

1 American steel industry as a whole, depending on the
2 individual product, by as much as 50 percent over the
3 past couple of years.

4 Needless to say, I was extremely impressed
5 that SSAB continues to invest and continues to improve
6 its product line despite the economic challenges. As
7 you know, this is essential to continuing business in
8 a global market.

9 In fact, prior to the global recession SSAB
10 had planned to invest another \$400 million in a new,
11 state-of-the-art heat treating system that would have
12 produced stronger, lighter steel at the Mobile
13 facility, as well as increasing their employment rolls
14 by another 200 people. Unfortunately, but
15 understandably, this project is now on hold.

16 But even with SSAB's other investments in
17 newer and better technology, we have to recognize that
18 the economy in which they operate is still very
19 fragile. The recent gains towards market stability
20 can be undercut quickly if dumping is allowed.

21 The propensity to dump steel in the U.S.
22 market has to be recognized and guarded against. As
23 you will hear from later Dave Britten, SSAB is a
24 sophisticated steel company which knows and
25 understands the importance of trade. However, fair

1 trade is best accomplished by imposing certain
2 standards on those who don't meet them voluntarily.

3 Before the imposition of these orders,
4 Russia, China and the Ukraine dumped over one million
5 tons of plate to the United States. At this point in
6 time, a resumption of that practice would be
7 devastating to U.S. producers and the stability of the
8 market.

9 Demand for plate has fallen in Russia and
10 the Ukraine during the global recession, leaving these
11 countries with millions of tons of Soviet era excess
12 plate capacity. China, where demand has remained
13 stronger, but not expanded, has continued to build
14 capacity under government directives and with
15 government assistance. China now has over 600 million
16 tons of capacity and an estimated excess plate
17 capacity of 20 to 30 million tons.

18 Demand for plate in the United States market
19 has dropped by more than half in 2009 as a result of
20 steep reductions in nonresidential construction and in
21 expenditures for capital goods such as trucks, rail
22 cars and barges. As a result, some mills in the
23 United States have been idled and many others have
24 seen their operations significantly curtailed
25 throughout the year.

1 Russia and Ukraine are now subject to market
2 economy suspension agreements that ensure that each
3 ton of steel that is sold to the United States is sold
4 at a price that is not dumped. Imports from China are
5 subject to dumping duties ranging from 17 to 129
6 percent. These suspension agreements and the dumping
7 order provide for what many in Congress would consider
8 fair trade of steel products.

9 Madam Chair, I urge you and your fellow
10 Commissioners to continue the dumping orders against
11 China on cut-to-length plate and to continue the
12 suspension agreements with Russia and the Ukraine.

13 Once again, on behalf of the hundreds of men
14 and women who work at SSAB North America, I appreciate
15 the time and consideration you and the other members
16 of the Commission will give to this important matter.

17 CHAIRMAN ARANOFF: Thank you very much.

18 Does anyone have a question for the
19 congressman?

20 (No response.)

21 CHAIRMAN ARANOFF: Thank you for coming this
22 morning.

23 Madam Secretary, I believe we're ready for
24 opening remarks.

25 MS. ABBOTT: Yes. Opening remarks in

1 support of continuation of orders will be by Roger B.
2 Schagrin of Schagrin Associates.

3 MR. SCHAGRIN: Good morning, Chairman
4 Aranoff and members of the Commission. For the
5 record, my name is Roger Schagrin of Schagrin
6 Associates.

7 It's hard to believe, but when I was a young
8 man I filed these petitions in 1996 all by myself
9 without co-counsel. It was another era in trade
10 policy. I think this was the first major steel case
11 against China.

12 And when those petitions that led to these
13 suspension agreements and antidumping duty order were
14 filed, the Commission found that large volumes of
15 dumped plate from China, Russia and Ukraine threatened
16 the U.S. plate industry with injury. This occurred in
17 the middle of an extremely strong business cycle for
18 plate demand with annual consumption in the eight to
19 nine million ton range.

20 Now let's flash forward 13 years. I'm no
21 longer a young man. The Chinese industry, which was
22 in its infancy in 1996, has grown into a behemoth.
23 While demand has remained solid in China, unending
24 capacity expansions fueled by government ownership and
25 subsidy programs has resulted in huge overcapacity

1 leading to extremely low home market and export prices
2 for Chinese plate.

3 Meanwhile, producers in Russia and Ukraine
4 have seen demand for their product shattered by the
5 worldwide recession. The Russia and Ukraine economies
6 have suffered double digit contractions in GDP.
7 Unfortunately, both countries now have massive amounts
8 of excess plate capacity.

9 Producers in all three of these countries
10 face a slew of quotas and antidumping duties in
11 markets throughout the world. This is not surprising,
12 given that these are three of the largest plate
13 industries in the world and the fact that they have
14 proven to be serial dumpers over the past decade.

15 Plate remains a commodity product with most
16 of it sold to a very simple specification, ASTM A-36.
17 As it is often said, if it's flat, thick and sinks in
18 water it is generally acceptable. For that reason, in
19 addition to common distribution channels, geographic
20 overlap and simultaneous presence in the market, the
21 Commission should exercise its discretion to cumulate
22 the subject imports from China, Russia and Ukraine.

23 The U.S. industry today is extremely
24 vulnerable, more vulnerable than I've seen it through
25 my career. Consumption has fallen by half, and

1 forecast 2009 consumption at 4.5 million tons will be
2 the lowest in anyone's memory.

3 Employment has fallen by 700 workers, and
4 wages for the remaining workers are down by nearly
5 half. Production shipments and prices have all
6 plummeted, and capacity utilization was an astounding
7 35 percent in the first half of 2009. Profits have
8 disappeared, and roughly half the industry is losing
9 money.

10 Though there have been some glimmers of
11 improvement because of inventory restocking, this
12 industry would undoubtedly be hammered by even a small
13 increase in dumped imports from China, Russia and
14 Ukraine.

15 We realize that the Respondents not filing
16 briefs nor showing up for the hearing today does not
17 guarantee an affirmative determination by the
18 Commission, but it is an indication that the Russians
19 and Ukrainians know how much the world has changed
20 since they filed their substantive comments in
21 September 2008 and how indefensible their positions
22 would have been today.

23 Let me be honest and state that I would much
24 rather turn the clock back to 2007, the time period of
25 the Commission's last sunset review, be representing

1 an industry with over 80 percent capacity utilization,
2 profit margins above 25 percent, employees working
3 twice as long and earning twice as much, a healthy
4 industry with consumption levels of 8.5 million tons,
5 and then lose the sunset review, as we did then,
6 instead of facing the current economic circumstances.

7 However, the job of the industry, the
8 workers, the lawyers and of this Commission is to
9 address the facts as we see them today and will likely
10 see them in a reasonably foreseeable timeframe. Based
11 upon this record, we think the evidence points
12 overwhelmingly to a conclusion that dumped imports
13 from China, Russia and Ukraine are likely to increase
14 significantly at prices that undersell the U.S.
15 industry and that these imports would cause a
16 recurrence of injury to this industry.

17 Therefore, we urge you to make affirmative
18 determinations. Thank you.

19 MS. ABBOTT: Will the first panel in support
20 of continuation of orders please come forward and be
21 seated?

22 MR. SCHAGRIN: Good morning again, Chairman
23 Aranoff and members of the Commission. We are going
24 to begin our testimony today with David Britten, the
25 president of SSAB NAD. David?

1 MR. BRITTEN: Good morning, Chairman Aranoff
2 and members of the Commission. For the record, my
3 name is David Britten, and I'm the president of SSAB
4 North America.

5 SSAB North America is a division of SSAB, a
6 publicly traded Swedish steel making company that
7 specializes in cut-to-length plate products. I'm
8 accompanied today by Glenn Gilmore, Trade Supervisor
9 for North America.

10 IPSCO, Inc., which in 2009 was purchased by
11 SSAB, built two greenfield plate mills in the United
12 States. The first was completed in Montpelier, Iowa,
13 in 1997, the same year that suspension agreements
14 against these countries were put in place. The second
15 was completed in Mobile, Alabama, in 2001. We also
16 have cut-to-length lines in Houston, Texas, and St.
17 Paul, Minnesota, where plate in the form of coils is
18 processed into cut-to-length plate.

19 In addition to these very efficient plate
20 production facilities, our company completed a new
21 heat treating facility at the Mobile, Alabama, plant
22 in 2007 and since then announced the quadrupling of
23 that heat treating capability. Given the location of
24 our mills, we supply cut-to-length plate throughout
25 the entire U.S. market.

1 After IPSCO was acquired by SSAB in 2007,
2 SSAB divested IPSCO's U.S. pipe and tube operations
3 and the Canadian plate and pipe operations except for
4 one cut-to-length line in Ontario. Thus, today SSAB
5 North America is essentially a U.S. plate company.

6 This means that the maintenance of the
7 orders and suspension agreements against China, Russia
8 and Ukraine are absolutely critical to: 1) The
9 ability of our employees to earn a living; 2) Our
10 companies to earn a return on investment; and 3) Our
11 ability to continue to reinvest in our facilities and
12 maintain our position as a leading U.S. provider of
13 cut-to-length plate products.

14 SSAB has invested tens of millions of
15 dollars in heat treating capacity, and we would like
16 to focus as much as our business as possible in the
17 higher end of the plate market. We have announced
18 plans to add another 330,000 tons of heat treated
19 plate capacity, but that investment is currently on
20 hold as a result of the recession we are currently
21 weathering.

22 However, no matter how much we emphasize
23 moving to the higher end of the market, we will still
24 need to manufacture and sell large quantities of
25 commodity plate in all of our mills in order to

1 maintain high capacity utilization rates.

2 You should also be aware that producers in
3 Russia, Ukraine and China also have the capabilities
4 of competing with SSAB in the higher end of the
5 market. SSAB is a global company and favors
6 international trade. However, international trade
7 must be fair trade, and we do not believe producers in
8 China, Russia and Ukraine would trade fairly in the
9 U.S. market without the disciplines of the suspension
10 agreements and the antidumping duty order.

11 SSAB is committed to strong capital
12 reinvestment to stay competitive and to develop new
13 plate products. It is not enough to build the most
14 cost competitive greenfield plants. We know that we
15 cannot just sit idly by for a decade admiring our own
16 facilities, and we are keenly aware that we must
17 continually reinvest to remain the best.

18 As I said, we have for the time being
19 curtailed these investments because of the economy.
20 However, allowing unfairly traded imports back into
21 the market would prevent us from reinvesting even when
22 markets improve.

23 At SSAB North America, a good part of our
24 workers' salaries are based on production incentives.
25 As demand for plate products fell dramatically in the

1 fourth quarter of 2008, we did not lay off employees,
2 but rather reduced their work hours and had them spend
3 more time on maintenance rather than production.

4 All of our facilities have been experiencing
5 intermittent reductions in operations beginning in the
6 fourth quarter of 2008 and continuing into 2009. Our
7 workers have kept their jobs and benefits, but they
8 have taken severe reductions of as much as 50 percent
9 of their total take home pay.

10 We have seen little in the way of actual
11 increased underlying demand for our products. As we
12 see markets improve from the dismal demand levels of
13 the first half we may have seen the bottom of the
14 trough, but I suspect it will be a slow climb up.

15 While the severe destocking of inventory at
16 service centers has probably run its course, demand in
17 nonresidential construction and capital intensive
18 industries such as barges, rail cars and trucks
19 continues to be very weak. The outlook for energy
20 tubular products has weakened considerably, and in the
21 large diameter pipe arena there is now a shift
22 underway from demand for plate to demand for plate in
23 coils from new spiral weld mills.

24 Finally, the demand for plate has slowed in
25 one of the real bright spots in the new green economy

1 for plate consumption, construction of wind towers, as
2 many of our customers are delaying plans because of
3 low energy prices and difficulty in obtaining
4 financing. There has also been a significant increase
5 in wind tower imports from China and other countries.

6 SSAB asks that these suspension agreements
7 and orders be continued. With the industry's current
8 operating rates, the domestic industry can fulfill all
9 of the demand in the U.S. market for the foreseeable
10 future. Allowing an increase in unfairly traded
11 imports from these countries will deny our workers the
12 chance to earn a decent living and our shareholders an
13 opportunity to earn a decent return.

14 Thank you very much.

15 MR. PRICE: Good morning. I am Alan Price,
16 counsel for Nucor Corporation. I would like to
17 introduce our first witness, Mr. Rick Blume.

18 MR. BLUME: Good morning. I am Rick Blume,
19 the Director of Sales and Marketing for Nucor
20 Corporation. I appreciate this opportunity to appear
21 before you to explain why the order and suspension
22 agreements are critical to the U.S. cut-to-length
23 plate industry.

24 I've been in the business for over 30 years,
25 and the domestic plate industry is the most vulnerable

1 that I have seen. Demand for plate in the U.S. market
2 and around the globe has collapsed, declining by more
3 than 50 percent in the first half of 2009. Prices
4 have followed suit, dropping by more than a half in
5 just a few months.

6 As a result, in 2009 Nucor and other
7 domestic producers have been operating at levels we
8 have never seen before. At approximately 50 percent
9 capacity utilization, with some producers operating at
10 far less than that, production, shipments and sales
11 have fallen by the same amount. Profits have
12 plummeted, and an industry that was making money only
13 a year ago is now barely at the break even point.

14 U.S. producers have had no choice but to
15 idle mills, reduce shifts, extend maintenance outages
16 and even lay off workers. At Nucor, we have a no
17 layoff practice, but our plate workers are still
18 suffering, working significantly reduced shifts at
19 significantly reduced pay rates.

20 Frankly, the current plate market is best
21 described as dismal, and even that description may not
22 fully capture the dire condition of the domestic
23 industry. Unfortunately the market outlook going
24 forward is just as bleak.

25 While the worst of the recession may be

1 over, demand continues to remain extraordinarily weak,
2 and I don't expect a recovery any time soon. In fact,
3 many of the demand drivers for plate have yet to
4 bottom out, and those that have reached the bottom are
5 not expected to recover in the short to medium term.

6 In addition to depressed demand, prices will
7 also likely remain far below the 2008 levels for quite
8 some time. To make matters worse, because we have
9 been unable to sufficiently increase our prices to
10 keep up with the rapid increase in raw material costs,
11 we are currently in a classic cost/price squeeze.

12 In these dismal market conditions, the U.S.
13 plate industry is extremely vulnerable to any unfairly
14 traded imports. There is no doubt in my mind that
15 China, Russia and Ukraine will resume their dumping in
16 the U.S. market if the order and suspension agreements
17 are terminated. Producers in these countries have too
18 much excess capacity, and the U.S. market is too
19 inviting a target for dumping.

20 More importantly, the fundamental behavior
21 of the Chinese, Russians and Ukrainians has not
22 changed. Producers in these three countries have
23 consistently disrupted plate markets around the world.
24 They have engaged in unfair pricing in the U.S.
25 market, causing injury to the U.S. industry. They

1 currently have the ability and the incentive to do it
2 again.

3 There can be little doubt that if given the
4 opportunity they will target the U.S. The U.S. market
5 would dump products regardless of the consequences.
6 Despite the downturn in global plate markets,
7 producers in China, Russia and Ukraine continue to
8 ramp up production and continue to add to their
9 already massive capacities.

10 In 2009 alone, these producers will have
11 more than 30 million tons of excess capacity. This
12 doesn't even account for the new capacity additions
13 expected to come on line in 2010 and 2011. These are
14 staggering amounts. Even a fraction of this excess
15 capacity dwarfs the U.S. consumption and would quickly
16 overwhelm a weakened domestic industry.

17 China is by far the world's largest plate
18 producer and continues to add massive capacity without
19 regard for market forces. Indeed, Chinese plate
20 producers are heavily export oriented and ship
21 unfairly priced products to markets all over the
22 world. The Chinese Government actively -- actively
23 -- encourages such behavior through manipulation of
24 its tax and VAT rebates.

25 Russian plate producers are also export

1 driven. They price aggressively with the sole purpose
2 to gain market share at any cost. If Russian
3 producers and trading companies can make one dollar
4 more by exporting to the United States, they will do
5 so.

6 In Ukraine there is virtually no home market
7 to speak of. Almost all of their plate is produced
8 for export. Time and time again in both the United
9 States and markets around the world they have
10 demonstrated their willingness to offload production
11 at almost any price.

12 Unfortunately, for years these producers
13 have been causing market disruptions around the world
14 through their pricing practices and other
15 irresponsible behavior. Numerous countries have taken
16 note and instituted trade remedy investigations of
17 their own. As China, Russia and Ukraine become
18 increasingly shut out of alternative export markets,
19 these producers will have no choice but to shift
20 significant volumes to the United States if the orders
21 are lifted.

22 I would also add that the failure of the
23 Chinese, Russians and Ukrainians to show up at the
24 hearing today is further proof that the evidence is
25 overwhelmingly against them. Undoubtedly if they had

1 a good story to tell they would be here today. Their
2 silence speaks volumes.

3 In short, if the order and suspension
4 agreements are revoked there will be a significant
5 influx of unfairly traded imports from China, Russia
6 and Ukraine. However, these are not normal times.
7 The dramatic downturn in markets around the world has
8 left the domestic industry and its workers in a dire
9 situation.

10 Although I have no doubt the large volumes
11 of subject imports would enter the U.S. market if the
12 order and suspension agreements are terminated, it
13 would only take a small volume of such imports to
14 cause injury to the U.S. industry.

15 For the good of Nucor, our workers and their
16 families, I urge the Commission to leave the order and
17 suspension agreements in place. Thank you for your
18 time. I'd be happy to answer any questions.

19 MR. PRICE: Alan Price, Wiley Rein. I'd now
20 like to introduce our next witness, Mr. Jeff Whiteman.

21 MR. WHITEMAN: Good morning. I'm Jeff
22 Whiteman, Sales Manager for Nucor Hertford County. I
23 am responsible for all commercial aspects of Nucor
24 Hertford's operations, including order intake, pricing
25 and ultimately profitability.

1 I joined Nucor Hertford in December of 2001,
2 about a year after Nucor began producing plate there.
3 I've been in the steel business for 20 years, and I
4 can say without a doubt that the current market is the
5 worst I've ever seen. I've seen down markets, but
6 nothing like this.

7 Volume and prices have virtually collapsed
8 overnight. There was nothing slow or gradual about
9 it, nothing that allowed us to prepare for a down
10 market. Prices dropped by more than 50 percent in a
11 matter of months. The magnitude and suddenness of the
12 collapse is staggering.

13 You've heard from Rick Blume about how these
14 dismal market conditions have impacted Nucor's
15 production, shipments and profitability. I would
16 simply add that these conditions have taken a huge
17 toll on our workers. I see these guys in the parking
18 lot in the evenings, knowing that they're going home
19 with substantially fewer hours and less pay. It's not
20 a good feeling.

21 I am responsible for making sure that there
22 are enough orders so that our workers can do what
23 they're paid to do -- produce plate. Unfortunately,
24 so far this year we're producing at only half of our
25 capacity, which means that take home pay has been

1 reduced by up to 50 percent.

2 As a result, we've got too many workers with
3 their backs up against the wall trying to avoid
4 foreclosures on their homes or repossession of their
5 cars. Many have stopped contributing to the
6 retirement funds or have dipped into their 401(k) just
7 to cover the bills.

8 Our Human Resources people have been
9 tracking this information, and I can tell you that
10 many, many workers have been forced into this
11 position. I would add that management's compensation
12 is also tied to production and profits, which means
13 that our salaries will likely be cut by half or more.

14 I wish I could tell you that I'm optimistic
15 about a quick recovery in this market, but I'm not.
16 In fact, the market may not have reached the bottom
17 yet. The plate market generally lags behind
18 nonresidential construction, a market that is expected
19 to continue to decline for another year or more.

20 In addition, looking at the fundamentals of
21 the major plate consuming sectors, including rail,
22 construction, energy, heavy equipment and bridges,
23 there are no signs that underlying demand is going to
24 change any time soon. Indeed, many of the downstream
25 industries ranging from rail car production to heavy

1 construction equipment have yet to experience any
2 significant recovery.

3 Many industrial projects, including pipeline
4 projects, have been postponed or canceled. While
5 there may be some optimism about the prospects for
6 wind tower construction down the road, this is still a
7 tiny, tiny section of the market with an uncertain
8 future.

9 The relative share of demand for wind towers
10 as a percentage of the market will be insignificant
11 over the next few years, probably in the neighborhood
12 of only two to three percent. In fact, one of the
13 largest wind tower producers has recently shut down
14 some of its production due to the lack of available
15 financing for potential projects.

16 Nor have we seen any boost from the stimulus
17 package, and we don't expect any boost in the future.
18 Very little of the stimulus package is for
19 infrastructure and transportation projects. The
20 funding levels are simply not sufficient to bring
21 about a recovery in steel manufacturing.

