UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
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STAINLESS STEEL SHEET AND	)	Investigation No.:
STRIP FROM GERMANY, ITALY,	)	701-TA-382 and
JAPAN, KOREA, MEXICO, AND	)	731-TA-798-803
TAIWAN	)	

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STAINLESS STEEL SHEET AND STRIP FROM GERMANY, ITALY, JAPAN, KOREA, MEXICO, AND TAIWAN	)	Investigation No.: 701-TA-382 and 731-TA-798-803

Wednesday,
May 25, 2011

Room 101
International Trade Commission
500 E Street, S.W.
Washington, D.C.

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

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On behalf of the International Trade Commission:

Commissioners:

DEANNA TANNER OKUN, Chairman
CHARLOTTE R. LANE, Commissioner
DANIEL R. PEARSON, Commissioner
SARA L. ARANOFF, Commissioner
DEAN A. PINKERT, Commissioner

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Washington, D.C.

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MARK CARSON, General Manager - Field Sales, Allegheny Ludlum Corporation

PATRICK FEELEY, Vice President Commercial, North American Stainless

THOMAS SCHMITT, General Manager, Stainless Steel Sales, AK Steel Corporation

THOMAS CONWAY, International Vice President, United Steelworkers of America AFL-CIO/CLC

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JASON SUSLAK, Senior Attorney, Allegheny Technologies, Inc.

BRAD HUDGENS, Economist, Georgetown Economic Services

APPEARANCES (Cont'd.):

In Opposition to the Continuation of the Countervailing Duty Order, Antidumping Duty Orders, and Suspension Agreement:

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JOSE-RAMON SALAS, Vice President for Operative Planning, ThyssenKrupp Stainless USA LLC

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the United States International Trade Commission, I welcome you to this hearing on Investigation Nos. 701-TA-382 and 731-TA-798-803 (Second Review) involving Stainless Steel Sheet and Strip from Germany, Italy, Japan, Korea, Mexico, and Taiwan. The purpose of these five-year review investigations is to determine whether the revocation of the countervailing duty order on stainless steel sheet and strip from Korea and the antidumping duty orders on stainless steel sheet and strip from Germany, Italy, Japan, Korea, Mexico, and Taiwan, would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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

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

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No, Madam Chairman.

CHAIRMAN OKUN: Very well. Let's begin with opening remarks.

MR. BISHOP: Opening remarks from those in support of continuation of the orders will be by David A. Hartquist, Kelley Drye & Warren.

CHAIRMAN OKUN: Good morning, Mr. Hartquist. I think you need to turn your microphone on.

MR. HARTQUIST: Good morning, Madam Chairman, members of the Commission and staff. I am David A. Hartquist of Kelley Drye & Warren representing the Petitioners this morning. I appear on behalf of the companies and workers of the domestic industry producing stainless steel sheet and strip, supporting continuation of the seven orders under review.

Recent years for the domestic stainless steel industry have been bleak. The economic recession hit this industry hard in late 2008 and continued to present problems in 2009 and 2010. Demand for stainless sheet plummeted, falling to its lowest point over the life of these orders in 2009. As demand declined, so did most of the trade and financial variables for the industry.

The industry operated at only a 37.4% capacity in 2009. Idled mills laid off workers and endured a double-digit operating loss of -11%. 2010 was not much better. A hope for recovery never materialized. Almost half of the industry's capacity remained unused while its operating profit was barely above break-even. Simply put, the domestic stainless sheet industry is in a highly vulnerable condition.

These weak conditions contrast strikingly with the conditions the industry faced in the original investigations. Back then, demand was strong and increasing. Even under these healthy market conditions, imports from the six subject countries quickly caused material injury to the industry by significantly increasing sales volumes with low dump prices.

Industry profits fell to 1.8% in 1998. Given that our industry is already struggling with only 1.7% profitably and experiencing much weaker demand than in 1998, the domestic industry will quickly suffer material injury if the orders are revoked. Worse, the foreign producers have high levels of unused capacity and focus on exports. China had been a prime target for exports by many of the countries at issue, but as China has built up its own stainless sheet production, that pattern has changed.

The US market with its open nature and attractive prices will be the likely target market for subject producers' production if the orders are removed. Many of the foreign producing industries have refused to respond to questionnaires. No producers in Japan or Taiwan submitted data. Only one Korean company, POSCO, responded. These producers are likely to increase those exports at low price levels if these orders are revoked.

ThyssenKrupp producers in Mexico, Italy and Germany are participating, but the information they have submitted provides strong justification to leave the orders in place. There is no track record to justify ThyssenKrupp claims as to policies under which its new mill in the United States will operate or how it will affect imports. In addition, if ThyssenKrupp sells its stainless operations, as it has announced, a new owner could develop very different policies from those of ThyssenKrupp.

Mexinox, a company that is already significantly undercutting US prices, has reported that it views the US market as its home market, and plans to continue exporting stainless sheet to the United States despite the fact that ThyssenKrupp is building a new mill in Alabama. In sum, there is every reason to believe that imports from each of the six target countries are likely to increase in volume and to undercut US prices.

Given the extremely vulnerable conditions of the domestic industry at present, US producers and their workers would quickly suffer continued or recurrent injury if unfairly traded subject imports return to the United States unchecked. We respectfully urge you to keep these orders in place. Thank you.

CHAIRMAN OKUN: Thank you.

MR. BISHOP: Opening remarks on behalf of those in opposition to the continuation of the orders will be by Lewis E. Leibowitz, Hogan Lovells, and Jarrod M. Goldfeder, Akin Gump Strauss Hauer & Feld.

CHAIRMAN OKUN: Good morning and welcome.

MR. LEIBOWITZ: Good morning, Madam Chairman, members of the Commission and staff. I am Lewis Leibowitz of the law firm of Hogan Lovells, appearing on behalf of the ThyssenKrupp Respondents, Germany, Italy and Mexico. The Commission should make negative determinations with respect to imports from Germany, Italy and Mexico in this case. The evidence already before the Commission and the testimony that you will hear today will substantiate that termination of the orders on those three countries will not lead to a continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

We view the situation very differently from Mr. Hartquist. I will briefly review the important facts. First, the domestic industry is not vulnerable to recurring material injury if the orders are revoked. The industry has restructured and consolidated. It is now in a position of strength and relative stability, evidenced by its performance after the 2008/2009 financial crisis, which confirms that it is not vulnerable.

The domestic industry returned to profitability after only one year, one year of losses in 2009, after an unprecedented economic crisis. Average profits doubled in this review period compared to the prior period of review, despite the catastrophic market conditions of that crisis. Further, domestic industry productivity, price-to-cost margin, and hourly wages all increased between 2005 and 2010.

The domestic industry has enough confidence in the future of the US market, and without conditioning its forecast on antidumping measures remaining in place, to make substantial capital investments. And of course, ThyssenKrupp agrees with that assessment, investing $1.4 billion in a new US stainless steel mill as part of its $5 billion in US steel production.

Consider also that the industry offset the effect of volatile raw material costs through an alloy surcharge mechanism, and that US exports doubled from the prior period of review, showing that US producers are not only domestically but internationally competitive. Given these facts, a long line of US companies would be eager to be so vulnerable.

Second, the Commission should not cumulate the subject imports from Germany, Italy or Mexico with each other, or with any other respondent. Imports from Germany and Italy will be at or near zero whether or not the orders are revoked. They will not compete with North American production by ThyssenKrupp's Alabama mill. Subject imports from Mexico will remain stable whether or not the order on Mexico is revoked.

Mexinox will refocus its sales efforts in the US on specific products, but has not and will not depress prices in the US, and Mexinox will use American feed stock from Alabama to make its production for imports in the United States, as well as distribution elsewhere.

Thus, the Alabama plant provides at least 1.4 billion reasons why ThyssenKrupp affiliates will not cause injury to the US market if the orders are revoked. The Commission should conclude that revocation of the orders on imports from Germany, Italy and Mexico will not likely cause a resumption of material injury to the domestic industry. Thank you.

MR. GOLDFEDER: Good morning, Madam Chairman and members of the Commission. I am Jarrod Goldfeder, counsel for POSCO, the Korean respondent. We are here today to urge the Commission to revoke the antidumping and countervailing duty orders in effect against

Korea. I would like to actually begin with a quote from the April 2005 hearing in the first review of this case.

In arguing why the Commission should continue the orders against Korea, counsel for Petitioners declare that "POSCO of Korea has told importers that it plans to increase its exports to the United States in 2005. POSCO has told the domestic industry it has its first opportunity in a decade to reap the benefit of the top of the demand cycle. And what actually came to pass?

POSCO did not increase its US exports in 2005. In fact, during this entire POR, it made a single shipment to the US to fill a special order for an ultrathin product. POSCO did not export to the US at all during the boom years of 2005 through 2007 when apparent consumption and prices reached their highest levels, did not export in 2010 as demand in the US market increased substantially.

In short, Petitioner's dire prediction back in 2005 widely missed the mark. Now here we are six years later with the domestic industry once again making dire predictions about what will come to pass if the Commission revokes the Korean orders, but the record does not support their claim. This is not a case in which a foreign industry is waiting in the wings to reenter the US in substantial quantities if the orders go away.

Korean producers have consistently maintained an approach of supplying the Asian markets, including their own home market, with little US presence. Revocation will not cause that to change in the reasonably foreseeable future, particularly as demand continues its robust growth in Asia. Therefore, we ask you that you revoke the orders. Thank you.

CHAIRMAN OKUN: Thank you.

We will now have our first panel.

MR. BISHOP: Would those in support of the continuation of the countervailing duty order and the antidumping duty orders please come forward and be seated? Madam Chairman, all witnesses have been sworn.

CHAIRMAN OKUN: Thank you.

(Pause.)

MR. HARTFORD: Apologize for the delay.

CHAIRMAN OKUN: No problem. You may proceed.

MR. HARTFORD: Good morning.

MR. HARTQUIST: Terry, excuse me just one second. I am going to introduce the witnesses.

Thank you, Madam Chairman. Let me just take a minute to introduce our witnesses and then we will turn to Mr. Hartford as our first witness, who is obviously raring to go this morning. Terrence L. Hartford is Vice President and General Manager of Sheet for Allegheny Ludlum Corporation. He will lead off the testimony. His colleague Mark Carson, who is General Manager of Field Sales for Allegheny Ludlum Corporation -- if you will just raise your hand while I introduce you -- will be here also to answer questions.

Patrick Feeley, Vice President Commercial, North American Stainless; Thomas Schmitt, General Manager of Stainless Steel Sales of AK Steel Corporation; Thomas Conway, International Vice President, United Steelworkers of America; Ed Blot, President, Ed Blot and Associates; Jason Suslak, Senior Attorney of Allegheny Technologies, is available for Q&A behind us; and Brad Hudgens, Economist of Georgetown Economic Services.

And with that, Mr. Hartford.

MR. HARTFORD: Thank you, Skip.

Good morning.

CHAIRMAN OKUN: Mr. Hartquist, you didn't mention your co-counsel, Kathleen Cannon. She is well known to us, but if you are, you know, I don't want to leave her out.

MR. HARTQUIST: Kathleen Cannon of Kelley Drye & Warren. Thank you.

MR. HARTFORD: Good morning. I am Terry Hartford, Vice President and General Manager of the Stainless Sheet Business Unit at ATI Allegheny Ludlum. I have responsibility for all commercial, operating, technical and financial activities for our stainless sheet and strip business, and I have been with Allegheny for almost 30 years. Allegheny Ludlum has actively participated in these cases since they were filed.

We appear here today because we strongly believe, for our company as well as our industry to remain viable in this market, it is crucial that the orders against all of the subject countries continue in effect. At the time these cases were filed in the late 1990s, demand for stainless steel sheet was strong and growing. In 1996 our industry was operating at a capacity utilization rate of 73% and obtained operating profits of 8.4%.

Unfortunately, growing volumes of imports from the subject countries entered our market at low dumped prices. As a result, despite the strong demand levels, we saw our market share fall, our capacity utilization drop, and our operating income decline to just 1.8%. That was the late 1990s. Fast forward to 2011. Demand for stainless steel sheet has declined to levels below that of the 1990s, and below-demand level was reached just a few years ago.

The Great Recession devastated our industry, causing demand to plummet in 2009 to its lowest level in over 15 years, a level nearly half of what the US market consumed in the year 2000. At Allegheny Ludlum we had to idle our Midland, Pennsylvania, melt shop, as well as our rolling and annealing lines in New Castle, Indiana, in late 2008 through most of 2009. We still have not resumed operating our annealing lines in New Castle, and our employment there has gone from 140 people in 2008 to less than 40 employees today.

Our industry has more idle capacity than capacity in use in 2009. We were also forced to lay off a significant number of workers. This resulted in the industry generating an operating loss in 2009. In 2010, while US demand was better than 2009, it was still 17% below the average annual consumption from 1997 through 2007, and far below the installed capacity to supply.

Our industry's condition remained very poor. The industry earned a minimal operating profit of 1.7%, barely above a break-even level. These utilization and operating profit levels are even lower than the utilization and profit levels the industry achieved in 1998 when this Commission found our industry was suffering material injury caused by subject imports.

To put it bluntly, recent years for our industry have been very challenging. That has not to say, however, that the orders have not had an effect. Immediately after the orders were imposed, subject import volumes declined significantly. Our industry's condition improved, and we took advantage of that improvement to undertake much needed investment. As you know, we are in a capital-intensive industry that requires continuous investment.

Over the course of the review period, we have invested in improving our efficiency and in new technologies to supply the market. The domestic stainless sheet industry's ability to attract investment capital for future growth clearly requires an improvement in the industry's financial performance. The financial results the industry has suffered in the past two years threaten our ability to continue to make these needed investments.

Our weakened trade position and profit levels in stainless sheet and strip are not able to withstand a resurgence in low-priced imports, yet all available information indicates that is precisely what will happen if the orders are revoked. Our market is now recovering modestly but it is still far below consumption in 11 out of the past 13 years. Economic growth in the United States is slow and tenuous.

Some of our end use markets have recently begun recovering. However, second quarter 2011 demand already appears to be lagging when compared to the first quarter. We are not anticipating demand in the foreseeable future to return to the healthy level reached just a few years ago. The foreign producers in the six subject countries continue to have large capacity and focus on export markets for a large part of that capacity.

In fact, producers in Italy, Mexico, Korea and Taiwan actually added stainless production capacity during the period of the global recession. Despite demand in their own countries falling dramatically during this period, they installed new assets, much of which we believe will be directed to export markets. Globally, there is an excess supply of stainless steel sheet.

The build-up in Chinese production in particular is forcing foreign stainless sheet producers to look for new markets. I understand that POSCO claims that its focus will be on Asia, but that is not consistent with the facts. Exports of stainless sheet from Korea to Asian markets, and to China in particular, have fallen dramatically in recent years.

Korean exports are being displaced by Chinese production, so they have to look for new markets. The US market has been and remains an attractive outlet for their excess capacity. Further, there is no question in my mind that the subject import pricing will be at levels that significantly undercut our prices. In fact, the prices of subject imports are already below our prices in a large number of instances, even with the orders in place.

We have received information on very cheap offers of Korean stainless sheet for delivery in both the East and West Coast of the United States, this month and next month. We will submit further details on these low Korean prices in our post-hearing brief. Prices of stainless sheet from Mexico have also been below US prices in the past few years and are continuing to undercut our prices.

If the orders are removed, the price undercutting by these and other subject imports will become even worse. I do not understand how ThyssenKrupp can claim that dumped imports of stainless sheet from Mexico will benefit the domestic stainless sheet industry when those imports are already undercutting our prices and displacing our sales.

ThyssenKrupp also states that its new facility in Alabama will eliminate the need for imports, or at least for imports other than those for Mexico that it admits will still enter our market. I have listened with interest to the various ThyssenKrupp announcements in recent years as to the timing and details of what will occur with respect to production in their Alabama facility.

It seems to be a moving target with constant changes as to what will happen and when. Just this month, ThyssenKrupp announced a restructuring and a possible sale of those and other ThyssenKrupp global stainless operations. If these orders are removed, an entirely new dynamic would be introduced to this market that could, again, alter the supposed policies and plans of this facility.

So where are we today? Realistically, we are hoping for a sustained recovery that allows us to increase sales, production, capacity utilization and profitability. We also want to continue bringing steelworkers back to work at our facilities. If these orders are listed, just as our market is beginning to improve, our hope for recovery will not occur and even more jobs could be lost.

Although our industry is more than able to supply increasing US demand for stainless sheet, we will be prevented from doing so if unfairly traded imports are allowed to return to our market. Without the orders, the subject countries will return to dumping. Their prices will undercut our prices to an even greater degree than they do today, and our financial position will deteriorate further.

Their large available capacity will permit them to export substantial volumes of stainless sheet to our market, depriving us of much-needed sales to continue to increase our utilization rate. The domestic stainless sheet industry will not be able to earn a return on the significant investments we have made and continue to make. The domestic industry's profit levels will not attract the capital required to support our customers.

Recovery for the domestic stainless steel sheet and strip industry depends on retention of these orders against unfairly traded imports, and I urge you to keep them in place. Thank you.

MR. HARTQUIST: Thank you, Terry, and for the record, I also failed to introduce my colleague Alan Luberda, and I know I will never hear the end of this. Pat Feeley is our next witness.

MR. FEELEY: Good morning. My name is Pat Feeley. I am Vice President of Commercial Operations for North American Stainless. I have been in the steel industry for over 26 years and I have spent the past 16 years at North American Stainless. While at NAS, I have been involved in sales and marketing, with substantial involvement in stainless, sheet and strip operations.

I appreciate the opportunity to appear before you today to support continuation of the orders. North American Stainless, located in Ghent, Kentucky, has been producing stainless steel flat-rolled product since 1993. NAS is a world-class manufacturer of stainless steel product and is competitive with any stainless steel sheet and strip producer in the world.

However, NAS is not immune from injury caused by large quantities of dumped imports of stainless steel sheet and strip. These orders have been important to the success of NAS over the years because imports from the subject countries had to be sold at fair market prices or be subject to the duties that would bring them back to fair market prices. Because these producers need to trade unfairly to sell in this market, we have generally seen fewer imports of sheet and strip from them in recent years.

The pricing discipline that these orders impose on the subject imports is extremely important to US markets. Stainless sheet and strip is sold primarily on the basis of price. The vast majority of sales are made on a spot basis, and almost none are made pursuant to long-term contracts. That means that purchasers can and do seek the best prices in the market and will change suppliers based on prices, quarter to quarter and sometimes from purchase to purchase.

Our customers pay very close attention to the market. It doesn't really take more than one or two low prices to prevent us from getting a necessary price increase that we need to cover rising costs. The domestic stainless sheet and strip industry currently has more than enough capacity to supply the US market based on current and expected demand levels. NAS is not operating at full capacity and can handle the moderately increasing demand we have been seeing in the market.

Now that ThyssenKrupp has begun ramping up operations in its new mill in Alabama, there is going to be even greater domestic capacity for the market to absorb. That inevitably will mean pressure on prices. If the discipline of the orders is not maintained on subject imports, I have every reason to believe that the subject imports will return to the market in greater quantities and at prices that undersell us.

As in the past, that will drive down US market prices and will take domestic sales. Nor do I think that ThyssenKrupp's Alabama mill will spare us competition with imports from ThyssenKrupp's facilities in Mexico, Germany and Italy. To the contrary, I expect to see more stainless, sheet and strip from these mills if the orders are revoked, despite this new mill. ThyssenKrupp has the US industry in its crosshairs and will use all of its capacity, domestic and foreign, to try to dominate this market.

Mexinox has made no secret of the fact that the United States is its primary market. Mexinox recently sent letters to US customers telling them that, despite the Commerce Department finding that Mexinox is dumping at margins of over 12%. Mexinox would continue to focus its efforts on the US market. What does that tell us? It tells us that if these orders are revoked, NAS is going to see stainless sheet and strip from Mexinox at those same dumped prices or at even lower prices but without the offsetting duty.

That is a very large amount of capacity trained on the US market by a company that has demonstrated it will bring that capacity to the US market at whatever low price is needed in order to win US sales. In a price sensitive market, that will cause our prices to deteriorate rapidly. If Mexinox is kept under order but its sister plants in Italy and Germany no longer have to contend with the pricing discipline or the orders, those mills will be able to service the Mexinox customers without worry about whether they have to pay dumping duties.

By coordinating imports from its various sources, ThyssenKrupp will be able to minimize the impact of the antidumping duties, given its ability to sell to US customers and maintain its aggressive pricing practices. ThyssenKrupp has always taken a global approach to the US market by supplying it with product from all of its worldwide mills, including those in Germany, Italy and China, and coordinating those efforts through a single sales organization in Chicago.

ThyssenKrupp has the ability to focus on different products and size ranges at its various mills. There are hundreds of sizes and grade combinations of stainless sheet and strip in the market, and ThyssenKrupp can bundle various products together from its different mills and undercut our prices. The Japanese, Korean and Taiwanese producers do not have production facilities in this country, and there is nothing to hinder their imports of dumped stainless steel sheet into the United States, except the discipline of the dumping orders.

The United States represents a large and open market with relatively good pricing and moderate demand growth. The markets in Asia, by contrast, face huge overcapacity. That capacity has been growing faster than demand for several years, and China can no longer be counted on to act as a sponge to soak up the world's excess production. We also know that producers in each of the subject countries have remained significant exporters of stainless sheet worldwide, whether or not they are currently exporting to the US.

Given the opportunity to export to the United States without paying duties, each of the subject countries will export stainless sheet to our market in larger quantities and at lower prices. An influx of imports of stainless sheet and strip into the US market from the subject countries at unfair prices will have serious negative consequences for our industry.

NAS, like the other producers here today, has benefitted from these orders in a highly competitive and price-sensitive stainless sheet and strip market. Like everyone else, we need prices to be a function of our production costs and cannot afford the disconnect that dumped imports can cause between prices and costs. We had that disconnect between prices and costs during the recession of 2009 when demand all but disappeared, and you have seen the results with our bottom line.

Things would have been much worse if the orders had not been in place then. The same disconnect between prices and costs will occur very quickly if there is a large influx of stainless sheet and strip at dumped prices. If you look at the history of our industry, when things go bad, they go bad quickly. The continuation of these orders is therefore critical to the future of the US stainless sheet and strip industry, and I urge you to keep these orders in place. Thank you.

MR. HARTQUIST: Thank you, Pat.

Our next witness will be Thomas Schmitt of AK Steel.

MR. SCHMITT: Good morning. My name is Thomas Schmitt. I am General Manager of Stainless Steel at AK Steel Corporation. Prior to joining AK Steel, I was Vice-President of sales for North American Stainless. In total I've spent over 30 years of my career in sales and marketing of stainless steel flat products, including stainless steel sheet and Strip.

AK is a leading supplier of stainless steel sheet producing a broad range of grades including 200, 300, and 400 series products, as well as more advanced precipitating hardening and duplex grades. We make stainless steel sheet products that compete with most produced by all the foreign producers that are part of the sunset review, including ThyssenKrupp companies, POSCO, the Japanese and the Taiwanese producers.

AK Steel operates stainless steel production finishing facilities Middletown, Mansfield, Zanesville, Coshockten, Ohio, Rockport, Indiana, and Butler, Pennsylvania.

I am here today because our company knows that these have helped our stainless steel running, particularly during those recent downturns. These orders have been of critical importance in permitting us to maintain production and employment while also reinvesting in our company. Recently we installed new electric arc furnaces at our Butler works replacing three older furnaces. This new furnace which became operational earlier this year will allow us for faster heat times and as a result we expect productivity at our Butler facility to increase.

As Mr. Hartquist and Mr. Feeley have testified, the stainless steel industry has suffered the effects of the economic downturn that began in 2008. The demand for stainless steel sheet and strip is directly related to the automobile, housing, and construction sectors. As spending declined in these sectors in late 2008 and further in 2009, so too did demand for stainless sheet although demand rebounded slightly, only slightly in 2010, demand is still down and still below 2005 and 2007 levels. The decline in the demand for stainless steel led to a significant deterioration in the condition of our industry. Our industry's production, shipment, employment, and profitability all declined in 2008 and 2009 and remain well below healthy levels in 2010 as well -- we would once again face unfairly priced imports.

This is a very chilling prospect given the current economic environment that we have been forced to endure over the past several years.

Because quality is a given once a supplier has been certified to meet customer specification, all of our foreign producers, all of the foreign producers that are involved in this sunset proceeding compete with us at AK Steel on the basis of price. Given the decline in demand for stainless steel sheet and strip in recent years, the U.S. market for this product has become even more price-competitive, where even a small difference in price results in the winning or losing of a sale. Price rules.

An increase in imports from subject countries into the U.S. market at unfair prices will have serious negative consequences to our industry. These imports will undercut our prices, making it impossible for our prices to compete, and for AK Steel to be profitable.

The deterioration in prices that would be caused by revocation of these orders would hurt us financially. Our production, shipment, employment levels would also suffer and decline.

In conclusion, AK Steel, like other domestic producers here today, strongly depend on these orders to compete in the highly competitive and price-sensitive stainless steel sheet and strip market. The continuation of these orders is therefore critical to the future of our industry, and I urge you to consider to continue these orders. Thank you.

MR. HARTQUIST: Thank you, Tom. We're very happy to have with us this morning Tom Conway, representing the Steelworkers Union, which has been a petitioner and supporter of these cases since the original investigation. Tom.

MR. CONWAY: Good morning, Chairman Okun, members of the Commission. I'm Tom Conway, the Vice President of the Steelworkers Union.

As you know, our union is the largest industrial union in North America; we have over 850,000 active members, including over 1,000 steelworkers that make stainless sheet and strip at Allegheny Ludlum's facilities in Pennsylvania, Indiana, Ohio, Massachusetts, and Connecticut, and at

AK Steel's Mansfield Works in Ohio.

I appreciate the opportunity to testify before you again this morning to express our serious concern with the effect revocation of these orders would have on our steelworkers, their communities, and our families.

Our union has been fighting on the front lines against foreign governments and companies that violate the rules of trade and seek to gain an unfair competitive advantage. Such actions have had an enormously corrosive effect on the nation's manufacturers and their workers.

Before the trade remedies were imposed against stainless sheet and strip, the surge in unfairly traded imports from the subject countries devastated the U.S. stainless sheet and strip industry, and caused serious injury to the U.S. steelworkers.

A lot of highly skilled, hard-working steelworkers lost their jobs. Others saw their work hours and their paychecks cut as their employers were forced to reduce production in the face of competition from unfair importers. The job losses experienced by this industry are high-quality jobs, require sophisticated skills to run this equipment, equipment that's worth billions.

If the orders are revoked, there is no doubt in my mind that the future of our members and our retirees will once again be seriously at risk. Our members and, our union and its members continue to work with the U.S. producers so that they can remain globally competitive.

We've participated in consolidations of certain parts of the industry, modernized our collective bargaining agreements, agreed to changes in workplace rules to increase productivity. Quite frankly, our union has done everything that we can do as the representatives of the work force to make sure the stainless sheet and strip industry has a good shot at long-term survival.

I'm confident we can beat the import competition from any country, so long as that competition is fair. Our union members work extremely hard. We play by the rules, so they expect our foreign competitors to do the same. They also expect that our government will enforce our trade laws and make our foreign competitors play fair, as well.

The trade actions against stainless steel sheet and strip has served as a strong deterrent against unfairly traded imports over the years, and provided much-needed relief to the industry.

As you know, the past few years have been difficult ones for our economy overall, and for steelworkers. In the fall of 2008 the economy went into a severe recession, and demand for steel products plummeted. In just one year, U.S. producers saw their profits disappear, and hundreds of sheet and strip workers lost their jobs as U.S. producers were forced to shut down or idle part of their facility.

While the market is beginning to recover, the industry is far from healthy today. Our members are extremely concerned about what will happen is unfair imports flood back into our markets. In order for this recovery to continue, U.S. producers need to be able to increase production and sales so they can continue to put steelworkers back on the job.

In summary, these orders have been, and continue to be, very important to the steelworkers. Had the orders not been in place, the job losses and injury to our members following the recession in 2008 would have been even worse.

On behalf of the union members who make stainless sheet and strip, the retirees that depend on the health of this industry, and all the communities they support, I urge the Commission to continue the trade orders on stainless steel sheet and strip.

Thank you.

MR. HARTQUIST: Thank you, Tom. Our next witness will be a long-time industry expert, Ed Blot.

MR. BLOT: Good morning. I am Edward Blot, President of Ed Blot and Associates. My company provides consulting services to North American producers, distributors, and consumers of specialty metals.

As a regular part of the services, I provide market analyses concerning stainless products. This morning I will address four topics supporting the industry's position that the current orders on stainless sheet and strip should not be revoked.

First I will comment on ThyssenKrupp's claims regarding its new mill, and other statements made by the Respondents in their prehearing briefs.

Second, I will discuss the stainless production and over-capacity in China as it affects the markets in the U.S., Asia, and Europe.

Third, I will discuss how the orders have led to product form shifting from coil to cut sheet.

Lastly, I will present my analysis for demand over the next few years.

In their brief, ThyssenKrupp claims the new stainless mill in Alabama will practically eliminate the need for imports from Germany and Italy, and reduce the need for imports from Mexico. Based on ThyssenKrupp's web site, only two stainless grades from the new mill in Alabama are currently being offered in the market. So it is clear that ThyssenKrupp must rely on imports from their mills in Europe and Mexico to service the U.S. market in the near term.

ThyssenKrupp's letter to its customers specifically indicates that its German production will focus on the pyritic-grade optimization, which are the 400 series grades not yet being produced by ThyssenKrupp in Alabama.

In addition, ThyssenKrupp has announced their intent to spin off the stainless global business unit, including operations in Germany, Italy, Mexico, and the U.S. In the announcement, the CEO of ThyssenKrupp stated the main reason for splitting off the division comes as a result of overall debt, with the stainless division running at a loss over the past few years.

He further stated that all options regarding the business unit will be explored, including a potential sale or strategic partnership. Although

ThyssenKrupp has said that its intent is to continue with the stainless investments in Alabama and limit the amount of imports from their other stainless mills in Europe and Mexico, should a sale or partnership develop, this direction could change, making the current business strategy questionable.

Respondents have also emphasized their commitment to their home markets in other regions of the world. Subject producers, however, have sold to other markets because those markets don't have the pricing discipline of an anti-dumping order, and not because those markets were better.

From the staff report you will note that non-subject imports have been increasing in the U.S. market, since implementation of the orders. Why? Because when you are unencumbered by an anti-dumping duty order, the higher prices in the U.S. market, particularly over those in China, are preferred.

You can take the growth in non-subject imports in the U.S. market as a predictor of what subject imports would do without the orders. There is every economic reason for the subject producers to shift sales back to the U.S.

Also, China is not a good target for exports of stainless sheet due to over-supply. China is now a net exporter of stainless sheet. Since 2005, China's stainless sheet exports increased over 400 percent, while subject country total exports basically declined, as noted in the Industry Brief Exhibit 9.

The Chinese research group, NTYKE, calculates that Chinese stainless production will increase 13 percent, to 14 million metric tons this year; while consumption will increase to 11.5 million metric tons, leaving 2.5 million-metric-ton surplus, much of which will be exported.

I would now like to direct your attention to my handout, which I believe the Commissioners have. It's taken from the Industry Brief at Exhibit 8. This table details the Department of Commerce import statistics of stainless sheet and strip in both coil and cut length, from the countries subject to these orders, as well as all others.

Once the orders were issued, coiled sheet shipments from the subject countries decreased. However, there was a significant increase in cut length from the same countries producing coil. Specifically during the 1995-to-1998 period, cut length from the subject countries averaged about five percent of their total sheet and strip shipments in both forms.

During the first and second period of reviews, the cut length from the subject countries averaged about 33 percent and 38 percent, respectively, of their total shipments in both forms. Clearly demonstrated continued product form shifting.

The major purchasers of coiled sheet and strip are distributors, pipe producers, and auto exhaust manufacturers. The major distributors prefer to inventory coiled sheet because they have equipment to cut the coil into any desired length by the end user.

With the orders in place for coiled sheet at significant margins, each producer could easily offer cut sheet at the same price it offered coil to a customer. The cost increase of producing cut sheet from coil, including any yield loss, can easily be absorbed to offset duties in excess of three percent at today's prices.

The advantage to the purchaser would be to eliminate the processing costs of coils into cut sheet, and the loss of flexibility would be offset by the price.

Since Kenmack Metals is a U.S. distribution arm of ThyssenKrupp, the transition would be very easy for them. Also, Ta Chen International produces pipe in Taiwan with material sourced from YESKO. Ta Chen is also a master distributor with locations throughout the United States, and switched to cut-length sheet to avoid paying duties on coiled sheet.

If the orders are revoked, however, the economics revert to a preference for coiled sheet.

In terms of demand, Respondents referenced the 2010 consumption growth over 2009 to state that future growth will be robust. This is the same theme expressed by the subject producers during the hearings at the first review.

The Commission may recall that my analysis was for a decrease in consumption over the 2005-to-2007 period, not a robust increase. The staff report data in the second review verified the decline in consumption, just the opposite of what the Respondents presented during their last review.

My current market analysis is for a modest, not a robust, increase in demand over the next three years. This increased consumption will still put the U.S. market well below previous levels.

You should also recognize that the growth in consumption last year was fueled by three major factors. First, the great recession in the U.S. ended, and customers began purchasing for projects that had been on hold, due to the recession, for available financing.

Second, the entire supply chain was rebuilding inventory, in addition to placing orders for their current capital and consumer-good requirements.

Third, as prices started to increase due to raw material costs, the major purchasers were placing additional orders to ensure that they can supply the end users at the lowest cost.

The supply chain is now full, and future consumption growth will be modest. In the absence of the orders, stainless sheet and strip producers in the subject countries will have the incentive to shift back from cut length to coil, and undersell the domestic producers in a modestly growing market over the next few years. Thank you.

MR. HARTQUIST: Thank you, Ed. Our next witness will be Brad Hudgens of Georgetown Economic Services, presenting the economic testimony.

MR. HUDGENS: Good morning. This morning I would like to summarize the likely impact that revocation of the orders under this review would have on the domestic industry producing stainless sheet and strip.

In terms of the likely volume of imports that would enter the United States if the orders are revoked, the subject producers each have maintained substantial capacity. Based on the Commission's record, each of the subject countries significantly increased capacity since the original investigation. All of the producers are export-oriented; and based on past history, they would use their excess capacity to export to the United States.

ThyssenKrupp argues that its new Alabama facility will supply the U.S. market, rather than from imports from Germany or Italy. Because this new facility will not be fully operational in terms of capacity until 2014, and also will not produce all types of stainless sheet, it is highly likely that ThyssenKrupp will continue to export from Germany and Italy, as well as from Mexico, to supplement production at its Alabama facility.

At the startup, ThyssenKrupp will also be in the position of requiring supplemental production with imports from affiliated producers to achieve its announced goal of increasing its presence in the U.S. market.

As Mr. Blot described earlier, ThyssenKrupp has concentrated in the U.S. production on the 300 series product in its initial phase, while importing other grades from Germany, Italy, and Mexico.

ThyssenKrupp has historically supplied the U.S. market from all its major production centers in the world, and it is likely to do so despite building a new plant in the United States. ThyssenKrupp has recently announced that it was going to reorganize its stainless division into a single unit, coordinating its global sales among its various affiliates; thus, making it more likely that imports from ThyssenKrupp's affiliates will increase in the future.

In fact, ThyssenKrupp's Mexican subsidiary, Mexinox, has made it clear in communications with its customers that it intends to continue to supply U.S. customers, and grow its presence in the U.S. market, even in light of ThyssenKrupp's recent U.S. investment.

ThyssenKrupp even concedes in its prehearing brief that Mexinox is highly dependent on the U.S. market, and it considers to be "part of Mexinox's home market."

The Commission's record demonstrates that Mexinox has ample unused capacity to increase exports to the U.S. market.

ThyssenKrupp is also likely to store subject merchandise from Germany and Italy, despite the construction of the Alabama facility. In fact, ThyssenKrupp announced to its U.S. customers that it is optimizing its organizational structure by completing a fully integrated stainless steel plant in Alabama, and by the relocation of its cold-rolling mill within Germany.

Now, this message of a fully integrated structure to its U.S. customers is that global sourcing through ThyssenKrupp will become more available; and that, despite the addition of the Alabama mill, the improvements at the German mills are also relevant to the U.S. market.

Thus, even by ThyssenKrupp's own admission, it will continue to supply the U.S. market from its global affiliates in Germany, Italy, and Mexico.

Based on the Commission's record, ThyssenKrupp has sufficient capacity in each of these three countries to significantly increase its presence in the U.S. market. Although the German producers reported in these reviews higher capacity utilization rates in 2010 than in 2005, these rates are based on allocations, rather than true capacity levels.

The Commission's record shows that the German producers have substantial unused hot- and cold-rolled capacity that could be used to increase their production of stainless sheet -- strip is produced. With these new investments and ample unused capacity, ThyssenKrupp can easily supplement U.S. production with imports from Italy.

Mexinox has also significant and increased capacity, and has made it very clear that it will continue to target its capacity at the U.S. market, as it has over this review period.

I would like to make one additional point regarding the orders on Germany and Italy. If the Commission were to revoke the orders against Germany and Italy, and then maintain the orders on Mexico, it is likely that ThyssenKrupp would alter its announced local supplies policy, and shift its sourcing to supply product from Germany and Italy.

Such a shift would be economically justifiable and consistent with its new integrated sourcing strategy. With Mexinox subject to a 12-percent duty, it would make good economic sense for ThyssenKrupp to shift sourcing to Germany and Italy if duties are removed.

A 12-percent duty on stainless sheet that sells roughly for $3,000 per ton would amount to about $360 per ton, a hefty amount to pay. Under that scenario in particular, dumped imports from Germany and Italy would likely increase to the U.S. market.

Although none of the Japanese and Taiwanese producers, and only POSCO of the Korean producers, responded to the Commission's questionnaires. Record evidence demonstrates that there is excess capacity to produce stainless sheet in these countries, as well. Based on press articles, Nashun, Nippon, and JFE announced plans to expand production of sheet and strip in 2010.

The Commission's record shows that Korea's capacity to produce stainless sheet is substantial, and has increased since the original investigation. Based on press articles, B&G Steel commissioned a new stainless cold-rolled strip mill in 2009, and POSCO announced a new 400,000-ton facility for stainless strip in 2010.

Now, while POSCO asserts that it did not export stainless sheet to the U.S. market over the review period, it fails to recognize that non-responding Korean producers continued to do so. So given the increased and excess capacity in Korea, POSCO and the other Korean producers are likely to increase their U.S. presence significantly, absent an order.

While no Taiwanese producer responded, public information shows that Taiwanese producer YESCO is planning to expand capacity of stainless sheet and strip. In 2011 YESCO announced that it was raising production to boost orders, and that it would also be reducing export prices.

Export statistics indicate that all of the subject countries are export-oriented. Further, many of these producers have been historically dependent on China as a target for these exports.

As China has increased its own capacity, however, subject producers' exports to China have been displaced, forcing them to seek out new markets. Given the U.S. market's size, openness, and relatively high prices, the subject producers are likely to target the United States with both their excess capacity and by diverting exports from the lower-priced export markets in the event of a revocation.

U.S. purchasers and importers have responded to the Commission's questionnaire that they would search out for low-priced imports from the subject countries in the event of the revocation. And most importantly, they stated that these imports would likely create a downward pressure on prices.

Quarterly price comparisons for the period of review show that in 52 of 120 comparisons, subject imports undersold the domestic product, often by substantial margins. Given that underselling in a significant minority of comparisons have occurred with the orders in place, the severity of the price competition and import underselling in the event of revocation of the orders would be intense.

Volatile raw material costs present further problems for this industry. The domestic producers must be able to raise prices to cover rising raw material cost. Absent the restraint of the trade remedies, the projected underselling by subject imports combined with this volatile raw material cost will likely cause price depression and/or suppression.

As the record data show, the domestic industry is in a highly vulnerable condition. The industry suffered an operating loss of 11 percent in 2009, and earned only a minimal operating profit of 1.7 percent in 2010. The average financial performance over the most recent three years also puts the U.S. industry in a loss position.

As demand for stainless sheet declined, producers were forced to cut back production, idle mills, and lay off workers. Under these facts, maintenance of the order is critical to prevent the continuation or a return of material injury by reason of the subject imports. Thank you.

MR. HARTQUIST: Thanks, Brad. We'll wrap up our testimony with Kathy Cannon addressing two legal issues.

MS. CANNON: Good morning, Madame Chairman, members of the Commission. I'm Kathleen Cannon of Kelley Drye, and I will address a couple of legal issues this morning, starting with cumulation.

We urge you to cumulate imports from all six countries under review in this case. None of the Respondents has challenged whether there would be a likely reasonable overlap in competition among the imports from the subject countries and the U.S. product in the event of revocation.

They have, however, argued that imports from some of the countries would have no discernible adverse impact, or would compete under different conditions of competition.

Our witnesses have already addressed why imports from each country are likely to have a discernible adverse impact on the U.S. industry absent the orders. None of these countries can claim, with any real basis, the likely absence of such an effect, given their sizable and increased capacities, their significant unused capacity, their export orientation, and the reduction of alternative export markets due to China's production buildup and other third-country trade barriers.

Respondents argue that even if the statutory factors supporting cumulation are met, imports from Mexico, Germany, Italy, and Korea should all be excluded from a cumulative analysis because they compete under different competitive conditions. The ThyssenKrupp Companies focus largely on their affiliation with a U.S. mill that is beginning production in the United States as the factor that they claim warrants decumulation.

ThyssenKrupp asserts that these affiliation justify a refusal to cumulate, for the same reason the Commission did not cumulate imports from countries in which foreign affiliates of Arsular Mittal USA were located in the NuCor Hot-Rolled Steel case.

What they fail to recognize, however, is the heavily fact-based nature of that inquiry, and the extensive record documents regarding not just Arsular Mittal's policies, but its practices that led to the Commission's decision in that case.

The Commission took into account Arsular Mittal USA's size, documents it submitted showing how its policies were implemented, and how its sales were made, evidence of the absence of imports from the countries in which the affiliates of Arsular Mittal were located, and information on its actual pricing behavior.

There is no such track record here on the ThyssenKrupp Companies on which the Commission can rely at this time, given the timing of the startup of this mill. In fact, over the review period, imports have continued into the United States from Italy, Germany, and Mexico.

As the Court held in the NuCor case, the fact of affiliation alone does not warrant a finding as to presumed behavior in terms of future imports. ThyssenKrupp has acknowledged that its plan includes continued imports from a subject affiliate in Mexico, a fact that is very different from the facts that were presented in the NuCor case.

Finally, there are published announcements of a possible sale of ThyssenKrupp's global stainless operations that could alter its current proposed policies entirely.

Korean producer POSCO seeks exclusion from cumulation, as well. POSCO argues that its focus is exports on Asia, that it has new facilities in China, and that it didn't ship to the U.S. market over the review period.

Many of the subject countries focus exports on Asia, as the statistics that we provided demonstrate, so that does not differentiate the Korean product. Other producers also have mills in China.

In fact, POSCO's new facility in China actually increases the likelihood that it will export to the United States from Korea. Korean exports to China have declined, as a result of these new Chinese operations, forcing Korean companies like POSCO to divert their shipments elsewhere.

Whether POSCO has shipped to the U.S. market in recent years is also irrelevant as a factor supporting decumulation of Korea, as there were imports from other Korean companies into the United States over the review period. The legal issue here is whether to cumulate imports from Korea, not POSCO alone, and the facts support cumulation.

The second legal point I would like to mention is the level of the dumping margins at issue here. Both Respondents have mischaracterized their actual level of dumping by speculating as to what those margins should or would be if WTO decisions on the zeroing issue were to be implemented. Suffice it to say that those decisions have not been implemented; that there is no proof that their margins would fall to zero if they were implemented; and that the Commission is legally required to rely on the margins that Commerce has provided.

That concludes my statement. Thank you very much.

MR. HARTQUIST: Thank you. That concludes our direct testimony, and we'll be happy to answer questions.

CHAIRMAN OKUN: Thank you. And before we begin those questions, let me take this opportunity to thank all the witnesses for being here, particularly our industry witnesses, for making the time to travel and answer our questions and provide information, as well as Mr. Conway from the union. We appreciate having you here, as well.

We will begin our questions this morning with Commissioner Lane. And just a reminder, if you can just repeat your name for the benefit of the court reporter. Commissioner Lane.

COMMISSIONER LANE: Good morning. Welcome to all of you.

Some of you talked about the capacity, and so I have a general question. In looking at the staff report, both the domestic industry and the foreign producers, we see statistics on capacity and capacity utilization. And my question is, theoretically, or not theoretically -- realistically on the ground, how much capacity utilization can a facility sustain for a period of time? The highest.

MR. HARTFORD: I'm Terry Hartford; I'll try to answer the question. How much can, how much idle capacity can you sustain?

COMMISSIONER LANE: No, no. How much can you actually produce?

Let's say that your facility is at 50 percent, and I come in and tell you that I want you to go to 100 percent. Can you produce at 100 percent or more over a period of time, and sustain that with the facilities that you have?

MR. HARTFORD: We certainly can ramp up to higher utilization levels. And we have the manpower available. Many are laid off right now, but we could recall employees to run our existing capacity at a higher level than we do today. And we could certainly sustain that operating level for an extended period of time.

COMMISSIONER LANE: Can you maintain it at 100 percent or more over a period of time?

MR. HARTFORD: I would think that we could. And again, these are fairly complicated facilities; we have multiple plants, and you've got melting facilities and hot-roll facilities and finishing facilities, some of which make multiple products.

COMMISSIONER LANE: I guess what I'm really asking is technically, is it feasible or is it possible to maintain 100-percent capacity or more over a period of time? I mean, I understand that you have to have the manpower. But can the machines themselves do it?

MR. HARTFORD: The answer to that is yes, the machines can do it. This is large capital equipment, it's designed to last a long time. It's designed to run, to be in an up mode a high percentage of the time.

And when we say 100 percent of the time, that of course assumes that you need to do routine maintenance on these pieces of equipment.

COMMISSIONER LANE: Well, of course.

MR. HARTFORD: So every week you might take certain numbers of hours to take a piece of equipment down, do the routine predictive and preventive maintenance that you need to do, and then get it back in service.

But from the design of the assets and the capability of those assets, and having manpower available, we can run for a sustained period of time at levels that yes, approach 100 percent of our capacity.

COMMISSIONER LANE: Mr. Carson, did you want to add something to that?

MR. CARSON: No, I did not.

CHAIRMAN OKUN: Okay. Mr. Hartquist, so having heard Mr. Hartford's answer, the argument that some facilities are already at maximum capacity and could not deliver product into the United States, is that valid, having heard what Mr. Hartford just said?

MR. HARTQUIST: You are referring to the foreign producers' capacity, whether they are essentially running out and could not produce more product?

COMMISSIONER LANE: Yes. Without naming any specific countries or facilities, because I don't want to get in trouble with BPI.

MR. HARTQUIST: Well, I don't know of any of the facilities that are running at 100 percent. Some of them are running at relatively higher rates than the U.S. companies are.

But having heard Mr. Hartford's testimony, and I expect the other industry witnesses would agree, yes, we think that they can operate at very high levels of capacity. And that given the economic conditions in the U.S., with prices generally higher here than other places in the world, they have an incentive to ship to this country.

CHAIRMAN OKUN: Mr. Hudgens?

MR. HUDGENS: For most of the foreign producers, their capacity is based on an allocation methodology that, that was based on production. And in many cases that allocation was actually performed by the Commission staff, and not the actual company.

The companies indicated that they could not calculate capacity on this particular subject product. But what those producers did provide was their capacity to produce hot-rolled and cold-rolled product. And using those data shows that all the subject producers have sufficient, ample capacity to produce, to significantly increase their production of the subject product.

COMMISSIONER LANE: Okay. Mr. Hudgens, sticking with you.

MR. HUDGENS: Okay.

COMMISSIONER LANE: Could you provide me, probably post-hearing, how much volume from each of these countries would have an adverse effect on the U.S. industry, or would have an adverse effect if it came into this country in the reasonably foreseeable future?

MR. HUDGENS: Yes.

COMMISSIONER LANE: Okay, thank you. Now, some of you have said that a lot of the existing subject countries are targeting China. I'd like for you to develop a little bit more what you see happening in China, as far as China ramping up its capacity.

Do you have anything specific that proves that, or we could look to, other than speculation as to how many facilities they are building, and the fact that they will be supplying their own home market and won't need imports?

MR. BLOT: Commission Lane, this is Ed Blot. I'll try to address that.

COMMISSIONER LANE: Okay, thank you, Mr. Blot.

MR. BLOT: Yes. In our Exhibit 9 from our brief there is a lot of data it shows about China becoming a net exporter. It lists the date of, going back I think to 2005, so the period of review.

And China has, during this particular

timeframe, grown significantly. As I testified earlier, their exports have gone up over 400 percent from 2005 to 2010. So they have become a net exporter, rather than a net importer, if you go back to the hearing that we had during the first review.

MS. CANNON: Commissioner Lane, might I also add Mr. Blot also testified, and I think one of the better sources is the Antioch Research Study, the Chinese's own research study, that shows a 2.5-million-metric-ton surplus in China. So that's I think a very good overall data compilation, in addition to the anecdotal information that we submitted in our brief on individual mills.

COMMISSIONER LANE: Okay. Could somebody clarify for me how much of the Alabama plant that you testified to is actually operational? And did I understand that it won't be fully operational until 2014?

MR. HARTFORD: I can tell you my understanding of the status of the Alabama facility. At this point in time, the planned investment is to have three cold-rolling mills running. One of those is running today, is our understanding. The other two I believe are still in construction.

The final anneal line is running today. But there is still to come a melt shop that they are building over the next few years, a hot-roll anneal and pickle line, which is not yet running.

So I think, from our standpoint, we would describe the Alabama project as in its very early stages of production and shipping.

COMMISSIONER LANE: And do I understand your testimony that if these orders came off, then ThyssenKrupp would use, would supply to existing customers that they can't supply from their Alabama plant, from their Mexico, German, and Italy plants?

MR. HARTFORD: We believe that's what they would do. Because, for a couple of reasons. Alabama will not be fully operational for several years; I think Mr. Blot reported either 2013 or 2014. So it will be a long time before Alabama is at a full-output type of a level.

And to get to their stated goal of a very large increase in their U.S. market share, they would have to ship to the U.S. market not only from Mexico, but also from their facilities in Germany and Italy.

COMMISSIONER LANE: Okay. Very quickly, because my time is shutting out. What is the time line for ThyssenKrupp to sell their, part of their facility that they have announced?

MR. HARTFORD: We don't know. We know the announcement came from ThyssenKrupp in early May that it was their intention to look for options to either sell it or spin it off; that they would explore all available options to do that. But I don't recall seeing a time line.

COMMISSIONER LANE: Okay, thank you. Thank you, Madame Chair.

MR. HARTQUIST: Commissioner Lane, we don't know whether they are going to sell it or keep it. That's unclear at this point.

COMMISSIONER LANE: Okay. I'll ask them this afternoon. Thank you.

CHAIRMAN OKUN: Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Madame Chairman. Permit me to extend my welcome to all of you. When I opened up this file and I realized okay, we're going back to stainless, I thought thank heavens, because I've been getting a little rusty.

(Laughter.)

COMMISSIONER PEARSON: Sorry about that. You don't have it so bad; my colleagues have to put up with me all the time.

Let me start with a basic question on demand. In the public staff report we can see that apparent consumption bumped up by about 300,000 tons in 2006, and then it dropped by a little bit more the next year. What was going on in 2006 that caused that uptick?

MR. HARTFORD: I'd be happy to comment on that. We saw, actually we saw year-on-year growth in U.S. consumption 04/05/06, I believe. I'm not looking at the chart, but I think it increased in each of those years. And we were coming out of a manufacturing recession from 2001, '02, and '03, which had hit U.S. consumption in a serious way. It was down about 17 or 18 percent during those three years over the prior year.

And so '04, '05, '06, we saw an increase in demand. And I think we saw strength in all of our core markets in the United States. Automotive at that time remained strong. The U.S. was probably producing 16 million cars a year. Housing at that point in time, before the financial crisis, housing was booming. And a large portion -- housing is responsible for a good chunk of our, of our supply.

We saw capital spending, business spending, on things that require stainless flat products were very strong at that time. The one area that comes to mind, ethanol. The production of ethanol plants during that period of time was at a very high level. And those plants required large quantities of stainless flat products.

COMMISSIONER PEARSON: A bit more plate than sheet?

MR. HARTFORD: Oh, it was, it was coiled plate, which we're going to talk about tomorrow, but it was also cold-rolled sheet. And a plant like that requires a lot of tubing for heat exchangers and condensers and those sorts of applications.

And so we saw pretty broad-based strength in our core markets for stainless sheet and strip.

COMMISSIONER PEARSON: Mr. Feeley.

MR. FEELEY: Thank you. To reiterate Terry's comments, we also witnessed the increase in general terms with the ethanol market, that has since relaxed. But the appliance market certainly took on more steam with the consumers, and certainly auto contributed much to the growth, given the volume and the production levels that were achieved in '06.

So we would categorize it as broad-based in any sense of the word. But mostly consumers, whether it be appliance and auto, contributing to the most, most greatly to that surge.

COMMISSIONER PEARSON: Okay. But we should understand this is kind of a normal thing in the marketplace; that certain trends combine to give a big year occasionally. And it's not as anomalous as it looks just by reviewing the table.

MR. SCHMITT: Right. Well, back then, yes, the ethanol was doing real well. Automobiles, yes, were --

COMMISSIONER PEARSON: This is Mr. Schmitt, for the benefit of the court reporter.