22 In addition, any such projects funded by the
23 stimulus will likely be offset by the numerous
24 infrastructure projects that have been postponed or
25 canceled at the state level as a result of collapsing

1 state revenues. Given the current market conditions
2 and dim prospects for recovery in the foreseeable
3 future, I fear what will happen if the order and
4 suspension agreements are revoked.

5 I have no doubt that producers in China,
6 Russia and Ukraine are interested in our market. Why
7 else would the Chinese try so hard to circumvent the
8 current plate order? I've seen firsthand Chinese
9 plate stacked on the dock at the Port of Houston,
10 plate that had small amounts of boron to circumvent
11 the order. In other instances they've mislabeled
12 plate as parts, again to circumvent the plate order.

13 We also see competition from the Russians
14 and Ukrainians, both of whom are desperate for cash
15 and desperate to offload their excess production. In
16 fact, producers from China, Russia and Ukraine all
17 compete in the U.S. market in the same basic manner:
18 By pushing volume at almost any price to make sales
19 and gain market share.

20 Given the price differentials and the
21 relative attractiveness of the U.S. market, the United
22 States will be the logical choice for their exports.
23 If the order and suspension agreements are revoked,
24 injury is a virtual certainty as unfairly traded
25 imports will return to the U.S. market in large

1 volumes.

2 Even small volumes of subject imports will
3 cause immediate and substantial volume and price
4 damage. Our prices, which are already at rock bottom,
5 will totally collapse. Production and shipments,
6 already at historic lows, will fall even further. Our
7 workers who are currently working less and earning
8 less will suffer even more.

9 Indeed, if we're operating at 50 percent
10 capacity now it's hard to imagine how much worse the
11 scenario could be. Unfortunately, for the first time
12 in Nucor's history we would have to consider shutting
13 down one of our mills.

14 November and December are historically slow
15 months in the plate market. This will only be
16 compounded by the current dismal market conditions,
17 making the upcoming holiday period one that few of us
18 are looking forward to. A return of unfairly traded
19 subject imports would make for a real nightmare at the
20 holiday season.

21 In short, if the order and suspension
22 agreements are terminated imports from China, Russia
23 and Ukraine will devastate the U.S. market. They've
24 done it before, and they will do so again if given the
25 opportunity.

1 I urge the Commission to leave the order and
2 suspension agreements in place. They are very
3 important to Nucor and to our workers. Thank you.

4 MR. ROSENTHAL: Good morning. My name is
5 Paul Rosenthal with the law firm of Kelley Drye &
6 Warren. I'm here on behalf of ArcelorMittal Steel
7 USA. Our witness this morning is Mr. Robert Insetta.

8 MR. INSETTA: Good morning, Chairman
9 Aranoff, Commissioners and staff. My name is Bob
10 Insetta, and I am the Director of Specialty Plate for
11 ArcelorMittal USA. I appreciate the opportunity to
12 testify before you today regarding the importance of
13 continuing the trade relief on cut-to-length plate
14 from China, Russia and Ukraine.

15 I am accompanied today by Jeff Unruh, the
16 Product Manager for Plate Sales and Marketing for
17 ArcelorMittal USA. We are here today to support
18 continuation of the crucial antidumping order on
19 imports of cut-to-length plate from China and the
20 suspension agreements on cut-to-length plate from
21 Russia and Ukraine.

22 I have over 30 years of experience with the
23 sales and marketing of plate products, having worked
24 for Lukens Steel Company, Bethlehem Lukens Plate,
25 International Steel Group, Mittal Steel USA and now

1 ArcelorMittal USA.

2 Over the period of this review, I have been
3 responsible for all four of our plate mills in
4 Pennsylvania and Indiana. That responsibility
5 included providing strategic direction for marketing,
6 establishing pricing, obtaining competitive market
7 intelligence and keeping our mills filled with a world
8 class product.

9 I have appeared before the Commission on
10 several occasions, most recently in 2006 for the
11 second review of the 1992 trade cases. As you can see
12 from the data collected for this case, the market has
13 changed dramatically since that time.

14 In 2006, the plate industry was in the
15 middle of a five-year period of record profits that
16 were driven by strong and growing demand for plate,
17 relatively high levels of capacity utilization and
18 record industry productivity. During this period,
19 imports from most of the major foreign sources were
20 subject to the discipline of antidumping and
21 countervailing duty orders or suspension agreement.

22 This confluence of circumstances created the
23 best period for the industry that I can remember over
24 my 30 year career. This comes after many years of
25 struggling, modest profits or significant losses,

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1 depending on how much unfair trade we faced in the
2 marketplace.

3 Unfortunately, that period of prosperity for
4 the industry ended in late 2008 with the worldwide
5 economic meltdown. Both volume and price crashed in
6 the plate market in late 2008 and early 2009. In the
7 first half of 2009 consumption of cut-to-length plate
8 was about half of what it was in the same period for
9 2008. For the first half of 2009, the industry posted
10 barely break even levels of operating income.

11 We have had to close two of our five plate
12 production lines, and we have laid off more than a
13 quarter of our production workers. Our remaining
14 mills are operating at substantially reduced levels,
15 and the hours worked for our remaining employees have
16 been down. Nothing in the marketplace would lead me
17 to believe that these facts will change any time soon.

18 Indeed, in addition to laying off production
19 workers ArcelorMittal USA recently has completed a
20 voluntarily separation program for salaried employees
21 as a result of the current economic condition. This
22 is a step we would likely not have taken if we thought
23 indicators for the foreseeable future were good.

24 In fact, market conditions are not really
25 looking up for the industry in the near to medium

1 term. While the market has stabilized somewhat, no
2 one believes that consumption in 2009 will rise much
3 above about half of what it was in 2008.

4 None of our customers is predicting a
5 healthy year of demand in 2010, and the consensus is
6 that not until after 2011 will the market register any
7 real improvement. That is a very long time for us to
8 operate under distressed market conditions.

9 Demand for plate has declined across the
10 board, including demand in markets like ship building
11 and rail cars. Even the end use for plate with some
12 promise of improved demand -- wind farms -- does not
13 provide much cause for optimism any time soon.

14 From conception through planning and
15 construction, wind farm projects can take as long as
16 three years. With credit still short in 2009, these
17 large projects are simply not getting off the ground.
18 This is a problem that will negatively affect plate
19 demand in 2010 and 2011.

20 While the market has stabilized somewhat in
21 the third quarter of this year, that stabilization is
22 tentative and fragile. Costs for the industry have
23 also been rising this year, making our position even
24 more difficult. We have had to try to recover these
25 cost increases, but it has been difficult to do so.

1 The existence of these trade cases has been
2 a critical part of any success we have in this regard.
3 Published transaction prices for commodity grade plate
4 remain at less than half of their peak in 2008. These
5 are indications that recovery for the market remains
6 distant.

7 But for the existence of these trade cases
8 in the 1999 cases, things would have been far worse
9 right now. There is a huge world overcapacity for
10 cut-to-length plate production, particularly in the
11 three countries subject to this review. China, Russia
12 and Ukraine all have very large plate industries with
13 significant overcapacity, and they continue to add to
14 that capacity.

15 The published increases in plate capacity in
16 China alone are greater than total peak consumption in
17 the United States. If that capacity were free to
18 enter the United States without the discipline imposed
19 by these cases, it could and would do so in huge
20 volumes and at low prices that undercut domestic
21 prices for several reasons.

22 First, the economic crisis is global and is
23 affecting all plate producers worldwide. Low capacity
24 utilization is not a phenomenon limited to the United
25 States. In essence, all producers worldwide today and

1 for the foreseeable future have excess capacity that
2 they did not have last year. Because the cut-to-
3 length plate industry is a high, fixed cost industry,
4 there is a strong incentive to use as much of that
5 capacity as possible to lower the unit fixed cost of
6 production.

7 Second, capacity in China, Russia and
8 Ukraine has continued increasing, even while the
9 economy has crashed. Subject producers must find
10 something to do with that new capacity in a world
11 where demand remains depressed and capacity already
12 exceeds consumption by a wide margin. While demand in
13 China, Russia and Ukraine may increase over the long
14 term, each of those countries is predicted to have
15 substantial excess capacity well into the future.

16 Third, expanding capacity in third countries
17 will push production from China, Russia and Ukraine to
18 the United States. For example, a significant amount
19 of Chinese plate has been going to the Korean ship
20 building industry. As the Korean mills have been
21 bringing new capacity on line, it is displacing that
22 Chinese capacity which will have to go somewhere.

23 Fourth, much of the trade in cut-to-length
24 plate is controlled by trading companies. Unlike
25 ArcelorMittal, those trading companies don't have huge

1 investments in production facilities and local markets
2 that they need to protect. As a result, they
3 generally worry less about what price undercutting
4 will do to the market; simply look to move high
5 volumes of low-cost product, higher priced markets at
6 a consistent markup.

7 Because our customers face the same
8 uncertain economic conditions we face, they will force
9 ArcelorMittal to lower its prices if increased volumes
10 of lower priced dumped plate are available. Given the
11 industry's vulnerability, we can ill afford to cut
12 prices or give up volume at this point.

13 Finally, because the United States has
14 historically been one of the most attractively priced
15 markets in the world, there is a strong incentive for
16 imports of cut-to-length plate to come to this market.
17 Even with prices at their current low levels, they
18 remain above those in other markets, especially the
19 home markets of the Chinese, Russian and Ukrainian
20 producers, and the history of these producers in our
21 market is that they undersell the domestic industry
22 when unconstrained by trade cases.

23 The U.S. cut-to-length plate market sits on
24 a razor's edge at the moment. We are at a break even
25 profitability and face rising costs, relatively low

1 prices, soft demand and an uncertain future. Had
2 these trade remedies not been in place, we would be in
3 far worse shape today than we are.

4 The order and suspension agreements were
5 instrumental in creating the right conditions for the
6 healthy market of the last several years and prevented
7 the economic collapse from having an even greater
8 impact on our business.

9 If the discipline of these remedies is
10 removed, there is no question that we will face
11 rapidly rising imports at prices that undersell us,
12 and we will return to the losses that characterized
13 this industry a decade ago.

14 I urge you to continue the antidumping duty
15 order against China and the suspension agreements
16 against Russia and Ukraine. Thank you.

17 MR. SCHAGRIN: Our next witness this morning
18 is going to be Mr. Kent Thies, the National Marketing
19 Director of Evraz, NA. Kent?

20 MR. THIES: Good morning, Chairman Aranoff
21 and members of the Commission. For the record, my
22 name is Kent Thies, and I am the National Marketing
23 Manager for Evraz, Inc. NA. I've been in the steel
24 business for over 35 years.

25 I have marketing responsibility for all of

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1 Evraz's flat-rolled products at steel facilities
2 throughout the United States and Canada. Two of these
3 plants, Evraz Oregon Steel in Portland, Oregon, and
4 Evraz Claymont Steel in Claymont, Delaware, make the
5 subject cut-to-length plate product. I will address
6 each of our two plate operations separately and then
7 together in the context of today's marketplace.

8 I joined the then Oregon Steel Mills in 1974
9 and lived through years that led up to the company's
10 shares trading at less than \$2 per share, and many
11 expected us to be the twenty-fifth or so steel company
12 in the United States to file for bankruptcy. Luckily,
13 demand for plate trended up coming out of the
14 recession in nonresidential construction, wind towers,
15 ship and barge building, rail cars, construction
16 equipment and large diameter natural gas line pipe.

17 Fortunately, as demand turned up we did not
18 see the increase in unfairly traded imports from
19 China, Russia and the Ukraine as the industry had
20 witnessed in the late 1990s. Our company made changes
21 in order to survive, and we reinvested and prospered
22 in this very beneficial economic period of 2003
23 through 2007.

24 In 2006, Evraz Group SA, a Moscow based
25 steel company with significant steel operations in

1 Russia and Eastern Europe, purchased all of the
2 outstanding stock of Oregon Steel Mills. In 2007,
3 Evraz purchased Claymont Steel. In 2008, Evraz
4 purchased the Canadian operations of SSAB, the former
5 IPSCO, including a plate mill in Regina, Saskatchewan,
6 and formed what is now Evraz, Inc. NA.

7 Evraz Oregon Steel is the only cut-to-length
8 producer in the west and one of only two U.S.
9 suppliers of steel armor plate to the U.S. military.
10 I can assure the Commission that we take this position
11 very seriously and that regardless of our overall
12 order book or lead times, armor plate is always
13 processed expeditiously and our delivery of this
14 product to the military is a top priority.

15 In 2008, Oregon invested over \$5 million to
16 expand our plate heat treat line in order to meet
17 Department of Defense demand for armor plate for the
18 MRAP and MATV to protect our troops in Iraq and
19 Afghanistan. Unfortunately, our company could not
20 survive on the armor plate business alone.

21 Quite frankly, the subject commodity A-36
22 plate is the base load of our order book, permitting
23 enough volume to spread costs so we can continue to
24 produce armor plate and other specialty plates that
25 are integral to energy markets and the general

1 economic recovery.

2 Even though orders for armor plate have
3 increased over the past years, we had to shut down the
4 Portland facility for two to three weeks at a time and
5 operate at reduced schedules when operating over the
6 past several months, forcing layoffs of over a hundred
7 employees.

8 Because of the unprecedented decrease in
9 demand and inventory destocking caused by the U.S. and
10 global economic crisis, we must be able to fill the
11 mill with large quantities of commodity A-36 plate in
12 order to spread costs and operate profitably.

13 Our Claymont, Delaware, plate mill was a
14 strategic acquisition on our part. First, it gave us
15 better access to the market in the eastern United
16 States without the significant freight costs of
17 shipping cross country. Unlike Portland, Claymont
18 does not have heat treating facilities and therefore
19 makes neither armor plate nor alloy plate.

20 Claymont does have its own electric furnace
21 melt shop and thus makes its own slabs. This enables
22 Claymont to participate in plate for bridge repair and
23 replacement work across the U.S. which is governed by
24 Buy America restrictions. Claymont also specializes
25 in custom size plates in small quantities with short

1 lead times. Like the Portland mill, Claymont has also
2 been forced to reduce their workforce and operate at
3 reduced schedules.

4 There are three other important aspects to
5 Claymont which we factored into our acquisition and
6 integration plans. First, Claymont has its own
7 substantial downstream plate cutting operations to
8 supply value added plate to our customers.

9 Second, we knew at the time of the
10 acquisition that Claymont would need significant
11 future investments and cost efficiency improvements.

12 Third, Claymont has a much greater plate
13 rolling capacity than it does melting and slab casting
14 capacity. For that reason, Claymont has significantly
15 augmented its own slab production with large
16 quantities of slab purchases from Sparrow's Point,
17 formerly a Bethlehem facility, then ISG, then
18 ArcelorMittal and now Severstal.

19 Given the market conditions, those slab
20 purchases have stopped and Sparrow's Point has been
21 largely shut down. Thus, in part Sparrow's Point's
22 successful future is also tied to Claymont's
23 successful future.

24 During late 2007 and 2008, we saw
25 significant quantities of A-36 plate arriving from

1 Tangen Steel Company in China. The company claimed
2 that these were alloy plate because they contained
3 extra boron. These Chinese plate prices significantly
4 undersold our prices and displaced some of our
5 tonnage.

6 We participated with the other domestic
7 producers in petitioning Commerce under the
8 anticircumvention provisions. Commerce made a final
9 affirmative determination in August. This should stop
10 this circumvention.

11 Unfortunately, I have every reason to
12 believe that if this Commission were to sunset the
13 orders we would see a massive increase in imports from
14 China, Russia and Ukraine. Not only would these cause
15 volume reductions and downward price pressures, but
16 combined with the continuing poor outlook for demand
17 this surge in imports would undoubtedly threaten the
18 continued operation of both the Claymont and Portland
19 mills.

20 As both mills are located on the coasts,
21 this is helpful in terms of freight advantages for raw
22 materials, but the coasts are also where imports
23 arrive, and we would have no freight cushion from
24 these imports. We represent the front lines when
25 imports arrive, so to speak, and are often the first

1 to feel price pressure from our customers.

2 In closing, while no one can predict the
3 future of the U.S. steel market, many industry experts
4 and senior managers of steel mills believe we are in
5 for a very long and very slow recovery, perhaps never
6 reaching the shipping rates of the recent past. Most
7 would agree any surge in imports would only curtail
8 recovery and prevent us from calling back laid off
9 workers.

10 On behalf of all our valued employees at
11 both our Claymont and Portland mills, I ask you to
12 continue these orders. Thank you.

13 MR. ROSENTHAL: The next witness this
14 morning will be Tom Conway of the United States Steel
15 Workers.

16 MR. CONWAY: Good morning, Madam Chairman
17 and Members of the Commission. My name is Tom Conway.
18 I'm the international vice president of the United
19 Steelworkers. Our union is the largest industrial
20 union in North America, with our members manufacturing
21 a wide array of industrial products, including cut-to-
22 length plate, and our members make the subject
23 products at Arcelor Metal USA, U.S. Steel Corporation,
24 and Kentucky Electric.

25 The Steelworkers have been at the forefront

1 in supporting the use of U.S. trade laws to ensure
2 that jobs are not lost to unfair competition from
3 foreign steel mills, and, as you know, I've testified
4 before the Commission in a number of other cases, and
5 it's difficult to recall a time, however, when the
6 economic conditions facing our country were as poor as
7 those we face this year.

8 Demand for steel, including this cut-to-
9 length plate, in the United States and worldwide is
10 depressed. Overcapacity is rampant, yet the foreign
11 mills, including the foreign producers, the subject of
12 this case, are continuing to add new capacity, and
13 that capacity is likely destined for the United States
14 if the imports are no longer constrained by these
15 trade cases.

16 Perhaps it's in recognition of the clear
17 injury that would result from the imports that none of
18 the foreign producers are appearing here today.

19 The information you've gathered in this case
20 shows the dramatic declines in employment and wages
21 already occurring in the domestic plate industry.
22 You've heard testimony today about mill closures and
23 employee layoffs that's occurred at the individual
24 companies. On an overall basis, from a level of 4,401
25 production workers in the first half of 2008,

1 employment has fallen to just 3,716 employees in the
2 first half of 2009. That's a loss of 685 jobs. As
3 you know, each of those jobs has a ripple effect in
4 the families and within the communities.

5 With the current economy, it's unlikely that
6 most of those workers who have been laid off will be
7 able to find alternative employment, and even those
8 workers fortunate enough to retain jobs have suffered.
9 As your data indicate, the hourly wages for a
10 production worker in the plate industry in 2009 is
11 below hourly wages in 2006, 2007, and 2008. You have
12 to go back to 2005 to find an hourly wage lower than
13 that being paid to workers in this industry today.
14 Those reduced wages are also harmful to our families
15 and communities.

16 These problems will only get worse if the
17 trade disciplines are not maintained. We are now
18 facing a weak economy combined with excess and
19 increasing capacity to produce plate in each of the
20 subject countries. That excess capacity will be
21 central in increasing volumes to the U.S. market at
22 unfair prices without the discipline of these
23 remedies.

24 So the question for you today is, given this
25 very fragile state of the industry and its workers, is

1 it appropriate now to end this trade relief? It
2 cannot seriously be contended that this industry is
3 not extremely vulnerable to unfairly traded imports
4 for the jobs already being lost. Opening the U.S.
5 market to a return of dumped imports from China,
6 Russia, and the Ukraine will only lead to further
7 employment declines.

8 The union and its members fought tirelessly
9 to save U.S. jobs and to give our remaining workers a
10 chance to secure some benefit, and, for our many
11 retirees, the benefits they have earned over a
12 lifetime of hard work. We've worked closely with
13 these domestic producers over the years so that the
14 U.S. steel industry can remain globally competitive.

15 There is only so much we can do. If the
16 unfairly traded imports are permitted to return to
17 this market without any order or agreement in place to
18 require a fair trading behavior.

19 Commerce has already found that producers in
20 China, Russia, and the Ukraine would resume dumping at
21 substantial levels if the trade remedies are
22 eliminated. Absent these trade disciplines, there is
23 no question that the dumped imports from these three
24 countries will again flood into this market, leading
25 to further job loss.

1 With things as bad as they are now, pressure
2 from unfairly traded imports will result in even more
3 mills being idled or permanently closed, taking an
4 even greater toll on U.S. workers. While vigorous of
5 our trade laws is always needed, it is even more
6 critical in the face of the weak demand and overall
7 economic decline we're confronted with today.

8 So, on behalf of our members and our
9 families, I asked that you do what you can to prevent
10 the flood of dumped imports returning to the U.S.
11 market and causing further injury. I urge you to keep
12 these disciplines and these trade remedies in place,
13 and I thank you for your time.

14 MR. ROSENTHAL: Good morning again. Paul
15 Rosenthal, Kelley Drye. I would like to wrap up the
16 domestic industry's presentation this morning by
17 highlighting several points that support an
18 affirmative determination in this review.