MR. SCHMITT: I'm sorry, Tom Schmitt. The automobile production is a lot less now. But it is the housing, as Terry said, Mr. Hartford, is really suppressed right now. And that was not back in those years, it was all growing. And that's why we had a positive growth during those years.

COMMISSIONER PEARSON: Okay. So what are the demand prospects, as your industry sees them, for, you know, the rest of 2011, for 2012? Could you fill that in a little bit, please?

MR. HARTFORD: I'm Mr. Hartford; I'd be happy to start. I think in my testimony, and I'll repeat it again, I think we have seen the recovery from this awful recession as being slow, steady, tenuous. We've all lived through a lot of cycles, and we've seen V-shaped recoveries in the past, and we're not experiencing one of those right now.

I think as we sit here today, for stainless sheet and strip, and we look at our outlook over the next few months, it certainly has slowed. Just very recently it has slowed.

And when you think about the nature of our business, primarily spot business, not a lot of contracts; short lead times. I mean, our order book is loaded for the next five weeks, four weeks. And so we don't get tremendous forward visibility.

Our sense right now is I think things have slowed somewhat. And the balance of this year, our company is not anticipating, in the sheet and strip business, a booming, robust recovery the balance of the year.

I think that the overhang from the things that contributed to this recession, the financial uncertainty globally, the slowdown in consumer spending, the uncertainty of whether people are going to have jobs or not, how much money can they borrow for spending; all of those things I think have contributed to a slowing of consumer demand. Which is a big portion of our, of what drives our production and our sales.

And so I think that we're in a period of time of slow, gradual growth. That's my opinion.

COMMISSIONER PEARSON: Mr. Feeley.

MR. FEELEY: I also would echo the forecast from our vantage point as very moderate. We understand what corporations and consumers are like, are very deliberate in their estimates and their behavior. So we perhaps have put the recession behind us, but we expect this will be a slow task to recovery, with moderate GDP forecasted, and consumers and corporations looking very carefully at the future and very deliberate order patterns Terry had mentioned, and I would echo. That we, too, work in a very insulated four-week lead time. And perhaps while we'd like a deeper and richer visibility in terms of what may lay ahead, seldom are we afforded the luxury.

So from our standpoint, we go at this in a sense, month to month, and decide what the forecast or the future may bring every 30 to 45 days.

COMMISSIONER PEARSON: Okay.

MR. SCHMITT: Mr. Pearson, I'd have to say the same.

COMMISSIONER PEARSON: Mr. Schmitt.

MR. SCHMITT: I mean, right now, though, the customers are nervous. I mean, the outlook is short and the business cycles have gotten a lot quicker. We look at four to five weeks, and we see, you know, that's as far as we can see today. If it goes beyond that, it's really hazy.

But it's certainly, the first quarter was encouraging. It looks like it's slackened off. The customers are nervous right now; they're sitting on their hands, so it's really unclear. We're optimistic. We expect a slight growth, a moderate growth for 2011, and we hope for that in 2012.

COMMISSIONER PEARSON: Okay. Well, thank you for those comments. Just so you know, I'm currently going through a kitchen remodeling project that is causing some material injury, as far as I'm concerned. But at any rate, the end result should involve a substantial increase in the consumption of stainless steel, all of which has been manufactured already, so it's not new. But we're doing what we can to bolster supply, the prospects for stainless steel sheet.

Those of you who have access to the confidential version of the staff report would be familiar with Table 4-17, on page 4-33. This table shows projections for demand growth for both the U.S. and global markets.

And as I looked at those numbers I thought, you know, that looks reasonably robust; the people who put those forecasts together don't see the market standing still, or even being, you know, terribly slow-growing.

And so perhaps if you could say something now, Mr. Hudgens or others, that would be fine. Otherwise, for purposes of the post-hearing, could you give some assessment of how we should understand the data in that table.

MR. HUDGENS: We'll be happy to respond at a post-hearing brief. I would just point out that even based on these data, if you look at the consumption trend in 2010 compared to the forecasts in 2011, it shows a very, very modest increase. So it's, you know, less than what was even projected in our own testimony.

COMMISSIONER PEARSON: Okay. If you can clarify in the post-hearing whether there are product-based issues in that table that we should be mindful of. Because I'm not sure how our scope product intersects with the data that we have in there.

MR. HUDGENS: Will do.

COMMISSIONER PEARSON: Okay, thank you. Madame Chairman, my time has expired.

CHAIRMAN OKUN: Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Madame Chairman. I want to join my colleagues in welcoming everyone on this first panel to the Commission this morning.

Let me start with some further questions about capacity. We're in the enviable position in this review of having 15 consecutive years of data for the domestic industry. And one of the things that those data show is that over the last 15 years, domestic apparent consumption has declined, and domestic production peaked in, by my count, 1999.

But domestic capacity has continued to increase, as reported to the Commission. Can any of the producers explain why that would be the case?

MR. FEELEY: Ed Feeley. I'd be happy to respond. In terms of apparent consumption, what we are faced with, or our manufacturing base is faced with today, is a host of reasons why the apparent consumption has gone down. Not the least of which is manufacturing that has exited the U.S., and has gone elsewhere.

On top of that we have some manufacturers that right now assemble, and the manufacturing is conducted apart from the U.S. So some of those volume levels differ.

As far as the production relative to apparent consumption, much of the let's say capacity increases in decisions that have been made during the course of the mid-nineties and subsequently in 2000 were based on assumptions that apparent consumption would indeed increase. We've seen some results that would differ from the assumptions, basically for the reasons I've stated prior. So we're dismayed that the apparent consumption rates have not increased, and that the manufacturing base is perhaps weaker than once thought, given the competitive nature of manufacturing not only in the U.S., but NAFTA and abroad.

So we're hopeful that manufacturing will resume, and will recover, and consumers will use stainless in far greater applications than ever engineered before. We're hopeful that we'll have emerging markets that will also contribute to the lift in apparent consumption. And some of those markets, albeit early, would include solar and perhaps the lithium battery with auto.

So perhaps we're discouraged, short-term, with the apparent consumption rates, but optimistic with the future, that we can enjoy let's say larger production levels as a result of growing apparent consumption.

COMMISSIONER ARANOFF: Okay. Does anyone else want to comment on the logic behind expanding domestic capacity?

MR. HUDGENS: I'd like to make one point in terms of the trends. As you'll notice from 1996 to 2008, capacity remained fairly stable at two million short term. So there weren't any major capacity increases over a 12-, 13-year period. The increase that you're referring to really was in 2008. And these increases were -- I'm sorry, 2009.

And these increases, there is a two- to three-year lag between when capacity actually is put, goes into effect from when decisions were made to increase that capacity.

So most of those decisions to increase the capacity were made in 2006, when consumption was quite high. But it's not that the industry has been increasing capacity over a long period of time despite demand declining. The increase in capacity was done just most recently, in a one- to two-year period.

COMMISSIONER ARANOFF: Okay -- figures were probably understated, because not all capacity reported as available could be efficiently brought on line. Is that still the case today? Is there capacity that's older or less efficient that couldn't really be efficiently brought on line, given market conditions?

MR. HARTFORD: Terry Hartford from Allegheny Ludlum. Over this period of time, we have taken some older, higher-cost capacity off line, and we've taken that off line permanently, but have replaced that with newer capacity.

So when you look at Allegheny Ludlum's figures over the most recent period of review, our capacity availability is relatively flat. It went up very modestly over the past five years. But that really is the result of idling older, less efficient equipment, and bringing newer, more efficient equipment on stream. And I would say that for our company, that capacity is readily available for us when we need it.

MR. SCHMITT: This is Tom Schmitt from AK Steel. We have capacity we could bring on right now if we needed to upstream, you know, with the automotive side especially. We took out three old furnaces, and replaced it with a furnace in Butler, just to be a little bit more efficient.

But we could bring up some more capacity. If we had the orders.

COMMISSIONER ARANOFF: And when you refer to taking out older capacity, it's scrapped? Dismantled?

MR. SCHMITT: No, ma'am, it's not scrapped. We just, it's on idle.

COMMISSIONER ARANOFF: Okay. Mr. Feeley?

MR. FEELEY: Pat Feeley, North American Stainless. From our standpoint, we have no idled capacity, given the relative new investment. But we certainly have the wherewithal to bring capacity up to a very high level, if necessity were to dictate.

COMMISSIONER ARANOFF: Okay. Well, I appreciate those answers. Let me change to an entirely different subject now, while I still have a few minutes of time.

One of the arguments that's made extensively in your brief, and was raised in testimony this morning, is the idea that exports from subject countries to China are being shut out of the market in China, and need other places to go. That's certainly something that the Commission relied rather heavily on in the first review.

But now that China has been a net exporter for six or seven years, my question to you is, isn't that adjustment pretty much over? Is there further displacement from China that's going to take place in the reasonably foreseeable future? Or have things pretty much settled?

MR. HUDGENS: I can make two points regarding that. The first point is that the, in general the subject producers that diverted shipments from China to the other markets diverted to countries such as Vietnam, Malaysia, Poland, Turkey. They're smaller markets that have limited demand, and also have smaller pricing, I mean lower pricing than the U.S., so they're not as attractive a market as the United States is.

And the other thing that, since the first review the Chinese producers have increased, substantially increased their capacity. So even we've seen the diversion begin in 2005, but the Chinese producers continue to grow capacity. And so there's even less and less of a market in China. So there's those two factors.

COMMISSIONER ARANOFF: Okay. Mr. Hartford, did you want to add something?

MR. HARTFORD: Well, I was going to -- I concur with what Brad just said. The only question that perhaps I had was, I'm surprised -- and we'd have to look at our data again -- I didn't think that China has been a net exporter for six or seven years. I thought that was a very recent switch, where they became, they switched from being an importer of stainless sheet and strip to being an exporter. But we can check our numbers.

And to Mr. Hudgens's point, they continue to build at a very rapid rate.

MS. CANNON: Commissioner Aranoff, might I add, too? If you look at Exhibit 9 in our prehearing brief, where we have the export tables from each of the subject countries, you will see that despite the shift, each of these subject countries still have China as one of their top export markets, or many of them do. It's the second largest for Mexico, it's the second largest for Korea. It's still the largest for Japan. It's the third largest for Italy.

So even in 2010, they're exporting a lot there. And to the extent China continues to build up this capacity, I think you still will see the shift that has been going on over the POR continue.

COMMISSIONER ARANOFF: Okay, all right. I appreciate those answers; those are very helpful. And let me stop there since my time is running out.

Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Madame

Chairman. And I thank all of you for being here today to help us to understand what's going on and what's likely to happen in this industry.

I want to begin with a question for the entire panel about this new production facility that Thyssen is locating in the Southeastern United States. Does this given ThyssenKrupp's German, Italian, and Mexican entities the ability to compete against other U.S. producers in geographic markets where the Alabama-produced product would not be present?

MR. HARTFORD: Do you mean in foreign markets, as opposed to in the United States?

COMMISSIONER PINKERT: No. In the United States, in other words, is that Alabama plant sort of limited as to what parts of the United States it would be competing in?

MR. HARTFORD: This is Terry Hartford from Allegheny. My answer to that is no, there would not be a geographic limitation to what they can do from the Alabama plant.

COMMISSIONER PINKERT: Okay. Now --

MR. SCHMITT: Tom Schmitt from AK. Absolutely, I don't think that would restrict them at all. I would agree with what Mr. Hartford said. They can ship anywhere in the country.

COMMISSIONER PINKERT: Thank you. Now, Mr. Hudgens, are the improvements at Thyssen's German plant that you referred to in your testimony relevant only to niche products? Or are they relevant to the entire domestic like product that we're looking at in this case?

MR. HUDGENS: I believe it would be relevant to the entire like product. That in this letter, where ThyssenKrupp indicates that they are moving production within Germany, they do indicate that they are using, they will focus on pyritic products. Pyritic products, focus German production on pyritic products.

COMMISSIONER PINKERT: Could you get a little closer to the microphone?

MR. HUDGENS: That they will tend to source more the pyritic products from Germany. And then in terms of the 300 series, produce those in the United States. But if the orders were lifted, then ThyssenKrupp would have the option to ship the entire product mix.

COMMISSIONER PINKERT: Thank you. Now, you also, Mr. Hudgens, testified about what would be likely to happen if the Commission kept the order on Mexico, but removed it on Germany and Italy. And I'm wondering whether that argument is consistent or inconsistent with the argument that the 12-percent duties on the Mexican product haven't had, and aren't likely to have, any impact on Mexican shipments to the U.S.

MR. HUDGENS: Well, currently there are orders in place from Germany and Italy. And so the importers understand that they are subject to a duty, they are subject to an administrative review. They know that the duty that they are posting a bond on is not necessarily the duty that they will ultimately have to pay. So there it does create a stronger discipline in the market, other than just the actual duty there.

So when you take, if the orders were to be revoked on those two countries, then it does completely free those two countries up to supply the U.S. market.

COMMISSIONER PINKERT: Maybe I misunderstood some of the testimony about the 12-percent duty on Mexico. But I'm still wondering if, if the shipments will continue unabated from Mexico, regardless of the 12-percent duty, then why would we expect there to be an adverse impact from Italy and Germany in the event that those orders are taken off? Do you see what I'm getting at?

MR. LUBERDA: Commissioner Pinkert, this is Alan Luberda. It's an economic, there's an economic incentive. If they have a choice between shipping from Mexico and paying $350 or so a ton extra to get their product into the United States, or they can ship it from Europe without the administrative burden of the dumping order, without that extra $350 a ton, that starts to raise a lot of economic disincentive.

So at that point, it could make very sound economic sense to ship from Italy or from Germany, at a price that's, you know, there's a $350 advantage there at $3,000 a ton.

MR. HARTQUIST: This is David Harquist. I would also point out, Commissioner Pinkert, that the level of the anti-dumping margin for Mexinox has gone up and down, with wild swings from the beginning, 30 percent, more than 30 percent initially. It's been down around three or four percent. And just in the last review by the Commerce Department, it went up, I think to the surprise of Mexinox, to 12 percent.

So I think they're probably looking at lots of different ways to bring material into the United States. And the relationship between the Alabama mill and what's going to go down to Mexico for processing, come back to the United States perhaps in finished form to be sold in this market, they have a wide range of options that they can pursue.

And given the uncertainties and the changes that we have seen in the pattern of what ThyssenKrupp has done in marketing their products in the past, it's very difficult to predict what they will do in the future.

But our basic point is we think that these orders are very important. They've shown that they, that they will dump; they continue to dump. And if the orders were revoked, it would have a very significant impact on the domestic producers.

COMMISSIONER PINKERT: Thank you. Now I want to go back and examine the assumption behind my question, the one that you've just answered. And that was about whether or not the 12-percent duty might be having an impact.

I'm wondering, is it too early for us to say at this point whether or not it might have an impact? Even accepting the point that you made in your testimony earlier that there is some indication that they intend to continue to ship to the U.S. market.

MS. CANNON: Commissioner Pinkert, yes, I think that's exactly the case. This is a very new calculation. And you also have to recognize that this whole integrated policy that they're articulating is very new. So when you combine the two, you can't really look at exactly what's been happening up to now; you have to take them where they are, say you've got an integrated policy, now you're facing a 12-percent duty that you were hoping was going to be zero. They keep referring to in their brief as if it were zero, when in fact it is not.

And at that point, the economics that Mr. Luberda described do kick in, in terms of giving you incentive to look elsewhere as a potential source, to avoid paying $350 a ton bringing it in from Mexico.

So I think it's again too new in this whole equation, both because of the dumping duty and because of the new integrated policy, to assume that it would not come from anywhere else.

MR. LUBERDA: Commissioner Pinkert, we view the letters that Mexinox sent to their customers here as a statement that ThyssenKrupp intends to continue to supply its customers in whatever way possible. So they knew they were coming into the sunset; they were telling customers they were going to get a zero, and they didn't. So it's don't worry, we'll find a way to continue to supply you regardless of this.

And the option of supplying from Europe, if there were no duties in place, would provide one method for them to do that.

MR. HARTQUIST: David Harquist. I would also comment that there was a lot of discussion in the marketplace when the Alabama facility was being designed, that imports from Mexico would cease, because they were going to be producing this material in the United States. And so don't worry about the dumping order.

Yet Mexinox has fought this all the way, continuing to fight in numerous different fora, on NAFTA appeals, court appeals. And so it's clear that they want to have the opportunity to continue to ship to the United States, and they would love to have this order go away.

COMMISSIONER PINKERT: Thank you. Now, turning to Mr. Conway. I want to get your comments specifically on the issue of vulnerability. And how you respond to the argument that the industry's great turnaround after the great recession is an indication that the industry is not vulnerable.

MR. CONWAY: The turnaround may be somewhat slight in pricing, and we look at it compared to carbon, that it sort of didn't suffer as bad as carbon. But in terms of a turnaround from our perspective, I still have plants down in Indiana, I still have people in New England who made this product. I mean, we still have a significant number of members who made stainless strip, on layoff. And hopefully, can still bring this back also from this.

Week after next I'm going to open up bargaining with one of these companies in a year or so. I'm feeling like this whole thing has been staged to kind of set me up a bit. But it is what it is. We recognize that there is still a soft market; that our capacity is kind of not back where it is.

And while there may have been some pricing, my sense is a lot of it's passed through the price of nickel. You know, a lot of arguments going on in the industry about are you holding, are you getting real price, or are you just passing through cost of raws.

So from our perspective, we don't see this as anything other than that kind of short-term recovery that they've been describing. And you know, I typically would have gone in with a company looking at 13 weeks of book, and how far out it was booked. Now, we're in this kind of world of four and five weeks of orders, and no real sense about how far it is.

So I just don't see this as, you know, while it's a slow crawl out, it's a real slow crawl. And if I had to pick my time to be doing a labor agreement, I wouldn't have chosen this week, but I have what I have. I don't know if that directly answers your question.

COMMISSIONER PINKERT: Thank you. Mr. Hartford, very quickly, do you have a followup?

MR. HARTFORD: If I could just add to that. This recovery, I think we need to put it into perspective. And bar charts are always great things, because visually you can see very quickly where you are.

And when you look at how poor U.S. consumption was in 2009, in my testimony I think I said it was the worst year in 17 years, it was less than half of the consumption level in the year 2000.

And so on a percentage basis, the recovery from 2009 to 2010 looks like a big recovery. This is very robust. But when you look at it historically in terms of where we have been in the past, it was, in absolute terms, it was a very small recovery. And we still had a long way to go to get back to the levels of what we would consider to be normal U.S. consumption.

COMMISSIONER PINKERT: Thank you. I'm past the end of my time for this round, but I appreciate the answers. Thank you, Madame Chairman.

CHAIRMAN OKUN: Thank you again for all your answers thus far. As you know, as a result of the first review, the Commission looked at the orders on France and the UK. In your opinion, has the behavior of the imports from those countries been, on both volume and price, as you would expect?

In other words, you had argued that we should keep the orders on France and the UK.

MS. CANNON: I'm sorry, I'm not sure we have the stats on the UK and France.

CHAIRMAN OKUN: Okay. Well, how about for the producers? Do you see them in the market? What prices?

MR. SCHMITT: We definitely have competition from France, no question about that. This is Tom Schmitt from AK. We cannot speak specifically about the UK, but certainly from France.

MR. HARTFORD: I would agree with that. We see French competition, French imports on sheet and strip routinely in the market.

CHAIRMAN OKUN: And what prices, compared to other prices in the market?

MR. HARTFORD: At lower than U.S. prices, typically.

CHAIRMAN OKUN: Okay. If you look at -- go ahead. Yes, Mr. Schmitt, closer to your microphone, please.

MR. SCHMITT: I'm sorry. Substantially lower from France. I don't think we can say it here, I'll do it in a brief to you, but we've seen substantially lower prices from France.

CHAIRMAN OKUN: Okay. So for post-hearing for me, I'd like you to address those non-subjects' role in this market, post-order, and how that fits with your argument.

Then let me turn to the incentive of subject imports to come back into the market. The Commission collected extensive pricing data in different markets. And depending on the product, I think it's been described in the briefs as instances where the U.S. EU price is very similar, sometimes the EU higher, kind of a mix. But not a -- I guess I would ask you to comment on that.

In this industry we have, you are exporters. So talk about prices in other markets, and what you see going forward. And how that relates to, we talked about capacity increases, consumption increases in some of the other markets in which you might be familiar. Talk about the prices in other markets, and how you see those.

MR. HARTQUIST: You mean other geographic markets?

CHAIRMAN OKUN: Yes, other geographic markets.

MR. HARTFORD: Terry Hartford from Allegheny. We do export some sheet and strip. If you look at net selling prices in various markets, the U.S. tends to normally be higher than other U.S. markets.

MR. SCHMITT: Than other non-U.S.

MR. HARTFORD: Sorry, thank you. Than other non-U.S. markets. You compare it to the prices in Germany and Italy, or if they roll up an EU price, the prices here tend to be higher. Certainly generally higher than selling prices that we see in Asia.

CHAIRMAN OKUN: Do other producers want to comment on that?

MR. FEELEY: Yes, thank you. Pat Feeley at NAS. We, too, see lower prices. We expect that situation will continue. We are able to export, but at clearly lower levels or lower price levels than what we were faced with here in the U.S.

MR. SCHMITT: It's Tom Schmitt from AK. Again, we do export very little, but it's very, very competitive outside this country. Very competitive.

CHAIRMAN OKUN: Okay. For purposes of the post-hearing, if you can provide what types of products you're exporting, and how that fits. Because again, for counsel, I mean if you're looking in chapter, or, yes, in section 4 of our staff report and looking at prices, particularly with respect to the EU, Germany, Italy, how that fits with this experience, if they are relating today.

MS. CANNON: Chairman Okun, if I could just add, as well.

CHAIRMAN OKUN: Sure.

MS. CANNON: I think generally, without getting into specifics, the fact pattern you see in the confidential data in your report shows that the Asian prices are consistently lower. So that's a given.

The EU and U.S. prices are in fact mixed. But when we're looking at the EU producers in Germany and Italy, we're not so much worried that they're going to ship production from their home markets from what they're selling in Europe. But they're exporters, as well, and the concern here is that a significant amount of their export is to markets at lower prices. And to the extent those are shifted, or they have excess capacity overall, and here is the U.S. market with attractive pricing as it is -- I mean, it's as good as it is in Europe, generally -- There is incentive to sell it here.

So that is basically our concern with respect to the European producers. But many of the producers focus on China and other Asian markets, where there is a clear incentive to sell it into the United States, based on that proprietary pricing data.

CHAIRMAN OKUN: Turning to the cumulation arguments, Ms. Cannon, in your direct testimony you had addressed one of the questions I would have asked you to respond to, which is what distinctions you see in this fact pattern, versus the Arsular Mittal NuCor fact pattern. So I appreciate you addressing that.

But I do have some additional questions there. You had talked about the Court had focused on what evidence there is to support, that affiliation alone is not sufficient, which the Court clearly stated.

I guess one of the questions I would have, and that I could also put to producers, is in response to Commissioner Pinkert's question about whether the

Alabama plant was limited geographically, the response from producers was no, it produces, would produce for a national market, or they're not limited.

One of the arguments made in other cases where there have been affiliations is that while I could say yes, there will be volume from Mexico, they say there will be; and for a while they keep bringing in these German products until they bring these additional lines on, and then obviously we'll have a chance to talk to them more about the timing of all that.

But let's say I accept that, that there will be some volume, because it's consistent with their strategy. The question for me is prices. Why would we expect, as an incentive for those prices, those countries, those affiliated producers, to bring in products in the United States and sell them at a price that affects the U.S. price, or lowers the U.S. price. How can that be good for the company as a whole, or for the Alabama producer?

MS. CANNON: Well, let me start, and then I'll let the producers comment, as well, because I asked them that question yesterday, in fact. Because I was curious about the same thing, given the facts of the NuCor case.

And the first response was, look at the data in the staff report that we already have, which is what Mexinox is doing right now. Mexinox is underselling U.S. producer prices during the review period to a significant extent, in about 35 percent of the comparisons. There is underselling right now, which was not a situation that you saw in that other case.

But when I asked about the prices that these producers were seeing in the market by Mexico, they said they were indeed aggressive. And let me let them amplify on that.

MR. HARTFORD: Ms. Cannon may have just made my point, but what I was going to respond with -- this is Terry Hartford from Allegheny Ludlum -- is the fact that Mexinox does that today. They ship into the U.S. market at prices lower than our prices in the U.S. market. They consider it an important part of their home market; yet, they continually sell at prices below the domestic producers.

So if they do it today with Mexinox, we would expect that they would do that same thing in the future with Germany and with Italy.

CHAIRMAN OKUN: Other producers want to comment? I have a followup question on that.

MR. FEELEY: Yes. Pat Feeley at NAS. I'd like to add, given some of the rhetoric in terms of market share or the targeted market share one day, given the events with Mexinox and I think some assumptions can be made with Italy and Germany, that to achieve this type of market share, independent of production, when it may or may not come out on stream in Alabama, this kind of market share is difficult to achieve without the aggressive pricing practice that's been demonstrated, whether Germany, Italy, or Mexico.

MR. SCHMITT: As my colleague said, you know, pricing from Mexico today is below our price. And I think we read in their briefs where the plants grow from 12 percent to 25 percent, I believe, and the only way they would do that, by selling more at cheaper prices. That would be my opinion.

CHAIRMAN OKUN: Mr. Hartford.

MR. HARTFORD: If I could add, I think we have to remember that Alabama remains a huge uncertainty today. They are literally just getting started. And this is a plant that at least publicly they've stated that they will eventually have about 350,000 tons of cold-rolled sheet and strip capacity. And I would anticipate that today they are running at a rate that is, oh, maybe it's 50,000 tons.

And so I think that the time required to get Alabama up to where it needs to be, I think is going to be a couple years. And a couple of years is a lot of exposure for us, if we don't have the orders in place on Italy and Germany, number one.

Number two, I think several of us have made this in our statements, ThyssenKrupp's announcement in early May that they are looking at options for the stainless steel business possibly selling it, spinning it off, doing something different with that, I think creates tremendous uncertainty as to what role Alabama is going to play in the future, sourcing and supply strategy of these entities.

They could be owned by another company. It's possible, I would think, that Alabama could be owned by a different owner than owns Italy and Germany. And so I think the increased uncertainty relative to Alabama, from my opinion, really forces the issue on Germany and Italy and retaining the orders.

CHAIRMAN OKUN: I have several followups, but my time has expired. So I'll turn to Commissioner Lane.

COMMISSIONER LANE: Mr. Conway, I'd like to ask you a few questions. Could you tell us briefly, over the period of review, what has happened to employment numbers at these facilities? From your employees.

MR. CONWAY: During this period of time we reached restructuring agreements in the plants that we had across the rest of the industry. So typically, we've taken out about 20 percent of the workforce, and restructured the workforce to accomplish that work.

And then there has been, I would say over the last maybe three years, a pretty steady plan not to backfill attribution as it took place. Sort of spread the work around.

And then in 2008, you know, in the fall of 2008, the sort of bottom fell out. And in some places the bottom remains out. Over time, at some of the bigger plants we were down completely for a sustained period of time; still are significantly, at two of the plants. Overtime is running I would think about 10 percent right now.

And typically, the industry will run at 15, 16 -- I mean, it gets above that, we start to fuss with them about it's just too much time. So time off the job has been significant and sustained. I mean, they were down for so long that now, you know, people really got hurt. This was a time when people lost a home and lost a car, and now getting a recall back to work for 40 hours is going to take a long time to build back up.

It's been, it's been miserable both at the Allegheny properties, as well as what we went through in Mansfield at AK. So the stainless, you know, I'm shocked at the number of people that want stainless steel refrigerators and dryers. When housing went down, when auto went down, this industry took a hammering, and it's still there. Construction is a big part of the book here.

COMMISSIONER LANE: And how would you characterize what you think is going to happen to your employees and the number of employees in this industry, in the reasonably foreseeable future? Without giving away what, your bargaining agenda.

MR. CONWAY: There aren't a lot of secrets in this whole thing. Here's one of the dilemmas has, as the workforce and the retirees have.

As the restructuring took place some years ago, we capped our OPED. And so our obligation for legacy is now, the risk lies with the retiree. And I have some follow-on plans and some profit-related schemes, and I'll take a portion of profits and defer it towards, towards lowering that bill.

But when those profits aren't there, you know, I make this up out of three pieces: employee premium, the profit stream, and benefits. So if the profit stream is gone, premiums are going up or benefits are coming down. And even though it may begin to start to show that it's turning around a little bit, and I'll get some stream of funding, those plans, I'm sort of living on a contract-to-contract basis.

If I can keep that OPED account funded a contract ahead, I feel frankly pretty good about it, anticipating retiree healthcare costs. So I'm kind of behind the curve, and it's one of the things we'll be talking about the week after next.

But keeping these people with a steady stream of profit into those VIVA accounts is crucial, both to the retirees -- and that's where the current actives will seek any retiree healthcare, as well, out of that VIVA. So it's not just a pool of former workers; it's the construct for the current actives, as well.

COMMISSIONER LANE: Okay, thank you.

MR. CONWAY: Thank you.

COMMISSIONER LANE: I want to talk about surcharges as your companies use, and what determines the type of surcharge that are used? And when do you decide to implement the surcharges? Mr. Hartford.

MR. HARTFORD: I'd be happy to start. We utilize a surcharge mechanism in our company as a means to recover fluctuating charges of incoming raw materials. So we have a surcharge that we apply on each of the grades that we produce. All of the grades in stainless sheet and strip would be subject to a surcharge. And the calculation recovers nickel, chromium, iron, energy, milidbinum. I think those are the major, the major elements that we capture.

We have a published, we cite a published index for costs for each of those raw materials. We have a formula that turns those surcharge, or those cost changes into a surcharge, and then each month we adjust our surcharge accordingly.

So there is a 60-day lag. The raw material cost indices average for the month of January would determine our surcharge in the month of March.

COMMISSIONER LANE: And does the surcharge fully cover the raw material and energy costs?

MR. HARTFORD: It's intended to serve as a pass-through for us, so I would say in most cases it covers those costs.

COMMISSIONER LANE: Okay. Does anybody else from the industry want to add to that?

MR. SCHMITT: Our surcharge formula for AK again follows what we pay for the raw material. Most of the time, and it's always a pass-through for us; everything we ship has a surcharge on it.

Sometimes, as Terry said, it's a 60-day-out. When the surcharge of the raw materials go down, and the customers can see that, it's a very negative effect on us. Because they know we have high cost of material based on our surcharge. And we're kind of in that dilemma right now.

COMMISSIONER LANE: Okay, thank you. Mr. Feeley, did you want to add anything?

MR. FEELEY: Nothing further.

COMMISSIONER LANE: Okay, thank you. How do you respond to ThyssenKrupp's contention on page 15 of its brief, that surcharges are routinely insulating? And in many cases, more than insulating the domestic industry from the adverse impact of volatility in commodity prices.

MR. SCHMITT: This is Tom Schmitt. Again, what I said before, it is a way to pass through the raw materials, but it's not a one-for-one all the time. As in the current market now, people see the raw material falling 60 days out. So what they're doing is they're sitting on their hands right now, not buying.

MR. HARTFORD: I would take great issue with that statement. We don't believe it's true. It does not insulate us in any way. It is a raw material cost pass-through for us, and that's all it is.

COMMISSIONER LANE: What do you think they meant by that statement?

MR. HARTFORD: I really don't know. I just don't understand the statement.

COMMISSIONER LANE: Okay. Mr. Feeley, did you want to add something? Mr. Hartquist?

MR. HARTQUIST: This is David Harquist. If I may comment on this, this has been the subject of so much discussion in so many hearings on stainless steel, the whole surcharge mechanism.

I think what ThyssenKrupp is trying to say is no matter how expensive the raw materials are, the industry is insulated from any impact of the increases or decreases in the costs of these materials. Because they just have a formula, and they tack it on, and everything is fine.

But the crucial issue that that kind of a position misses is that we're not competing based upon raw material costs. That's only part of the ballgame.

And the companies are competing on the basis of the net price.

And to the extent that the base price moves up and down based upon market conditions, that determines the profitability or lack of profitability of the sales of the product.

So sure, all the companies buy relatively the same materials. There is, it's pretty easy to determine movements of raw materials in the marketplace, and you can figure out what a surcharge should be to try to pass those costs through.

But that doesn't mean that you're going to sell the same volume of material, and it doesn't mean that you're going to be able to maintain prices at profitable levels.

MR. HUDGENS: I could also make one other point. In the staff report, the variance analysis on page 315 indicates that over the period of investigation, operating income declined. And the reason it declined is that costs rose greater than prices did during this period. So that in itself shows that there is no insulation.

COMMISSIONER LANE: Okay, thank you. And Madame Chair, 10 on the spot.

CHAIRMAN OKUN: Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Madame Chairman. Someone has asked earlier about exports by the industry. They have more than doubled over the period of investigation, if you look back to the original over this period of review. If you look back to the original period of investigation, they are up by a factor of four, more or less, which is interesting, because it's not a pattern we see in all of our investigations.

So to which countries have we been expanding our exports? Mr. Hartford?

MR. HARTFORD: I'll be happy to begin. Terry Hartford, Allegheny Ludlum. Our exports have indeed increased, and for a couple of reasons.

One was absolute necessity. When you look at our domestic market and how dramatically it has declined in recent years, we needed to pursue additional markets as we wait and see, or wait for the U.S. market to recover. And we didn't want to be a victim of the decline in the U.S. market.

So we're shipping cold-rolled sheet and strip products to a variety of countries in Europe, EU countries. It's steady business. It's also conducted on a spot basis, where price is what it's all about. But we've been able to grow that business in recent years, and it was important for us to do it at a time when the U.S. market has been so weak.

So our exports primarily are directed at the European market. And we have developed customers there that we do business with on a pretty routine basis.

COMMISSIONER PEARSON: Okay.

MR. FEELEY: Thank you. Pat Feeley at North American Stainless. We, too, have increased exports. However, our exports have been primarily pointed to Canada and Mexico, and in some cases, Asia. Some of that having to do with expanding markets and opportunities that we can afford ourselves, with higher volume and the ability to compete.

We also have some new investments that would be located in both Mexico and most recently in Malaysia. And with some of those events, we've been exporting to let's say some more activity internal within the organization.

COMMISSIONER PEARSON: Okay.

MR. SCHMITT: This is Tom Schmitt from AK. Our imports have grown, but only slightly, and mainly to the -- exports. Exports, excuse me. And mainly to the European community.

COMMISSIONER PEARSON: Okay.

MR. BLOT: Certainly the weakness, the recent weakness of the U.S. dollar has helped us during this period of time. And nobody knows how long the dollar is going to stay where it is. But during this period of time where we've increased our exports, that certainly has helped us.

COMMISSIONER PEARSON: Okay. Especially vis-a-vis the European Union? The euro?

MR. HARTFORD: Correct. You look at the $1.41 or $1.42, that has made it possible for us to do this, or helped us do this.

COMMISSIONER PEARSON: It would be interesting to have Mr. Bernancke here and ask him that question, about how long the dollar might stay weak, but we'll have to pass on that.

Okay. So should we interpret the expansion in exports to be fundamentally a sign of competitiveness of the U.S. industry? I mean, it looks to me like a good thing. Is that the right way to understand it?

MR. HARTFORD: Terry Hartford, Allegheny Ludlum. I don't know that in our testimony that we've said that we are fundamentally non-competitive. I think we take pride in the fact that we are cost-competitive producers.

I think the issue we have is even if you're a cost-competitive producer, it's awfully difficult to compete against people who price their products in an unfair way.

COMMISSIONER PEARSON: Fair enough. Any other -- okay. Mr. Blot, you had made a comment about the role of non-subject imports in the U.S. market. And I would ask you to go back and clarify that. Because I think you were implying that they had increased.

And so could you -- what were you trying to say there?

MR. BLOT: This is Ed Blot. What I was trying to say is that when the orders came into place, you have a lot of traders who want to be able to bring material into the U.S. So if they've lost an opportunity with a particular producer in a particular country, they are going to look elsewhere to get material to be able to bring into the U.S.

So what I was trying to point out is that as the sheet product declined with the, because of the orders, two things happened. One is other non-subject countries started to increase, again because the traders were trying to find an avenue to bring that into the country.

But there was also the shift that took place, in that the producers that were under orders then shifted from coil to cut length. You can see that in that exhibit, Exhibit 8 I think it is. But that was the point I was trying to make, if I answered you correctly.

COMMISSIONER PEARSON: Okay, no, and I think I understand better now that you were linking it with the cut-to-length issue. Because just looking at the raw numbers over the period of review from the public version, you would have had non-subject imports decline from 2005 to 2010 by 10,000 tons or something like that. But there were a lot of ups and downs in between. So it seems like not a terribly steady source of supply, but still a source of supply.

Could I follow up then, Mr. Blot, by asking, you know, why do we have these fairly traded imports? Is the U.S. industry actually able to supply all of the demand in the U.S. market? Or are there some products that we don't produce in the United States, and that of necessity users bring them in from other countries?

MR. BLOT: If you look at the -- I think we'll let Mr. Hudgens -- if you look at the capacity figures, if your question is can the U.S. producers supply the tonnage.

COMMISSIONER PEARSON: No, it's not tonnage. It's the specific quality of product being demanded by the variety of customers that we have in the United States. Specialty grades, whatever. Anyone from the industry have --

MR. SCHMITT: I think we make all the grades that are necessary. I don't know of anybody that needs to go offshore -- this is Tom Schmitt from AK -- that needs to find that grade, that one of us can't supply.

COMMISSIONER PEARSON: Mr. Hartford?

MR. HARTFORD: Yes. When the orders went into place in 1998 or '99, there were some countries that requested exclusions on certain products. And we granted some of those exclusions. I'm going from memory here. I think Blade Steel was one of them. I think Lithographic Sheet is one of them.

But these are small, very, very small niche products, very low volume. And the U.S. industry either didn't have the capability, or just chose not to create the capability, to make those.

COMMISSIONER PEARSON: Okay. But for the product that we have in the record as non-subject, the reality is the domestic industry does produce all of that; yet the imports come in, and are fairly traded, and so there is not controversy in the marketplace because of that competition. Is that a correct understanding?

MR. FEELEY: Pat Feeley at North American Stainless. Yes, correct. We have the ability to cover the domestic needs from a product category, as you describe it.

COMMISSIONER PEARSON: I don't want to put words into your mouth, but I'm just trying to make sure I understood that.

Another issue. The public version of the staff report, this Table 1-1, page 1-8, indicates that subject imports in 1998, the end of the original POI, amounted to only about 265,000, or amounted to 265,000 short tons. And then they fell to about 104,000 in 2010.

I looked at that number in comparison to the increase in capacity that we've seen in U.S., in the U.S. industry over the period of review. And it looks like the volume of subject imports is relatively modest compared to the capacity increases the domestic producers have made.

How should we understand this, as we compare the two? Because I could look at this and see, well, it doesn't look to me like revoking the order would create that much of a likelihood of injury. Because even if, even if the subject imports were to rise to their previous injurious level, picking up 165,000 tons or whatever, that's really modest in contrast to what's happened in the domestic marketplace overall, with so much more capacity being there.

So if we extend these orders, are we saying that there is going to be a risk of injury from the domestic -- rather, from the subject imports? Or are we really seeing more risk of injury self-inflicted by the domestic industry? Took me a long time to raise that, but what would you say?

MS. CANNON: Perhaps I can start, Commissioner Pearson. On the, just on the macro level on the volume issue, first of all, I would emphasize it's not a volume issue alone. It's a price issue. And the one thing that these orders have achieved to a certain extent is a pricing discipline in the market. And by taking them away, the imports that you're seeing some underselling on now, that underselling is likely to increase. And that would cause significant financial harm to the industry, even without a volume shift.

But we also think that there would be a

volume shift that would be disproportionate, even to what you saw before, based on the increased capacity and unused capacity that we described, and that we've detailed in our brief.

MR. BLOT: I'd like to add -- this is Ed Blot -- one more comment. The producer who quotes the low price doesn't necessarily always get the order, but they can drive the whole market pricing down.

So getting back to what Ms. Cannon was saying, is that if you take the orders off, then what you're going to do is allow for lower prices to be quoted into the marketplace. So even if that volume doesn't, say, significantly shift, it can have the impact of bringing the overall market pricing down.

COMMISSIONER PEARSON: Okay. Well, my time has expired, so thank you for those comments.

CHAIRMAN OKUN: Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Madame Chairman. First, a followup to Mr. Feeley. You had indicated in response to questions about exports that North American Stainless has some investments in Mexico and Malaysia.

Can you tell us, either now, or if it's confidential in the post-hearing, can you give us a description of the nature of those investments? And whether North American Stainless or its parent company has any plans to export from those facilities to the United States?

MR. FEELEY: We can do so post-briefing.

COMMISSIONER ARANOFF: The ThyssenKrupp respondents are arguing that in assessing the performance of the domestic industry rather than looking at the operating income margin which is one of the typical measures that the Commission looks at, we should be looking at the metal margin which they contend has increased over this review period compared to prior periods. Do any of the producers agree, is that a way that you would look? Is one or the other a more reliable measure of the performance of the industry?

MR. HARTFORD: I would take issue with that. Financially and accounting wise what's left at the end of the day comes from our operating income, and you have a cost of goods sold, you have material costs, but then you have a lot of employees that you have to pay, you have pensions and benefits that you need to pay. There are a lot of expenses that certainly have to be covered after you look at that metal margin. At the end of the day we are at 1.7 percent and it's not a sufficient return to make further investments.

So we think the operating income metric is the right one to look at.

MR. HARTQUIST: And the correct figure to look at under the statute. There's nothing in the statute that talks about metal margins or any margins in terms of factors of the cost of production.

COMMISSIONER ARANOFF: That's true, although it does seem to come up all the time in steel product cases.

The Thyssen respondents also argue, just on the factual point, that the metal margin for this product has widened over this review period compared to prior periods, and that this is a reflection of enhanced pricing power on the part of the domestic industry. How would you respond to that?

MR. HARTFORD: I have not studied the data on the metal margin over time, so we can look at that and if it's important to include it we can include it post-hearing. But I would argue that we're sitting in front of you today as an industry without a lot of pricing power, selling products that are sold primarily on the basis of price and competing against imports that consistently price their products below ours. So I don't think there's an indication of pricing power here with our domestic industry.

MR. FEELEY: I would also add to Terry's comments, the pricing power is not available in a sense. We don't view it like TK may describe. We have lowered apparently consumption, we have far more intense imports at lower prices, underselling. So on the contrary, we see just the opposite. We really, as the commodity leader here in the States we see the inability to raise prices in fact.

MR. HUDGENS: I would argue also that the metal margin improved over time because the U.S. producers became much more productive. If you look at the productivity rates over the last 15 years, they've increased substantially. So it's more of a result of the U.S. producers doing what's right, making the right capital expenditures, becoming more efficient and more productive that's made that metal margin increase.

COMMISSIONER ARANOFF: Okay. Can each of the producers describe for me what's been going on in the last year or so in the market in terms of any announced price increases? Have you announced price increases? How many? How often? How have they fared?

MR. FEELEY: I'd like to start. Pat Feeley at North American Stainless.

In the flat rolled segment over the span of two years, North American Stainless has announced two flat price increases. There was a price increase that had been announced January of 2010, and more recently in May of 2011. Suffice it to say with two base increases in a span of a year and a half, we have found it very difficult to pass the price increases through to the end customer. Much of that owing to the intense competition that we're faced with. And as I testified earlier, the ability for customers to seek the low price, they have every opportunity, perhaps more so than ever before, to navigate and identify and seek lower prices when permitted.

Given the nature of our marketplace in the spot market as we have defined prior, the customers are in many cases very unwilling to accept the increase and therefore they'll seek the lower price when permitted. It has not allowed us to raise prices albeit twice in a span of 18 months with any success.

MR. SCHMITT: Even though there's been -- This is Tom Schmitt. Even though there's been announced price increases, getting them in is another story. As Ed spoke about earlier, if an import number comes in lower than ours, it's tied to that number. And in a commodity issue in the sheet and strip, that happens every day, it's happening today. So no matter what we, the producers, announce, it's really what that final price that the customer is being offered. And unfortunately in a lot of cases today that's import numbers.

MR. HARTFORD: Terry Hartford at Allegheny Ludlum. We announced a sheet and strip price increase January of 2010 of roughly six percent. I would say we had mixed success in that case. It's hard to over time measure what you keep and what you don't keep, but I would say we had mixed success there. But then later in the year with further erosion in selling prices in 2010 and in early 2011 we announced a price increase effective April 1st of this year which was not successful. And typically when these price increases are not successful, we're confronted with opportunities of lower prices from other suppliers, and oftentimes those lower prices are coming from imported product.

COMMISSIONER ARANOFF: Thanks. If there's anything that you can add post-hearing to document what's happened with announced price increases, that would be very helpful.

Can any of the producers comment or maybe Mr. Blot can comment on the current state of competition in the U.S. market from Chinese product. Since we're talking about the fact that China has slowly been growing as an exporter, what role are Chinese product playing in the U.S. market right now?

MR. BLOT: In 2008 I believe it was, China was the largest exporter to the U.S. of the stainless sheet and strip product. This would be in both coil and cut-length total, is what I was looking at. 2009 for world reasons, as we know things were down, and then last year they came roaring back. Other than Mexico, they were number two as far as the imports coming into the U.S.. This year they're pretty well neck and neck with Mexico, and chances are they may be equal to what Mexico has been coming in. Mexico has always been the largest import country into the U.S. up until China's presence.

COMMISSIONER ARANOFF: Then let me ask the producers, the Chinese product is in the market. What about pricing? You've told us what you've seen from Mexinox. What are you seeing from people offering Chinese product?

MR. FEELEY: If I may add, we have seen a shift with respect to the way the product is delivered to the marketplace, namely through the master distributors, and the master distributors are nearly

100 percent supported with import. This has changed some of the rules of the game, per se, in that a master distributor now has the ability to compete daily and quite effectively against U.S. producers. So this event is almost implausible to think it would have happened without the intense Chinese support and the lower prices that they offer the master distributors today.

MR. SCHMITT: As Mr. Feeley talks about those master distributors, quite a bit of that material does come from China.

COMMISSIONER ARANOFF: Can you get a little closer to your microphone?

MR. SCHMITT: As Mr. Feeley was speaking, a lot of that material from the master distributor does come from China, but some of that material from that master distributor also comes from the companies that we're talking about today.

MR. HARTFORD: I would agree with Mr. Schmitt's and Mr. Feeley's comments. Master distribution is a growing presence in our market channels and they're supplied almost entirely by imports and it's a mix of product imported both from China as well as other countries including the subject countries.

COMMISSIONER ARANOFF: Okay. My time is up, so I'll just say for post-hearing, take a look at Table 4-2 in the Staff Report. When I look at it it seems to show, for example, that the unit values on Chinese imports are higher than those from Mexican imports over the period of review. Maybe that's product mix, maybe there's something else going on. But if there's anything else you want to tell me about the effect of pricing of Chinese imports in the market, that will be helpful.

MR. HARTQUIST: We'll be happy to do that. Thank you.

COMMISSIONER ARANOFF: Thank you very much. Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Madame Chairman.

Going back to 2008, I notice that both apparent consumption and financial performance were down that year, and I'm wondering whether that downward movement was focused more in the last quarter of 2008 or is there something going on throughout the year in 2008 that is driving those figures?

MR. HARTFORD: I'd be happy to start. If you saw a bar chart of our four quarters of shipments in 2008, there was a step function decline in Q4. So 2008 was a fairly solid year. I think it started out very similar to 2007 levels, and September the world stopped for us. Everybody talks about the Lehman event and whatever that date was, September 17th or 18th. Our phones stopped ringing, our order book dried up very quickly, and we had a very very poor fourth quarter.

I mentioned in my testimony that we idled operations in our New Castle, Indiana facility. We did that on October 27th. Today the anneal and pickle lines in Newcastle still are not running. So we saw a step function change in 2008 that really began with order intake in September and shipments October and beyond.

MR. FEELEY: I'd also like to add apart from the Lehman events and the economic events, we had not only seen a lighter order book but with the raw materials that dropped considerably in a short span of three months to perhaps maybe slightly more. It was catastrophic from a financial side because most of the material, raw materials, we purchase are 60 days in advance of production. So to recover was nearly impossible other than to really prepare and try to get out of the giant summersault we found ourselves in.

It was devastating.

Our 2008, like Terry describes, was a story, it was a different story with Quarter 1, 2, and 3, and then subsequently the 4th quarter was devastating.

MR. SCHMITT: Tom Schmitt, AK. The same with AK Steel. The first three quarters were decent. Absolutely fell off in the 4th quarter. Again, because of the way the raw materials are purchased, it was very devastating for the result of the company. We were hung up with the raw materials at high cost with no sales.

COMMISSIONER PINKERT: Thank you. I want to go back to some testimony that we heard this morning about, or actually it was more argument that we heard this morning about how the industry has restructured and that has enabled it to weather the storm more effectively than would have been the case prior to the restructuring. Can this panel shed some light on how much restructuring has occurred? And what occasioned the restructuring if there was any?

MR. HARTFORD: I can offer some comments there, Commissioner.

As a result of the downturn we really were forced to accelerate our cost reduction projects. So we did a couple of things. We idled our melt shop in

Midland, Pennsylvania for 11 months. That has resumed running. It's been back up and running for about a year now.

We, as I mentioned earlier, we idled operations in our Newcastle, Indiana plant as a result of the downturn in our order book. But beyond that, we've made some investments that allowed us to change our capability. We historically have operated three large melt shops to support our specialty metals business. Two are stainless steel and specialty steel melt shops, and one was a melt shop dedicated to making electrical steels. And those three melt shops did not operate at a level that gave us peak efficiency, so we made an investment of about $62 million in our Brackenridge, Pennsylvania melt shop which was completed July of last year to give that melt shop the capability to produce electrical steels. That allowed us to permanently idle a third melt shop in the Natrona, Pennsylvania, which has been off-line now for nine or ten months.

So we have consolidated three melt shops into two. Instead of having three melt shops that operate at less than full efficiency we have two melt shops that are busier. They operate at higher activity levels and our overall cost per ton has benefited from that. That's a permanent change. That's not as a result of the downturn in the economy, but that's a structural change that we've made.

COMMISSIONER PINKERT: Mr. Feeley?

MR. FEELEY: We've not made any -- restructuring has not been necessary from our standpoint. We've not taken capacity out. We've been able to maneuver as the market dictates, but we didn't have any similar events as Mr. Hartford has discussed. I will add that with these events that occurred in 2008, the way the customers behave and the way we engage is far different, in that caution is certainly something that everyone heeds to and that the market that once was a six to eight week lead time is clearly something less than six and in many cases four weeks or even less if it's a master distributor.

So perhaps we've had less restructuring than some of my colleagues, but the events that unfolded have redefined how we trade in this marketplace, at least since the events in 2008.

COMMISSIONER PINKERT: Mr. Schmitt?

MR. SCHMITT: I agree with Mr. Feeley. The market has changed. You have to be a lot quicker to respond to your customers and get material out of the door.

As far as equipment restructuring, as I said in my testimony, in Butler we shut down three very old inefficient furnaces and are now supplying it with one new furnace.

But I have to agree with Mr. Feeley, and I'm sure Terry will agree, it's a much different market now. Service by these master distributors who are virtually flooded with import material.

COMMISSIONER PINKERT: Mr. Hartford, do you wish to comment on whether the customers and the relationship with the customers has shifted a bit in light of the overall economic circumstances that we've faced the past year or two?

MR. HARTFORD: I think that we're not the only segment of our industry that has been impacted by this. Our customers and their customers have had their order books dry up and they have more challenging economic environments than they did in the past. And I think it just heightens the need to be faster, to be absolutely price competitive all the time. Because companies literally have been fighting for their lives. So the companies who buy from us absolutely insist that from a price standpoint we have to be fully competitive.

In that sense I think there's a greater

sense of urgency than I've seen in many years. I've been doing this for 29 years and it's been a cyclical business. It's always been very competitive. I'm not sure that I've seen it as competitive as it has been over the past two years or so. So we've needed to continue to drive to be more competitive than ever.

COMMISSIONER PINKERT: I guess I would ask the economic consultants on the panel, is there any way to quantify this impact that we're taking about in terms of how the great recession has affected the relationships with the customers and the speed with which the domestic industry has to respond to the customers?

MR. HUDGENS: Could we try to do that in a post-hearing brief?

COMMISSIONER PINKERT: Certainly. But can you give me some idea of where you might be going with that? I have a difficult time coming up with a way to think about that issue quantitatively.

MR. HARTFORD: I could probably add a couple more comments. Traditionally our industry has sold our product on the basis of production orders sold directly to customers. We were a make-to-order company as a make-to-stock company. Historically the distributors would carry inventories and make that

asset investment in inventories and we were producers. Over time, we've had to assume more and more of the role of carrying finished goods to support our customers. So my company and Mr. Schmitt and Mr. Feeley can comment on theirs, but we carry finished goods inventory so that we can respond to customers' needs immediately as opposed to telling them they have to wait four or five weeks for their order.
Now we do both. Our customers will give us orders today for a coil that we have sitting in finished goods and we'll ship it tomorrow. At the same time they'll give us an order for production that we might ship the beginning of next month.

As a manufacturing company we've always wanted to have our assets based in equipment, fixed assets, productive assets, so that we can make things, and we still have to have that. But now we have the additional asset burden of carrying a lot of finished goods inventory because that's what the market is requiring of us today.

MR. SCHMITT: Commissioner, that's really one of the big changes. That's what's happened. We have to hold, as producers now, more material and historically we've never done that. Customers could have some, and we talked about what Terry said before about seeing the business cycle. Our customers are having difficulty seeing that business cycle further and further out.

COMMISSIONER PINKERT: Thank you. Mr. Feeley, any closing comment on that?

MR. FEELEY: Nothing further.

COMMISSIONER PINKERT: Thank you. Thank you, Madame Chairman.