19 First, the domestic plate industry is in a
20 very fragile state, operating at only about 35 percent
21 of its capacity. Production, shipments, employment,
22 and profits have plummeted from 2008 levels.
23 Producers have idled news, laid off hundreds of
24 workers, reduced shift schedules, and extended
25 maintenance adages. The industry's profits are at a

1 barely break-even level. The term "vulnerable" does
2 not begin to describe the weakened condition of this
3 industry.

4 Second, the conditions of competition for
5 sales of plate, both in the U.S. market and globally,
6 are among the most dire ever seen. In the wake of the
7 worldwide recession, demand for plate, both globally
8 and in the U.S. market, is at historic lows. The U.S.
9 stimulus package has not boosted the demand for plate,
10 and, as you've heard, there is little optimism in the
11 industry that demand will pick up to any significant
12 degree in the foreseeable future.

13 Third, huge overcapacity exists for plate,
14 both globally and within each of the subject
15 countries. Plate production in China, Russia, and
16 Ukraine has expanded substantially over the past
17 several years. Producers in each country continue to
18 add new capacity, even though each country has
19 significant unused capacity.

20 Subject producers in all three countries
21 desperately need to find markets for their product. I
22 will tell you to reject Respondents' claims to the
23 contrary, but, of course, they aren't here.
24 Respondents' absence is nothing about an inability to
25 travel. I don't think they are not here because of

1 concerns about the H1B1 virus, but everything about
2 the well-understood travails of the industry.

3 The cumulative capacity that can, and likely
4 will, be shipped from the three countries is massive.
5 Imports from all three countries should be cumulated.
6 They all compete under the same conditions of
7 competition that likely affect the U.S. market in the
8 same way the orders were revoked and suspension
9 agreements terminated.

10 As indicated, each of the subject countries
11 has something else in common: failure to participate
12 in this proceeding. In fact, most of the subject
13 producers failed to even submit questionnaire
14 responses. We received one response from a Ukrainian
15 producer, two from Russian producers, and none from
16 the Chinese producers. This dearth of information
17 more than justifies the use of adverse inferences
18 against Respondents here.

19 Fourth, the U.S. market remains highly
20 attractive to subject imports. Prices for plate are
21 higher in the U.S. market compared to third countries.
22 Barriers to entry exist in a number of third-country
23 markets due to the plate from China, Russia, and
24 Ukraine, and new investigations are ongoing.

25 Weak home market and third-country demand

1 are also providing incentives to export plate to the
2 U.S. market. Each country has shown a continued
3 interest in this market and the ability to sell to the
4 United States with exports each year of the review
5 period.

6 Fifth, imports from each of the subject
7 countries undersold U.S. producer prices in almost
8 every comparison during the original investigation.
9 Subject imports continue to undercut U.S. prices in a
10 number of instances, even with the trade remedies in
11 place. Such underselling will only intensify if
12 revocation occurs, as importers and purchasers
13 acknowledged in their questionnaire responses. Since
14 -- have already depressed prices for plate, its
15 undercutting will call U.S. prices to fall further and
16 prevent needed price increases.

17 And, finally, the impact of the imports from
18 these countries, in terms of both volume and price,
19 will be devastating to the highly vulnerable U.S.
20 plate producers and workers. In fact, given the
21 industry's fragile condition, even small increases in
22 import volumes could cause material injury to continue
23 or recur. The impact of the large volumes anticipated
24 will be devastating.

25 If the disciplines are removed, the already

1 plummeting trade and financial indicators for the
2 industry will fall even further. More plants will be
3 closed, more workers will lose their jobs, and U.S.
4 plate production will continue to shrink as dumped
5 imports displace U.S. production. Put in emergency
6 room terms, the barely perceptible industry pulse will
7 flat line.

8 All of the statutory factors supporting a
9 finding of likely material injury if revocation or
10 termination occurs are met in this case, and I urge
11 you to reach an affirmative finding.

12 I would like to mention, my colleague, Kathy
13 Cannon of Kelley Drye, is here with me to help answer
14 questions, and I also ask the indulgence of the
15 Commission for Mr. Conway, who has to leave early, so
16 if you have questions for him, as indicated to the
17 secretary, we would appreciate it if you could direct
18 those to him early in your questioning. Thank you
19 very much.

20 MR. SCHAGRIN: Thank you very much.

21 Madam Chairman, that concludes our
22 presentation, and the panel is ready to answer
23 questions, I think. We have about 10 minutes left.
24 We won't be using any rebuttal today, so we'll cede
25 that time back to the Commission for you to use as you

1 see fit.

2 CHAIRMAN ARANOFF: Thank you very much. I
3 want to welcome everyone on this morning's panel to
4 the Commission. We appreciate your taking the time
5 away from your businesses to answer our questions this
6 morning.

7 Mr. Conway, I have it down that you need to
8 leave at eleven-thirty. Is that right? Okay. I
9 think we can probably get through most of the first
10 round of questioning before you have to go, but if any
11 of my colleagues has a question specifically for Mr.
12 Conway, and it's getting toward eleven-fifteen, then
13 just get my attention, and we'll make sure that you
14 get to ask it.

15 We're going to begin the questioning today
16 with Commissioner Pinkert.

17 COMMISSIONER PINKERT: Thank you, Madam
18 Chairman, and I thank the panel for being here today
19 and for helping us to understand what's happening and
20 what is likely to happen in this industry.

21 I want to begin with Mr. Whiteman and Mr.
22 Insetta and ask a question about the relative
23 attractiveness of the U.S. market. You both testified
24 about that, and what I'm wondering about is, if you
25 suppose that Europe and China are ahead of the United

1 States in terms of recovering from the recession, what
2 should that tell us about the relative attractiveness
3 of the U.S. market?

4 MR. WHITEMAN: Commissioner, I would respond
5 that, in some of the testimony that you've heard here
6 today, we don't necessarily see that strength in those
7 foreign markets. Therefore, the United States, even
8 at the pricing levels that exist today, would be very
9 attractive for these three countries to put product
10 into our country.

11 COMMISSIONER PINKERT: Thank you.

12 MR. INSETTA: Yes, Commissioner, I think the
13 answer would be the same from our end. We don't
14 necessarily agree with the premise that the global
15 market outside of the United States is improving
16 before the U.S. market, and the second would be that,
17 in fact, our prices are higher than --

18 COMMISSIONER PINKERT: If, in the post-
19 hearing, there is any information about the recovery
20 from the recession in the European market, the Chinese
21 market, or even in the Asian market more generally,
22 that would be very helpful.

23 MR. SCHAGRIN: Commissioner Pinkert, this is
24 Roger Schagrin. I would add, and this is just
25 commonplace in all of the China cases, yes, China is

1 still experiencing strong GDP growth, and yet there is
2 so much oversupply in China that the data, and I think
3 this was presented in both of the prehearing briefs,
4 in spite of relatively stronger demand, as you stated
5 in your question, "a stronger economy in China,"
6 pricing in China is well below U.S. pricing levels
7 and, for that matter, well below world market prices
8 because, of course, pricing is determined by both
9 supply and demand, and, in China, the problem is less
10 a problem of just demand than a problem of massive
11 oversupply.

12 The other point is that, while what we would
13 maybe call the "European Union," particularly Germany
14 and France might be recovering somewhat faster than
15 the U.S., that's not Russia and the Ukraine, and, in
16 fact, Russia is forbidden from increasing its presence
17 in the EU market by a quota, which has now been in
18 effect since even before we brought these cases in
19 '96. It's a 15-year quota and going on in age, and
20 all of the available information is that the Russian
21 and Ukraine economies continue to suffer from very
22 poor demand levels, unlike possibly the EU.

23 COMMISSIONER PINKERT: Thank you. I would
24 like to turn to a more purely legal issue that is
25 raised in my mind by the discussion about adverse

1 inferences.

2 In particular, I note the point you made
3 about the Chinese participation in this review, and
4 I'm wondering, if I resort to adverse inferences for
5 China, then am I precluded from cumulating China and
6 the other two countries? Mr. Price?

7 MR. PRICE: Actually, we would submit that
8 adverse inferences are appropriate against all three
9 countries in this investigation.

10 The subject producers that filed intentions
11 to participate said that they were willing to
12 participate in the review and provide information
13 requested by the Commission to the best of their
14 ability, and we would submit to you that the failures
15 to file briefs and the failures to make themselves
16 available to answer questions from the Commission is a
17 failure to participate to the best of their abilities.

18 In this investigation, we would submit that,
19 in fact, adverse inferences are appropriate against
20 all three countries. There is, at best, mild
21 participation, in terms of questionnaire responses,
22 from a handful of producers in two of the countries,
23 and we would say that, under these circumstances,
24 cumulation and adverse inferences are appropriate.

25 MR. ROSENTHAL: Paul Rosenthal. First of

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1 all, what are "adverse inferences"? You're assuming,
2 because they haven't shown up and presented
3 information or evidence to the contrary and because
4 they are not subjecting themselves to questioning or
5 cross-examination that the information they would have
6 provided would not have been helpful and would not
7 have been any better than the information you're
8 finding elsewhere. There is a lot of information on
9 the record that we believe you should rely on that
10 supports our case.

11 When it comes to cumulation, in particular,
12 though, I don't think you need to rely on adverse
13 inferences there. The information in the record is
14 strong to support cumulation. You cumulated in the
15 original investigation, and it would be kind of a
16 perverse application of the adverse inference rule to
17 apply it here to, in effect, reverse the decision you
18 made in the original investigations concerning
19 cumulation.

20 COMMISSIONER PINKERT: The specific issue
21 that I'm trying to highlight is the issue of whether,
22 in resorting to adverse inferences because of
23 nonparticipation, one would thereby penalize those who
24 are participating by virtue of the cumulation
25 decision. Mr. Price?

1 MR. PRICE: And we've addressed this, I
2 think, in other investigations, and we'll address it
3 in more detail in our post-hearing briefs.

4 Obviously, the Commission has been reluctant
5 to apply adverse inferences in a way that would
6 penalize participating parties in the context of when
7 they cumulate, and, therefore, it's just proceeded on
8 facts available, without using adverse facts
9 available, when some parties are not participating and
10 others are.

11 I would submit to you, in this case, the
12 Commission has a fair basis for concluding that no
13 parties are participating to the best of their ability
14 or to reasonable abilities, and, therefore, while we
15 should receive an affirmative determination whether or
16 not adverse facts available are applied against all
17 countries, at least, for Nucor, we do believe that
18 adverse facts available are appropriate for all
19 countries because none of the countries are really
20 participating fully and to the best of their abilities
21 in this investigation.

22 MR. ROSENTHAL: I would like to add one more
23 point. I understand how the Commission struggles
24 sometimes when you have some people responding and
25 others not, some participants responding. I get that

1 part, but, first, I would like to agree with Mr. Price
2 on his conclusion.

3 The other part, though, is that I don't see
4 how the situation is much different than any other
5 situation. Let's take a tort case, where you take
6 your victims as you find them, and, in this instance,
7 it may be unfortunate, or not even in this case
8 because you don't have anyone truly responding
9 properly, but, in other cases where there are people
10 making best efforts, and others aren't, that's
11 unfortunate, but you can't effectively reward from the
12 other side.

13 As much as you are afraid to punish people,
14 you can't reward the folks from industries who aren't
15 showing up either, and, frankly, you don't have a
16 choice but to use the adverse facts that are presented
17 to you. Does that mean you don't actually do an
18 analysis of what's available to you? Of course, not.

19 You have to make a decision based on the
20 record, and as much as I would like to have you rule
21 from the bench and say, "The case is over because the
22 other side didn't show up," we're not asking you to do
23 that. We're asking you, though, to look at the facts
24 in the light least favorable to those folks who
25 haven't participated.

1 COMMISSIONER PINKERT: One quick follow up
2 on adverse inferences, and this is on a different
3 issue than the Chinese participation that I've been
4 referring to.

5 What ought I do when, at the time of the
6 notice of institution, a party indicates that it is
7 willing and able to participate and respond to our
8 questions, and then, later on, I found out that that
9 party is not willing and able to respond to our
10 questions. Is that a particular problem in these
11 sunset reviews, and how should I respond to that?

12 MR. SCHAGRIN: Commissioner Pinkert, this is
13 Roger Schagrin, and, yes, unfortunately, the
14 Commission has faced this in the past, and I'll finish
15 briefly. I see your red light is on. But as you put
16 out notices and review your procedures for sunset
17 reviews, at least some of us have suggested that the
18 Commission avail itself of an opportunity to revisit
19 its decisions on expedited versus full reviews because
20 I think it would be particularly appropriate for the
21 Commission to revisit its decision to make a full
22 sunset review when it's based on parties on both sides
23 -- in this case, on the Respondents' side -- filing
24 substantive comments and saying, "We're going to
25 participate. Here's our initial arguments, and we're

1 going to participate fully in this proceeding," and,
2 later, they essentially double-cross the Commission by
3 not participating fully in the proceeding, and I think
4 this Commission, as we all know, has very precious
5 resources, in terms of time, for investigations and
6 reviews.

7 I think it would be perfectly appropriate
8 for the Commission to look at its sunset procedures
9 and see if it could avail itself of an opportunity to
10 revisit its decisions on full-versus-expedited reviews
11 if parties change their position after you've decided
12 to pursue a full review.

13 COMMISSIONER PINKERT: Thank you. I'll come
14 back to that on the next round.

15 CHAIRMAN ARANOFF: I was going to start out
16 with some data questions, but I decided instead to go,
17 you know, right to the ones that I think are the most
18 interesting.

19 We have the benefit, in these reviews, of 15
20 years of uninterrupted data from the domestic
21 industry, and these data, as some of the witnesses
22 mentioned this morning, show that the last five years
23 have been highly profitable ones for the domestic
24 industry, certainly relative to the years going back
25 to 1994, for which we have data.

1 How should we weigh those five really
2 excellent years against the most recent six months'
3 showing what has been described this morning as
4 "break-even performance," and, in particular, I guess
5 there are two things that I'm interested in.

6 One is the extent to which those profits
7 that were achieved during those years are available to
8 help weather a rough period like the current one or
9 whether they have already either gone to shareholders
10 or been invested in new equipment, and also how much
11 weight we should give to declines in capital spending
12 in the most recent period, given that capital spending
13 was quite robust in the past five years.

14 MR. BOHN: Chairman Aranoff, in response to
15 that question, a couple of things come to mind.

16 First of all, in a comparison of the last
17 five-year period against the six-month period that you
18 referenced, I think also, certainly, you talked about
19 a 15-year history. You can see that it was a industry
20 that was fairly well devastated by illegally dumped
21 steel, and, in fact, we would make the point that the
22 orders that were put in place, certainly coupled with
23 some improvement in demand, allowed the industry to
24 claw its way back to health, and certainly the concern
25 is what happens moving forward, a five-year period of

1 healthy profits against really what most of us that
2 have been in the business for decades understand has
3 been a very tough environment all along.

4 So, certainly, the orders in place had their
5 intended effect. It allowed for fair trade and
6 allowed us the opportunity to, again, make our balance
7 sheets more healthy, to be able to pay profit sharing
8 to our employees, to be able to also certainly return,
9 for the first time in many years, return to our
10 shareholders an adequate dividend.

11 So we certainly, again, would suggest that
12 we need the orders in place as we look forward in an
13 environment that looks to be very, very difficult for
14 the foreseeable future.

15 MR. BRITTEN: Thanks. David Britten with
16 SSAB. I would just add to that the plate business, we
17 are really a transformative industry. We take raw
18 materials, transform them, and make plate to service
19 our customers, and it's a cyclical business. That's
20 what we tell our shareholders, people that invest in
21 our companies.

22 What we have seen, clearly, in this business
23 is that the domestic industry has benefited, quite
24 frankly, from the activities in China and around the
25 world and their huge growth. It's really one of the

1 laws of very large numbers, and this growth has driven
2 the growth of our customers. Yellow goods
3 manufacturers, like Kamatsu or Caterpillar or these
4 kinds of companies, they, in fact, export heavy
5 equipment overseas for mining applications and all
6 that sort of thing.

7 We're on a very big cycle, benefiting from
8 that growth, but, again, it's a cyclical industry, and
9 we are now clearly in a very, very low point in the
10 cycle, and, quite frankly, we don't know, and our
11 customers can't tell us when, in fact, it will return.

12 CHAIRMAN ARANOFF: Okay. Does anyone want
13 to go to the specific question of what has been the
14 fate of the profits from the last five years?

15 MR. BRITTEN: David Britten again. I can
16 add to that. Profits are returned as dividends to
17 shareholders. We, as well, have loans to make. We
18 talked about buying and selling of companies and all
19 of this happening. So there's loans out there to be
20 paid and that sort of thing.

21 There has been substantial Cap X. We went
22 through, in the bottom part of the cycle, we went
23 through periods of underspending in our facilities,
24 and so there was a lot of pent-up demand in each one
25 of our facilities for projects to bring the equipment

1 back up to a better state of repair.

2 MR. INSETTA: This is Bob Insetta,
3 ArcelorMittal. I would say that, as an example of
4 where some of the profits went, as the market was
5 heating up, we elected to reopen a plate mill and
6 spent millions of dollars doing that to meet market
7 demand. That's just one example of some of the
8 capital spending that we have done over the last
9 several years in order to have the ability to meet the
10 demand in a hot market, and we did that.

11 The other thing I would say is that when you
12 look at the last five years or four years in the
13 context of the previous 30, certainly, most of that
14 30, we were losing money or breaking even. I think
15 what will be interesting is, as we look forward in the
16 next 30 years, how we will view this period of
17 operating at 35 percent of capacity.

18 It wasn't too long ago that we were trying
19 to make money at 50 and 60 percent of capacity and
20 survive. We're now talking about 35 percent of
21 capacity, and, as was mentioned a minute ago, the
22 outlook for next year and the year after, it's not
23 good. So, therefore, I think, in the context of the
24 full picture, these operating levels are going to be
25 very low, and the profits are just going to be very

1 difficult to come by.

2 MR. ROSENTHAL: Chairman Aranoff, if I may
3 kind of restate your question, because I think it's,
4 obviously, crucial here, the idea is that -- you said
5 "weigh," but I think you mean, does the five years of
6 good profitability and investment somehow make the
7 industry not vulnerable going forward as you're trying
8 to project what's going to happen in the future?

9 I think that the answer here is that as good
10 as those years were, this industry is still extremely
11 vulnerable, and that, in fact, as great as those years
12 were before, this cliff that the industry has fallen
13 off is steeper and more dramatic than anything that
14 the industry has seen.

15 I think that these businessmen who have been
16 here for 30 years or more are experiencing something
17 that they have never seen before. A lot of them have
18 no idea how things are going to go, but nothing that
19 they have seen in the short-to-medium, next-couple-of-
20 year timeframe gives them any room for optimism.

21 So when you talk about squirreling away the
22 money to get through this downturn, no one can say,
23 "Yes, that's going to happen or likely to happen,"
24 because this is a bigger and more sustained drop than
25 anyone has seen.

1 This industry is vulnerable, and there have
2 been layoffs, and there can be more unless there is a
3 turnaround, and if you're trying to project what will
4 happen if these orders are revoked, which is, I know,
5 what you're doing, can you imagine the unused capacity
6 coming here, unrestrained by the disciplines of these
7 orders?

8 Unfortunately, the gentlemen here for the
9 union and for the companies can anticipate that, and
10 they don't like that future.

11 MR. CONWAY: Chairman Aranoff, we have a
12 perspective on profits, too, and we want to watch
13 closely where they go.

14 In the last labor agreements we did -- we
15 have a long history with this union, a long history,
16 through all of the misery of it, and using the 201
17 period to try and build the industry to come forward.
18 Profits then became a significant portion of how we
19 were going to try and restructure both the workplace,
20 from an incentive viewpoint, and how we were going to
21 pay for our legacy.

22 So our profit streams connected to these
23 major steel companies have gone to the --, as we've
24 experienced a lot of times to the Commission, how
25 crucial that is, but, additionally, we have bargained

1 in the last labor agreement \$3 billion each for U.S.
2 Steel and Arcelor into Cap X, and that's hit a wall.

3 Now, I can call meetings with them and
4 scream and yell about, "Where's my three million
5 bucks?" and we'll just sort of both look at each other
6 and try and figure out where that might come from, but
7 that sort of really has stalled, and if we don't get
8 that back on track, we will eventually cycle back to
9 where we were.

10 We had pretty good profit-sharing payments
11 from some of the active employees at some of the
12 locations during the life of it, but a lot of that was
13 sort of tied to how big our legacy was in a particular
14 company so it's not kind of level as one would expect.
15 A lot of times we sort of deferred more towards legacy
16 and kept less. There was maybe five or six dollars an
17 hour, on average, over that period of time that is
18 gone now and was real money to people.