CHAIRMAN OKUN: Are you saying T7 the possible sale of the stainless steel unit. But that means we can't rely on the statements that they've given in the questionnaire indicating what their business plan is currently with a Greenfield site having opened, having had investment.
Is that your argument, that that potential sales means that's not something on which one could base their analysis?

MR. HARTQUIST: This is David Harquist. Yes, that in the essence is our point of view on this, that ThyssenKrupp's announcements over the years of what they plan to do, when they plan to do it, how they plan to do it, have changed many times. Their most recent announcement, which of course is crucially important in the marketplace about spinning off their stainless business, many open questions about what's going to happen. As Mr. Hartford I think testified, is it going to be a separate business unit? Is it going to be sold?

There have been press reports that there were negotiations already to sell the stainless division, if you will, or the stainless business of ThyssenKrupp which fell through and the company indicated they decided they weren't interested in buying that business.

So I think it's very unclear what's going to happen for the future. We understand, I guess there was to be a board meeting fairly recently at which some of these decisions may have been made, so we may hear more from ThyssenKrupp this afternoon about this, but our point is there are great uncertainties as to what they're going to do in the future and it's difficult to make projections as to what they'll do in this marketplace with all of this dust in the air, if you will.

CHAIRMAN OKUN: I appreciate you clarifying that argument for me. I wanted to ask a few questions about Korea and POSCO. One of the things ,and I'll direct this I guess to maybe Mr. Hudgens and counsel may want to comment because I'm looking at obviously the confidential record.

One of the things that I find interesting in looking at a big player like Korea and POSCO in Korea, is that during this period of review when we had this worldwide recession, that there was a lot of similarities in what happened in terms of the downfall and then the rebound. I don't see, and this may relate going back to the response to what the China role is now that it's been a net exporter for quite a while, that POSCO seemed to find markets and adjusts and didn't seem to be moving a lot of material back and forth in order to do that. I didn't know if there were any comments you could make now or if you want to comment post-hearing. But I guess what I'm saying is looking at that record, it seems consistent with what their argument is that they don't have the incentive to have to shift a lot because they've made their adjustments with respect to China by joining in joint ventures and other activities which seems to be consistent with that story.

I guess I just want some comments more specifically with respect to POSCO in Korea and what this record looks like.

MR. HUDGENS: If you look at POSCO's response in terms of their export behavior over the period of investigation it shows major shifts. I would say that this questionnaire shows that they shifted an enormous amount of sales from China to other markets, and those other markets were non-Asian markets. It shows that they went to European markets and to other markets. So it shows an enormous shift. Our argument is that those markets in which they had to shift from China to smaller emerging markets were Vietnam, Malaysia, Thailand, Poland, and Turkey, and those countries are small, limited markets that have much lower pricing levels than the United States. So we're just saying that the United States is a much more attractive market than those markets that they have diverted shipments to.

CHAIRMAN OKUN: I guess my looking at it was that they have made those adjustments. What you're saying is the adjustments they made, your view is that they will easily take themselves out of all those other markets that they've shifted into and been in for some time in order to come to the United States.

MR. HUDGENS: That's right. Some of the markets that they've diverted, exports that they previously went to China are not as attractive as the U.S., so once the duty is removed from the U.S. they would easily divert those shipments to these emerging markets to the United States.

MS. CANNON: May I also add that we have to be careful not to treat POSCO synonymously with Korea. I think a number of the points Mr. Hudgens is making are predicated on some of the Korean export data as a whole, and it's important to look at that because POSCO has testified they are not exporting or weren't exporting to the U.S. market and suggest that therefore there are no Korean imports when there have been significant Korean imports of stainless ship over the review period and there are significant Korean exports to multiple markets that have shifted radically. So we just want to encourage you to remember to look at the market as a whole and to look at these other producers and re-rollers out there in Korea that are significant exporters that are shifting over the review period.

CHAIRMAN OKUN: I appreciate those comments. Just returning for a moment to the behavior of the ThyssenKrupp countries -- Germany, Italy and Mexico. I think I kind of ended on that point and didn't have a chance to go back in terms of, if you, again I take your point that you're saying that all of this could change if they get sold. But if I read what is on the record and in the questionnaires, the business strategy and how that relates to Mexico, and I've heard your arguments with respect to what you think Mexico will do, but I guess they sound like arguments that are irrespective of what the overall company decides is its strategy. I'm trying to make sure I understand that too.

You're saying that the Mexican company will ship at prices, again I take a little bit of issue with how you're describing the prices I see in this particular record, but you're saying they're going to do that regardless of whether the Alabama plant, that fits with the strategy as they've outlined for us in terms of the shifting and who's going to be the input and who's going to be the output and what will happen to these European imports vis-à-vis Mexico. Is that your argument? That really they won't follow what's in the record as being what's likely to happen in the reasonably foreseeable future as the company sees it?

MR. HARTQUIST: Essentially yes, because as we've seen from their past behavior, things change and change dramatically in terms of timing and in terms of where they are going to be selling product around the world.

CHAIRMAN OKUN: I guess the only thing I'm having trouble with on that, again, putting aside whether there's a sale, is the big changes they've got a big facility in Alabama opening and operating. So that is a change. Again, for me, we're looking at the change from the first review to this review. This is one of the changes. So I'm trying to understand, it seems like that's what I have to evaluate, what that change means as opposed to they've been doing it this way, well, they didn't have this plant operating.

MR. HARTQUIST: There are numerous factors at work here. Let me suggest one. They're producing material in the Alabama mill. They're going to send it down to Mexico. It's going to be apparently further processed in Mexico and made into finished material and sent back into the United States. Are they going to claim that that is now Mexican material? Country of origin Mexico? Are they going to claim that that is U.S. origin material which has had slight further processing in Mexico but is a U.S. product and is not subject to the anti-dumping duty? We don't really know that. That will have a significant impact on their costs. Sending material back and forth between Mexico and the United States.

What grades are going to be produced in Alabama? They're not producing the full range now. They're producing a couple of grades. Are they going to produce other grades in the future that will affect the quantities that they can ship back and forth? So all this is very speculative and we just caution that based upon their past behavior it's very difficult to predict where they're going to be in the future.

The main point is that if they have the opportunity to ship from any of these three countries, they certainly have an interest in this market I think not only from Mexico but from the other countries as well, and depending upon a variety of factors, exchange rates and other factors involved, they would be free to choose from any of those countries.

CHAIRMAN OKUN: I appreciate all those comments. Commissioner Lane?

COMMISSIONER LANE: Thank you. I just have one question.

What if any effect is the link between raw material purchases and their subsequent use in production having on the reported financial results for the United States? Are relatively higher priced inventory used during periods of decreasing raw material costs, and thus decreased surcharges as well as the opposite scenario a significant factor in the reported financial performance during the review period?

MR. HARTQUIST: We may need to read your question and think more about it.

COMMISSIONER LANE: I'm just wondering about the lag time between the raw material purchases and when you actually use them, how do you match up the costs --

MR. HARTQUIST: Okay.

COMMISSIONER LANE: And is it having an effect upon your reported financial performance?

MR. HARTFORD: I can answer the first question. I'll have to think about the second question in terms of how to report the impact on our financial performance.

The structure of the surcharge, the timing of the structure is such that we try to get good alignment between the price we pay on the inputs and the price that we recover via our surcharge. In a perfect world you'd have a 100 percent matchup. Every ton that I sell in surcharge lines up with how I bought it.

In reality, it's not that neat and clean. In the sheet and strip business I would say a high portion of what we ship we have good matchability on. We surcharge at the same rate that we pay our raw material costs. The other 40 percent perhaps is out of phase, and in a rising market you have one profit impact and in a falling market you have a different profit impact. So we do our best to get that alignment right.

I can't tell you what our actual dollar impact is on the profitability of those mismatches, but we know that it happens sometimes.

COMMISSIONER LANE: Does anybody else want to respond?

(No audible response.)

COMMISSIONER LANE: Thank you, and thank you for your answers today.

CHAIRMAN OKUN: Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Madame Chairman. I think I also have just one question. Mr. Hartford, earlier we spoke about your exports and you indicated that for sales to customers in Europe it was somewhat easier to make the business work now with the relatively stronger euro vis-à-vis the dollar. The other side of that coin, if we were to revoke the orders with respect to Italy and Germany, should we anticipate that those companies would have a challenge selling into the United States at a low price because of the currency valuation?

MR. HARTFORD: I think the strong dollar, or the strong euro today probably certainly has that impact. I think it probably all depends on how they view their costs. And if you have excess capacity, what is the marginal cost of making that next ton? And what do I recover from the customer if indeed I take an order in the United States and ship it to the United States, and even with a very strong euro, they may be incented to do exactly that. Because it sops up some available capacity.

COMMISSIONER PEARSON: Right, as long as they could cover their variable costs, in theory they could do that.

MR. HARTFORD: In theory, I think that's probably how they would look at it.

COMMISSIONER PEARSON: Although the variable costs on this product seem fairly high with all of the outlays for molybdenum and nickel and chromium and steel. Okay.

Any other comments on that issue of currencies?

(No audible response.)

COMMISSIONER PEARSON: Thank you very much. I've enjoyed this morning's discussion.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madame

Chairman. One last question which I'll start by directing to Mr. Conway and then maybe somebody else wants to jump in as well.

Our record shows that productivity peaked in 2010, along with the same time there were some increases in production workers in hours worked compared to 2009. In the first review, productivity improvements were tied in part to collective bargaining results. Would you say that that's the explanation for the improvements that we're seeing now, or that there's another explanation?

MR. CONWAY: Some of it now I think is equipment. The earlier ones were a lot of collective bargaining stuff, but now the collective bargaining improvements I would say are incremental and not as dramatic as they were in the earlier period of review. So I think some of this productivity is equipment and consolidation that Terry talked about earlier.

COMMISSIONER ARANOFF: Does anyone else have a comment on productivity?

(No audible response.)

COMMISSIONER ARANOFF: I want to thank all the witnesses for your answers to our questions this morning. I have no further questions, Madame Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: I have nothing further. I look forward to the post-hearing submission and I thank you for your testimony.

CHAIRMAN OKUN: All right, I don't think there are any other questions from the dais. Let me ask staff if they have questions for this panel.

MR. CORKRAN: Douglas Corkran, Office of Investigations.

Thank you, Madame Chairman. Staff has no additional questions.

CHAIRMAN OKUN: All right, then it looks like it's a good time to first thank this panel of witnesses very much for all your testimony. Oh, I'm sorry. Do Respondents have questions for the -- I'm trying to get to lunch and I'm forgetting. Respondents, do you have any questions? Say no.

(Laughter.)

MR. LEIBOWITZ: No, Madame Chairman.

CHAIRMAN OKUN: Excellent. I want to thank this panel of witnesses for your testimony and we'll look forward to your post-hearing submissions as well. We'll take a lunch break. I would remind parties that the room is not secure, so please take any confidential business information with you and secure it.

We will stand in recess until 1:35.

(Whereupon, at 12:35 p.m., the hearing was recessed, to reconvene at 1:35 p.m. this same day, Wednesday, May 25, 2011.)

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

(1:35 p.m.)

CHAIRMAN OKUN: Good Afternoon.

MR. BISHOP: The panel in opposition to the continuation to the countervailing duty order and the antidumping duty orders have been seated. All witnesses have been sworn.

CHAIRMAN OKUN: Thank you, you may proceed.

MR. LEWIS: Good afternoon, Madame Chairman, members of the Commission. My name is Craig Lewis and I'm with the law firm Hogan Lovells, and I'm pleased to introduce to you this afternoon the panel of witnesses on behalf of the ThyssenKrupp companies.

Before doing so I would like to reserve the balance of our time, we hope to not take up the full amount of time, reserve it for rebuttal.

For our first witness we are privileged to introduce Mr. Clemens Iller. He is the Chief Executive Officer of the Stainless Global Business area of ThyssenKrupp and Chairman of the Executive Board of ThyssenKrupp Nirosta.

Our second witness will be Mr. Jose-Ramon Salas, on my right, Vice President for Operative Planning at the U.S. Headquarters for ThyssenKrupp Stainless USA who will describe the integrated mill being completed in Calvert, Alabama, which you can see a photograph of up to my right.

Our last industry witness is Mr. Stephan Lacor, on my left, Vice President for Sales and Marketing at ThyssenKrupp Stainless USA. His responsibilities include the sales and marketing of all TK stainless flat products in the United States, Canada and Mexico.

Also accompanying me is my partner, Lewis Leibowitz of Hogan Lovells, and Bruce Malashevich is behind me, President of Economic Consulting Services.

With that, Mr. Iller?

MR. ILLER: Madame Chairman Okun, members of the Commission and staff, good afternoon. My name is Clemens Iller. I am Chairman of the Management Board of the Business Area Stainless Global of ThyssenKrupp AG. I am responsible for overseeing stainless steel production and marketing worldwide including our operations in Asia, Europe and the Americas.

The current structure of the stainless steel business area was created effective September 1, 2009, and I assumed my current position at that time.

I also serve as the CEO of Executive Board of our flagship company ThyssenKrupp Nirosta GmbH of Germany.

I would like to present to the Commission the views of the ThyssenKrupp Stainless Global Business Area on the current five year sunset reviews of stainless steel sheets and stainless steel plate in coils. At this hearing is especially related to stainless steel sheet and strip I will concentrate on this topic. However, because I regret I cannot be here tomorrow for the stainless steel plate and coils hearing, I would be pleased to respond to your questions on that product as well should you find it useful.

ThyssenKrupp has recognized for a long time that the local supply strategy is a competitive necessity. When the former Chairman of ThyssenKrupp Stainless, Mr. Jurgen Freschtel (ph) testified before you six years ago he explained that ThyssenKrupp's global production and marketing strategy for stainless steel was to develop a local supply structure, meaning a focus on local production and distribution systems in three autonomous geographic regions -- Europe, the Americas and Asia.

Because of production and transportation lead times and the escalating costs of shipment over long distances accentuated by the weakened U.S. dollar, production in Europe for delivery to U.S.

customers is not viable. Our U.S. customers will no longer accept a three or four month lead time from order to delivery.

We have addressed the new market realities by moving production closer to our customers. The new ThyssenKrupp million Alabama which is already producing stainless steel sheet and will be producing stainless steel plate by 2013, will locate our production closer to our Western Hemisphere customers and place our U.S. mill ship close to plentiful and economical source of scrap in the United States.

By acquiring scrap in the United States rather than from world markets, the Alabama mill will help reduce raw material transportation and acquisition costs. Our local production strategy in which the Alabama mill is a key component therefore give us important advantages over our previous structure.

The new stainless steel mill at Alabama is a $1.4 billion commitment to the U.S. market. It is a part of a total investment of about $5 billion which includes both carbon and stainless steel operations and a hot rolling mill committed to both segments.

The stainless mill will have the capacity to produce about one million metric tons of stainless steel when the melt shop is finished at the end of next year. It will take its place as one of the largest, most efficient and well positioned mills in the United States. Progress on completing the construction and commissioning of this mill is on schedule, as Mr. Salas and Mr. Lacor will explain in a few minutes.

I understand that an ITC team visited the plant last month and toured the construction site for the melt shop, the operating hot rolling mill, cold rolling mills, and related facilities. The Alabama mill is now a reality and formidable addition to the U.S. market. It will also supply stainless steel plate beginning in 2013 as feedstock to our facility in Mexico, ThyssenKrupp Mexinox.

My colleagues will tell you more about the Alabama facility's capabilities and about our marketing strategy for the NAFTA region. I would like to tell you of our global strategy. I believe it is relevant to the question you must consider. As the Chief Executive of the Global Stainless Business Area my primary goal is to foster the competitive success of the Alabama mill. This is a crucial part of our local supply strategy. This means that U.S. and Western Hemisphere demand will be served essentially from North American production; European demand will be served by European production; and Asian demand from Asian production.

Our German and Italian affiliates will focus primarily on Europe and will not be marketing their production in the United States. For several years our Italian affiliate has not sold subject products here.

With the Alabama mill producing for the U.S., there is no reason for these companies to make significant sales in the U.S.. They will focus on their own regional markets. As a result, imports from Germany and Italy of stainless steel sheet and strip and coil and likely imports of stainless steel plate in coils from Italy are likely to be at or near zero as they have been for the last several years.

We do not have plans to increase them and we have no reason to base on currently foreseeable market conditions. Thus there is simply no purpose in continuing these orders.

As for Mexinox, sales will continue in the U.S. as they have throughout the existence of the antidumping order. However the situation has changed with the construction of the Alabama mill. Mexinox sales in the U.S. will focus on complementing production from Alabama and on serving the fast-growing Mexican and Latin American markets.

Mexinox U.S. imports will be made by mid 2013 principally from U.S., made hot-rolled feedstock, adding to the strength and competitiveness of the U.S. stainless industry. Imports into the U.S. will consist of grades and sizes that accentuates Mexinox's strengths and complements the strengths of the Alabama mill.

The U.S. industry is and will remain strong. It quickly recovered after the recession 2008-2009. U.S. producers are not vulnerable to injury from import competition should it arise, but it will not arise from Germany or Italy and competition from Mexico will remain little and responsible.

We have consistently said that the North American market including the U.S. is Mexinox's home market. With the added reality of the new Alabama mill, Mexinox will have an added reason to remain as as responsible a competitor as it has been in the past.

Finally, you have no doubt read about the recent decision of ThyssenKrupp's supervisory board to review options regarding the restructuring of our stainless global business. We do not anticipate any major change in the strategy I have outlined as a result of this decision which will be implemented over the following months and years.

I will be pleased to respond to your questions to the extent I can in public, and to the extent I cannot, I will do so in further written submission through counsel.

Thank you very much.

MR. SALAS: Madame Chairman Okun, members of the Commission, and staff. Good afternoon. My name is Jose-Ramon Salas. I am Vice President for Operative Planning at ThyssenKrupp Stainless USA, LLC.

I am responsible for coordinating capacities and material distribution to North American customers for both ThyssenKrupp Stainless USA and ThyssenKrupp Mexinox.

Before joining TK Stainless USA I was employed for 22 years at ThyssenKrupp Mexinox and its predecessor company in Mexico.

I thank you for this opportunity to speak with you today.

There has been much discussion this morning and in the brief about ThyssenKrupp's establishment of a Greenfield stainless steel mill in Alabama, and rightly so. ThyssenKrupp's investment of over $1.4

billion to build this new state of the art, fully integrated U.S. steel mill is without a doubt the most significant development in the North American stainless steel market in the last 20 years, and it's the central element or ThyssenKrupp's North American marketing strategy for the future as you have just heard.

I would therefore like to take a few minutes to better acquaint you with the mill and the current status of its production operations.

The stainless steel mill in Alabama is part of a larger $5 billion Greenfield project that also includes significant carbon steel operations and a hot strip mill which is shared by the two segments. When completed in the fourth quarter of 2012 the Alabama mill will be a fully integrated stainless steel products plant including a stainless steel melt shop capable of producing approximately one million metric tons of stainless slab per year. A hot-rolling line shared with a carbon steel facility of which up to one million metric tons of capacity will be available for stainless steel production.

It is important to mention that the casting and hot-rolling operations of the stainless materials in Alabama rely to a large extent on an adequate integration of sales and production with Mexinox because of the future supply, cheaper supply of stock to Europe to Stainless USA.

Three stainless steel cold-rolling lines with an overall production capacity of 350,000 tons per year and a stainless steel finishing line. These stainless steel operations alone will permanently add 900 well-paying U.S. jobs to the U.S. economy. Already 380 of these employees are working at the facility.

Ground was broken on the project in November 2007. The construction of the stainless mill and the commissioning of the manufacturing machinery is proceeding over an orderly schedule of backwards integration from the cold-rolled end of the process to the melt shop with full commissioning to be expected to be completed in three phases in early 2013.

Phase one of operations began in September 2010 with the commissioning of the first of the three cold-rolling mills, a 64 inch mill principally focused on producing 48 and 60 inch wide products.

Phase one also includes the 74 inch cold-annealing and pickling line which is used after the cold-rolling process as well as finishing equipment that includes a 64 inch cold polishing line, a 74 inch cut-to-length line, and a 64 inch splitting line.

During this phase the mill will have the initial capacity to produce up to 100,000 metric tons of cold-rolled steel using non-subject hot-rolled pit stock produced by our affiliate in Germany. Construction is proceeding according to plan. Production ramp-up is on its way and so far in the month of May only we have already produced close to 5,000 metric tons.

Phase two will be fully operational in the fall of 2011. Capacity is now being added with a hot annealing and pickling line which is used before cold-rolling and the second cold-rolling mill, this time a 74 inch cold-rolling mill, the first of its kind in the United States and in the Americas. Until now 74 inch cold had to be imported from outside North America. Starting in October of this year they will be produced in Alabama. In fact commissioning has already started.

The construction of this mill will expand our cold-rolling capacity from 120,000 to 240,000 tons annually.

Phase three, the final phase, is on schedule to begin in the fall of 2012 with the addition of a third and final cold-rolling mill, a 54 inch cold-rolling mill and commissioning of the melt shop.

As this phase is implemented the Alabama mill will be fully integrated with a cold-rolling capacity of approximately 350,000 tons annually.

As the Commission staff was able to observe first-hand the timetable for this last phase has been accelerated as construction of the melt shop is now significantly advanced. Indeed, the three argon oxygen decarburization converters, AODs, for the melt shop are already on site.

Let me now briefly turn to the sourcing and marketing strategy that underlies the construction of the Alabama mill and the completion of our local supply strategy for North America.

My colleague, Stephan Lacor, will speak to this in more detail, but let me provide a general overview of how production and marketing is being transformed as the local supply strategy is implemented.

Until recently Mexinox was TK's only North American stainless steel production facility. Mexinox is a re-rolling facility that continues to depend upon external sources for its hot-rolled material. Because it lacks a melt shop and hot-rolling capability, Mexinox has been able to produce some but not all of the finished products required to effectively supply the U.S. market. Given these limitations, a relatively small quantity of products previously had to be sourced from Germany and Italy to complete the product portfolio of TK products available in North America. This situation was partially remedied in 2006 when TK established a bright annealing facility in Mexico, thereby eliminating the need to supply BA products from Europe.

We expect that in the near future the small volume of subject stainless steel and stripping coils from Germany and Italy that have entered the U.S. market in recent years will fall further and be at or near zero for the foreseeable future.

Given the expanded production capabilities represented by the combined and coordinated production operations in Mexico and the United States, there are no current plans for future imports of stainless steel and sheet and stripping coil from Germany and Italy and stainless steel plating coils from Italy when the mill in Alabama becomes fully operational in January 2013.

To the extent any imports of subject merchandise may come from Germany or Italy after that time, such imports would only considerably consist of very small quantities of niche products that cannot be produced in the U.S. such as certain embossed or flattened surface finishes for which the specialized production equipment has not been installed in TK's North American production operations. However, the demand for such products is very limited and any import volumes are therefore expected to remain very small.

At the same time imports of subject merchandise from our sister mill, ThyssenKrupp VDM will remain as they have always been extremely low and targeted to narrow and specialized customers and end use applications for mostly non-subject high nickel alloy specialty steels.

As TK ramps up production of hot-rolled steel, the Alabama mill will also replace Germany and Italy as the principal source of hot-rolled steel raw material sheet stock for Mexinox's cold-rolling mills. At that point a majority of the value of TK's stainless steel sheet and strip imported into the U.S. from Mexinox will be comprised of U.S. produced stainless steel.

In other words, all future output of cold-rolled sheet and strip at the Mexican mill after the Alabama mill ramps up will serve to expand total U.S.

output of stainless steel, whether that output is exported to the United States or sold in Mexico or in other markets.

As Mr. Lacor will discuss in a moment, TK's North American production and marketing strategy also calls for Mexinox to continue to review the range of products exported to the United States as the Alabama mill assumes responsibility for producing and distributing products previously produced in Mexico.

While Mexinox previously produced a full range of stainless steel flat products marketed in the United States, under this new marketing plan Mexinox's product portfolio will be restricted to mostly AISI grade 430 steel and bright annealed products of various grades. The end result will be an integrated regional production system with the Alabama and Mexican mills respectively focusing on separate product ranges and supplying products to each other to ensure that the entire North American market is adequately supplied with a full portfolio of flat-rolled stainless steel products.

Thank you very much.

MR. LACOR: Good afternoon. My name is Stephan Lacor and I am the Vice President for Sales and Marketing at ThyssenKrupp Stainless USA. I am also responsible for coordinating commercial activities in Mexico. In these capacities I'm responsible for the sales and marketing of all TK Stainless' flat products in the United States, Canada and Mexico.

I would like to take this opportunity to build upon the testimony provided by my colleagues by describing the management structures and marketing objectives that are in place to execute our local supply strategy.

Over the last decade and even more so in the last two years, ThyssenKrupp Stainless has significantly overhauled its management structures as to more effectively implement our local supply strategy. With respect to the U.S. market these management structures ensure that the policy of local supply is not undercut by competition from our other TK Stainless companies outside of North America.

Our management control structures ensure that all TK Stainless companies follow appropriate and centralized sales and marketing policies that do not damage the U.S. market nor jeopardize the billions of dollars that TK Stainless has invested in the Alabama mill.

Historically the management and distribution of TK Stainless products had been conducted through separate company-specific sales organizations that effectively competed with each other, but beginning in 2000 ThyssenKrupp Stainless began a process of gradually consolidating these distribution organizations under central management and staffing in Chicago. As a major first step in this direction in 2000 TK-NNA, which is a German subsidiary, and Mexinox USA consolidated their administration, sales and distribution staffs with Mexinox USA as the lead company.

TKAST-USA, the Italian subsidiary, joined the same structure in 2004. So since 2004 while each of these sales organizations continued to retain a separate legal entity, actual day-to-day administration, sales and distribution were performed by Mexinox USA on behalf of the three companies. And to ensure that the coordinated and centralized sales strategy was implemented, during this period I was the Vice President and General Manager of all three legal entities and I was responsible for harmonious and coordinated joint operations in the U.S. and Canadian market.

With the establishment of SL-USA, this process of consolidating administrative and marketing functions is essentially completed. Administration, sales and distribution activities are now being consolidated within a single legal entity, ThyssenKrupp Stainless USA headquartered in Alabama. This signaled the effective withdrawal of Germany and Italy from the U.S. market for stainless products. In fact effective December 21, 2010, AST-USA was merged into SL-USA and no longer exists as a separate legal entity. In the very near future Mexinox USA and TK-NNA will also be merged within Stainless USA.

To summarize, under the management structures in place, strategic management of TK Stainless' global operations will continue to be centralized, coordinated by the Management Board of the Stainless Global Business Area headed by Mr. Iller. This management and coordination functions will reinforce the integrity of the local supply system in North America. While within North America regional management will be conducted and led from within the United States ensuring the coordination of production and marketing between SL-USA in Alabama and Mexinox.

SL-USA's sales and distribution team will continue to have sole responsibility for sales and distribution in the United States and Canada while

Mexinox will continue to have responsibility for marketing and distribution in the Mexican and Latin American markets.