19 CHAIRMAN ARANOFF: Okay. I appreciate that,
20 and I'll come back to this in my next round.

21 Vice Chairman Pearson?

22 VICE CHAIRMAN PEARSON: Thank you, Madam
23 Chairman.

24 Welcome to all of you on this panel. I'm
25 just delighted to see that people are willing to come

1 to Washington in September to talk about something
2 other than healthcare.

3 After six years on the Commission, this is
4 really the first time that I've been able to
5 participate in a steel case in which demand is truly
6 dismal, as was said earlier. You know, the cut-to-
7 length plate industry really has done quite well since
8 Commissioner Lane and I showed up at the Commission.
9 If you look at the "C" table, it lays out very clearly
10 that the industry has had a nice run while we've been
11 here.

12 It's an interesting correlation. At this
13 point, I'm not prepared to take the next step and
14 argue that there is a causal nexus.

15 Commissioner Lane, if you have any thoughts
16 on that --

17 COMMISSIONER LANE: (Off mike.)

18 MR. SCHAGRIN: I'll second that motion.

19 VICE CHAIRMAN PEARSON: That's probably
20 proof that there is no causal nexus right there
21 because I'm not sure that there is anything that we
22 can do to ensure profitability. Oh, well, let's see.
23 I actually did have questions here, too, but it gets
24 to that issue.

25 How should we view the business cycle in the

1 context of these investigations? I've always had this
2 love-hate relationship with the language in the
3 statute that we should look at impact within the
4 context of the business cycle distinctive to the
5 affected industry.

6 Tell me about this business, the cycle that
7 we're in now. Does this recession represent a
8 downturn in the normal business cycle, or is it some
9 unpredicted event that cuts across the business cycle?
10 How should we understand it?

11 MR. BLUME: Commissioner, Rick Blume, Nucor.
12 I would answer that question in a couple of ways.

13 Certainly, from the market standpoint, we
14 look at a number of cycles -- it's not just the
15 economic cycle; it's the inventory cycle -- and I
16 think, in this case, it goes much deeper than that,
17 and certainly we've seen an economic collapse in
18 global steel demand. I can remember, last fall,
19 watching as blast furnace after blast furnace was
20 coming down, and production was being cut.

21 So I think the financial collapse, while I
22 agree with my colleague, it remains a cyclical
23 business and always will be, and we have to manage to
24 that, this economic collapse is a major event that has
25 really cut the legs out from underneath our operations

1 and certainly our employees.

2 So, in my view, it's more than a business
3 cycle. It's certainly dealing with, frankly, a global
4 economic meltdown. So I think we have to look at it
5 in that context and can't simply say, well, it's the
6 standard cyclical downturn that we see in the steel
7 business. It's certainly much more than that.

8 VICE CHAIRMAN PEARSON: Other observations?

9 MR. WHITEMAN: Yes.

10 VICE CHAIRMAN PEARSON: Mr. Whiteman?

11 MR. WHITEMAN: Thank you, Commissioner. I
12 would simply like to add to Mr. Blume's statement that
13 the magnitude of the financial collapse and the impact
14 that we have seen on all of the major plate-consuming
15 sectors that have been mentioned to you today is
16 unlike anything that we have seen. So I think the
17 uncertainty of the future -- I don't think we have
18 anything out there that would give any indication that
19 these conditions are going to improve in the near
20 term.

21 VICE CHAIRMAN PEARSON: Mr. Britten?

22 MR. BRITTEN: Yes, David Britten. I would
23 just add that, with GDP drops that we've seen in this
24 recessionary cycle really around the world, of course,
25 the plate business is one that's very capital goods

1 intensive, and there is a real multiplicative effect.
2 So if the GDP drops by X percent, the impact on our
3 business is multiplied much greater than that. So we
4 see a huge drop.

5 The other thing is the way the supply chain
6 works. When this business cycle is going at a high
7 level, consumers of product, middle men, steel service
8 centers, et cetera, they kind of bulk up on their
9 inventories, and then, as the cycle drops, you have
10 this wave of product that needs to get itself out of
11 the supply side, and we're kind of the tail of the
12 dog, if you will. We're at the back and whipsawed.
13 So we get hit very, very heavily in these situations.

14 Again, our company, SSAB, we do business in
15 45 countries around the world, at least, and supply
16 plate products, et cetera, out of Sweden and some out
17 of North America here, and, quite frankly, it's hit
18 our business all across the world.

19 VICE CHAIRMAN PEARSON: Well, given that
20 demand, for several years, in the United States for
21 plate had been quite strong, if we come out of this
22 steep recession, is there a reasonable probability
23 that we can see consumption of plate in the United
24 States bounce back fairly quickly to levels that we
25 had seen in 2007 and 2008?

1 MR. BRITTEN: David Britten again. We don't
2 know when, in fact, business will return. Clearly,
3 we're hopeful that there is not a destruction of
4 demand domestically.

5 The real issue, though, here before us is,
6 what, in fact, will the suppliers in Russia, Ukraine,
7 and China do in a circumstance where they see
8 opportunities to send products our way? If history
9 repeats itself, they certainly will.

10 The Ukraine, of course, their steel industry
11 is built on an export model, clearly. The Russians
12 have excess capacity. The Chinese have a tremendous
13 amount of excess capacity, we've heard in the
14 testimony, and that material simply will come, and it
15 will arrive and be sold at dumped prices, clearly.

16 MR. BLUME: Commissioner, Rick Blume. I
17 would also add a couple of points to that.

18 As we look at some of the key end-use
19 markets for plate, the reality is that a number of
20 those markets have not yet bottomed, so, you know,
21 obviously everyone is hopeful for a recovery, but the
22 reality is, is the worst may not be behind us.
23 Certainly, in nonresidential construction and some of
24 the other key markets that we are very involved in
25 suggest that they have not bottomed and may not bottom

1 for another year or so.

2 So it's really very difficult to look
3 forward and anticipate a spring-back type of recovery,
4 and I can tell you certainly from our planning
5 standpoint, whether it's Cap X or our marketing plan,
6 we are not planning for that bounce back. We just
7 don't see it, and we don't expect it.

8 MR. WHITEMAN: Commissioner, I would just
9 add that we simply do not see demand coming back for a
10 number of years.

11 VICE CHAIRMAN PEARSON: Mr. Insetta, I don't
12 mean to be ignoring you in the second row. Would you
13 comment?

14 MR. INSETTA: Bob Insetta. I think my
15 colleagues have stated it a couple of times. The data
16 we look and the customers we talk to and the markets
17 we examine, coupled with, or even caused by, the
18 credit situation we're facing; we don't predict any
19 change until at least 2012, and, at that point, it
20 will be slow growth. We think we're in this soup for
21 a while.

22 Again, I get back to, the job we have now is
23 trying to learn how to make money at 35 to 40 percent
24 of capacity, and that's the challenge.

25 VICE CHAIRMAN PEARSON: I've never been any

1 good at picking market turning points, so I don't envy
2 the situation that you're in at all.

3 MR. SCHAGRIN: Vice Chairman Pearson, just
4 one final comment from Roger Schagrin.

5 As many of these gentlemen have already
6 stated, plate tends to go into capital goods, and
7 capital goods need financing as compared to consumer
8 goods, and, in particular, nonresidential construction
9 is certainly the largest of all of the demand drivers
10 for plate, and nonresidential construction needs a lot
11 of financing and long-term financing.

12 I think what prevents most economists from
13 predicting the rapid downset of this recession
14 compared to other recession in our lifetime and unlike
15 the Depression, which was not in our lifetime, is what
16 has happened to financing.

17 Lehman Brothers was the single-largest
18 financing firm for nonresidential construction in the
19 United States. Their demise, roughly one year ago
20 today, has just put a hole in the ability to finance
21 nonresidential construction, and it may take years
22 until financing those markets comes back, and that's
23 why it's just so unlikely that there could be a
24 bounce.

25 I'm praying for a bounce. We would all like

1 to see it. We would like to see Tom's workers make
2 more and the workers at SSAB, Nucor, and Evraz also
3 make more. It just seems unlikely in the
4 nonresidential-construction area, given the financing
5 needs and the holes in that financing.

6 VICE CHAIRMAN PEARSON: I accept that --
7 that's the red light. I guess I'll come back to this
8 because I agree with your point that nonresidential
9 construction is in a world of hurt, and it would be
10 unreasonable to expect it to rebound in six months.

11 I wanted to talk a little bit more about
12 some of the other demand drivers that might pick up a
13 little sooner, but we can come back to that.

14 Thank you, Madam Chairman.

15 CHAIRMAN ARANOFF: Okay. Ms. Bellamy, I'm
16 going to confuse you because Commissioner Williamson
17 has some questions for Mr. Conway that he wants to get
18 in before Mr. Conway has to leave, so I'm going to
19 turn right now to Commissioner Williamson.

20 COMMISSIONER WILLIAMSON: Thank you, Madam
21 Chairman. I do want to thank the panels for being
22 here and giving their presentations.

23 Mr. Conway, I was wondering if you could
24 describe any steps the union is taking to help lessen
25 the negative effects on workers of the dropoff in

1 work.

2 MR. CONWAY: We have a number of people here
3 laid off. Under our waiver agreements, as opposed to
4 keeping people in the plant and having sort of loss of
5 wages at 50 percent, they roughly get about the same
6 money, but they are not in the plant, and so we're not
7 producing against a market that isn't there. But a
8 lot of people are out struggling, running out of
9 healthcare, running out of unemployment. People are
10 into their second round of unemployment right now.

11 So if your question is, what is the union
12 doing to try to temper that, it's really this kind of
13 stuff everywhere we turn, trying to help build back a
14 market. We've done some deferrals of some things in
15 specific labor agreements, have modified a lot of
16 incentive stuff on the ground and are sort of, plant
17 by plant and company by company, seeing if there is a
18 way to go back in and grab a market that exists out
19 there, but, frankly, this has been just sort of a
20 breathtaking thing for us, as well as the managements.
21 In spite of what you think you might be able to do to
22 get back into it, there has been nothing there.

23 Like this industry in particular, we were
24 hopeful that the growth of wind turbines and the
25 growth of wind in America was going to help some of

1 these plate operations, and, as we brought them back
2 on in the Midwest, in Gary, and in other places, it is
3 that financing that has collapsed that wind industry.

4 I have an old steel mill in Fairless,
5 Pennsylvania, that I converted to a wind turbine
6 manufacturer, so the guys who used to weld pipe are
7 now welding wind towers, and we tell them they are
8 green workers. When they drop that hood and strike
9 that arc, they feel as blue as they ever did before,
10 but this is a green industry, and they are building,
11 you know, had been building, towers up until almost
12 the day that Lehman went down.

13 Where we thought, in the cut-to-length plate
14 and in the plate industry, we would have some future
15 in wind, it seems to be struggling, and it seems, for
16 us, particularly frustrating that where there is a
17 fairly significant growth of wind in China, there is
18 also an 80-percent domestic requirement for Chinese
19 wind development to be done locally in and around the
20 base of those wind turbines and those wind farms. So
21 we'll struggle with that.

22 When we finally do find financing for wind,
23 we'll get flooded with Chinese plate, and we'll be
24 standing here again with jobs about erection and
25 putting up a tower and getting some of the work but

1 not having a manufacturing supply chain supporting it.

2 Commissioner Williams, I don't know if that
3 answers your question directly, but if it doesn't,
4 take another stab at it.

5 COMMISSIONER WILLIAMSON: Okay. It sounds
6 to me that you're suggesting that -- I was also going
7 to raise the same question about the infrastructure
8 spending -- that, yes, there are policy measures that
9 are being taken, but they really don't go far enough
10 to have any meaningful impact on workers.

11 MR. CONWAY: I think the shovel-ready stuff,
12 frankly, got a lot of discussion, but the shovel-ready
13 stuff wasn't really the big kind of engineering in our
14 plan. We still are hopeful that we'll see something
15 come out of this stimulus on infrastructure and that
16 it means something for steel.

17 I talk to a lot of civil engineers who say,
18 "Look, it's going to get there. It's four months down
19 the road. It's five months down the road." I can't
20 get them to really tell me where it's going to be.
21 Where is this project going to be? Where am I going
22 to ship a lot of plate to?

23 So it's kind of on the come, and I don't
24 know what it will yield, but we think there is going
25 to be something in there, just building up beans, but

1 we agree, too, that noncommercial construction is just
2 shot, and that had been a big part of our book of
3 business. So we really don't know what the
4 infrastructure will be.

5 We're not as pessimistic that nothing will
6 come out of it because maybe we're just on the side of
7 saying the stimulus is a good idea that needs to get
8 done. So we may not be at the point where we're
9 willing to say, "Where is this?"

10 COMMISSIONER WILLIAMSON: Whether or not it
11 falls into the category of a reasonably foreseeable
12 period of time is the issue.

13 MR. CONWAY: That's right.

14 COMMISSIONER WILLIAMSON: Something else
15 that may fall in this category is healthcare reform.
16 If there is healthcare reform, will that help or have
17 an impact? I know it depends on what kind of
18 healthcare reform there is.

19 MR. CONWAY: Right. Look, we're hopeful it
20 will help us where we have these VEBAs, where we have
21 these really hundreds of thousands of retirees, and
22 we've got this tremendous legacy cost.

23 Of course, we've got two populations. We've
24 got pre-Medicare and Medicare eligibles, and the pre-
25 Medicares are an expensive group for us, for the

1 VEBAs, and we're quickly kind of running out of
2 resources. We had really done our actuarial work on
3 having this stream of profits somewhat reliable. Now,
4 it's just kind of shot.

5 So healthcare, for us, is really important
6 about whether we're going to be able to try and do our
7 best we can to meet the promise of trying to give back
8 some level of healthcare to those people, but every
9 day that is really getting more and more difficult.

10 I mean, if you want, I'll switch the tires.
11 You guys are pretty good. I just did a deal last week
12 with Goodyear, and that was also -- healthcare is
13 going to be everywhere we go in this, so we'll see
14 where it goes.

15 COMMISSIONER WILLIAMSON: I noticed that
16 Nucor mentioned that they have a no-layoff policy,
17 some other person did, too, and I was just curious,
18 how does that affect the difference between companies
19 that, say, have a no-layoff policy and others who sort
20 of deal with the recession by laying off workers? Can
21 you offer any comments on that?

22 MR. CONWAY: We went through a period of
23 time when we had no-layoff provisions, and it was a
24 time when the market in steel was tough. I,
25 personally, think, if you have a no-layoff policy, and

1 you've got a bunch of guys standing around a mill, and
2 you don't really have a market for the mill, but you
3 don't know what to do with these guys, you have a
4 tendency to make steel that the market doesn't need.
5 I mean, you can only put paint brushes in so many
6 hands to paint yellow lines on shop floors.

7 So we're actually at a point where, if
8 you've got work for us, we come in, you work us a day,
9 you work us a week, but if there is no work, we would
10 just as soon take the layoff rather than create more
11 problems than we think the market can bear.

12 So we have policies and provisions in our
13 labor agreement in place that there is probably rough
14 justice between the two in terms of what people earn,
15 but going around and standing around a steel mill and
16 look at it while there is no reason to run it doesn't,
17 frankly, make a whole lot of sense to us. So there
18 are distinctions in that approach.

19 COMMISSIONER WILLIAMSON: Thank you. Just
20 one other question.

21 You talked about -- I guess it's Vice
22 Chairman Pearson's question -- the Cap X and the
23 problems that you're having with how that was going.
24 I didn't quite understand that, so I was wondering if
25 you could elaborate on that.

1 MR. CONWAY: Well, we have a pretty hard
2 commitment that over the life of the labor agreement
3 that we most recently concluded with the companies,
4 U.S. Steel and Arcelor, in particular, that they would
5 invest \$3 billion in our facilities over the life of
6 this labor agreement, and we would discuss with them
7 along the way where it was going, where the
8 allocations would be, the timing of it.

9 Almost now, for every one of these
10 companies, whether they are ours or not, I think Cap X
11 is reduced to what you have to do to stay alive. You
12 don't have the luxury of kind of building for growth
13 right now, so a lot of these were somewhat growth-
14 oriented plans. I'm hoping to collect on this
15 \$3 billion before this labor agreement runs out, but,
16 frankly, I don't know how I can go have an honest,
17 eyes-open discussion with them and say, "Where is my
18 three billion bucks?"

19 I bargained a labor agreement with an
20 industry that one of the companies had a billion-
21 dollar quarter and then had to face me. It was sort
22 of the best time of my life. They lost that in the
23 last two quarters. I mean, it has been such a
24 complete turnaround and such a hemorrhage. Look, we
25 quarrel and fuss with each other, but we know each

1 other well enough to know that we've got to get
2 through this.

3 So, look, I'll get at my \$3 billion somehow
4 someday, but it certainly isn't there to get right
5 now, and we understand that.

6 COMMISSIONER WILLIAMSON: Okay. Thank you
7 for those answers. My time has expired, too. Thank
8 you very much.

9 MR. CONWAY: Okay. Thank you.

10 CHAIRMAN ARANOFF: Oh, he has to leave? I
11 have two people with questions. You know what, I
12 think we're going to have to --

13 MR. CONWAY: I'll be fine.

14 CHAIRMAN ARANOFF: If you think they're
15 relatively short, do you want to just each ask your
16 questions to Mr. Conway and then we'll go back into
17 the regular order?

18 MR. CONWAY: Yeah.

19 CHAIRMAN ARANOFF: Okay, so let's start with
20 Commissioner Lane.

21 COMMISSIONER LANE: Mr. Conway, thank you
22 for being here today. My question is, when all of
23 these workers who have been laid off, 685, and the
24 shifts are reduced and wages are reduced, when people
25 are working on a reduced work schedule, are they still

1 getting their healthcare benefits?

2 MR. CONWAY: The ones who continue to work,
3 even on a reduced schedule, typically will. The ones
4 who get laid off, I think you'll find in most
5 instances your benefits, your health benefits will
6 last until the last day of the month in which you got
7 laid off is sort of what you typically see. Some
8 companies do a little better, some worse.

9 But, you know, let's say you've got 30 or 60
10 days worth of benefits, then you get an offer of COBRA
11 and you can continue to buy your benefits under COBRA,
12 which frankly is, without the stimulus money and the
13 ability to reduce the cost of COBRA, no one would have
14 benefits. But that clock is running too, so I would
15 expect most of them are using the COBRA offset out of
16 the stimulus plan, and after about 30 days you really
17 don't have anything available to you otherwise.

18 COMMISSIONER LANE: Okay, thank you.

19 CHAIRMAN ARANOFF: Okay, now my colleagues
20 are going to have to help me out here because I've
21 boggled the order up so much I may lose track, but
22 we're actually going to go to Commissioner Okun now,
23 whose turn it was a while back, and you can have your
24 full ten minutes.

25 COMMISSIONER OKUN: Okay, so I'll start with

1 Mr. Conway and then he's leaving, is that correct?

2 Yes, okay. All right, Mr. Conway, just a couple of
3 things for you. In listening to your responses to
4 Commissioner Williamson, I guess I'm trying to
5 understand, do you think the stimulus funding is going
6 to cut short what would otherwise be the downturn in
7 this cycle? In other words, if Mr. Insetta is talking
8 about 2012 are you more optimistic that the turnaround
9 is 2010 because of the stimulus?

10 MR. CONWAY: I want to believe the stimulus
11 is going to work. I don't know when it's coming and I
12 really can't predict it. We believe it is still going
13 to yield something, we think the buy American
14 provision within the stimulus and the infrastructure
15 piece will be helpful, it's not an answer to
16 everything. But I couldn't predict when I think it's
17 going to turn around. I have been told by a number of
18 I think reliable people who said, look it's out there,
19 the short early pop on these shovel-ready things isn't
20 where the big usages of steel may be, but I don't see
21 the projects going up, and it'll be interesting. We
22 still want to believe that it's, you know, check's in
23 the mail.

24 COMMISSIONER OKUN: Okay, so I might give
25 others to respond, but then the second, you had

1 mentioned buy American as well and that was my next
2 question which is, you had said you think it will be
3 helpful, do you think it has been helpful? I mean is
4 there anything specific, and companies may be able to
5 --

6 MR. CONWAY: I think it has. I've got two
7 people on the staff now who watch procurement and
8 chase waivers every day and where it's going. So it's
9 kind of unfortunate that I've got to pay two people to
10 chase waivers on this thing, but that's what's going
11 on. And I think it has helped somewhat, I've seen it
12 kind of in the sprinkler pipe, I've seen it in some
13 things that otherwise we might not have gotten the
14 orders had it not been for that. So it mystifies me
15 what a constant political discussion goes on about it
16 all the time, but I think it's helping us somewhat.

17 COMMISSIONER OKUN: Okay, well if your staff
18 has gathered anything specific with respect to this
19 product where buy American has made an impact, if you
20 could provide that posthearing that would be great.

21 MR. CONWAY: On the cut-to-length, okay.

22 COMMISSIONER OKUN: And with that I don't
23 have any other further questions for you, but I'll
24 just continue my round.

25 CHAIRMAN ARANOFF: So, Mr. Conway, thank you

1 very much for coming and answering our questions this
2 morning.

3 MR. CONWAY: Thanks.

4 COMMISSIONER OKUN: I'm tempted to ask
5 whether you're going to talk about healthcare or
6 tires, but I won't. So let me then turn back to the
7 producers, and I think this will be a followup to some
8 of the questions that my colleagues were raising about
9 demand in the reasonably foreseeable future, and I
10 know you've talked about wind and what its
11 possibilities might have been and what part of the
12 market it is. I wondered if there are other drivers
13 for CTL plate demand that we haven't talked about that
14 you could cover, and the energy related investments
15 that might be impacted both by stimulus spending or by
16 the other initiatives out there either on clean energy
17 or the other energy initiatives that are out there.
18 Is there anything else going on that you see driving
19 demand in the reasonably foreseeable future? Mr.
20 Britten, look like you wanted to grab your microphone
21 there.

22 MR. BRITTEN: Sure. With respect to demand
23 and energy specifically, one of the large consuming
24 areas for plate is the large diameter pipe industry.

25 COMMISSIONER OKUN: Can you put your mic a

1 little closer? I'm having a hard time hearing.

2 MR. BRITTEN: Yeah, one of the large demand
3 areas in the energy sectors is large diameter pipe,
4 which is redriven by natural gas pipelines, high
5 pressure natural gas pipelines, as well as oil
6 transmission lines. And that demand can be what I
7 describe as lumpy. It is, the projects go from A to
8 B, they're either on or they're off. So we have the
9 circumstance we have today is there has been quite a
10 build cycle happening. The outlook for the next short
11 while is not very good, in fact beyond that doesn't
12 look very good.

13 There has been a number of jobs that have
14 been forestalled, foregone, don't know, due to the
15 financial situation that's been talked about here.
16 Also, in the energy area we see demand in plate for
17 offshore structures, platforms and the like, with the
18 oil rig counts and natural gas rig counts down to
19 something in the order of half of what they were a
20 year ago. That demand has fallen quite by the
21 wayside. We also sell a lot of plate into tanks, like
22 oil tanks and those kinds of big, like their big
23 structures that consume plate.

24 In the renewables area, one of the big
25 issues, and of course this, we talk about wind a lot,

1 but the industry has been talking about quite nice
2 growth rates, but what happened of course, again the
3 lack of financing, but with respect to the stimulus
4 package, the regulations and how the sort of four
5 elements to assist folks that are developing wind
6 firms, that wasn't known until the end of July. And
7 so there's been this large delay. And so now we're
8 hopeful that some of these things we'll start to see
9 come forth.

10 COMMISSIONER OKUN: And on those, what would
11 be the timing from if they go forward to where there
12 would actually be orders for your product?

13 MR. BRITTEN: We'll see orders, you know,
14 some of these large companies like General Electric
15 for example, who's the largest supplier of wind farms
16 really, they will place orders today for production in
17 2010 or 2011 type thing, that tends to be the
18 timeframe.

19 COMMISSIONER OKUN: Okay. Others want to
20 comment on that?

21 MR. BLUME: Yes, Commissioner Okun. A
22 couple comments particularly regarding wind farms, and
23 two points. When you look at the demand share of wind
24 farms it's really a small percent of plate
25 consumption, probably by our estimates 2 to 3 percent.

1 Also, the other point is that as we talk about
2 alternative energies, the alternative is from coal
3 fire or other types of energy plants.

4 So in fact one might think that you would
5 gain additional demand but frankly it's shifting
6 around the demand from coal fire plants et cetera to
7 wind farms. So in terms of a net gain, it really is
8 not going to be enough to move the needle in the near
9 term. So you know, we think that while wind farm has
10 opportunity it's really, the time horizon is out in
11 years, measured in years and not months.

12 MR. INSETTA: Commissioner?

13 COMMISSIONER OKUN: Yes.

14 MR. INSETTA: Bob Insetta, ArcelorMittal. A
15 couple comments. First of all, on the infrastructure
16 side, ArcelorMittal is the largest supplier of bridge
17 plate to the bridge builders, and we supply all of the
18 largest bridge fabricators in the country. And we are
19 hearing from them that they have not seen any effect
20 of the stimulus package at this point and that they're
21 very unsure as to when that's actually going to hit
22 them.

23 What they talk about in terms of
24 infrastructure has been things like paving, widening
25 of intersections, you know, road and guard rail

1 replacement and that kind of thing. But no money has
2 come in to bridge, which is where big heavy plate is
3 consumed, so that's one point that we're hearing. The
4 other thing I would mention, not to belabor wind tower
5 too much, but it is getting a lot of attention.

6 As was already stated, it's a relatively
7 small part of the market, but also we have data that
8 we've seen recently that says last year around 35
9 percent of the wind towers, where all of the plate or
10 most of the plate goes, talk about wind power, that's
11 where the tonnage is. 35 percent of the towers that
12 were put up last year were imported. So we're not
13 only fighting imports of plate, but we're also
14 fighting imports of fabricated product. So that's
15 something I think we have to do as well.

16 COMMISSIONER OKUN: Mr. Price?

17 MR. PRICE: Yes, I'd just like to add one
18 little note. I think earlier it was mentioned that,
19 you know, General Electric is looking at projects
20 maybe a few years out here. It was also mentioned by
21 Mr. Whiteman in his testimony that we have dealt with
22 circumvention, with Chinese plate in particular being
23 brought in as spare parts. I will shed some light on
24 who was involved in that circumvention, but to think
25 that companies like GE don't have the ability to bring

1 in massive amounts of plate from China, Ukraine, and
2 Russia would just be inaccurate. In fact they
3 probably have great capabilities given their global
4 reach and their resources and their ability to use
5 those sourcing, and they've demonstrated that with
6 their attempts to circumvent various orders,
7 particularly this order.

8 COMMISSIONER OKUN: Okay, my red light's on,
9 but if you had something to add?

10 MR. THIES: Kent Thies, Evraz. Commissioner
11 Okun, with regard to the comments about energy demand,
12 and kind of a tie-in to Ms. Aranoff's question about
13 where the money went, we invested heavily in a new
14 large diameter pipe mill in Portland, Oregon not too
15 many years ago, several hundred million dollars. That
16 mill is shut down. It has no business. We also have
17 large diameter pipe mills in western Canada and in
18 central Canada, and as it relates to those markets,
19 one of those pipe mills is shut down due to lack of
20 demand.

21 Our customers that, like Mr. Britten said,
22 it is kind of a lumpy demand. The gas transmission
23 companies basically have deferred large projects at
24 least into 2011, at least that's what they're telling
25 us now. With regard to wind towers, we participate in

1 that market, I can tell you being on the west coast I
2 can drive about five minutes from the mill and see
3 acres of fabricated wind towers from China and
4 Vietnam. So that's definitely a factor.

5 And also the orders for those projects, a
6 lot of them have already been placed, so you know,,
7 the new business we'd be looking at maybe 2011, 2012.
8 And the last comment I'd make about energy is, you
9 know, natural gas prices and oil prices, you know, you
10 can see them every day in the Wall Street Journal,
11 those are one of the main drivers and frankly there
12 just isn't enough incentive to build these big
13 pipelines right now.

14 COMMISSIONER OKUN: Okay, well I'll come
15 back, I went on the Pickins.com web site there's
16 telling me that oil is going to be \$300 a barrel, so
17 we'll see. All right, thank you.

18 CHAIRMAN ARANOFF: Commissioner Lane.

19 COMMISSIONER LANE: Good morning. We want
20 to talk about wind power, and I would just like to let
21 you all know that in West Virginia we were doing wind
22 power before wind power was cool, and a three-year
23 time period is probably the fastest that you can go
24 from start to finish because, believe it or not, even
25 though wind power is renewable energy and even though

1 the wind towers are a tourist attraction and look
2 great, there are a lot of people that don't like wind
3 power and come out and protest and use the court
4 systems to stop those projects because they're worried
5 about bats, they're worried about killing birds,
6 they're worries that the lights at night will
7 interfere with their stargazing.

8 And so I'm just putting that on the record
9 that wind energy, even though it's a really good form
10 of energy, I don't think it's going to happen any time
11 soon that we're going to be replacing other forms of
12 energy with wind farms. But I did see on the news
13 last night that China is going to have more wind farms
14 than the United States. And so my question is, will
15 China be providing all of that cut-to-length plate
16 itself for all of those wind mills or will they be
17 importing from the United States and other places?

18 MR. SCHAGRIN: Commissioner Lane, this is
19 Roger Schagrin. One thing very apropos to your
20 comments about the delays in instituting wind power in
21 the United States because of protests et cetera, I
22 don't think we have to worry about that in China. So
23 when they say they're going to put in wind power or
24 solar power, they're going to put it in, and I don't
25 think they're going to have any protests.

1 However, given that they presently have as
2 much as 30 million tons of overcapacity, China simply
3 except for a couple of super-specialized grades has
4 shifted from being a net importer back in 2000, 2001,
5 to being the world's biggest exporter by 2007, by far
6 over 10 million tons of exports. Certainly their
7 needs for plate will all come from Chinese supply, and
8 yet even with any increased needs for plate for wind
9 towers, they have so much massive excess capacity.

10 And they continue to add it because they
11 also have the opposite problem that we have here. We
12 have a problem with availability of credit in the
13 United States, in China their problem is because all
14 the banks are owned by the government they had an
15 increase in loans, something the order of 50 or 60
16 percent in the first half of this year. And some of
17 the credit being doled out by government owned banks
18 is actually building yet more steel plate mills
19 because it's a great deal, you just borrow the money
20 from the banks and build things because the government
21 wants you to do that, if things don't turn out well,
22 you just don't pay back the money anyway over there.

23 So they really do have kind of the opposite
24 problem that we have, they have an explosion of credit
25 from the government, which is buoying their demand but

1 it's also buoying a continued oversupply situation in
2 product after product. So we don't think that
3 increased demand is going to help U.S. producers in
4 that there'll be any exports from this industry to
5 China to build wind towers there.

6 COMMISSIONER LANE: Okay, thank you. In
7 reading the Staff Report, talking about fabrication,
8 and so I was wondering are the fabricated end use
9 products that use CTLP, such as towers for power
10 transmission lines or products such as heavy
11 equipment, made in the United States or do these
12 products tend to be fabricated outside of the United
13 States and then imported into the United States?

14 MR. INSETTA: Commissioner, Bob Insetta,
15 ArcelorMittal. Over time we've gone through different
16 phases of that. The last period here of several
17 years, I would almost say many years, transmission
18 poles are fabricated in the United States for
19 electrical transmission. And construction equipment
20 has also been fabricated and built, they are built in
21 the United States for U.S. consumption. Now that
22 shifts with companies like Caterpillar and so forth,
23 that shifts between here and Mexico and other
24 facilities they have around the world depending upon
25 the advantage to them from a cost standpoint. But I

1 would say in the most recent years here that's been
2 U.S. production for U.S. consumption.

3 COMMISSIONER LANE: Okay, thank you. This
4 is a question for one of the lawyers. Could you
5 generally describe the suspension agreements that are
6 in effect and describe what would likely happen to the
7 volume of subject imports and prices in the U.S.
8 market if the suspension agreements were revoked? Mr.
9 Schagrin?

10 MR. SCHAGRIN: Yeah, I'll start since I
11 worked on them in '96 and '97 when we were --

12 COMMISSIONER LANE: And I just wanted to
13 note that anybody that's under 80 is still young.

14 MR. SCHAGRIN: I'm with you. I'm with you
15 more every day on that issue. I wish my hips knees
16 would tell me the same thing as my mind, but that's a
17 different story. The suspension agreements with
18 Russia and Ukraine now that they have both been
19 changed from nonmarket economy agreements to market
20 economy agreements, are essentially, the first
21 requirement is that specific companies in Russia or
22 Ukraine must make an application to the Department of
23 Commerce in order to obtain normal values that would
24 be the bench price, or what would eventually be the
25 price against what their export price to the United

1 States would be, for a six-month period.

2 So right now, sitting in September of 2009,
3 they are selling under their second half 2009 normal
4 values, and they're in the process of applying for
5 first half 2010. I think for the Commissions, and
6 when they make that application they give the
7 Department of Commerce and then we work with the
8 Department of Commerce under administrative protective
9 orders, their home market prices and their cost of
10 production, and their normal value is the higher of
11 home market price or normal value.

12 The critical issue for the Commission is
13 that since the Russian agreement went into effect in
14 2003 as a market economy suspension agreement, only
15 one Russian producer, Severstal, has applied for
16 normal values. So that essentially they are the only
17 Russian producer that is allowed by the terms of the
18 agreement to export to the United States. So ending
19 the orders/suspension agreements, not continuing them,
20 would automatically open up the U.S. market to all the
21 other Russian producers, many of whom are extremely
22 large.

23 As to Ukraine, two companies in the past
24 have applied for normal values, it appears that one of
25 those companies is not engaging in the process for the

1 first half of 2010. So that once again the other
2 Ukranian companies, some of whom are absolutely
3 massive and who have not exported a ton of plate since
4 the market economy agreement went into effect in
5 November of 2008, it's fairly recent, the market would
6 be open to them and wide open to them.

7 So I mean with Russia and Ukraine, it's
8 really clear given the working suspension agreements
9 just how quickly there would be a change in export
10 volumes to the U.S. because the companies who are
11 unwilling to engage in this system in which they could
12 not export any tons at a not-dump price would now have
13 the market wide open to them.

14 MR. PRICE: And let me just add to that,
15 clarify and add on to that last point. Even for the
16 companies that establish that reference prices are
17 fair values or normal values which they can export at,
18 those are the minimum prices which they can export at.
19 It's a little different than a dumping agreement or
20 dumping order where you can really export at any price
21 and the duties can get paid.

22 As a result, there are many periods as these
23 agreements function that companies cannot enter the
24 U.S. market even if they have fair values and cannot
25 enter at disruptive prices. So in judging what their

1 underselling behavior would be like without a
2 suspension agreement, I think it's fair to say it
3 would be quite different, it would be much more like
4 the original investigation where they would have none
5 of these practices that inhibit their ability to
6 engage in unfair pricing. Thank you.

7 COMMISSIONER LANE: Okay, thank you. Thank
8 you, Madam Chair.

9 CHAIRMAN ARANOFF: Okay, now I think the
10 right thing to do at this point is to go to
11 Commissioner Pinkert.

12 COMMISSIONER PINKERT: Thank you, Madam
13 Chairman. Does anybody wish to add to Mr. Schagrins'
14 comments about what to do in a situation where a party
15 has indicated a willingness to participate, certain
16 decisions get made based on those statements, and then
17 later on we find out that the party is not responding
18 to our request for information?

19 MR. PRICE: Alan Price, Wiley Rein counsel
20 for Nucor. You know, under these circumstances I
21 believe that the ITC should approach this much the way
22 the Commerce Department approaches it when someone
23 says they're going to participate and then they pull
24 out part of the way through the investigation. I
25 think that it is appropriate to use adverse

1 inferences. I think not only has the Commission --
2 and equally treat this in many respects like an
3 expedited review, which is what this should have been.

4 The parties have expended an enormous amount
5 of resources, the agencies have spent an enormous
6 amount of resources on this matter. And frankly, the
7 other party made the ITC investigate with all of these
8 additional resources, made the agency expend all these
9 additional efforts, obviously misrepresented to the
10 agency its degree and willingness to participate. And
11 under these circumstances, at a minimum adverse
12 inferences should be used against all of the parties.

13 MS. CANNON: Commissioner Pinkert, if I
14 could add a comment to that. I believe that where you
15 find the fact pattern that you have here where parties
16 have come in and stated they were willing to
17 participate and later have withdrawn, that is one of
18 the few situations where the Commission has recognized
19 the appropriateness of using adverse inferences. The
20 Commission hasn't done it very often, but I believe
21 that fact pattern has occurred before, and
22 appropriately so because in that situation you have a
23 company that's basically forced you to going to a full
24 review that would otherwise not have occurred.

25 And so in that situation where you have, you

1 know, the companies that have done that here and have
2 come forth with information and then been silent, you
3 have a statement on the record that isn't corroborated
4 by, you know, the facts that we have submitted. And
5 in that situation it seems very clearly defensible
6 under the statute to use adverse inferences.

7 And in response to your earlier question
8 about whether that somehow inhibits the use of
9 cumulation, I concur with Mr. Price that in this
10 situation you don't have to worry about that hurting
11 any parties because we have no parties any longer
12 participating. You have the Chinese who never showed
13 up to begin with, and you have the others who said
14 they would and did not. So you basically are
15 justified at this point in using adverse inferences to
16 everyone.

17 And finally I would say that, even if you
18 didn't want to use "adverse inferences," the facts
19 that the Staff has gathered on this record, the best
20 available information, even looking at it
21 conservatively for each of the countries is more than
22 sufficient to justify affirmative findings because
23 even the most conservative approach looking at the
24 basic objective data that's out there from the various
25 sources shows rampant overcapacity, increased

1 capacity, volumes that are going to more than dwarf
2 this market, and relative prices that are more
3 attractive in the United States. That isn't even
4 adverse, that's just the facts that have been
5 gathered.

6 COMMISSIONER PINKERT: Thank you. Now,
7 turning back to the company witnesses, are there
8 certain CTL plate products that are imported into the
9 United States because the demand for those products
10 exceeds the ability of the U.S. industry to supply?

11 MR. INSETTA: Commissioner, Bob Insetta of
12 ArcelorMittal. Short answer to that I think is no.
13 You know, the U.S. industry has capacity to supply the
14 marketplace.

15 COMMISSIONER PINKERT: I know that Mr.
16 Rosenthal would make the point that this is not a
17 legal requirement to go affirmative in one of these
18 cases, but I'm still curious about the facts.

19 MR. ROSENTHAL: We just talked about that
20 yesterday.

21 COMMISSIONER PINKERT: Are there any other
22 factual assertions on this?

23 MR. WHITEMAN: Commissioner, given the
24 existing conditions that we see in the marketplace, I
25 would agree with Mr. Insetta's testimony that we could

1 certainly handle the demand that's in the marketplace
2 right now.

3 COMMISSIONER PINKERT: Okay, I understand
4 that your answer with regard to the demand that's in
5 the marketplace right now, but looking let's say over
6 the past five years, at peak demand are there certain
7 types of CTL plate that have to be imported in order
8 to satisfy the demand for those products?

9 MR. WHITEMAN: Commissioner, the simple
10 answer to that would be no.

11 COMMISSIONER PINKERT: Go ahead.

12 MR. INSETTA: Commissioner, there is no type
13 of imported product that we cannot make in the U.S.

14 COMMISSIONER PINKERT: And specifically in
15 regard to my question, if you look at peak demand over
16 the past five years, is there a circumstance where the
17 U.S. industry with respect to a particular type of CTL
18 plate product is unable to supply the peak demand?

19 MR. INSETTA: No.

20 COMMISSIONER PINKERT: Mr. Blume?

21 MR. BLUME: The comment that I was going to
22 make, and there's discussion around peak demand and
23 certainly we saw tightness in the market during that
24 period, but in many cases what we have found is that
25 there were speculative interests, there were inventory

1 builds. So when you ask the fundamental question
2 about the end user, the consumer of plate, we are
3 capable, we have the capacity and the ability to
4 supply what those end users need. We may not always
5 have what a speculative buyer may want to put on the
6 ground, and certainly we've found times when we had to
7 control that, make sure that we were not allowing the
8 speculative move or this unnecessary inventory build.
9 But the fundamental question, yes we can supply the
10 plate that is needed.

11 COMMISSIONER PINKERT: Thank you. Any other
12 comments on the panel on that issue? No. Okay, now
13 looking back to 2003, the industry's operating loss
14 margin that year was worse than in interim 2009.
15 Either now or in the posthearing, can somebody help me
16 to understand why that would have been the case?

17 MR. PRICE: We'll be happy to address it in
18 the postconference brief. One thing I actually would
19 say to the Commission in discussing my clients, the
20 interim data, is that actually one of the things is
21 that the industry has actually been progressively
22 falling off the cliff this year. So the data, without
23 releasing proprietary data on a company-specific
24 basis, if you look at your figures which are averaged
25 for the first half actually progressively get worse

1 during the period.

2 So if you look at your employment data and
3 you say, well 15 percent of the employees are laid
4 off, that got worse and worse so when you get to the
5 end of the period I suspect we have 30 percent of our
6 employees laid off. Certainly profitability started a
7 little bit higher at the beginning of the year, and as
8 less and less orders were being shipped and as prices
9 progressively collapsed, things got much worse.