What will the marketing plan look like as the Alabama project is completed? As Jose-Ramon has mentioned, the establishment of the Alabama mill culminates ThyssenKrupp's Stainless local supply strategy under a centralized sales, marketing and administrative management team.

The next step in this rationalization process will be the nearly complete replacement of stainless steel products imported from Italy and Germany with product produced in our Alabama mill. With the exception of very limited niche products that are not locally available, once the Alabama mill is operational there will be no need for my sales and marketing team to source products from outside of North America.

At the same time the portfolio of products produced in Mexico which for several years has increasingly concentrated on phoretic products, will continue to be mostly limited to AISI grade 430 seal and to bright annealed products of various grades.

As the Commission noted in the last sunset review there continues to be a fairly limited capacity to produce bright annealed products in North America, and because the Alabama mill lacks the equipment to produce bright annealed products while Mexico has had this capacity since 2006, the bright annealed product will still be produced in Mexico and shipped to the United States.

Production from Mexico phoretic products, in particular grade 430, will continue to be shipped to the United States. This is because at least during the initial phases the Alabama mill will not have the technical capabilities required to provide the surface finish that customers expect in this grade.

In the medium to long term, shipment volumes from Mexico are not expected to exceed the levels that were attained in recent years.

While Mexinox concentrates on phoretic grades, the Alabama mill will focus on the production of 300 series austenitics products. In addition, ThyssenKrupp Stainless intends to take advantage of the new 74 inch rolling mill in Alabama which is the only 74 inch wide cold-rolling mill in North America. We see great marketing opportunities for this new mill which will allow us to grow our sales by supplying products that are today all imported from outside of North America.

The end result of the startup of our Alabama mill will be an integrated regional production and marketing strategy with the Alabama and Mexican mills each focusing on separate product ranges, supplying products to each other, and making sure that the entire North American market is adequately supplied with a full portfolio of flat-rolled stainless steel products.

It is important to emphasize that the central management of production, sales and distribution from the North American headquarters in the USA has as its principle aim to ensure that TK's North American facilities operate effectively to maximize TK's investments in North America and in the United States in particular. Like any other U.S.-based producer, SL-USA will not permit any action that could potentially harm the economic viability of its U.S. operations and jeopardize the billions that we have invested in the Alabama mill.

Thank you.

MR. LEWIS: Again for the record my name is Craig Lewis of the law firm Hogan Lovells on behalf of the ThyssenKrupp respondents.

I'd like to take a few minutes to address the condition of the U.S. industry.

The petitioners claim that continued relief is justified in this case because the domestic industry is in a, quote, "highly vulnerable" condition. In support of this contention, they principally cite to trade and financial performance over the last three years of the period of review. That is to say between 2008 and 2010. Of course this data is misleading because it encompasses the historic collapse and demand that occurred in the fourth quarter of 2008 and discounts the evidence of rebounding demand in 2010, 2011 and beyond.

The real question the Commission faces is not whether the U.S. industry did poorly in 2009, virtually all U.S. industries did poorly in 2009, but what condition the U.S. industry is in today in 2011. As I will briefly summarize, the data before the Commission demonstrates one, that the U.S. industry is stronger and more competitive than it ever has been before; and two, the reconditioned U.S. industry is already reaping the benefits of rebounding demand in 2011 and beyond.

First, the internal strength of the industry.

During the last review the Commission observed that the U.S. industry underwent an unprecedented period of bankruptcies and consolidations that reduced the number of U.S. producers from 13 to just 6 producers, of which 3 -- NAS, AK Steel and Allegheny -- now being joined by ThyssenKrupp, account for almost all industry production and sales.

As Commissioners Okun and Pearson observed in the last review, the industry that emerged from this period is stronger and fundamentally changed. A few key points highlight these facts from the current review period.

Since 2005 the U.S. industry earned a weighted average 4.5 percent net return on its U.S. sales, even with the horrible market conditions of late 2008 and 2009 thrown in. Over the same period, returns on investment averaged 6.62 percent. Capacity increased 28 percent. Productivity increased 12.5 percent. Hourly wages have increased 22 percent. Average unit values increased nearly 17 percent.

The strength and confidence of the U.S. industry in its future is nowhere better illustrated than in the continued reinvestment. Obviously ThyssenKrupp's own $1.4 billion investment in the U.S. stainless steel mill is the most dramatic recent example of this, but ThyssenKrupp is not alone. The pre-hearing staff report indicates that other major U.S. producers, particularly NAS, have also invested substantially in production capacity and technology since 2005.

Between 2006 and 2008, for example, NAS increased its melting capacity from 800,000 tons to 1.4 million tons. These are metric tons. A 75 percent increase. In 2008 NAS also added a fourth hot annealing and pickling line with an annual capacity of one million tons; and in 2009 NAS added a fifth cold-rolling line increasing its capacity to 840,000 metric tons.

Another indicator of the domestic industry's strength and competitiveness is its export performance. During the original investigation period U.S. exports peaked in 1998 at approximately 73,000 short tons. By 2005 that figure had nearly doubled, to 135,000 tons. And by 2010 the figure doubled again, to 290,000 tons, representing nearly 19 percent of total commercial shipments. This last fact not only demonstrates the competitiveness of the U.S. industry, but also demonstrates another significant change in the industry since the original investigation, namely the strength and growth of demand in markets outside of the United States.

The petitioners also complain about rising raw material costs, however here too the reality differs from what is portrayed in their briefs.

Unique among the steel industries examined by the Commission, the U.S. flat-rolled stainless steel industry utilizes a well-established metal surcharge system that more than offsets the effects of volatile raw material costs, particularly with respect to nickel, but also with respect to other key metals. So successful are these surcharges that most U.S. producers have extended them to other areas including energy and iron. Furthermore, indications are that over the near term nickel prices will be declining as more supply enters the market.

Finally, the U.S. industry has further enhanced its competitiveness through diversification. Allegheny is probably the best example of this as the company itself has reported that it is, quote, "one of the largest and most diversified specialty metal producers in the world" that has, again I quote, "largely withdrawn from the commodity stainless market."

This is not the picture of an industry that's highly vulnerable to injury from imports.

The future of the U.S. industry also looks bright. For proof of this the Commission need look no further than the statements from the U.S. producers themselves. According to a recent press release, NAS increased its melting capacity by nearly 32 percent last year as net sales increased by 74 percent and profits topped $156 million. As NAS put it, quote, "The continuous strength of the North American market has allowed North American Stainless to improve prices for the second quarter of 2011 which have been immediately accepted in the market." I again quote, "NAS is working at full capacity, having achieved record production in the first quarter."

Similarly in its first quarter 2011 earnings call, Allegheny Ludlum's President informed its investors that it was able to raise stainless product prices six to nine percent and noted that the market is supporting this price increase as U.S. service center activity has been improving, driven by better demand for the transportation, energy and food equipment markets. Mr. Hassey of Allegheny similarly stated that, "We believe demand will increase for our stainless steel sheet and plate products during 2011 as the economy continues to grow."

There's no doubt whatsoever that these optimistic, forward-looking statements from the U.S.

industry are credible and accurately portray the favorable position the U.S. industry currently is in.

The U.S. manufacturing economy and with it demand for stainless steel is improving. Consumer demand is up, domestic industry shipments have already recovered to or near 2005 levels in terms of both volume and value. The industry is again profitable, and extremely so in the case of NAS, based on its public release.

The pre-hearing staff report predicts that industrial production will increase by a healthy 4.5 percent in 2011 and another 4.1 percent in 2012. This is in line with producer and purchaser expectations as expressed in their questionnaire responses.

This is, in short, not a vulnerable industry nor is it a time of weak market conditions.

Thank you.

MR. LEIBOWITZ: Madame Chairman, members of the Commission, I'm Lewis Leibowitz with a brief word on cumulation.

We urge the Commission not to cumulate imports from Germany, Italy and Mexico in this case with each other or with other respondents. We discussed this in our pre-hearing brief.

To be short about it, imports from Italy and

Germany will be so small that they can have no discernable adverse impact on the domestic industry within a reasonably foreseeable time. The cumulated analysis is therefore mandated under the statute.

Imports from Mexico are not likely to decline to negligible quantities in the foreseeable future. However, imports from Mexico will increase U.S. production of stainless steel and exports of stainless steel.

The order has had and will continue to have no impact on the volume of exports from Mexico to the U.S.. After well over a decade of experience and success under the order Mexinox has demonstrated that it will maintain a stable share of the U.S. market under an order or not under an order. Mexinox is a responsible competitor.

This morning you discussed the Arcelor Mettle and Nucor cases and I look forward to discussing how those cases are very similar to the situation that we have here, and I think following that case is mandated here.

Just to give a couple of examples, affiliated producers in Germany, Italy and Mexico represent substantially all of the subject production in those countries, just like Arcelor Mettle.

ThyssenKrupp Stainless has adopted a marketing strategy that relies on local production to serve regional markets, just like Arcelor Mettle. That marketing and production strategy is actively controlled by company management in the United States. These conditions of competition are uniquely applicable in this case to the ThyssenKrupp companies and justify the cumulation.

The likelihood of injury determination in the sunset review is inherently predictive and must consider the capabilities and incentives faced by producers in the subject countries. In light of all that we have told you today, in light of the Alabama investment, the well documented local supply strategy, there is a clear distinction between the capabilities faced by the ThyssenKrupp companies and those faced by producers in other subject countries. We therefore urge the Commission not to cumulate imports from Germany, Italy and Mexico with each other or with other respondents.

Thank you very much. That concludes the ThyssenKrupp company's affirmative presentation. I think we are going to defer to our Korean colleagues.

MR. GOLDFEDER: Good afternoon.

There are three primary reasons why the

overwhelming weight of record evidence favors revocation of the two orders against Korea. First, the Korean industry maintained only a marginal U.S. presence throughout the POR, choosing instead to focus on supplying the strong and growing demand in the home market and throughout the rest of Asia. Korean import volumes and prices had no material adverse effect on the domestic industry during the POR. Revocation will not cause that to change in the foreseeable future as demand in Asia will continue its robust growth.

Second, the Korean industry has little unused capacity that could be directed to the U.S. in the event of revocation and has no plan to expand capacity.

Third, the U.S. market is recovering from the recession as is evidenced by increased U.S. consumption and rising prices in 2010. The domestic industry which has always held the lion's share of the U.S. market will be the principal beneficiary in the years to come.

Beginning with the issue of cumulation, the record shows that Korean imports are likely to have no discernable adverse impact on the domestic industry after revocation. Korean volumes and market share were extremely low throughout the POR because Korean producers have focused on the very substantial and growing demand in the Korean, Chinese and other Asian markets.

The continued growth within Asia where consumption is expected to increase by more than 15 percent over the next two years supports the conclusion that these trends are likely to continue even if the orders are revoked.

Another important factor is Korea's very low duty rates. POSCO is already excluded from the countervailing duty order and it currently has a very low antidumping duty rate. The three other principal Korean producers which are all re-rollers, also have very low antidumping and countervailing duty rates, and one of them, Hyundai Steel, is excluded already from the antidumping order.

We recognize that the Commission seldom declines to cumulate on the basis of no discernable impact but it has exercised its discretion not to cumulate on other grounds and it should do so here based on the conditions of competition that are specific to the Korean industry.

Our pre-hearing brief details the differences in capacity and production, product mix, and shipment volume trends that set Korea apart from the other subject countries. Since that discussion relies a lot on proprietary data I'll just discuss in summary that the overarching condition of competition, as I've mentioned, is Korea's primary orientation towards supplying the robust Asian markets including importantly its home market.

For example, throughout the POR POSCO's Asian shipments constituted 90 percent or more of its total shipments. That's in each year of the POR. Furthermore, POSCO's shipments to Korean customers and for its own internal consumption increased significantly between 2005 and 2010 as its questionnaire response shows.

In contrast, the U.S. has always represented a very small portion of POSCO's global sales of subject merchandise. Indeed in this whole POR POSCO itself made no U.S. exports. One of its affiliates made a single shipment of a higher value ultra-thin product in 2009.

These trends are also true for the remainder of the Korean industry. In fact from the start of the original period of investigation in 1996 through 2010 Korean imports have had only a minimal U.S. presence while the domestic industry has always held an 80 percent or greater market share. In addition, Korean imports did not increase substantially in 2005 to 2007 when demand and prices were at their highest levels during the POR.

The domestic industry alleges that Korea has made enormous shifts in their export patterns in the POR and that suggests they could increase their exports to the U.S. in the future. But the record does not support their claim. The global trade atlas data they relied upon shows that when exports to China had declined, exports increased primarily to Taiwan, to Japan, Vietnam, Thailand and India. That is their focus remained principally in Asia. There's no reason to believe that Korean producers will suddenly change their focus if the orders are revoked.

Worldwide consumption for stainless steel products is forecast to increase substantially through at least 2015 with most of that increase concentrated in Asia. The Korean industry has devoted most of its production capabilities to an Asia-oriented focus and it has a strong incentive to continue this approach in the future. Asia will account for more than one-half of the global increase in consumption over the next five years.

This growth in the Asian markets when combined with low inventory levels and the limited potential for product shifting further supports the conclusion that Korean exports are not likely to increase substantially beyond their historically low levels.

Importantly, POSCO has established three significant production facilities in China and Vietnam. These facilities are not subject to antidumping or countervailing duties, so they could readily export to the U.S. if POSCO wanted to supply U.S. customers. However, these facilities, like the Korean plant of POSCO, have focused on serving burgeoning demand in China and other Asian countries.

The fact that POSCO has chosen to make very limited U.S. exports in these non-subject facilities despite the absence of any U.S. trade barriers also demonstrates that POSCO is not likely to substantially increase its U.S. exports if the Commission revokes these orders.

POSCO has also been operating at very high capacity utilization rates for both its hot-rolled and cold-rolled stainless steel production and it does not anticipate any changes to its capacity.

The domestic industry, nevertheless, contends that POSCO is likely to increase its U.S. exports because it has made capacity expansions and it also argues that the Korean industry as a whole has excess capacity.

We first want to note the irony inherent in the domestic industry's capacity claims.

They focus heavily on unused capacity built in Korea and in the other subject countries, yet they sidestep an important fact regarding their own capacity. From 1996 through 2010 apparent U.S. consumption averaged 1.7 million tons per year, peaking in 1999 at slightly under 2 million tons, as we heard earlier. Yet the domestic industry's capacity for stainless steel sheet and strip continued to increase throughout the POR. By 2010 it was 2.75 million tons, which is more than 700,000 tons over the peak demand of the last 15 years.

In other words, the U.S. industry has continued to significantly add capacity even beyond the high water mark for apparent consumption. The logical conclusion is that the domestic industry has done so in recognition of the fact that U.S. demand continues to rapidly expand and that they will benefit from that expanded demand.

Although POSCO did increase its cold-rolled capacity during the POR, it's important to note that about one-third of it came about as a result of

POSCO's acquisition of two existing Korean re-rollers. Moreover, even with its newly built capacity, POSCO continued to achieve very high capacity utilization rates throughout the POR.

The domestic industry also incorrectly claims that POSCO is planning major capacity expansions for the subject merchandise. POSCO's planned capacity expansion to be completed in 2012 relates to its production of non-subject steel wire rod, bars, and seamless pipe and tubes. It has nothing to do with the subject merchandise. Although POSCO does plan to undertake a significant renovation of its stainless steel plant in Pohong, the purpose of that project is to increase its efficiency and not its production capacity.

As for the domestic industry's reference to the capacity increase of BNG, a Korean re-roller, the record shows that BNG's capacity increase in relation to the total industry capacity was nominal, but more importantly, the articles that petitioners submit state that BNG's new capacity is for ultra-thin products which are higher value products that are used in the production of mobile phones, appliances, and other similar electronic devices. There is no evidence that there is significant demand in the U.S.

for these products.

Another domestic industry claim is that Korean producers are likely to increase their U.S. exports because of antidumping duty barriers in Thailand, India and Russia. Yet the global trade atlas data they submit shows that Korean exports to Thailand and India more than doubled between 2005 and 2010. Thus their claim that Korean producers do not have access to important third country markets has no factual support.

Subject imports from Korea are equally unlikely to cause adverse price effects. When the U.S. economy was strong, prices were high. When the recession started, prices fell. But importantly, the declines in prices that U.S. producers experienced had nothing to do with competition from subject Korean imports.

As a practical matter, the low market share held by Korean imports meant that they were not in a position to influence U.S. prices to any significant degree. The proprietary analysis contained in our pre-hearing brief regarding the product specific pricing data show a clear lack of correlation between U.S. producers' prices and Korean imports.

The domestic industry also heavily focuses on the instances of Korean underselling but ignores the numerous instances of overselling. Moreover, as U.S. and global prices continue to increase in the next few years and given U.S. producer status as price leaders in the U.S. market, it is even more unlikely that subject Korean prices will cause price depression or suppression if the orders are revoked.

Next the domestic industry's claim that it is highly vulnerable is simply not correct. You've just heard a detailed discussion regarding vulnerability, but I just want to cover a few points.

There is no dispute that the domestic industry, like the rest of the global steel industry, felt the effects of the recession as apparent U.S. consumption declined by 32 percent between 2007 and 2009. U.S. prices fell sharply as well.

But during the height of the economic downturn in 2009 the domestic industry achieved its peak market share of 87 percent. Moreover as demand in prices rapidly recovered in 2010, so too did the domestic industry's production, shipments, net sales revenue, employment level, and profitability. These are not the indicia of an industry that is vulnerable or has been suffering from competition with Korean imports.

Given the widely accepted expectation that U.S. demand and prices will continue to recover in the coming years, these indicia contradict the domestic industry's claim that Korean imports are likely to cause adverse effects if the orders are revoked.

Finally, I'd like to end with a mention of the first sunset review. In that review, two Commissioners voted to revoke all of the orders. They concluded that although subject imports would likely increase somewhat after revocation, that increase would not lead to significant adverse effects on the domestic industry. This was due to increasing demand outside the U.S., particularly in Asia and Europe, as well as relatively high capacity utilization rates even in the face of expanding capacity.

They further found that subject imports would likely not place significant downwards pressure on U.S. prices as was evidenced by the fact that the domestic industry raised prices even in years where subject import volumes had increased. These factors were true then and they remain the same now.

The focus of the Korean industry on strong and growing demand in Asia, their high capacity utilization rates, and the lack of a meaningful correlation between Korean import volumes and U.S.

producers' prices all support the conclusion that the volume and prices of subject Korean imports will have no material adverse effects in the reasonably foreseeable future.

The best proof of that is France. In 2005 the domestic industry in the first review predicted that imports from France would return to significant and injurious levels if the Commission revoked the French order. The Commission did revoke that order and look what has happened since then.

The pre-hearing report shows that imports from France peaked in 2006 at 20,524 tons. They were only slightly higher in 2010 than in 2005, and comprised approximately one percent of apparent U.S. consumption in each year of the POR.

The average French import quantity during this second POR was less than the average annual import volume during the original PLI and the first POR.

Also the AUV of French imports was 20 percent higher in 2010 than in 2005, and the average AUV in the second POR exceeded that of both the original PLI and the first POR.

In our review the French example is a reliable indication of what will actually occur if the

Commission revokes the Korean orders.

Thank you very much. I believe that concludes the panel's presentation.

MR. LEIBOWITZ: It does, Madame Chairman.

CHAIRMAN OKUN: Thank you. Before we turn to questions let me take this opportunity to thank this panel of witnesses, in particular the industry witnesses who have traveled to be with us today and to answer our questions. We very much appreciate your participation.

And just to remind the witnesses, if you can repeat your name for the benefit of the Court Reporter when you're responding to questions.

We will begin the questions this afternoon with Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Madame Chairman. Welcome to all afternoon panelists. It's good to have you here.

Let me begin with a question for ThyssenKrupp. You can see from the public version of the staff report that the production capacity in the United States for stainless steel sheet and strip has exceeded the apparent consumption throughout the period of review. Given that reality, what factors led ThyssenKrupp to conclude that it would be good to

build a relatively large mill in the United States to
produce more of this product?
Mr. Iller?
MR. ILLER: Commissioner Pearson, if you see the numbers which have been shown, the one purposed of the mill is to supply the Mexican operation with hot bend. The second, the 350,000 tons at the time when we have made the decision for the mill were not a huge number, and therefore we thought that it's pretty good to supply our customers here.
MR. LACOR: Stephan Lacor. Let me just add a little bit to what Mr. Iller has said.
One thing is the name plate capacity, the official capacities, and the other is what actually makes its way to market. When we were making the strategic plans to support the investment in Alabama on the sales side what we looked at was periods of demand in the 2000's where the customer base was on either allocation or reserve capacity systems, where the domestic mills really struggled to bring the capacity to bear. We saw high levels of import penetration and we said okay, and the strong preference by customers to have local supply sources. Mexinox is essentially at full capacity. The domestics were indicating they had exhausted their

capacities by having reserve capacity systems and allocations, and we said okay, it's a market that looks like it's growing, there's a strong preference for domestic sourcing by the customers, we have Mexinox also at full capacity, so there's a good opportunity to expand the presence and the customer penetration that we'd already achieved.

COMMISSIONER PEARSON: To make sure I understand, is that saying in part that the commercial realities of the U.S. market would suggest that at times it's been tighter than the raw numbers would suggest that we have in the staff report?

MR. LACOR: Right. Absolutely, yes. Especially 2004, 2005, 2006, and then clearly the environment changed in the 2008 and 2009 prices, but in that period where we were making the decisions, there was definitely a tightness in capacity.

COMMISSIONER PEARSON: Mr. Lewis?

MR. LEWIS: If I could just add to that, it's inescapable that there's a huge disconnect here between what's being reported as the domestic industry's capacity and consumption and capacity utilization figures here that have been consistently in the 40s or 50s. Yet at the same time you've seen investment, it's a valid question here by

ThyssenKrupp, but it's not just ThyssenKrupp. And NAS as well, as I mentioned in my own direct testimony, has substantially expanded its capacity as well. So there's something wrong I think with that picture of capacity utilization and I think Commissioner Lane's questions tried to get at that a little bit this morning, is 50 really 100? I think that's what I'm starting to conclude here.

COMMISSIONER PEARSON: Your point is well taken that it's not only ThyssenKrupp that is seeing a potential opportunity in the U.S. market because others also have expanded.

We have some experience at the Commission trying to decipher capacity utilization figures in other industries, and I would not say that I have in any respects become an expert at it, but I continue to ask to try to understand because of course there are many different aspects to how one would measure capacity utilization.

Do we have on the record the volume of product that is expected to be shipped from the Alabama facility down to Mexinox? Is that public?

MR. LEWIS: We do have information on the record of, you're talking about projected now?

COMMISSIONER PEARSON: Of course.

MR. LEWIS: We do.

Did you want to add to that?

MR. SALAS: I would like to add that the team that had the opportunity to visit us in Alabama also had a presentation where we had some slides showing the rough volumes that will be flowing between the two countries.

COMMISSIONER PEARSON: Good. The reason I ask is tomorrow we have another hearing on another stainless product, so my ability to remember distinctly what we're talking about on either day is limited.

Mr. Leibowitz, did you have something to add?

MR. LEIBOWITZ: No, Commissioner Pearson.

COMMISSIONER PEARSON: Okay.

Is it correct that this facility is located on the Tennessee Tombigbee waterway?

MR. SALAS: Yes, it is located on the Tombigbee River with direct access to the automobile and the upward stream of the Tombigbee River. Yes.

COMMISSIONER PEARSON: So should we see it as an effective location for an export mill?

MR. SALAS: Yes. That was one of the reasons why the location was picked among a large number of locations that we evaluated, because of the growing economics in the southern part of the U.S., related also to the petrochemical industry. There is also a number of automobile companies that have been locating in that region. That would then give this facility easy access for raw materials, scrap which is typically also transported by river flows, and also an outlet to the Latin American and Mexican markets.

MR. LEIBOWITZ: This is Lewis Leibowitz. If I could add just one more thing. Remember this is part of an integrated carbon and stainless steel mill. One major asset is shared by the two mills which dictates that they be together, and that's the hot-rolling mill which is used for both carbon and stainless, and the feedstock for carbon is slab imports primarily from Brazil. So its location on the southern coast of the United States at an adequate harbor allows for raw material access both for the stainless and for the carbon mills, and then for export and domestic distribution for both. So it was a complicated decision, but I think all those factors tie in.

COMMISSIONER PEARSON: This morning I asked the domestic industry, actually I asked people who had access to the confidential version of the staff report, what they thought about the demand forecasts that are presented in Table 4-17 on page 4-33. For those of you who have that information, perhaps Dr. Malashevich, do you think those are reasonable forecast? And do they align themselves with what you know of the thinking of the respondent parties?

MR. MALASHEVICH: This is Bruce Malashevich. I'll take an initial stab at that.

I think the pre-hearing staff report in this particular sunset review is unusually comprehensive, particularly in terms of reaching out to third party organizations frequently subscribed to by members of the industry at large.

To me not only are they reasonable, but they are very consistent with each other, and in the kind of work that I do, to me it's very valuable to show that independent calculations, estimates, whatever you may call them, prepared by different agencies, different entities, that nevertheless converge and show the same thing, increases the value of that.

I would call your attention in particular to the chart which I believe is APO, I'm going from memory. I believe it's on page 14 of the ThyssenKrupp pre-hearing brief which I think sums it all very nicely and also indicates what is regarded in the forecasting industry as the reasonably foreseeable future. If it wasn't reasonable, people wouldn't be out there paying for it.

So I think those forecasts are useful in that other respect as well.

I would add to my comments the unusually comprehensive data gathered on comparative pricing in the United States versus other regions of the world. I commend staff for an unusually thorough and comprehensive job in that regard.

I hope that answers your question.

COMMISSIONER PEARSON: Yes. Let me just follow up quickly.

Given your reading of the demand prospects, are you prepared to make an argument that there is enough room in the U.S. market so that both existing domestic producers and new domestic producers can prosper?

MR. MALASHEVICH: I defer to the industry representatives here except in two respects. One thing is they can't all be wrong. Also there have been American metal market articles and just informal discussions with the ThyssenKrupp executives. Part of the intent is really not to compress other U.S. producers. The intent is to replace imports, both subject and non-subject, particularly on the West Coast where imports generally speaking have been known to be concentrated on the West Coast, and that can be awkward for some producers to supply.

Indeed, there is a confidential paragraph in our pre-hearing report drawn entirely from the pre-hearing report which calculates the share of consumption represented by non-subject imports of stainless sheet and strip. I found it noteworthy that there was a very significant decline in the last several years in non-subject imports, and that to me helps bolster the importance of the declining value of the dollar and makes what's going on with the Alabama mill entirely consistent with market realities.

COMMISSIONER PEARSON: Thank you for that answer. You may not be able to see that my red light has been on for a minute and a half, so thank you to the Chairman for her indulgence.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madame Chairman.

In speaking about the new facility in Alabama can any of you gentlemen tell me of the $5 billion overall investment and the $1.4 billion investment on stainless, how much of that is already spent?

MR. ILLER: The stainless part, the $1.4 billion, we have spent almost 80 percent, $1.2. The rest is more or less on the way. We are just finalizing the negotiations and that will be contracted in the next coming weeks.