10 And so I suspect the 0.5 percent number
11 you're looking at for this first half, if you actually
12 broke it down would be much worse in the second
13 quarter, which you're starting to see the full effects
14 of this period. And I suspect as we look forward to a
15 full year we're going to continue to see some very
16 ugly numbers in this industry.

17 MR. SCHAGRIN: Excuse me, Commissioner
18 Pears, Roger Schagrin. I'd just as soon answer it now
19 rather than in the posthearing brief.

20 COMMISSIONER PINKERT: Commissioner Pearson?

21 MR. SCHAGRIN: I'm sorry. Pinkert. I'm
22 sorry, I'm looking down here instead of looking up at
23 your names, but I should recognize you vaguely by the
24 face, of course I can't see you if I have my reading
25 glasses on. Anyway, excuse me, Commissioner Pinkert.

1 As I say, I'll answer it now because it's a rather
2 short answer though I'm sure we could expound on it.

3 COMMISSIONER PINKERT: No apology necessary.

4 MR. SCHAGRIN: That's fine, thanks. Is lag.
5 I think that's the real reason. You know, '03 looked
6 back because it was a lag from what was already a poor
7 performance in '01 and '02 for the industry. And the
8 reason the first half of '09 doesn't look as bad as
9 '03 is because it's some of the lagging benefits of
10 how good '08 was. But that's going to quickly
11 disappear, it probably already has disappeared. And
12 so the second half of '09 in terms of financial
13 results is almost certainly going to look worse than
14 the first half. So to me the simple answer is lag.

15 COMMISSIONER PINKERT: Thank you. Thank
16 you, Madam Chairman.

17 CHAIRMAN ARANOFF: The briefs argue at
18 various points about when demand might return to the
19 level seen in 2007, 2008, as being sort of the
20 appropriate way for us to project what's going to
21 happen in the reasonably foreseeable future. And that
22 raises the question in my mind, 2008 was, I think
23 everyone agrees, an aberrational year. At least
24 that's what we were hearing last year when we were
25 holding hearings in steel cases, that the cost spikes

1 were very aberrational and that there was some panic
2 buying by service centers who kept expecting their
3 costs to go up.

4 And so I'm not sure that when things get
5 back to like 2008 is really what we should be looking
6 for. And so one of the questions that I had is, at
7 what point is demand sustainable for the industry? If
8 we assume, I mean do the market conditions have to be
9 such that they permit the domestic industry to
10 generate consistent operating income levels in excess
11 of 20 percent in order for demand to be considered
12 sustainable or is there some other level that we
13 should be looking at?

14 MR. BLUME: Chairman Aranoff, I would answer
15 that question really more from a utilization
16 perspective. And certainly as we look today at 50
17 percent, it's a devastating level for profitability,
18 it's a devastating level for our employees. And
19 certainly we understand that 2008 was an abnormal
20 year. The challenge that we have as we look forward,
21 it becomes very difficult to try to project when we
22 may see some improvement.

23 I can tell you in our own planning, and I've
24 mentioned it before, our expectation is that it will
25 take years for demand to come back. A lot of

1 discussion around the stimulus package, from our view,
2 while the overall package was fairly substantial, \$60
3 billion to infrastructure projects, many of that's
4 spent on shovel-ready or frankly black-top type
5 projects not steel intensive.

6 The other point that I would add that I
7 think as we look to that stimulus package to do what
8 it's intended to do, and that's to obviously stimulate
9 the economy and steel demand, the other challenge is
10 that many of the projects that are steel intensive not
11 only take engineering time, as was mentioned by
12 Commissioner Lane, but also there are regulatory
13 hurdles that have to be overcome, there are permitting
14 issues, so many of these major projects are going to
15 take a long time to have impact.

16 And so we are not optimistic about the
17 effect of the stimulus, and again we anticipate that
18 we're going to be in this for a while. And certainly
19 we mentioned again that some of the markets have yet
20 to bottom, and so we're not sure we're fully at the
21 bottom yet. And so to look forward, it's going to be
22 very difficult. Certainly, to answer your question
23 about utilization rates or what measure should be,
24 certainly I think in the areas of 80 percent and
25 higher are the expectation.

1 CHAIRMAN ARANOFF: Okay, I won't belabor
2 that point, but if anyone wants to comment on it in
3 their posthearing that would be helpful. Let me turn
4 to another question. There was some mention in the
5 direct testimony about the practice of some of the
6 subject producers of selling their products through
7 trading companies, global trading companies, and this
8 is something that the Commission has looked at in the
9 past.

10 If there's any information that you can
11 provide either now or put on the record, I'd like to
12 be able to distinguish which of the subject producers
13 are marketing their own products directly to customers
14 in the United States or were during the original
15 period of investigation, versus which are relying on
16 global trading companies, and then consider the extent
17 to which that makes a difference in terms of likely
18 volumes and prices in the event of revocation.

19 MR. INSETTA: Madam Chairman, Bob Insetta,
20 ArcelorMittal. I believe that was in our testimony,
21 and we would like to address that in the posthearing,
22 give you some more information on that.

23 CHAIRMAN ARANOFF: Okay.

24 MR. INSETTA: Thank you.

25 CHAIRMAN ARANOFF: I'm remembering back

1 there was another recent review where the Commission
2 made distinctions between subject producers who sell
3 through trading companies who may not know who their
4 customers are and may not have any control over the
5 prices at which the product ultimately gets sold to
6 customers, they just sell to the trading company and
7 the trading company moves the product wherever, versus
8 producers that are selling directly. And that can
9 sometimes make a difference when we look at likely
10 volumes. So if there's anything that anyone can add
11 to the record on that it would be helpful. Okay.

12 Well here's a small data question that I
13 just want to make sure that I get out of the way. At
14 page 3-24, footnote 54 in the Staff Report, our Staff
15 indicates that there has been little change in product
16 mix for the domestic industry as a whole during the
17 period that we've looked at in this review. On that
18 basis, Staff indicates that we can place strong
19 reliance on the data in the variance analysis. And
20 two questions that I have about that. The first is,
21 do all of you agree with the Staff that the product
22 mix for the industry hasn't changed very much over
23 this period that we're looking at, and if so, does
24 that allow us to place considerable reliance on
25 average unit values for the domestic industry?

1 MR. BRITTEN: Dave Britten. Yes, the answer
2 is yes. Doesn't change much, the mix.

3 CHAIRMAN ARANOFF: Okay, so is there anyone
4 who would disagree that there haven't been any
5 significant changes in product mix?

6 MR. BLUME: Rick Blume, Nucor. We would
7 agree with that, that the mix by and large because
8 plate is, as was testified to, is a commodity product,
9 that you're not likely to see product mix vary.

10 CHAIRMAN ARANOFF: Okay. I have a rather
11 lengthy question here that goes back to cumulation. I
12 know you guys thought that argument was over and done.
13 But there's a number of factors, and I'll go through
14 some of them, that could suggest that subject imports
15 from Russia are likely to compete under different
16 conditions of competition than those from China and
17 Ukraine in the event of revocation. And I'm going to
18 list some of them off and you can respond either now
19 or in the posthearing about whether in fact this
20 suggests that Russian producers might compete under
21 different conditions of competition.

22 First of all, from 1994 to 1996 during the
23 original period of investigation subject imports from
24 Russia increased in volume by only about 10 percent
25 while imports from Ukraine more than doubled and the

1 imports from China increased by many multiples.
2 Second, cut-to-length plate capacity in Russia may be
3 smaller than in China or in Ukraine, although our
4 record is not sufficiently clear that I wouldn't
5 appreciate your opinion on that. Russian cut-to-
6 length plate industry may ship a higher percentage of
7 production to its home market than does the Ukrainian
8 industry. Again, you know, that's suggested in our
9 record but it's by no means clear.

10 Russia's worldwide exports of cut-to-length
11 plate have been much smaller than worldwide exports by
12 China or Ukraine. In terms of trade balance from 2003
13 to 2007 China went from being a large net importer to
14 a very large net exporter, and Ukraine has always been
15 a significant net exporter of cut-to-length plate, but
16 Russia in contrast started as a small net exporter and
17 most recently has been a net importer.

18 And finally, there are some comments in one
19 of the briefs, I think it's Mr. Schagrin's brief,
20 there's a statement by the executive vice president of
21 a Russian steel company to the OECD from June of 2009
22 indicating that Russian steel production grew very
23 slowly from 2001 to 2008, that Russian steel exports
24 did not undergo substantial changes during that
25 period, and that Russian steel mills have shown high

1 flexibility and ability to adapt to new demand
2 conditions. So those are the factors that I'm looking
3 at, and if anyone wants to comment now, that's fine,
4 but I'm also happy to hear your thoughts in the
5 posthearing.

6 MR. ROSENTHAL: We'll respond in the
7 posthearing, but with respect I would say that those
8 are all differences or distinctions that don't make a
9 difference, at least not when it comes to cumulation.
10 When you look at the factors, the statutory and other
11 factors that one looks at in the first instance
12 concerning cumulation, all of them were met originally
13 and all of them remain met today. All those may be
14 true facts, but they don't affect how or why all of
15 the imports from Russia, Ukraine, and China compete
16 against one another and the U.S. producers in the
17 marketplace.

18 CHAIRMAN ARANOFF: Okay, well I'll be happy
19 to have you look at them in more detail. I know that
20 some of them are factors that the Commission has
21 considered in the past with respect to whether or not
22 producers into different countries would compete under
23 the same conditions of competition, and you may just
24 disagree in principle with their relevance. I'll wait
25 to hear in your posthearing brief. And I'm going to

1 turn now to Vice Chairman Pearson.

2 VICE CHAIRMAN PEARSON: Thank you, Madam
3 Chairman. I'm not sure whether anyone has commented
4 specifically on the prospects for demand increase in
5 the transportation sector, ships, barges, railroad
6 cars. And the reason for asking is that there are
7 times when transportation is a leading indicator when
8 the economy's coming out of recession. You know,
9 people have to start moving stuff around, and we see
10 an uptick there before we see it elsewhere. Any
11 thoughts on that?

12 MR. INSETTA: Vice Chairman, Bob Insetta,
13 ArcelorMittal. I can comment on the railcar market.
14 It's very very depressed this year, and the
15 expectation is next year it'll take another notch
16 down. So we can't predict when it might come back up,
17 but it does not look good.

18 MR. THIES: Kent Thies, Evraz. Commissioner
19 Pearson, we have a large railcar builder in our home
20 market in Portland, Oregon. And this is all public
21 information, it's been in the press, they have an
22 order from General Electric that General Electric's
23 been trying to cancel and they're in a lawsuit over
24 it. And I mean it's a big deal, big multimillion
25 dollar order they're trying to cancel.

1 MR. WHITEMAN: Commissioner Pearson, many of
2 the railcars that were actually in service have been
3 taken out of service. And the impact on that moving
4 forward is, as my colleagues have suggested, is the
5 forecast for transportation, whether it be railcar,
6 barge, or ship building, is not very promising.

7 VICE CHAIRMAN PEARSON: Okay, well thank you
8 for that assessment. It's a little gloomier than I
9 had hoped, but I hear what you're saying.

10 MR. SCHAGRIN: It's a bad leading -- I mean
11 it's a good leading indicator economically. Right
12 now, those leading indicator are all bad, which isn't
13 good.

14 VICE CHAIRMAN PEARSON: I understand. In
15 this current economic environment, which U.S. buyers
16 of plate might be interested in buying imports? And
17 the reason I ask in part is that with the buy American
18 requirements, if I'm a distributor of steel,
19 warehouseman, I'm reluctant to load up my space with
20 imported steel that then might be ineligible for use
21 in certain contracts. Can you comment on that please?
22 Which buyers, you know, if we lifted the orders, who's
23 going to buy steel from China, Ukraine, and Russia?

24 MR. UNRUH: Vice Chairman Pearson, Jeff
25 Unruh with ArcelorMittal. Buy America typically has

1 an impact on buying decisions in Federally funded
2 projects, namely bridge projects. So that's the one
3 area where we see advantage, or I should say perhaps
4 protection, with the buy America clause. So when
5 we're typically looking at people looking at buying
6 imports, looking at as you had mentioned,
7 distributors, most of that supply chain is normally
8 supplied direct by the mill, not as much goes through
9 distribution for bridge building projects, so that
10 wouldn't be a deterrent. And so most of the
11 applications that a distributor would be selling into
12 there would be no domestic requirement or buy America
13 requirement.

14 VICE CHAIRMAN PEARSON: Okay, even having
15 said that, there's not that much demand in the
16 domestic marketplace right now, we've established that
17 fairly clearly. Which potential buyer is going to
18 want to reach out and mess with importing something
19 when all of you here at this table would be very happy
20 to sell product nearby, quick turnaround, and not at a
21 terribly high price is my impression. And when
22 there's not much market there, how do you stuff in
23 some imports? It's not clear to me. Mr. Whiteman?

24 MR. WHITEMAN: Commissioner Pearson, I would
25 state that anyone that would be buying steel that

1 would see a price advantage in doing so would take
2 advantage if an import offer was at substantially
3 lower prices. Any buyer of plate.

4 VICE CHAIRMAN PEARSON: They're real
5 scoundrels, those buyers. Sorry, okay. Could you
6 comment please on your order books? And if you
7 shouldn't comment in public then don't, but I'm
8 interested in what your order books look like now
9 compared to a year ago and also compared to the first
10 of January. I mean I don't know whether things are
11 getting better or worse from January, certainly you
12 do. Anything you would say in public?

13 MR. SCHAGRIN: I think counsel will
14 intervene here, Vice Chairman. I think for antitrust
15 reasons counsel would like to provide our clients'
16 information confidential in the posthearing brief. We
17 don't think it's a good idea, even if they might like
18 to answer the questions, counsel we think it's not
19 very advisable for them to do it here publicly.

20 VICE CHAIRMAN PEARSON: Okay, well we'll
21 follow the advice of counsel then. But if you could,
22 provide the information in a form that give us some
23 basis for comparing what things look like now relative
24 to before. And I don't have a sense of, you know, how
25 long an order book you normally would have, I mean how

1 many months of production you would have committed in
2 advance. Perhaps you could give some explanation of
3 that and make a comparison between a more normal
4 situation and what you're seeing now.

5 Okay, so you've got me persuaded that the
6 industry's in a world of hurt, but for us at the
7 Commission, how do we sort out the risks to the U.S.
8 industry that are posed by subject imports in the
9 event we would revoke the orders compared to the risks
10 posed by a continuation of low demand. I mean if
11 there's no demand, I understand, things are not at all
12 good, but how do we sort out what additional risk if
13 any is there from lifting the orders?

14 MR. SCHAGRIN: Vice Chairman Pearson, I
15 think under the statute you don't have to weigh those
16 issues. It's not like in a safeguard case, in fact I
17 think it's just the opposite, that the statute
18 actually instructs the Commission to look at the
19 vulnerability of the industry when it's looking at the
20 impact of increased imports as to the likely
21 recurrence of injury.

22 So it's not a matter of weighing how bad
23 things will be for this industry with more imports
24 versus how bad things are going to be just because
25 demand is horrible and if it doesn't get better some

1 time in the next two or three years, my guess is that
2 a lot of people are going to lose a lot of money, that
3 applies to the whole economy as well as this industry
4 and we're going to see some very negative changes.

5 In terms of, and this goes a little bit also
6 to Chairman Aranoff's question earlier, you know, does
7 the Commission have to really in assessing reasonably
8 foreseeable timeframe an injury that would recur have
9 to decide when demand levels would have to get back to
10 '08 levels. And I don't think the Commission has to
11 do that. I think it is fair in the context of the
12 business cycle to say, you know, demand levels in a
13 strong part of this business cycle, '06 to '08 on
14 average, were about the same as they were in '96 to
15 '98, the last strong business cycle. And then you
16 have the recession period of '01 to '02, which lagged
17 into '03 behind it.

18 And I think that these gentlemen have
19 already testified to, can say that within a reasonably
20 foreseeable timeframe, 2009, 2010, 2011, they just
21 don't foresee us demand recovering to the levels of
22 this prior strong business cycle, which is unfortunate
23 because the normal rebound is a year or two down and
24 then you bounce back pretty quickly, and this is just
25 an unusual down period unfortunately, and it just

1 doesn't look that way.

2 In terms of profit margins, you know, I
3 remember having filed these cases back in '96, '97,
4 this Commission thought 5 percent profit levels for
5 this industry were quite good, and that's why you went
6 threat instead of injury. You said, gee, you know,
7 they're still making 5 percent even though these
8 imports are here, they don't look very injured. You
9 know, I'm sure these gentlemen would love to see their
10 industry's return to plus 20 percent profit levels, I
11 don't think that is likely in a reasonably foreseeable
12 timeframe if demand's not going to recover.

13 MR. BLUME: Commissioner Pearson, one
14 comment I would make from a business perspective is,
15 certainly the concern is the damage that would occur
16 by cutting off recovery. And as we are all battling
17 through what is a very difficult period, the removal
18 of the orders and suspension agreements really could
19 put us in a position where you cut that potential
20 recovery off.

21 And the other point that I would add is
22 that, from the marketplace we have information that
23 these Respondents, producers, are shipping product
24 into Latin America, into Mexico, into Colombia, at the
25 low prices. We have, as I mentioned, market

1 information to that effect. So it would not be a
2 stretch that if the orders were lifted that that
3 product would be very easily diverted from markets
4 like Mexico and Latin America, it's not a long
5 distance between the southern part of the U.S. and
6 these markets. So that's really the primary business
7 concern that I would have about the removal of these
8 orders and suspension agreements. Thank you.

9 VICE CHAIRMAN PEARSON: Okay. Thank you
10 very much.

11 CHAIRMAN ARANOFF: Commissioner Okun.

12 COMMISSIONER OKUN: Thank you. Could you
13 comment for me on what role non subjects play in this
14 market, both looking at the period of review, but also
15 going forward you've I think discussed in response to
16 several questions about the suspension agreement and
17 the role it plays on price on Russia and what you
18 believe would happen. But I would also like your
19 comments on the nonsubjects in the market that seem
20 particularly, I guess they were larger in '06 '07, and
21 what that says when we look forward at what the
22 pricing will be like in this market. Mr. Rosenthal?

23 MR. ROSENTHAL: I just want to make sure
24 that when we talk about nonsubjects we're clear about
25 which nonsubjects because there are a couple different

1 categories. One are categories of nonsubject imports
2 that are actually covered by antidumping
3 countervailing duty orders, and others are nonsubject
4 that are not covered by any orders. And I think the
5 gentlemen around these tables view those nonsubject
6 categories differently. So with that clarification, I
7 would like the industry witnesses to try to answer
8 your question.

9 COMMISSIONER OKUN: Okay.

10 MR. SCHAGRIN: And I would just say,
11 Commissioner Okun, Roger Schagrin. That, you know,
12 statistically speaking nonsubject imports have been
13 declining both from '07 to '08 and into the first half
14 of '09, so that it does not appear that those other
15 nonsubject imports, and as Mr. Rosenthal said there's
16 nonsubject imports that are a special group that are
17 subject to AD and CBD orders and then there's other
18 nonsubject countries that they have not been moving in
19 a volume direction that is not consistent with largely
20 the way that demand has been moving, which is probably
21 why import market share has stayed at roughly
22 consistent overall level over the last several years,
23 period of review as well as the interim periods.

24 COMMISSIONER OKUN: All right, go ahead, Mr.
25 Price.

1 MR. PRICE: Alan Price. You know, I think
2 when we deal with Russia, China, and the Ukraine, we
3 have countries that do have a propensity to export at
4 export prices that generally have been at unfairly
5 traded levels. This isn't unique to the U.S. market.
6 These particular countries are among the most
7 disruptive in the global steel markets. It's probably
8 not a coincidence that there are dumping orders,
9 investigations, and quotas around the world against
10 these countries in Argentina, Peru, Canada, the EU,
11 Thailand, Mexico, Venezuela, and India.

12 And the entire world has looked at these
13 sets of countries with somewhat differences by
14 country, but pretty much these tend to be the problem
15 entities out there that cause very significant issues.
16 And so I think there will be, these particular imports
17 if you lift the order, they will have significant
18 negative impacts. And I think the evidence from
19 around the world confirms that as evidenced by the
20 actions taken by essentially most of the rest of the
21 world.

22 COMMISSIONER OKUN: Mr. Rosenthal?

23 MR. ROSENTHAL: One last point on that,
24 because I'm glad Mr. Price -- as Mr. Schagrin and the
25 other witnesses were talking about earlier on

1 vulnerability and in response to Commissioner
2 Aranoff's question about is 2008 the level, you know,
3 where we need to be and what about vulnerability and
4 how do you compare that to what the statute says?
5 That's only one half of the equation that we've been
6 talking about for a long time, how vulnerable is the
7 industry, when will the recovery be. But if you
8 assume, and I think you should based on what you've
9 heard, that this industry is vulnerable, obviously you
10 have to say, what's going to happen with these imports
11 from these subject countries?

12 And what you also heard today and reiterated
13 just now is, these three countries are the most
14 voracious, when it comes to unfair trading, of any
15 that we've seen, and they are different than the
16 nonsubject imports in the restraints they have around
17 the world and in the overcapacity they have in their
18 markets. They will come here with their production
19 and that production will be visited upon this
20 vulnerable industry. Those are the two things you
21 have to look at, not weigh, but look at in
22 conjunction.

23 COMMISSIONER OKUN: Okay, I appreciate those
24 responses. Just I think one followup I had on the
25 vulnerability question, and if you already answered

1 it, just tell me that and I'll look back at the
2 transcript, but in the '07 you've talked and in your
3 briefs you went into detail about the differences
4 between what the industry's facing today than what it
5 did in '07, I appreciated that discussion.

6 One thing the Commission also talked about
7 that I'm not sure was touched on today is just the
8 restructuring in the industry and whether the industry
9 itself is in a better position because of the
10 restructuring. You've talked about fragmentation,
11 that's not what the Commission said, so I wanted to
12 just see if we still disagree on the state of the
13 industry with respect to whether restructuring made it
14 better able to cut production when times are bad and
15 some of the other things that the Commission has
16 looked at at the steel industry as it's changed over
17 these many years we've been looking at it. So help me
18 just on state of the industry in terms of
19 consolidation versus whether it should be considered a
20 fragmented industry.

21 MR. SCHAGRIN: Commissioner Okun, only
22 because others aren't jumping for their microphones
23 yet. I deal a lot with the steel industry. There is
24 no question that the industry as composed today has
25 been able to weather this massive downturn in demand

1 better than the industry as it was previously composed
2 let's say prior to 2002, 2003, when you had Wilbur
3 Ross become a billionaire. And I think that's very
4 evident because you had a lot of bankruptcies in the
5 plate industry as a result of both imports and the
6 downturn in demand from the 2001 2002 recession.

7 And if you look at the data, it looks like
8 from the peak of the demand cycle in the late '90s to
9 the trough in '01 '02, there's about a 20, 25 percent
10 reduction in demand, which I think is fairly typical
11 for this industry from peak to trough. We're now
12 looking at a 50 percent reduction in demand, I mean
13 double the norm, which I think is consistent with what
14 most economists are saying about this recession, it's
15 the deepest recession since the Depression.

16 Certainly the industry as it had been
17 constituted in the late '90s and '01 '02 would have
18 never weathered this kind of fall in demand, and I
19 guess the easiest way to conclude this is going back
20 into history and going back into my youth. I brought
21 these cases on behalf of two producers called Geneva
22 Steel and Gulf State Steel in 1996. No one else in
23 the industry were petitioners, they were certainly two
24 of the most vulnerable producers and they recognized
25 that and that's probably why they were quickest to

1 pull the trigger along with, you know, Mr. Quickdraw
2 McGraw himself. And they don't exist anymore.

3 So they're part of that change, the fact
4 that those producers don't exist anymore. Those
5 companies couldn't weather the '01 '02 downturn, they
6 certainly wouldn't have been able to weather the '09
7 '10 '11 downturn, I don't know how many years we'll
8 add to it. So it certainly helps, but it's, you know,
9 given the downturn in demand combined with the likely
10 increase in imports is why even with a restructured
11 industry this Commission certainly has to conclude
12 based on the record that this industry as constituted
13 today, you know, would suffer recurrence of injury.

14 COMMISSIONER OKUN: Okay. Mr. Price?

15 MR. PRICE: I would just add, is the
16 question for you, is there likely to be a recurrence
17 of material injury? Is this industry vulnerable?
18 Well, certainly if you're a steel worker, and it's
19 going to be a question of harm to the workers is to me
20 equally to the harm of the companies one of the
21 salient factors here. If you're a steel worker and
22 you're working at half the pay or less than what you
23 were receiving a year ago, and are you vulnerable?
24 The answer is yes.

25 If production is down by at least half, is

1 the industry vulnerable? Yes. If profitability has
2 been collapsed essentially to zero, actually it's a
3 net loss when you look at the net column actually even
4 then it's a loss, is the industry vulnerable? Yes.
5 Is there going to be harm going forward if there's any
6 retardation of a recovery from these imports? That's
7 an answer of yes.

8 And so to me it isn't a question of, well
9 will these companies be able to withstand bankruptcy,
10 complete catastrophe in the next six months? It's a
11 question of, is there significant harm, is the
12 industry in a weakened state? It is in a weakened
13 state, and any harm caused by these imports that is
14 more than de minimus means that there will be a
15 recurrence of material injury.

16 COMMISSIONER OKUN: Okay. My red light's
17 come on, but perhaps for posthearing for both you, Mr.
18 Price and Mr. Rosenthal because I think it was your
19 brief more, although I may be wrong about this, that
20 talked about a fragmented industry. I don't disagree
21 that the question doesn't determine the analysis of
22 vulnerability, but given that we have looked at the
23 industry at many different times in evaluating, you
24 know, what that industry looks at when we make the
25 vulnerability finding then I think it is different

1 depending on the economic conditions facing.

2 I still think we have to examine that, and
3 that's why I'm trying to figure out whether, you know,
4 it still looks like what we said it looked like in '07
5 or whether there's been any changes just on the
6 industry structure, not on whether, it can be
7 vulnerable in '09 even if it wasn't in '07. So just
8 for posthearing that would be helpful. Thank you.

9 CHAIRMAN ARANOFF: Commissioner Lane.

10 COMMISSIONER LANE: The data that we have
11 for interim 2009 is January through June. I would
12 like for you to provide posthearing if you have any
13 preliminary information on the next quarter or at
14 least what you have through the end of August, if you
15 have that information. And secondly, I would like for
16 you to provide posthearing an actual quantification of
17 your estimates of what the domestic industry's
18 financial performance would look like if the
19 suspension agreements and the orders are revoked.
20 Please include all relevant volume and price estimates
21 for both domestic and subject product.

22 And then, since we all recognize and you
23 have been testimony here today about the demand and
24 that you're very gloomy about the demand increasing in
25 the near future, I would like for you to provide

1 posthearing what your contingency plans are for the
2 running of your mills over the next year if the
3 present economic situation doesn't turn around for the
4 better.

5 MR. SCHAGRIN: Commissioner Lane, that's
6 already more than my kids' homework assignments so far
7 this term.

8 COMMISSIONER LANE: Well, the President said
9 to pay attention, work hard, and you'll get ahead in
10 this world. I think maybe with that comment I won't
11 ask any more questions.

12 CHAIRMAN ARANOFF: Commissioner Williamson.

13 COMMISSIONER WILLIAMSON: Thank you. There
14 was some discussion earlier about the process on how
15 Commerce adjust the reference prices on its suspension
16 agreements. But I was just wondering for
17 clarification, how is the price competitiveness of,
18 you know, it's either Russian or Ukranian exporters,
19 affected when market prices are falling? And also how
20 might it be affected when market prices are rising?

21 MR. SCHAGRIN: Commissioner Williamson,
22 Roger Schagrin. It's a very good question. Clearly
23 the way these agreements have worked, and it applies
24 both to the time that they were market economy
25 agreements and then originally in '97 when they were

1 negotiated as nonmarket economy agreements, they had
2 both quotas and reference prices. But there's the
3 same type of lag in establishing the reference prices
4 that there is now in establishing the normal values.

5 And so we saw in certain years since the
6 1997 suspension agreements went into effect, that when
7 the market was declining and when prices were
8 declining that because of the lag effect of the
9 reference prices that the Russians and Ukrainians, and
10 in fact it applied to the Chinese as well who had a
11 nonmarket economy suspension agreement from 1997 until
12 they abrogated it in 2003 and the order was installed,
13 that they were unable to sell up to their quota
14 limits. Whereas when market demand was increasing
15 market prices were increasing, they very often did
16 fill their quotas.

17 Since we've turned over to the normal value,
18 the lag has essentially worked the same way. So that
19 in the stronger periods like '07 and '08, you saw that
20 imports from Russia and the Ukraine were increasing
21 and in the first half of '09 you've basically seen
22 those imports almost disappear. In fact I think we
23 can provide in our posthearing brief some public
24 comments made in the context of the normal value
25 applications about the sales levels. And we would

1 expect that to continue during this poor consumption
2 period.

3 So it's almost the agreements almost work in
4 the context of the market given the lag times in that
5 they seem to be able to sell more when the market's
6 going up and they're cut out of the market when the
7 market's going down. And that's obviously very good
8 for the industry, because the industry, the last thing
9 the industry needs when demand is plummeting and
10 prices are falling is the addition of more low priced
11 imports. So that's my perspective on how it's worked,
12 and I think, you know, I've lived with these
13 agreements now for 13 years, that the data bear that
14 out.

15 COMMISSIONER WILLIAMSON: It's almost as if
16 this lag is kind of an additional stabilizer.

17 MR. SCHAGRIN: It is. And I'm not sure
18 that, you know, I think most counsel, you know, we
19 like our retrospective system of 751 reviews because
20 it's a lot of work. And we oppose suspension
21 agreements, although to be honest my clients unlike
22 some others didn't appeal the Secretary's ability to
23 enter into those suspension agreements, which was
24 appealed all the way to the Court of Appeals for the
25 Federal Circuit, which actually upheld the Secretary's

1 ability to enter into these specific plate agreements.

2 But it really seems that the suspension
3 agreements do work in that kind of stabilizer effect,
4 and I think maybe that's the way -- I don't know if
5 Mr. Gilmore, has been rather quiet today, would like
6 to comment on it. It seems to me having studied other
7 systems where their actual systems are not
8 retrospective but are prospective and they use these
9 normal values even when they have dumping orders into
10 effect, that that's the way the other systems like the
11 Canadian and other systems tend to work as compared to
12 our system.

13 COMMISSIONER WILLIAMSON: Okay, thank you
14 for that. Does anyone else want to add anything to
15 that? Otherwise I want to turn to the country that
16 doesn't have a suspension agreement. And we've noted
17 that starting in 2003 imports from China have been
18 substantially below the levels they were in '94 to
19 2002, and are far below the levels of imports from
20 Russia and Ukraine. Does anyone know why this is the
21 case and does it have anything to do with the
22 transition from a suspension agreement to an
23 antidumping order in 2003?

24 MR. SCHAGRIN: Yes. It's absolutely, they
25 could not, once the dumping order duties were imposed

1 instead of them having the quota and reference prices,
2 the Chinese mills could not sell with the level of the
3 dumping duties imposed except when they circumvented.
4 And that's something that at least in our brief we
5 urge the Commission to consider adjusting your data.

6 Because we think it's clear that there was
7 pretty significant quantity of what is really just
8 vanilla A-36 carbon plate that was sold but that was
9 sold in circumvention with this additional Boron which
10 the Department of Commerce almost about the same time
11 as your Staff Report, maybe a week or so before your
12 prehearing Staff Report, made a final determination
13 that that extra Boron-containing plate from China was
14 really subject plate and was just circumventing the
15 order with the and of minor amounts of Boron. But
16 yes, the antidumping duty order is really effective
17 against imports from China, it's worked extremely
18 well.

19 MR. PRICE: Alan Price. I think it's really
20 clear that all three of these countries have an
21 interest in shipping to the U.S. When the suspension
22 agreements permit shipments because of the pricing
23 levels, the Russians and Ukrainians ship, okay. The
24 Chinese are interested in shipping, but they can't do
25 it without owing dumping duties so they're trying to

1 circumvent the order. I think it's pretty clear when
2 you look forward, if you remove this series of
3 suspension agreement and the antidumping order you're
4 going to see significant increase in imports from all
5 of these countries.

6 COMMISSIONER WILLIAMSON: Given the shortage
7 of time, could someone say why did the Chinese get
8 pulled out of the suspension agreement in 2002?

9 MR. SCHAGRIN: My understanding is that the
10 Chinese Government didn't want to work with the fights
11 among the major mills. All of them were government-
12 owned, who were fighting over the quota amounts, and
13 just said, you know, for 130,000 tons, we don't want,
14 you know, World War II every quarter about who gets
15 the quotas. And they just threw in the towel, and
16 said let them be.

17 They weren't found to be in violation. They
18 just said we don't want to continue with the terms of
19 the suspension, is my understanding.

20 COMMISSIONER WILLIAMSON: Thank you. Just
21 briefly. Table 1-3 indicates that one Chinese entity
22 just received a preliminary, I mean administrative
23 review marked at zero percent.

24 Do you know when Commerce's final decision
25 is expected? And can you describe how this may affect

1 the market? If not, you can --

2 MR. SCHAGRIN: Do you want to answer it,
3 Alan? Essentially, it hasn't been extended yet. It's
4 normally 120 days, would be three months from now; it
5 can be extended up to 60 days. And we don't think it
6 will have any effect on the market, because the time
7 period reviewed was '08, when the market was very
8 strong.

9 We think that, given our retrospective
10 system, that even without a deposit wait being
11 required, if it's still being subjected to future
12 dumping duties, that if that company were to make
13 sales into this marketplace and be competitive, that
14 their importers are going to wind up owing very large
15 dumping duties in the future when we request future
16 administrative reviews.

17 So we don't see any adverse impact from it.

18 COMMISSIONER WILLIAMSON: Thank you.

19 CHAIRMAN ARANOFF: Are you done asking
20 questions?

21 COMMISSIONER PINKERT: I just have a couple
22 of questions.

23 CHAIRMAN ARANOFF: Go ahead.

24 COMMISSIONER PINKERT: Thank you. Regarding
25 this boron circumvention issue, I seem to recall that

1 that's not a new circumvention issue at the Commerce
2 Department.

3 How far back does it go in terms of the
4 first time that Commerce found that there was a boron
5 addition that constituted circumvention?

6 MR. PRICE: I'll respond more fully in the
7 post-hearing brief.

8 It's got to be at least 10 years. It first
9 involved Canada adding boron to plate, and so this has
10 been found previously. This is a well-worn path.

11 COMMISSIONER PINKERT: And was there
12 anything unique about this particular circumvention
13 claim?

14 MR. PRICE: Nothing particularly, although I
15 would say, in typical Chinese fashion, they weren't
16 just circumventing the U.S. anti-dumping order, they
17 were circumventing the export taxes and trying to get
18 a vat rebate in China by adding boron.

19 So it was not only circumvention of the U.S.
20 orders, but it was circumvention of the Chinese tax
21 authorities going on simultaneously.

22 COMMISSIONER PINKERT: Thank you. Mr.
23 Schagrin?

24 MR. SCHAGRIN: We'll get you the information
25 about the Canadian, because I know we cited it in all

1 our circumvention filings in October of 2008, when we
2 filed it. But it's not new, and yet I tend to think
3 that the Canadian boron plate circumvention at least
4 occurred, as I remember it I think it occurred while
5 these cases were pending, which is why we actually
6 tried to amend the scope to raise the boron levels
7 after the case was filed, and around the time of the
8 preliminary determination.

9 And Commerce said it's too late to change
10 the scope, even though this is meant to deal with
11 circumvention. We'll deal with circumvention when we
12 get to it.

13 So I think it was about the 96/97 time
14 period when that Canadian plate boron circumvention
15 investigation occurred.

16 COMMISSIONER PINKERT: Thank you. Since
17 we're talking about ancient history, or maybe not-so-
18 ancient history but the 1990s, I have one last
19 question for Nucor.

20 Has Nucor's view about trade remedy cases changed
21 since that era? And if so, can you explain how it's
22 changed?

23 MR. PRICE: Rick, do you want to answer
24 that?

25 MR. BLUME: I'll take a shot at it.

1 Commissioner Pinkert, first of all, my tenure with
2 Nucor is eight years, okay, so I would not suggest
3 that I'm an expert in this area. My knowledge is
4 certainly, in the past number of years Nucor has taken
5 a much more proactive stance under, frankly, the
6 leadership of our current CEO. And primarily because
7 we felt that there was a tremendous potential for
8 damage.

9 We saw it, and we became more actively
10 involved. Frankly, not just obviously in trade,
11 remedying trade actions, but also in the political
12 scene. And understanding that, you know, we're not
13 only fighting for our business, we're fighting for our
14 workers, and for their families and well-being.
15 So I would say certainly my experiences and my
16 knowledge is that we've elevated the importance of
17 doing the right thing and having fair trade.

18 MR. SCHAGRIN: Commissioner Pinkert, you
19 might actually have to go into ancient history. You
20 might have to go into the eighties, because actually
21 Nucor changed their position in the nineties. And in
22 1998 they were a co-petitioner with the rest of the
23 hot world industry and the hot world cases against
24 Japan, Russia, and Brazil, which you all have up for
25 sunset starting about six months from now. So there's

1 more on the way.

2 COMMISSIONER PINKERT: Thank you.

3 Thank you, Madame Chairman. That's all I have.

4 CHAIRMAN ARANOFF: I want to wrap up with a
5 question about raw material costs.

6 Our table 3-1 shows a sharp rise in raw
7 material costs for the domestic industry for most of
8 the period that we're reviewing, and then a drop in
9 interim 2009. But I think I understood Mr. Insetta,
10 when he was speaking earlier today, to say that costs
11 are rising now.

12 So I guess I want to understand exactly
13 what's going on. Did we see a drop in 2009 that's now
14 reversing? Did we not see a drop? And what specific
15 costs are we talking about that are driving the
16 trends?

17 MR. INSETTA: Madame Chairman, Bob Insetta.
18 What we're talking about at the moment is scrap costs
19 in particular. They are up over \$100 a ton since
20 early in the year.

21 And then as well as they reported in the
22 data, the unit costs of production are also up. But
23 scrap is the primary driver right now.

24 CHAIRMAN ARANOFF: Okay. Now, with respect
25 to the unit costs, there you're talking about dis-

1 economies of scale, right?

2 MR. INSETTA: Yes, yes.

3 CHAIRMAN ARANOFF: Okay. To the extent you
4 can help us, I'm trying to sort out what part of the,
5 you know, of increased unit costs is due to these dis-
6 economies of scale versus actual rise in costs for
7 things that you have to go out and buy.

8 MR. ROSENTHAL: We'll provide it in our
9 post-hearing brief.

10 CHAIRMAN ARANOFF: Okay. And just help me
11 work through the trend. Because as I say, our data do
12 show a drop in costs for the first half of 2009.
13 So when you're talking about rising scrap costs,
14 you're talking about since the end of our table, in
15 the third quarter?

16 MR. PRICE: Yeah. There has actually been,
17 since about April/May there's been a significant
18 increase in scrap costs. Shredded scrap is up about
19 \$100, \$120 a ton. So I mean, there's an interesting
20 problem in the U.S., is we don't have a lot of scrap
21 generation when nothing is being produced.
22 And so, and so there was a decline in scrap, and then
23 it came back up. Because there was actually a
24 shortage of supply until you get the cars coming back
25 into the system. And that --

1 CHAIRMAN ARANOFF: You're talking about all
2 those cash-for-clunkers cars, right?

3 (Laughter.)

4 MR. PRICE: Perhaps. But there's not that
5 many of them, as it turns out, to make that big a
6 difference, I suspect.

7 MR. UNRUH: Commissioner, Jeff Unruh with
8 ArcelorMittal.

9 To put it in context, that \$100- to \$120-a-
10 ton increase would be from \$160. So you're looking at
11 40- to 45-percent increase. One-sixty, \$160 a ton was
12 sort of the low point for scrap back in March, now
13 closer to \$290 a ton. To put that increase in
14 perspective.

15 CHAIRMAN ARANOFF: And how does that compare
16 to what it cost last year at this time? Or last
17 summer?

18 MR. UNRUH: We'll put that in the post-
19 hearing brief.

20 CHAIRMAN ARANOFF: Okay, okay. I'm trying
21 to get these, you know, when we talk about increases
22 and decreases, and I'm trying to get them in
23 perspective. Because raw material costs were very,
24 very high in the middle of 2008. So, okay.
25 To what extent is the domestic industry facing a

1 problem at this point? Or did you face a problem
2 earlier this year of working off high-cost raw
3 material inventories that were purchased during the
4 big run-up in input prices back during 2008? And how
5 has that affected your cost structures this year?

6 MR. BLUME: Chairman Aranoff, responding to
7 the issue of working off high-cost raw materials, the
8 bulk of that was primarily on the sheet side of the
9 business, with more of either virgin iron units, pig-
10 iron, or bushing shred.

11 In terms of plate, the scrap charges
12 shredded, and tended to move more with the market. So
13 that inventory overhang really, again, the bulk of it
14 was on the sheet side of the business.

15 COMMISSIONER WILLIAMSON: Okay. So you
16 would say by and large, when I'm looking at financial
17 performance this year, I'm not seeing an effect of
18 having bought high, and then not being able to pass
19 those costs on as costs for your, as prices for your
20 finished product came down.