MR. SALAS: If I may add to that, I mentioned in my testimony that one of the cold-rolling mills is already operational. The second one is already under commissioning. The third mill is already sitting at our site, construction site, but we have planned to bring the additional capacity in an ordered way, also trying to be responsible with our market entry. And already a good portion of the equipment is sitting in our site.

COMMISSIONER ARANOFF: Thank you.

Going back to the idea of the local supply strategy or the three regions. The facilities that you've mentioned, the two in the U.S. and Mexico, two in Europe, and three in Asia, China and Vietnam, that's the sum total of the production facilities for this product that ThyssenKrupp has? Or are there additional non-subject facilities?

MR. ILLER: Commissioner Aranoff, I have to correct that we have not three in Asia. We have only one in Asia.

COMMISSIONER ARANOFF: I'm sorry.

MR. ILLER: We have two facilities in Germany and Italy, and we have Mexinox, and in the future here in Alabama, the mill.

COMMISSIONER ARANOFF: There was a reference in the testimony of one of the witnesses about, maybe there wasn't. The facility in Asia, is that shipping any product to the United States currently?

MR. LACOR: No, Commissioner. Currently we're not. This is Stephan Lacor. We're not shipping anything from the SKS facilities or if something, very small volumes.

In 2004, 2005 period we were, but the supply chain was not economical.

MR. GOLDFEDER: Commissioner Aranoff, this is Jarrod Goldfeder. I just wanted to reiterate. I think it is POSCO who has three facilities in China and Vietnam. During the POR POSCO made very limited shipments, exports to the U.S. from there. Small. But the focus for POSCO from those facilities continues to be the Asian markets.

COMMISSIONER ARANOFF: I apologize for getting those two mixed up. I'll only be worse tomorrow.

MR. GOLDFEDER: I won't be here to see it, so that's fine.

(Laughter.)

COMMISSIONER ARANOFF: When one of ThyssenKrupp's facilities sells a ton of steel does the company control where every ton goes? Or do you ever sell to traders or other independent entities that can make that decision for themselves?

MR. LACOR: All the sales, Commissioner, of the product that come from Germany, Italy, Mexico that are imported, or China, would be channeled through one of our three subsidiaries. So we have Mexinox USA, the exclusive channel from Mexinox, then Nirosta North America that's the exclusive channel for the product from Germany, and then AST-USA for the product from Italy. So we would be the only ones bringing in product and representing the mills.

MR. ILLER: Commissioner Aranoff, I think your question was different. Can we ensure that our product, if it goes to a trader or distributor, in which country that is delivered. I think no producer in the world can do that.

COMMISSIONER ARANOFF: Although I assume there aren't that many distributors who would want to pay the cost of reshipping the product somewhere pretty far away.

We've been discussing this prior case, the Nucor Steel court decision involving the three Arcelor Mettle countries, and what the facts were in that situation versus what the facts are here. To the best of my recollection, one of the important facts in that case that weighed heavily with the Commission, and even more heavily with our reviewing courts, was that it was the U.S. mill that was making the decision about what products from affiliated companies could come in and be sold in the U.S. market, and the mill's instructions were to make that decision based on what was best for the U.S. mill, not what was best for the global corporate entity. How do the facts in this case compare?

MR. LEIBOWITZ: I think the facts are very close in this case. As Stephan Lacor mentioned in his testimony, and I invite him to comment further, he is the guy. He will decide what is sold in this market through ThyssenKrupp based on the structure that he outlined.

MR. LACOR: Yes, that's correct. The sales decisions are made in the Chicago office. It's the same team that handles the sales and distribution for all three companies, so we direct the sales based on before Alabama was giving preference to the Mexinox mill, making sure that the market is protected and the Mexinox position was protected, then supplementing with European products.

Now with the Alabama mill coming on-stream, the whole, so to speak, the lead, is with Alabama and then we make sure that what comes in is going to support the Alabama production and not interfere with it.

In fact one of the lowest-lying fruits that we have as a sales team for the Alabama product is substituting, as soon as the production is up and running, the product from Germany and Italy we've brought from Alabama. The products are practically identical.

MR. LEWIS: Commissioner Aranoff, if I could add to that, too, just state maybe what's obvious, that Stephan's affiliation is with the Alabama mill. He's employed by that company. And it sort of falls logically from the local supply strategy. He's a representative of North American operations, and I think maybe one factual distinction maybe from Nucor is you do have a mill outside of the United States as part of that structure. That's a little different. But it's only those two mills that are within the sort of sphere of authority that we're talking about. He's not responsible for the Italian or German mills.

COMMISSIONER ARANOFF: Okay. I appreciate those answers. I know Mr. Leibowitz, Mr. Lewis, you'll remember that in the course of that Nucor litigation the reviewing court was very interested in the argument that there were economic circumstances under which the global corporation could benefit while taking actions that were harmful to the U.S. production operation and it was in fact extremely difficult to build up a factual record that persuaded them that that wasn't going to happen in that particular case. So we're giving you the opportunity to build up that factual record if you can.

Let me just follow up real quickly on one thing that was said in response to a question from Commissioner Pearson.

One of you mentioned that the West Coast in the U.S. tends to be underserved by domestic production of stainless steel sheet, and can you just explain for the record how the Alabama mill is better situated to meet demand on the U.S. West Coast than the existing domestic producers who are also in the center of the country?

MR. LACOR: I think it was Bruce who

mentioned the West Coast. The West Coast does have an extremely high import penetration. We would be in a similar position than the rest of the domestic mills in that the West Coast is further away than our production facilities, so we would rely on probably rail logistics to get material out there by rail to overcome the freight disadvantage.

COMMISSIONER ARANOFF: That was the question I was going to ask. You would still serve the West Coast by rail. You wouldn't go through the Panama Canal to get --

MR. LACOR: I don't think so.

COMMISSIONER ARANOFF: Mr. Salas?

MR. SALAS: This is Jose-Ramon Salas, if I may add. The West Coast is definitely a region that we will try to serve so that we can offer our products over there. But definitely also the southern part of the U.S. has been growing in the last few years and we see a very important opportunity for growth also in that region.

We will be very well located in terms of logistics and logistics is one of the challenges that we have ahead of us and that we know we can be very effective with.

COMMISSIONER ARANOFF: My time is up, so

thank you very much for those questions. Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Madame Chairman. I join my colleagues in thanking all of you for being here today to answer our questions.

I want to begin with this ramp-up period for the Alabama facility and ask the question, what is the likely impact of subject imports from Germany and Italy during that period when the Alabama facility is ramping up? Not afterwards when you say there won't be any discernable amount of imports from those countries.

MR. SALAS: We have already started reducing the number of imports from Germany and Italy, and obviously as our production in Alabama reaches the levels of stability and quality reliability, those volumes will continue to be phased out until we reach a point where everything will be basically shipped out of our new facility.

COMMISSIONER PINKERT: For the post-hearing could you actually give us the quantities that are currently being shipped? You said they're already coming down.

MR. LEWIS: We would be happy to do that.

COMMISSIONER PINKERT: Thank you.

MR. LACOR: Commissioner, if I could add something also. The idea that we can substitute or support the start-up with the Alabama mill from Europe is very limited based on the selling proposition that we have for that Alabama mill. The American customers, what they value is a local supply source, so what they're interested in is proving, testing, a functioning North America supply base.

So the fact that we might have product available from Europe or Italy doesn't really talk to their value proposition. They're looking for somebody who can deliver short lead times quickly, like the petitioners referenced. So saying I have material available from Italy on a three month lead time with Italian reliability is just not an attractive substitute.

COMMISSIONER PINKERT: Mr. Malashevic?

MR. MALASHEVICH: Yes, Commissioner Pinkert, I just wanted to add there's a bit of a disconnect in the testimony you heard this morning on the subject of lead times.

On the one hand petitioners' witnesses noted the decline in lead times as a sign of distress, uncertainty in the marketplace. Only minutes later they mentioned that customers are demanding much quicker deliveries. So naturally when you increase the rate of delivery you're going to decrease average lead times.

They can't have it both ways. But taking on its face the notion that customers are demanding quicker deliveries, if a customer is facing an average U.S. lead time of four to five weeks versus two to three months from anywhere overseas, it's a no-brainer kind of decision.

COMMISSIONER PINKERT: Thank you.

Turning to the Mexican order, I believe that you might recall the testimony earlier today that it's too early to say whether the 12 percent deposit rate that was recently imposed by the Commerce Department will have an impact on the Mexican shipments. I believe Mr. Leibowitz, you testified that order or no order, the Mexican shipments will be serving the same function in the U.S. market.

So I want to give you an opportunity to respond to this argument that it's too early to say whether or not the 12 percent duty would have an impact.

MR. LEIBOWITZ: That's correct. I said that and I stand by it and I'd like Mr. Lewis to elaborate on the status and outlook for the 12 percent rate.

MR. LEWIS: For clarity, I'm being asked to respond to this because I work very closely with Mexinox on the Commerce Department side of these cases and am very familiar with the facts.

It was actually kind of difficult to sit back there and listen to this discussion of the 12 percent deposit rate.

Let me start with one critical observation which is that 12 percent duty is not a duty. It's a deposit rate. It's an estimated duty.

COMMISSIONER PINKERT: I was careful to say deposit rate.

(Laughter.)

MR. LEWIS: You were, but I'm not so sure that witnesses this morning were. And it's a critically important distinction.

Mexinox and any company that is careful about its dumping situation which they obviously need to be under this order, doesn't consider the deposit as being the relevant figure. In fact for accounting purposes when they create a provision for dumping duties, it's not the deposit amount that they make a provision for. It is what the actual estimated margin is at that present point in time.

So I think it's important to say two things about that 12 percent margin. One is it's wrong and it's being appealed. And it's only a deposit at this point, no duties have been paid out at the 12 percent rate, and I'm confident from our appeal that no 12 percent duty ever will be paid out.

Secondly, Mexinox has never paid duties at that level. Every prior review has had margins, even with zeroing which we have a serious issue with and are pursuing legal challenges on as well, which would reduce those margins to zero. But even if you factor that out, they've always been moderate margins of dumping. Mexinox has never paid anything close to 12 percent. That 12 percent figure, as I said, is wrong but it's also history. That' snot the current circumstance at all.

So sort of circling back to your real question which is what is that deposit rate going to do today in terms of trade flows from Mexico? Nothing. Because it's a fictional number. It doesn't reflect current levels of dumping as the department calculates it wrongly in my view, but even if you look at it from that perspective, the current margins are nothing close to that level. It's a non-issue. It's a sexy-sounding number for them to trot out in front of you at this hearing, but it's really a false and artificial number.

COMMISSIONER PINKERT: Thank you.

My next question may appear to call for speculations about what customs might do in the future, but I'm really more interested in the position that you and your clients are taking and intend to take with respect to whether these products that have the input from the Alabama facility, then further manufacturing in Mexico, and then come back to the United States as potentially subject product under the order, will they be claimed to be products of Mexico or products of the United States?

MR. LEWIS: Again, I think I'm probably in the best position to respond to that.

That experiment or that issue arose during the original investigation because at that point in time a substantial amount of the feedstock that went to Mexinox actually came from the U.S. mills that are sitting in this room. So that issue arose at that point in time. I'm not shy to tell you that we tried to make the argument that the dumping calculation should be adjusted to account for the U.S. content of that steel.

Suffice it to say that Commerce Department rejected that, treated it as Mexican product. I'd expect they would do the same under this scenario.

Separately, and your question was more on the customs side of the question ,I don't think there's any doubt under the NAFTA origin rules that cold reduction of hot-rolled steel under the NAFTA rules, does not quality the product for NAFTA preferences, but does quality as a Mexican product. So if you're familiar with the Customs bills, it's a substantial transformation under NAFTA rules to cold reduce hot-rolled steel.

I hate to be standing here pre-judging the way this is going to be treated in the future, but I don't think that it would be a real plausible ground to argue that this is U.S. product that's coming back.

Our point has been more of an economic point which is that every tone of that product that comes back from Mexico was actually produced using more than one ton of hot-rolled steel from the United States and therefore represents an expansion of U.S. production.

COMMISSIONER PINKERT: Thank you.

Turning to POSCO, has there been product shifting to exports of stainless steel cut sheet to the U.S. market since the imposition of the orders?

MR. GOLDFEDER: No. We can go further into that in the post-hearing brief, but the data that the domestic industry has provided does not support that conclusion.

COMMISSIONER PINKERT: Thank you. I look forward to getting additional information on that in the post-hearing submission.

Here's another one that may not be answerable here, but perhaps in the post-hearing submission. That is what does the trend in exports from Korea to China tell us about the issues that we have to decide in this proceeding?

MR. GOLDFEDER: When you look at POSCO's export patterns it's important to look not just at China, but it's not a China focus but a regional focus that POSCO has. That is what you've seen with their shipment patterns is that even though shipments to China have decreased in the past couple of years which you would expect as POSCO has made the investments in China to produce the stainless steel sheet and strip in China to serve locally, you haven't seen their exports suddenly get directed to the U.S.. They've continued as they have historically to not maintain a presence in the U.S..

If you look, even when they've decreased exports to China, we've seen an up-tick in exports to other Asian countries and the global trade atlas data that petitioners provide shows that.

As China has gone down, Japan's gone up, Taiwan's gone up, Vietnam. POSCO's strategy as it has been throughout the POR and even before this POR, has been this regional emphasis. It's an emphasis that not just POSCO but the entire Korea industry which is focusing on serving demand, which what you also see in part four of the pre-hearing report, a lot of the world consumption of this product are in Asia, and POSCO is in a great position to capitalize on that which is why historically its shipments to the U.S. have been almost non-existent and why Europe and other market have also been very low as a percentage of their overall shipments.

COMMISSIONER PINKERT: Thank you.

Thank you Madame Chairman.

CHAIRMAN OKUN: Thank you, again for all the answers you've provided thus far.

Mr. Iller, I wanted to ask you to expand on your testimony with respect to what the options are on restructuring. You might have heard the domestic industry counsel's argument that he would not rely on any of the information that's been provided given that there is a potential change that could affect that strategy.

I was trying to take notes on what you had said and as I had it, the Advisory Board was reviewing options on restructuring so that you didn't anticipate any changes. These options would be implemented in the next month. I wondered if you can expand on that a little bit more to help me understand what that means for the company, and then for post-hearing if there is information about those plans, the Advisory Board options, that could be placed in the record and treated confidentially obviously, I think that would be helpful for the Commission to see as well.

MR. ILLER: Madame Chairman, the decision has been taken on the 13th of May actually from our supervisory board. If you see ThyssenKrupp as a group, we have grown about 48 billion turnover, eight business areas to day, out of which ThyssenKrupp, the stainless global business is one of the eight.

The business in the future when Alabama is running will comprise round-about nine to ten billion euros of turnover.

So if you make a decision on this unit, it's stock exchange relevant very much and we have to observe that carefully.

For the time being we have been informed now our shareholders and all the stakeholders that the decision is that they want to separate, and I think this is the only thing which has been decided so far. They want to separate the whole business. And here, different to what I said to Commissioner Aranoff, that is also including then the VDM business. So the total business we have today in this group. Also the high nickel alloys. We have also one company which owns service centers around the world and does trading for us. So all this is in this package. So the whole package will be separated.

There is no decision taken so far whether this will be sold to anybody, whether this is just a spinoff, or an IPO. This is the work of a group which has just recently started now and they will work that out and the timeline would be that by January 2012 when our shell assembly takes place, these options will be presented and then the decision will be taken which way to go.

CHAIRMAN OKUN: And then to help me understand that, between now and January 2012 the roll-out of everything continues with the schedule we've heard.

MR. ILLER: After the 13th of May at 2:00 o'clock German time, our CEO of ThyssenKrupp has made a press conference where he clearly said first of all, all the units are inside. Secondly, all the investments which have been on the way or which were already announced will be done. That includes this Alabama melt shop. And as I said before, most of the business is already contracted, so there is anyhow not really a chance to stop it.

There is also inside the 250 million package which was mentioned this morning, this ferrite strategy which we do in Germany where we are closing in an attempt for consolidation in our group in Europe, where we are closing a plant close to Dusseldorf and we are building new equipment in our effort. That's 250 million that will also be done. There are other smaller investments. Everything which we have planned in our budget is continued.

CHAIRMAN OKUN: I appreciate that.

For purposes of post-hearing, Mr. Leibowitz and Mr. Lewis, if you can just make sure that it's laid out so that we understand how that relates to the business strategy and the discussions we've had today.

MR. LEWIS: We certainly will do so.

CHAIRMAN OKUN: I appreciate that.

And then I don't know, Mr. Lacor, Mr. Salas, help me understand a little bit more about the product that comes in from Mexico in the future as this transition is made, the Mexinox product.

I'm trying to understand, if you're the domestic producers who were in front of us this morning, and it's fair enough to say you're looking at a big U.S. competitor coming on-line, but a lot of what I heard was if Mexinox continues to price the way they've priced in the past, so the amount of product they've had in the past, if that is material to the domestic industry. And I wanted you to have the opportunity to respond both on the pricing and help me understand, I know you've talked about it a little bit in terms of what the strategy is for the company. But the pricing on the record and the product that's on the record, versus the pricing and the product that comes in in the restructured company.

I'm not sure if I'm clear, but I'm just trying to understand where the competition is and what the pricing mechanism, and if it changes a lot so that you're competing, your Mexinox product is competing heavily with NAS product or AK product. That's what I'm trying to understand. Are they looking at this and saying yeah, this is great for ThyssenKrupp, they're going to come in and have their Alabama facility, and then they're going to nail us on the other side with all this Mexinox products, which you can't produce.

CHAIRMAN OKUN: That would be helpful.

MR. LACOR: In regards to the product, I think what we are indicating and thinking and planning is that there is no major shift in Mexinox product mix with the coming on board of the Alabama mill. In the sense that what Mexinox has done for the last four or five years was to pursue a strategy as a cold roller in Mexico where we needed to differentiate ourselves from low-cost, high-volume competitors that we face with North American Stainless and NTYKE and do something slightly different.

So we specifically positioned ourselves in the product niche that we felt at the time was hard to reach. We also priced ourselves on that high end, and I think the record in terms of where we sit, vis-a-vis, the domestic mills most of the times we get it right and we are higher, which is where we intend to be.

Now what happens with time is that the Mexican market grows. It grows at a rate of about 7 to 10 percent, which means that each year, barring a financial crisis, there's a little bit less production available out of the Mexinox mill to serve the U.S.

market.

So that phoretiz strategy, the thinking is that stays. We stay focused on the phoretiz from Mexinox, but with time we have less capacity available for supplying the market. At the same time, there are some products that would fall into the part mix of Alabama.

A little further down the road, maybe a year down the road or 18 months down the road where if there's a choice between producing it in Mexico or producing it in Alabama, we would produce in Alabama. The thinking is we'd keep, more or less, the volumes the same, but that gradually reduces the Mexico market growths.

CHAIRMAN OKUN: Yes, Mr. Salas?

MR. SALAS: Thank you, Madame Chairman.

I just want to add to what Stephon just said that Mexinox has been in place for over 30 years, so they have developed a very good reputation in terms of the quality of its product and the reliability of its performance.

We have expressed that floridic material is what Mexinox would focus on, especially on the 430 side. And this is the type of product that requires a lot of esthetic acceptance from our customers because it's used mainly in cosmetic applications. This is very delicate quality level to achieve and we believe that it can only be done after several years, not to say many years of experience in operating the production lines and making sure that the desired finish can be achieved by the time it reaches our customers.

As you can imagine, such a big facility like the Alabama one with the brand-new production lines with a brand-new workforce, most of them with none or very little experience in stainless before will still have to develop that expertise, not to say that they would develop the field because for 430 most of the time it's kind of an art to produce good quality, high glossiness product that the customers are looking for.

CHAIRMAN OKUN: Thank you. That's helpful. I understand that.

MR. LEIBOWITZ: Madame Chairman, I just wanted to add one more point, which Jose Ramon well knows. And that is Mexinox has a bright aneling line, as you heard earlier, which Alabama does not have. So that would be the other product, and those could be austenitic grades as well. But because of that facility in Mexico that's going to be the other thing that Alabama doesn't do that Mexinox will supply.

CHAIRMAN OKUN: My time is about to run out, so I will hold my questions for the next round. I will turn to Commissioner Lane.

COMMISSIONER LANE: Thank you.

Mexinox, as I understand it, is under the order and continues to ship to the United States. And whether or not the order is on you don't really see much change in Mexinox's behavior.

And now we have Alabama in the mix. And Alabama is providing -- or is partially built. It is providing some of the feedstock to the Mexinox plant. Now is Alabama at the current time producing any finished product that it is selling to its customers, other than Mexinox?

MR. SALAS: This is Jose Ramon Salas. Commissioner Lane, just to clarify, Alabama will start supplying Mexinox once the -- is operational, which should happen after 2013. The first production of -- and hot rolled product will be for Alabama itself. And after that, we will start shifting our supply from our Italian company to Mexinox to Alabama.

At the moment, the Alabama facility is already producing cold rolled product that is already being shipped to customers here in the United States mainly.

COMMISSIONER LANE: And what is shipping now in comparison to what it will produce all products when everything is fully done, what percentage is it shipping now?

MR. SALAS: From the product mix, we have started with a very simply mix of products. Basically, 60- and 48-inch-wide product, which we would call it standard product in the market, 304, 304L, 316L, basically austenitic and that will be the path until we have the necessary experience in our team. We have fine tuned our production lines. And as soon as that happens, then we continue expanding our product portfolio into other grades.

But mainly, on the austenitic side on the first phases, again because Alabama doesn't have the technical capability, nor it will have it in the next few years to be able to replace Mexinox's supply of 430 product into the U.S.

COMMISSIONER LANE: So what percentage of the plant is done now, as presented as a ratio of finished product now, as compared to what the finished product will be when the facility is completely finished?

MR. SALAS: In terms of nominal capacity, one cold rolling mill for up to 120,000 tons is already in place and running. We are in the process of adjusting it, fine tuning it. And I mentioned today that so far in the month of May only we have already produced 5,000 tons up until today.

The next phase will be the second cold rolling mill, which has started to be commissioned, the 74-inch wide and it should be fully operational in October of this year to reach 240,000 tons. But as you can imagine, our entry into the market is a kind of a gradual one. We don't go in one, two or three months from producing very little to suddenly start producing at full capacity.

COMMISSIONER LANE: Maybe I'll use an example. If we start with 100 percent when the plant is done, so right now are you at 5 percent of the total expected output of the plant?

MR. SALAS: Today, we're at 50,000, which would be 50 percent of the one mill that is operational.

COMMISSIONER LANE: So you're at 60 percent done of one mill and you have two more mills that are not done. Okay. I don't have a map of Alabama with me right now, but where the facility is in Alabama was it affected by all of the terrible storms and the destruction that we've seen in the last several weeks?

MR. SALAS: Fortunately, Commissioner Lane, it was not. We are located about 40 miles north of the Port of Mobile, so we are at the very south of the State of Alabama. We were lucky not to be hit with the natural disaster. The tornadoes hit mostly the northern part of the state and we have been trying to contribute to help them with all different types of aid to repairs of the damages caused by the natural disaster.

COMMISSIONER LANE: Thank you.

Now following up on Mr. Blot's testimony from this morning regarding product shifting from coiled sheet and strip to cut-to-length sheet and strip, how difficult is it for the subject foreign producers to switch back to the production of coiled sheet and strip in the event of revocation of the orders? How costly would it be?

MR. SALAS: In terms of cost, Commissioner Lane, I don't think it would be that high. But in reality, a cut-to-length sheet means today higher value addition. Anybody with economic or business sense, would try to add as much value as possible for the products that one manufactures and delivers to one's customers.

So we have already given that step and we have developed a customer base that is looking for those products. That we have confidentially and reliable delivered for the last few years and we would see no benefit and no reason to go back to coiled product.

COMMISSIONER LANE: In the opening testimony, SL USA will be the only producer of 72-inch wide material in the Americas in the reasonably foreseeable future how much demand do you expect for that material?

MR. LACOR: This is Stephon Lacor.

We don't have exact statistics on the size of the 72-inch wide market. I think when we were putting the plan together we guesstimated that it was maybe a 100,000 tons of material coming in. But what we expect will happen is that as the supply becomes available domestically and the lead times come down, which is really what our customers focus on and availability doesn't become an issue that it's a product that will grow. Just like maybe 20 years ago, 25 years ago there was no 60-inch wide supply in North America.

When North American Stainless brought in their 60-inch wide mill and 60-inch wide available, that demand grew. So what we're hoping is that the same thing happens for the 72-inch wide.

COMMISSIONER LANE: So you would expect then whatever the demand is for 72-inch that you would be able to provide it?

MR. LACOR: Yes. Yes, we have one whole Z mill that's dedicated to 72-inch wide, so that would be 150,000 tons a year. So we would have the capacity to supply all of that demand from Alabama.

COMMISSIONER LANE: And would you expect that demand to occur in the reasonably foreseeable future?

MR. LACOR:: I think that would be a gradual process. I think the demand exist today in that we were estimating prior -- at 100,000 tons a year. So maybe let's say even if it's half of that, so then we would think it would take five to ten years for that product to really grow. But we're seeing some of our service center customers already investing themselves in 72-inch wide lines in preparation for the availability.

COMMISSIONER LANE: I'm a little confused by an answer that Mr. Lewis gave before. And it goes back -- I forget which commissioner asked it, but it was who controls where the product from TK goes worldwide. And I thought that the answer was in the

Chicago office, but then it sounded like that that was only related to North America. So for my benefit, would somebody answer that again?

MR. LEIBOWITZ: Yes. I believe I started that out and Mr. Lacor finished it.

COMMISSIONER LANE: Okay. Mr. Iller.

MR. ILLER: The coordination is done actually in my department. Every quarter we have sales meetings with the responsible persons like Stephon Lacor or from North America our person from Asia and so we are coordinating that.

But in the individual region, in the area of the Americas, of course, and this is the main part of it. It's coordinated by Stephon Lacor. But the team you have seen on the chart here.

COMMISSIONER LANE: So in North America, Mr. Lacor decides. So he can decide that he's going to bring in product from Mexico and he's going to take the American product that's made in Alabama and export it. And so then somebody's got to send in product from Italy and Germany to the U.S. customers. I mean he could make that decision if he wanted to.

MR. ILLER: Commissioner Lane, maybe we have to clarify that, first of all, the sales in let's say cold-rolled Mexico and Alabama in the future. And

Stephon Lacor has already explained that we have a policy which we have set up and the criteria is economic profitability at the end of the day. And we said that it is an imperative that first the American mill is filled and we do the breathing in the Mexican plant. That was explained already before.

For the business which would come form Europe, we have this coordination cycle. But also there economic purely. And finally, also the customer has do decide whether he wants to have the short lead time, whether he wants to have the quality and so on. For this niche products, Mr. Lacor would coordinate that with my sales manager in Germany who does the -- like he is doing for Nirosta. All the salesmen are from Italy who will do it for Italy.