21 MR. BLUME: I would say with regard to
22 plate, that's correct.

23 COMMISSIONER WILLIAMSON: All right, thank
24 you. And with that, I think I don't have any further
25 questions, and I'm going to turn to Vice Chairman

1 Pearson.

2 VICE CHAIRMAN PEARSON: Thank you, Madame
3 Chairman.

4 One of the things that's most attracted my
5 attention, and perhaps admiration, in this review is
6 the, how well the industry has managed to deal with a
7 really quite dramatic decline in both sales volume and
8 sales value. Because in the public report, we've got,
9 in the interim period, January through July, January
10 through June of 2009, we've got a, you know, 55-
11 percent decline in tonnage of sales, and 63-percent
12 decline in value.

13 And yet, despite that wrenching adjustment,
14 the industry as a whole managed to make just a little,
15 tiny bit of money. A credit to you. I mean, you're
16 doing something right. It's hard for me to envision
17 too many industries that would appear in front of us
18 and be able to make that claim.

19 Can you explain, preferably some now and
20 more in the post-hearing if you want, how did the
21 industry manage to do this? What is it telling us?
22 That there can be such a huge adjustment in aggregate
23 demand, and yet the industry managed to keep its head
24 above water.

25 MR. BLUME: Commissioner Pearson, just a

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1 comment with regard to profitability. And again,
2 without getting into any area that might be sensitive.
3 The fact of the matter is that Nucor had its first
4 losing quarter, and had two in a row this year, in the
5 history of the company.

6 So while I think there have been some
7 improvements in the industry, the reality is that we
8 have seen unprofitable quarters for the first time in
9 our history.

10 So I question a little bit that premise that
11 the industry has done very well in this time period

12 VICE CHAIRMAN PEARSON: Well, I don't want
13 to be misunderstood. I'm not saying the industry did
14 very well. I'm just saying it did a whole lot better
15 than I might have expected, given the evaporation of
16 such a significant amount of demand.

17 MR. BLUME: Yeah. Just a comment, that we
18 were very disappointed that the string of consecutive
19 profitable quarters came to an end. That was very
20 disappointing to this management team, and certainly
21 all of our employees.

22 MR. ROSENTHAL: Mr. Pearson, as noted,
23 actually there are several companies in the industry
24 that have lost money in this interim period. And you
25 have that, I won't detail who is in that category.

1 But that does bring up the, a prior line of
2 questioning, I think it was by Commissioner Okun,
3 about how this industry has done a great job of
4 consolidating, improving its performance since the
5 late nineties or early 2000s. And it's definitely
6 true. This industry has done what one would hope,
7 with the import relief under the Safeguard case, et
8 cetera, there has been a lot of investment made.
9 You've heard all about that.

10 So it's done a remarkable job in turning
11 itself around. But -- and being in as good a position
12 as it can be, given what it's faced in the last part
13 of '08 and this year.

14 That all said, and this also goes to the
15 question, it is much better off than it might have
16 been, but it's not invulnerable. It's not invincible.
17 And imports are the kryptonite for this industry at
18 this point.

19 It has done a great job of withstanding the
20 economic downturn. But if you unleash the subject
21 imports on the industry, given its current condition,
22 it will not be breaking even. It won't be just a few
23 companies losing money; there will be a recurrence of
24 the bankruptcies that you saw just a few years ago.

25 MR. SCHAGRIN: Commissioner Pearson, just

1 one other comment. And it's a pity Mr. Conway isn't
2 here, because he could probably also elucidate further
3 on it.

4 But I think that the answer, and it's almost
5 that this industry is a microcosm for the entire
6 economy, it all boils down to employment.

7 You know, in the old days the labor
8 contracts were that the companies had to hang onto
9 employees for a longer time before they would lay them
10 off. I think a lot of these mini-mills have very
11 flexible labor situations, so that when there's not
12 work, people don't work, they don't get paid. Or they
13 work half the time, they get paid only for half the
14 time. They don't get paid at all for when they're not
15 working.

16 And that's really what's happened to the
17 economy, as to people say wow, it's amazing now, with
18 this total drop in demand, that companies aren't doing
19 as badly as we expect. And then it's oh, my goodness,
20 look. You know, unemployment is 10 percent, real
21 unemployment is like 16 percent. And they say, you
22 know, can we go forward if demand doesn't come back,
23 because the only companies have survived is cost-
24 cutting. Most of that cost-cutting has been on the
25 employment side.

1 And the question is, you know, what's in the
2 future. If revenues don't come back, how long can you
3 really survive on just cost-cutting.

4 I think most economists would say not a very
5 long time. It's a good, near-term solution to stay in
6 business and stay out of bankruptcy. It's not a very
7 good long term, either for the economy or for the
8 plate industry.

9 But to me, the answer particularly, since I
10 started doing this in 1996 with this industry, the
11 changes in employment practices have just been huge.
12 Partially in reflection to what the USW has done in
13 their contracts, and also the kind of flexibility that
14 I think mini-mills have in their normal employment
15 relationship with their employees, which is so
16 incentive-based on the employment side

17 VICE CHAIRMAN PEARSON: Mr. Britten.

18 MR. BRITTEN: Yeah, I would just add to
19 that. I think what we try to do, at least to speak
20 for my own company, is we try to keep as much of our
21 costs as variable as possible.

22 And so although as I testified that we
23 didn't lay off employees, we don't have a policy of
24 necessarily not laying off employees. We may, in
25 fact, need to do that at some point. And so we have

1 cut our costs heavily.

2 We have a saying in our company, we, all we
3 do is we make and we sell. Everything else that we're
4 not specialized in, we ought not to do.

5 And so there are a whole bunch of things
6 that are, that are -- there are a whole bunch of
7 employees, contractors, et cetera, that provide
8 services to our steel operations. And guess what?
9 They were the first to be, to be cut.

10 And so those are the kinds of ways. And
11 then in terms of just other things that one does
12 immediately, you know, we change policies on travel,
13 you know, expenses. Everything is, you know, you
14 grind, grind, grind.

15 But there comes a point where there is just,
16 there is no more juice in the lemon, if you will. So
17 it's, it's been a tough go. And clearly, we are
18 extremely concerned about, about this case here. And
19 hopefully you will come to the proper decision.

20 Thank you.

21 VICE CHAIRMAN PEARSON: Okay. Well, thank
22 you for those comments. If there is more that should
23 be added in post-hearing, by all means feel free to do
24 so.

25 I would just say again, I really have great

1 admiration for an industry that can go through that
2 type of demand adjustment, and basically still keep
3 swimming. It's, it indicates that something is going
4 right in your industry in a very difficult time. So,
5 just for what it's worth.

6 My last question. Some of you have made
7 reference to the information in table 3-12. This is
8 really directed to counsel. That has to do with
9 differences in the profitability among the several
10 firms. We don't see complete uniformity in the
11 financial results.

12 And for post-hearing, could you maybe
13 explain a little bit why we see, why we don't have
14 more uniformity? Counsel who have been in front of us
15 a lot will understand why I'm kind of curious about
16 that. Because there is not an obvious explanation
17 that leapt out at me. So anything you could provide
18 in the post-hearing would be appreciated. Thank you.
19 And with that, Madam Chairwoman, I believe I have no
20 further questions, and my yellow light is on, so my
21 timing is even half decent.

22 Thank you.

23 CHAIRMAN ARANOFF: Commissioner Okun.

24 COMMISSIONER OKUN: Thank you, Madame

25 Chairman. If we could just clean up a couple things

1 for me here.

2 For post-hearing brief just on domestic like
3 product, on the micro-alloy question, if you can just
4 make it clear in your brief. You know, we didn't
5 actually include it in the original. We included it
6 in the first review. The Commission has been a little
7 bit split on it.

8 So if you can just direct that post-hearing,
9 so that I at least know where the different counsel
10 and parties come down on the inclusion of micro-alloy.
11 That would be helpful.

12 And then, you know, I'm not even weighing in
13 what the adverse inferences are, you know. I think
14 you're directing it at commissioners other than me.
15 After 10 years I think I've still decided that the
16 courts at least have not taken us to task for how
17 we've looked at the record, as opposed to using
18 adverse inferences.

19 So Ms. Cannon, I think you already started
20 down this road, but in your post-hearing brief, if you
21 can just give me your view of the best data source we
22 should be using of the various sources. And I think
23 through a lot of efforts, including our staff, we have
24 a lot of information on the record about the global
25 industry. And I want to hear you tell me what you

1 think we should be looking at in particular, as we
2 look at all the record data.

3 And then, with that, I think this might, Mr.
4 Schagrin, I recall in your brief you discuss a lot
5 about the different pipeline projects overseas,
6 including the Nordstream one and the difficulties that
7 it faces.

8 I forgot to go back and check whether there
9 was anything from IEA or any of the other
10 international energy organizations that look at these
11 different projects. If that's readily available, and
12 our staff may also have it, it may already be there,
13 but just point that out to me. Just, I want to see
14 what else people are saying about demand for the
15 different projects, recognizing they are lumpy, and
16 you did a lot in your brief, I know.

17 And then --

18 MR. SCHAGRIN: We'll look for that. I would
19 point out one other thing, not to interrupt you,
20 because I know you're anxious to get to lunch, as are
21 all of us.

22 COMMISSIONER OKUN: I'm just trying to give
23 you lots of homework --

24 (Laughter.)

25 MR. SCHAGRIN: I know, I know. I figure

1 it's a good time to interject; you may forget a few
2 things while I'm talking.

3 COMMISSIONER OKUN: I'm not going to give
4 you less, not more.

5 MR. SCHAGRIN: Since you talked about IEA
6 projections for large-diameter pipe mills, I can't let
7 it escape the opportunity to say on the record, since
8 we also went through this in '07, how that agency and
9 how the pipeline companies at that time were just
10 projecting that we were going to be consuming ten
11 million tons a year, and building 35, 40 thousand
12 miles a year for year in and year out, five to 10
13 years.

14 Now people, some people believed it, and
15 have now built six new large-diameter pipe mills, and
16 you know, demand has just utterly collapsed. So --

17 COMMISSIONER OKUN: You can point that out,
18 as well. And then we can get, in '07 you told me if
19 we lifted orders on nine countries, everything would
20 go --

21 MR. SCHAGRIN: I'm not going that way. I'm
22 just saying all this stuff. When you get -- it's just
23 all these projections. You know, I just wish, I think
24 the best projections -- I know the Commission has to
25 use them. The best projections I think eventually are

1 going to be the folks who say, even though it's their
2 job to project, you know, anything more than six to 12
3 months out, you've got to almost take it with a grain
4 of salt. It's just so tough.

5 I mean, we've seen this now. I mean, if we
6 get it forecasted, I was like Mr. Paulson, you know,
7 and just -- I mean, I knew things were bad. I'm
8 always pessimistic and cynical. But just put it into
9 practice and said, you know, things are too good, it's
10 a bubble, the world is about to collapse.

11 But still, even, nobody could see that
12 Lehman was going to go down like that, and what would
13 happen.

14 So it's stuff. But we'll look at the IEA
15 stuff, and we tend to specialize and get lots of
16 information on pipeline construction.

17 COMMISSIONER OKUN: I mean, sometimes money
18 does get put down on something that people think
19 actually will come to fruition, and some of these big
20 projects have actually come to fruition. So that
21 would be helpful.

22 And then just finally, and this might just
23 be a follow-up on the request about order books. But
24 I think a couple of you had mentioned whether you were
25 able to recover increasing costs. I know the Chairman

1 asked about are we actually seeing increasing costs.
2 So maybe if you can just talk about, when you're
3 answering the question about order books, you can talk
4 about what the prices are like and what you see
5 happening there with regard to prices versus your
6 cost. That would be helpful.

7 And with that, I want to thank all of you.
8 I don't have further questions. You've answered many
9 today. Thank you.

10 CHAIRMAN ARANOFF: Commissioner Lane.

11 COMMISSIONER LANE: This question is not for
12 Mr. Schagrin.

13 At pages 51 and 52 of their joint brief,
14 ArcelorMittal and Nucor note that the Chinese
15 Government has taken actions to increase plate
16 exports, including the removal of export duties on
17 plate, the removal of the state of the steel export
18 licensing system, and the institution of a nine-
19 percent vat rebate on plate.

20 How will these actions affect the dynamics
21 of the cut-to-length plate market in the United
22 States?

23 MR. PRICE: If these orders are revoked, I
24 think it's pretty clear that we will see increased
25 exports. It's clearly the desire of the Chinese

1 Government to increase exports. They have substantial
2 excess capacity to produce plate, and they want to see
3 exports rapidly increase because they need to maintain
4 employment in China.

5 And so I think with the orders in place, you
6 get a different answer than if the orders are revoked.
7 Revocation of the order will lead to substantial
8 increase of subject imports.

9 MS. CANNON: Commissioner Lane, we've
10 tracked this differential for a number of products
11 over the years. The Chinese Government has
12 manipulated its tax system to impose export taxes on
13 some products, and provide vat rebates on others. And
14 there really is a pretty strong correlation for
15 products that are not impeded by orders when those tax
16 changes occur.

17 The exports, you know, when the export taxes
18 are imposed, then they slow down. And when they are
19 removed and the vat rebates are provided, they
20 accelerate. And we would expect exactly that to
21 happen. That's clearly what's intended by the
22 government's tax policy changes.

23 And if you couple that with revoking the
24 order against China, we think that's providing every
25 incentive and then some to send that product here, on

1 top of all the factors of excess capacity we've cited.

2 COMMISSIONER LANE: Is there a time limit on
3 the vat rebate? And is it subject to change?

4 MS. CANNON: To my knowledge, there is no
5 time limit. The Chinese Government changes these
6 things periodically. And so I think, you know, our
7 best information is what's going on right now. And
8 that is the status quo.

9 MR. PRICE: I would add that actually there
10 is pressure within China right now to increase that
11 rebate further, to the extent they can that they're
12 WTO-consistent. And this is one of the products that
13 still can be increased further, given the capacity
14 levels. We wouldn't be surprised to see further
15 increases out there for China.

16 But we have the information we have now.
17 Clearly we have statements from cease officials that
18 they have massive capacity in plate, that it's
19 becoming a major problem. Within the last two weeks
20 in China actually there has been about a hundred-
21 dollar price collapse in steel generally because
22 everyone woke up from their stimulus package, and sort
23 of realized the underlying demand wasn't particularly
24 as great as anyone thought it was.

25 And so, and you see the Chinese government

1 taking steps, looking at managing its economy, saying
2 we've got to get product out there on the
3 international market because we just can't absorb it
4 internally.

5 COMMISSIONER LANE: Okay, thank you. And
6 with that, I don't have any other questions. And
7 thank you all for your answers today.

8 CHAIRMAN ARANOFF: Commissioner Williamson.

9 COMMISSIONER WILLIAMSON: Thank you. Just
10 one question for post-hearing.

11 Could you please provide details on the 2008
12 increase in domestic capacity at one firm that is
13 listed on page 3-11 of the staff report?

14 With that, I want to thank everyone for
15 their testimony today.

16 CHAIRMAN ARANOFF: Are there any further
17 questions from commissioners?

18 Do the staff have any questions for the
19 panel?

20 MR. CORKRAN: Douglas Corkran, Office of
21 Investigations.

22 Thank you, Chairman Aranoff. Staff has no
23 additional questions. But with the respective
24 commissioners' forbearance, we would like to
25 coordinate with parties on responding to the data-

1 related aspects of questions by Vice Chairman Pearson
2 and Commissioner Lane.

3 CHAIRMAN ARANOFF: Certainly. Okay. So now
4 we are up to closing statement. I think just to
5 finish up rapidly, when there isn't a second panel
6 here, I do want to thank all the witnesses for your
7 testimony this morning and the early part of this
8 afternoon. We appreciate all the answers you have
9 given us, and the large number of further answers that
10 my colleagues and I have asked you to provide in post-
11 hearing submissions.

12 So Mr. Price, whenever you are ready.

13 MR. PRICE: Good afternoon. For the record,
14 I am Alan Price of Wiley Rein.

15 I want to thank the Commission and staff for
16 all of their work in this investigation. And I'd like
17 to discuss four numbers. They are 30 million, 213,
18 35, and zero.

19 These may be four of the most important
20 numbers in this investigation. First, the number 30
21 million. This is a conservative estimate of the
22 excess capacity in China, Russia, and the Ukraine.
23 The excess capacity alone is more than four times the
24 size of the entire U.S. market. And these producers
25 are bringing in millions of tons of additional

1 capacity in 2010 and 2011.

2 These subject producers have an established
3 track record of disrupting markets around the globe.
4 And with their increased excess capacity, they now
5 have an even greater need to increase their exports.
6 And these are among the most disruptive forces in the
7 plate market around the world. There are unfair trade
8 orders, investigations, and quotas against these plate
9 producers in Argentina, Peru, Canada, the EU,
10 Thailand, Mexico, Venezuela, and India. In fact, just
11 last Friday Canada made yet another affirmative
12 determination against plate from the Ukraine.

13 With the uncontested millions of tons of
14 excess capacity, there can be no doubt that the
15 subject producers have the ability to force massive
16 volumes of dumped imports into our market. Just as
17 they have done before here in the United States, and
18 frankly in virtually every other region of the world.
19 Nor can there be any doubt that subject producers
20 would have the incentive to export substantial volumes
21 upon revocation.

22 The evidence in this review demonstrates
23 that U.S. prices for cut-to-length plate, while
24 significantly depressed in 2009, are consistently
25 among the most attractive in the world.

1 This brings me to the number 213.
2 Specifically, \$213 per metric ton. According to
3 published sources, this is the price differential
4 between plate in China and plate in the United States.
5 According to the same source, U.S. plate prices are
6 approximately \$100 per metric ton higher than world
7 export prices. Given the substantial price gap, upon
8 revocation the United States would be an obvious
9 destination for the subject producers' excess
10 capacity.

11 So they have both the motive and capability
12 to increase exports to the United States. Which
13 brings me to the third number, 35, as in 35-percent
14 capacity utilization in 2009, the lowest rate of
15 capacity utilization frankly this Commission has ever
16 seen for this industry.

17 This is a vulnerable industry. It is no
18 secret that we are in an economic crisis.

19 You have heard testimony today from the U.S.
20 producers in regard to how they were forced to slash
21 production and shipments. U.S. producers have idle
22 mills. We do shift levels, extended maintenance
23 outages. The domestic industry is actually
24 experiencing a net loss in 2009.

25 And yet, you have heard testimony today

1 concerning the layoffs of hundreds of workers. And
2 frankly, for those who have managed to keep their
3 jobs, they are doing so with substantially reduced
4 hours, and at very sharp reductions to their pay.
5 Nor is there any reason to believe that the situation
6 is going to rapidly improve in the reasonably
7 foreseeable future. Indeed, you have heard sworn
8 testimony today that the industries that consume plate
9 may not have yet hit bottom.

10 Which brings me to the last, but certainly
11 not the least important, number, zero. As in zero
12 foreign producers here before you today. No Chinese
13 producer responded to any of the Commission
14 information requests. No Russian or Ukrainian
15 producers submitted briefs or provided any evidence in
16 this hearing.

17 Subject producers believe that they have a
18 better chance in refusing to cooperate than actually
19 showing up and answering your questions, since they
20 would have to admit that they would export significant
21 quantities. They would have significant, these
22 exports would have significant price effects, and that
23 the domestic industry would suffer from a continuation
24 or recurrence of material injury.

25 So in conclusion today, and for the

1 reasonably foreseeable future, the cut-to-length plate
2 market is characterized by massive over-capacity,
3 collapse in demand, and extremely low prices. The
4 domestic industry is in an extremely vulnerable state.
5 The question before the Commission is whether it
6 should lift the order and suspension agreements
7 against three of its most disruptive countries in the
8 global market, with substantial capacity to ship to
9 the United States.

10 With the facts developed in this record, we
11 respectfully request that the Commission make an
12 affirmative determination.

13 Thank you.

14 CHAIRMAN ARANOFF: Thank you, Mr. Price.
15 Post-hearing briefs, statements responsive to
16 questions and requests of the Commission and
17 corrections to the transcript must be filed by
18 December 18, 2009.

19 Closing of the record and final release of
20 data to the parties will take place on October 7,
21 2009. And final comments are due on October 9, 2009.
22 With that, I believe we have completed our business.
23 Thanks again to all the witnesses, as well as to the
24 staff, for your help in preparing for this hearing.
25 We are adjourned.

1 (Whereupon, at 1:15 p.m., the hearing in the
2 above-entitled matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Cut-To-Length Carbon Steel Plate

INVESTIGATION NOS.: 731-TA-753, 754, 756
(Second Review)

HEARING DATE: September 9, 2009

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: September 9, 2009

SIGNED: Raymond Vetter
Signature of the Contractor or the
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Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos E. Gamez
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Signature of Court Reporter