COMMISSIONER LANE: Thank you. My time is up. Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Madame Chairman.

For counsel, for purposes of the post-hearing, could you please address how the Commission should evaluate volume price and impact in the event that we chose to cumulate all countries.

MR. LEIBOWITZ; Sadly, we will do that.

Yes.

COMMISSIONER PEARSON: You know some of us have some experience with that.

This morning I asked the domestic industry whether they were able to supply all grades of product that are needed in the United States, and I asked that in the context of the reality that we have a meaningful amount of non-subject imports that have been coming in right along. So let me ask the same question to you, just for clarification. Are there some products that are needed in the United States, but are really not produced here? And does that explain some of the imports?

MR. LACOR:: I think in the case of Mexinox we have products where we would say we have the know-how lead or we have the customer preference. That would be 430 rolled on a bright and yield substrate. It is produced domestically, but I think the customer preference is for the Mexinox product. And the wide bright and yields I think that we would have a product that I believe is not available domestically.

But the niche is, by and large, most of the products are available domestically. Maybe not to the same level of capability or maybe not with the same strength of customer preference.

COMMISSIONER PEARSON: Mr. Salas?

MR. SALAS: Commissioner Pearson, this is Ramon Salas.

If I may add to Stephon's comment, 72-inch wide is already being imported into the U.S. in small quantities, low volumes compared to what we will be able to produce and that cannot be produced domestically. That's why we're the first ones with this mill.

COMMISSIONER PEARSON: Good. Thank you.

The impression that I get is that most of the product needed in the United States could, indeed, be produced here. But there are some exceptions and then there is the customer preferences for some special products from certain foreign suppliers. Okay. Thank you.

This is perhaps best addressed in detail int the post-hearing, and I direct it also to the domestic industry. It has to do with a comment that Mr. Salas made earlier, indicating that shipments from TK in Alabama to Mexinox would not be expected to commence until 2013. And the question is, is that within the reasonably foreseeable time frame for this investigation? How should we understand that question?

If counsel has anything to say, now go ahead. But otherwise, we would want to hear about it in post-hearing.

MR. LEIBOWITZ: This is Lewis Leibowitz.

We would like to elaborate on that in the post-hearing brief, but I think that the Commission has never put a chronological limit on reasonably foreseeable time. It's basically the information that's available that is reasonably predictive.

In the case of the Alabama mill, there's a lot of information that's reasonably predictive. And the construction of the mill is on schedule and we know what the dates are, so we can provide those. In point of fact, that is part of what you'd need for a reasonably foreseeable time.

And whether there are other factors that are so uncertain that you shorten that time, that's a complicated judgment and we will elaborate on that further in the post-hearing submission. But I think the Alabama mill is a pretty set agenda.

MR. LEWIS: Craig Lewis. If I could just add to that. The hot product, substrate that go to Mexico when it's mentioned that that's 2013 that would be early 2013. We're not talking about the far end of

2013. I think in the time of time frames you're talking about now that might be relevant to point out. It would be early 2013.

COMMISSIONER PEARSON: Thank you for that clarification.

Mr. Iller, I'm curious. What are the reasons that the Alabama facility will begin by producing sheet and strip rather than plate? Is that a commercial decision or is it more an engineering operations type of decision?

MR. ILLER: I mean first of all it's commercial, but also it's a technical reason because we need the meld shop for it and the meld shop, as we said, will be ready by end of 2012, beginning of 2013. And the two set mills are already more or less -- the one is in operation. The other one will come in a couple of months.

COMMISSIONER PEARSON: Okay. And just to make sure I have an appropriate perspective, is it correct that the consumption of sheet and strip in the United States is larger than the consumption of plate by approximately how much? Any idea?

MR. LACOR: I think if you take the current market -- let's say a normalized market where cold-rolled sheet and strip will be about 1.5. The plate is about 350, 400.

COMMISSIONER PEARSON: So a factor of five.

MR. LACOR: Yes.

COMMISSIONER PEARSON: Four or five? Yes.

And then can you clarify how much, if any, of the stainless steel plate is likely to be produced in 2013 -- as early as 2013 or would we look further down the road before we would see it?

MR. LACOR:: The thinking, Commissioner, is to start with the plate pretty much once we have the meld shop. You need the meld and the hot rolling and then you'd put it through the hot and -- pickling line. Before the meld shop, it really doesn't make too much economic sense to get into plate, so 2013. Yes.

COMMISSIONER PEARSON: (Off mike)

MR. LACOR:: To Mexinox for hot band? Yes, for the market we're thinking the target would be as high as 80,000 tons once it's fully ramped up within a couple of years would be what we'd be targeting.

COMMISSIONER PEARSON: Mr. Salas?

MR. SALAS: Yes, Commissioner Pearson. I would like to add that the subject product that will be discussed tomorrow, which is I think what you're referring your question to, we plan at the end of one year once our meld shop starts, which is scheduled today for January 2013. That would mean by the end of 2013, we would be producing 100,000 ton per year of the subject product.

The confusion with us is that the hot rolled product that goes to Mexico will also be produced, but that is non-subject product. It's in the same thickness range, but different finish. And for that by the end of 2013, we also expect to be somewhere between 400 to 500,000 tons per year.

COMMISSIONER PEARSON: Okay. Thank you very much for those clarifications. We may learn more tomorrow. Mr. Leibowitz?

MR. LEIBOWITZ: If I may just add one point to that. The difference between subject and non-subject in this plate area is simply the aneling and pickling, which Alabama will have later this year. But the Mexinox facility also has aneling and pickling. So the plate that goes to Mexinox will not be aneled and pickled and therefore it's not subject to the plate.

COMMISSIONER PEARSON: Is that what is referred to as black band?

MR. LEIBOWITZ: Correct.

COMMISSIONER PEARSON: Thank you. I did

read the staff report. I read two staff reports. I think my last question Mr. Lewis is for you.

You indicated that product that originates in the United States and is further processed at Mexinox would not be considered to be of U.S. origin. Going along with that, if logistics make it practicable to ship from Mexico to the U.S. West Coast by ocean vessels that product would not be subject to the restrictions of the Jones Act, is that correct? It might be outside your expertise.

MR. LEWIS: Yes. I've heard of the Jones Act. No, I know what the Jones Act is, but I actually don't know to that level of detail. I'd have to respond to that in the post-hearing.

COMMISSIONER PEARSON: That would be fine. That was admittedly kind of a miscellaneous question. Too much of my career has been not so far removed from the issues of transportation, so I have a sensitivity to it.

Madame Chairman, I believe that completes my questions, so I'd like to thank the panel very much and turn it over to you.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Madame Chairman.

Mr. Goldfeder, let me direct a few questions to you. I don't want you to be neglected by there.

MR. GOLDFEDER: I appreciate that.

COMMISSIONER ARANOFF: One of the arguments that the domestic industry has pressed both in their brief and in their testimony this morning is that now that POSCO is supplying China from a plant located in China or a plants located in China, the Korean plant is left to supply sub-optimal Asian markets, at least because they're small and the prices aren't as good there as you could get in the U.S. market.

And so I wanted to give you an opportunity to respond to the argument that if the U.S. market were wide open the incentive would be very great for POSCO to shift its Korean production to the U.S. market, which is bigger and has higher prices.

MR. GOLDFEDER: The Petitioners have good sound bites, but the facts don't support their claims. I would say the first thing is when you look at the shift during the POR in terms of POSCO's shipments, you've actually seen the biggest increase has been within their own home market, both a combination of internal consumption and home market shipments. So I definitely would not say that Korea is sub-optimal Asian market.

The best that we can really say is history is the best teacher. And if you look at the trend over the course of this entire proceeding POSCO and the Korean industry as a whole have maintained this focus within Asia. The shift that they've made as they've reduced exports to China to Japan and to Thailand and to Vietnam I would characterize those as sub-optimal. We can do in post-hearing a little bit more analysis on pricing.

In terms of their incentive, I think looking again back at the history there have been many times over the course of this order where Korea has had incentive to ship to the U.S. When demand and prices were the highest earlier in this POR there's tremendous incentive, but again Korea has stayed -- I wouldn't say absent, but looking at the confidential market share it's been very consistent.

I'd say looking forward, even with revocation, in terms of their incentive you know you look at this picture right here. I mean there is even less incentive for the Korean industry to start shipping to the U.S. as the U.S. industry has held so much of this market tightly since the POI and now with capacity expansions and now a big fourth player in the mix, it's hard to accept the notion that even without the order POSCO will suddenly want to and the Korean as a whole will want to abandon their Asia focus and start increasing their exports to the U.S. And I should say increase substantially. Might there be an increase? Maybe. But the test is will they increase substantially and we don't see that happening.

COMMISSIONER ARANOFF: To follow up on that let me ask you if there's any way that POSCO can document for the post-hearing brief where they've had continuous, multi-year customers relationships during the period of review with customers in various Asian countries what we're talking about where shipments have shifted to. Usually, we find it -- I mean you can make the theoretical argument that they went there, so they must be pretty good customers and maybe the U.S. isn't more optimal, but it's a little bit more concrete if you can show that there's the same customers and that you have a regular relationship with them. So if there's anything that you can put on the record to that affect, I think that would be helpful.

MR. GOLDFEDER: Absolutely. We'll get that data for you.

COMMISSIONER ARANOFF: Okay.

Let me just turn back -- with a few followup questions. First of all, in our staff report we have data for the facilities in Germany and Italy which show the percentage of production that's consumed internally. It goes into the home market and is exported within the European Union and then what's sent to Asia and then we have a category for "Other." And what I'd like to ask you to do, if you haven't already one it, is break down that other category for me because one of the issues here is what's regional and what's out of region. And so it could matter for the Commission's purposes whether "other" is places in Europe that are not part of the European Union versus India. So if there's anything you can do to break out that data for the whole POR for us that would be really helpful.

MR. LEIBOWITZ: Sure. We'd be happy to.

COMMISSIONER ARANOFF: Exhibit 4 to your pre-hearing brief is a confidential document. In your post-hearing brief, it would be helpful if you could identify who wrote that document, when it was written, and the sources of information that were relied upon n drafting that document. I can't say anything more about it because it's confidential. If there is any misunderstanding about what I might be referring to, please feel free to contact the staff and I'll clarify it.

MR. LEIBOWITZ: Okay. That's fine.

COMMISSIONER ARANOFF: Thank you.

One additional argument that the domestic producers have raised with respect to the new mill in Alabama they've pointed out that mill can also produce stainless steel plate as well as will be able to procure carbon steel products and have made the suggestion that in the event of revocation it might be economical to have the new mill produce those products and then continue to import stainless sheet and strip from Germany and Italy and Mexico. How would you respond to that claim?

MR. ILLER: Commissioner Aranoff, this plan which you can see here on the carbon steel side is laid out for 4 million tons. So also ThyssenKrupp is following this high-value strategy for the product. So you have galvanizing lines behind and so on. So the hot rolling mill is designed for more than 5 million ton. So therefore without stainless they could not really utilize the capacity of this hot rolling mill because they don't have the equipment after the hot rolling mill. Therefore this is synergy between us too on this site.

COMMISSIONER ARANOFF: And you couldn't use the stainless portion just to produce plate because that was one of the things that was raised? I recognize that the plate market is smaller.

MR. LEIBOWITZ: It's much smaller. And I would direct your attention to the right-hand side of the picture. The whitish looking building is all for cold roll and stainless steel. And that's sheet and strip.

COMMISSIONER ARANOFF: Okay.

MR. LEIBOWITZ: And that would be an inconvenient decision.

COMMISSIONER ARANOFF: All right, with that I think I've completed all the questions that I have at this time.

I do want to thank all of the witnesses. Thank you, Madame Chairman.

CHAIRMAN OKUN: Commissioner Pinkert?

COMMISSIONER PINKERT: I just have a few additional questions.

First for ThyssenKrupp, could you respond n the post-hearing brief to the domestic industry's argument on page 13 of its brief regarding allocation issues that may have a bearing on the Germany industry's reported capacity utilization?

MR. LEIBOWITZ: Certainly.

COMMISSIONER PINKERT: Thank you.

Now this is for the entire panel. The tables in part 4 of our staff report shows significant global over capacity, including in the European and Asian markets. Would this over capacity, if you agree that it exists, drive subject importers in the direction of focusing more on the U.S. market?

MR. ILLER: Commissioner Pinkert, when you talk about over capacity, we should really maybe distinguish between --

COMMISSIONER PINKERT: I don't think you're getting into the microphone there.

MR. ILLER: We should distinguish between hot and cold side. This morning we talked about China, for example. I was checking during the lunch time the latest numbers. Actually, in 2011, if you look to the cold rolled, this is really at a kind of equilibrium. They're consuming around about 6.5 million tons and they have a capacity of round about 6.5, a little bit less and more, depending on the capacity utilization. So that is quite stable.

Europe, definitely we have over capacity. And what I mentioned before, the consolidation step we are doing in our company and Germany is one of the issues in order to cope with this situation.

COMMISSIONER PINKERT: Mr. Malashevich?

MR. MALASHEVICH: Commissioner Pinkert, I'd just like to add a few, small things.

One I think if the theory that world over capacity, if it exists, would cause product to be directed to the United States were correct we'd see a huge increase in non-subject imports of stainless sheet and strip. In fact, we've seen a decline and a decline in their share of U.S. consumption.

Also, I'm less familiar with the situation in Asia, but the staff report, in surveying relative prices in Europe versus the United States, the data are APO. But even a quick look at it for the most recent and what is forecasted for 2011, shows no incentive to move product from Europe to the United States, particularly after taking into account differences in movement expenses to Europe versus the United States, which are not explicitly taking into account in those price comparisons.

COMMISSIONER PINKERT: Thank you.

And for POSCO, I take it that your argument is that a price differential that would make the U.S. market more attractive is not a sufficient basis for finding a likelihood that exports would shift to the U.S. market?

MR. GOLDFEDER: Commissioner Pinkert, that's correct. I guess as a practical matter too one of the things that in the course of discussions with POSCO we've seen is they don't, at this time, even have an infrastructure in place to start approaching the U.S. market. Because they haven't been participating in this market for a number of years they don't really have much -- they don't have first-hand knowledge about the market. They don't have those sort of existing relationship right now with customers, the main purchasers. So I think they would -- even if there were that incentive, you still need time to develop that.

But still, you know what you've seen is even in the peak years when the prices hit that peak in 2007, they didn't take advantage of prices being higher. The Petitioners say that POSCO's been focusing on lower-priced market. Then why didn't they make that decision to come to the U.S. and take advantage of prices when they were higher? It's because that's just not their focus and not where they are or are poised to be.

COMMISSIONER PINKERT: Thank you. If for the post-hearing you could supply any additional information about the impediments that POSCO or other

Korean producers would face in coming back strongly into the U.S. market that would be very helpful.

MR. GOLDFEDER: Absolutely, Commissioner.

COMMISSIONER PINKERT: Thank you.

And with that, I have no further questions. I thank the panel and I look forward to the additional information.

CHAIRMAN OKUN: I think I just have a couple.

First, I would just note that I am not going to ask any plate questions, although I understand there are witnesses from ThyssenKrupp who are not able to be here tomorrow, but just so I understand in terms of reasking the same questions tomorrow. Are the witnesses that are here today you would be responsible for plate when it comes online.

Okay, so counsel tomorrow it would be very helpful when we're asking these questions to make sure that we get specific responses from these witnesses on a number of issues that Commissioner Pearson raised and the other questions that you'll receive tomorrow. But it's not fair to us because we have different staff for two different votes. And so to hear anything today actually doesn't help our record.

MR. LEIBOWITZ: We will do our best

tomorrow. And I regret they can't be here tomorrow, but we know how to reach them. So any questions will be addressed.

CHAIRMAN OKUN: Okay.

And then Mr. Iller, you had been, responding to Commissioner Pinkert had started down something that I was interested in and that is your view of the Asian market, given that you wear a global hat for the company. And you had I think focused a little bit on, if you make a distinction between hot rolled and cold rolled, there's not the same over capacity in China that the charts that have been collected might indicate.

But I wondered if you could expand any more on how you see the China market, and do you see them being a major exporter in either this market or the European market in the reasonably foreseeable future?

MR. ILLER: All of us know that applies for carbon steel as well as for stainless steel that the Chinese government is heartily pushing for some restriction in additional capacity. What we are seeing on the stainless side is, and that's why I distinguished that there is an over capacity in hot rolled.

Nevertheless, also some of our competitors like Bernanke, for example, they are using a --like we do that for carbon steel as well as for stainless steel and they can always switch from side to the other side and therefore it's hard to say. We discussed this, this morning. What is the capacity? It is very difficult to answer.

Nevertheless, I would estimate that the over capacity on hot rolled in China would be something like 2 to 2.5 million tons. But again, this is just my personal estimation. We are seeing some imports on cold rolled, very small ones coming into Europe right now; but is just temporarily.

So there's other Asian markets, and the colleague from BOSCO might even know that better. Nevertheless, on cold rolled at least we're seeing quite a dynamic growth in the market. If you see the last years, even in this terrible, devastating year where all of us had to suffer, the Chinese market was growing. And the forecast now, as you see we just had the latest numbers from the whole industry -- at least the industry which is reporting in the ISSF and the press release has been done all the manufacturers we produced 8.4 million tons.

That would be, if you multiply that by four, it would come to more than 30 million, which this industry has never produced. And the main part comes out of China. This is also long products, which ThyssenKrupp is not doing, but the growth in China and also in the neighboring countries is enormous and it's hard for us to say whether this is double digit or just 8 or 9 percent, but it's very dynamic.

CHAIRMAN OKUN: I appreciate those comments. Mr. Goldfeder, did you want to add anything with respect to the China market? I know you've had a chance to comment as with respect to Korea and how they've shifted around in other parts of Asia, but have the Chinese exports had an impact on pricing in the rest of Asia?

MR. GOLDFEDER: I think we prefer to address that more in post-hearing.

CHAIRMAN OKUN: Okay. That's fine.

And Mr. Malashevich, just finally for you, you had commented earlier about the staff reporting having -- our staff having collected a good deal of data about transaction prices in other markets. And when discussing this with the domestics earlier today, I think they had commented on, generally again without getting into anything specific, but yes EU competitive.

But if you look at anywhere else, these

aren't attractive markets. Is there anything else you would add and that you can say in a public session about the data here and how I should take it into account in my analysis?

MR. MALASHEVICH: Yes, Commissioner, just one comment beyond what I've said earlier. I think if I remember correctly the domestic witnesses characterized the comparative pricing data as mixed. And there are different ways of interpreting mixed in terms of what it shows as you go backwards in time and mixed in terms of what it shows across the various regions for the same product.

But speaking just with respect to the comparisons for Europe, I would say the data are not mixed, especially in -- I'm going from memory now -- maybe the last six months or so of the POR, plus the forecast in the 2011. And from where I sit if you're looking at the reasonably foreseeable future, what happened in 2008 and where prices were there would be irrelevant. The most relevant data would be the very most recent quarters, plus such forecasts that exists for 2011.

CHAIRMAN OKUN: I appreciate those comments. And I think with that I don't have any further questions. Let me turn to Commissioner Lane.

COMMISSIONER LANE: I just have one question. What is your position with respect to the possible exclusion of TK Stainless USA from the domestic industry, based on its affiliation with foreign producers? Although it's not fully up and running right now, should we be taking into consideration changes that are likely to take place within a reasonably foreseeable future?

MR. LEIBOWITZ: Commissioner Lane, thank you for the question which has not been raised by the Petitioners as far as I'm aware. We think the Alabama mill is evidenced by the testimony we've given today and the rest of the record it's clearly a member of the U.S. industry, should not be excluded because of its affiliation with foreign producers. It's in business here in Alabama in the United States as a domestic producer and not as an importer, which is basically the standard, in brief summary.

So we'd be happy to address that issue in post-hearing, if you would like.

COMMISSIONER LANE: No, that's a sufficient answer. Thank you.

CHAIRMAN OKUN: Commissioner Aranoff?

COMMISSIONER ARANOFF: One question that I neglected to ask. And this follows on to the question that Commissioner Lane was just asking about comparing prices in the U.S. and Europe.

If we look backwards, which Dr. Malashevich was just saying is not necessarily the most relevant way to look, but if we look backwards we can see that sometimes prices in Europe are higher than in the U.S. and sometimes prices in the U.S. are higher than in Europe. And so my question is a more basic one. This is an industry where the product tends to be sold on the spot basis. There aren't a lot of contracts. We've been told that the trend is more and more towards very short delivery times.

In light of that, how do purchasers react to pricing changes and how do producers react? If you look out and say, well, this week's prices are higher in the United States than they are in Europe and we think maybe they'll stay that way for the next month or two. Does that cause you to change your marketing habits and does it cause your customers to go looking for supply from a different region?

MR. LACOR:: It's Stephon Lacor. Yes, it's a little bit of a complicated topic how pricing tendencies carry themselves out in the market and how they play out.

I would take exception to the comment made earlier by Petitioners that the supply basis is easily interchangeable, domestic versus import. I would actually say that the domestic supply base is fairly entrenched. There may not be formal, long-term contracts, but we have, for example, about half of our -- three-quarters of our -- are in what we call bill of materials, which are contractual understandings, if you like, where we supply, for example, Whirlpool with products or we'd supply General Electric with product, and so import prices, and those prices are set for six-month periods or one-year periods.

So the import levels would -- when the import prices would not have too much impact on agreements that we've set with that. The Petitioners talked about the importance of a short lead time. Some of it being as close as carrying stock and being moved in a day or two. So the domestic supply base is not easily substitutable with imports.

At the same time, if you do have Chinese offers or if you have low import prices available, those will have a depressive impact on pricing. But they're not easily interchangeable. I can't replace North American stainless steel with product from Italy. It's just not for the bulk of the business. If it's tied into a end user, the end user won't accept that. They need a shorter supply chain, a more reliable supply chain.

I'm not sure if I answered the question.

COMMISSIONER ARANOFF: No, you did. You did.

Mr. Iller, did you want to add something?

MR. ILLER: Just from a global point of view because you said with the exchange rate. If you see, I mean this is one of the decisions. We have in the stainless business three times of volatility. One is the raw material volatility. That we try to solve with the surcharge. Or like we do in Germany or in Europe that we try to convert our portfolio more towards the non-nickle grades like floridics.

There is the exchange thing and of course that is something nobody can predict. We said this morning nobody knows what the next one or two years it will be. But we decided long ago that sooner or later you cannot withstand these ups and downs. You have to supply constantly to your customers and therefore you need then the place in the United States. And that is a pretty good decision, as we see right now when the U.S. dollar is at 145.

COMMISSIONER ARANOFF: Do you use surcharges for all your regional sales, Europe and Asia, the same way that you do it in the U.S.

MR. ILLER: We do it in Europe as well. But you said will customers change very quickly? No, also in Europe they're not changing very quickly. Sometimes they have an opportunity to buy it cheaper from Asia, but customers in Europe would never source 100 percent because this is like here in the U.S. The material produced and swimming around the globe it's two months later. You never know what the real, actual nickel value is then at this state and therefore they would only source some tons in order to be out of this risk.

COMMISSIONER ARANOFF: Just to follow up on the last piece of that. You did say you use surcharges in Europe. What about in Asia?

MR. ILLER: Asia, as this is dominated by the Asia mills, they have an effective price system, but they have very short price because while we are talking here sometimes about a quarter or half a year, typically, in China only for a month. So they try to adjust this volatility by very short pricing.

COMMISSIONER ARANOFF: Thank you very much. That's all of my questions.

CHAIRMAN OKUN: That's the end of questions from my colleagues. Let me turn to staff to see if they have questions of this panel.

MR. COCKRAN: Douglas Cockran, Office of Investigations. Thank you, Madame Chairman. Staff has one question regarding ThyssenKrupp operations in Italy.

This does not get into any of the legal issues that are involved in Italy, but there was a plan at one point to close one facility in Italy and transfer the equipment into a single integrated site. Can you please update us on what the status is of that?

MR. ILLER: Yes, the status on that is that -- and you're talking about the facility in Turin, I would guess. The facility is more or less closed. There is one piece of equipment still standing and I think what you are referring to is also the trial, which has been recently there. So the production has been more or less reallocated. We are missing this piece of equipment, but we can produce without it. So it would be an add-on.

But now after the latest or the first verdict, it will be maintained there until the last, final verdict will come. In Italy, that takes another two, three years.

MR. COCKRAN: Thank you for that response.

One of the things I was trying to get at was ultimately does the plan to move to a single site in Italy result in a net reduction in capacity because of the closure of the Turin plant or does it ultimately result in an increase in capacity in Italy?

MR. ILLER: Together with Turin, before we decided to close the plant, and once again, it is already closed. The people are already out of the plan. And now we have to talk about cold rolling again. That's why we always have to distinguish. The hot rolling side has not been affected. This is aneling and pickling line. Without this line we have reduced the capacity about 100,000 tons.

MR. COCKRAN: Thank you very much for that response. I appreciate it. And thank you Madame Chairman. Staff has no additional questions.

CHAIRMAN OKUN: Thank you. Do those in support of continuation of the order have questions for this panel?

MR. HARTQUIST: No questions. Thank you.

CHAIRMAN OKUN: All right. Before we turn to our rebuttal and closing, let me take this opportunity again to thank all the witnesses for being here, for your responses, and we will look forward to your post-hearing submissions. We will take a couple moments to allow the panel to go back to their seats. But let me just review the time remaining.

For those in support of continuation, there is a total of 12 minutes. Five minutes for closing and seven minutes from their direct. Those in opposition to continuation have a total of 16 minutes. Eleven for rebuttal from their direct and five for closing. If there is no opposition, we would combine the two times and have combined closing and rebuttal together.

So let's take a couple of moment to let our panel.

(Pause.)

CHAIRMAN OKUN: Mr. Hartquist, being the very experienced counsel is already to go. Usually, I'm trying to drag counsel up here to get them up here for their closing and rebuttal, but you are ready to go. So if I can have everyone be seated. Actually, if you can give me one moment because I think Commissioner Aranoff would plan to be back. There she is. Mr. Hartquist, you can proceed.

MR. HARTQUIST: Thank you, Madame Chairman. I promise not to use all of my time so that hopefully we can get out before the traditional Washington thunderstorm occurs this afternoon.

I have several points that I'd like to make. One, POSCO claims that there has been no adverse impact from imports from Korea during the review period. But the staff report is very clear that Korean imports under sold U.S. prices most of the time on 27 out of 41 instances. And that underselling we think would only get worse if the orders were terminated.

Mr. Iller commented that there were just small quantities of imports from China coming into the European Union. Just for the record, that conflicts with what we understand to be the situation. As a matter of fact, quite to the contrary. We believe there are large amounts of imports coming into Europe. And I believe I'm correct that the European producers have announced that they will be filing an anti-dumping case against a number of countries I think including China, which would indicate that they think they can prove material injury, based upon the level of imports coming into that region.

Some interesting news that developed I think today with respect to the ThyssenKrupp strategy. ThyssenKrupp indicated in the Q&A session this afternoon that their shareholders had voted to separate the stainless group from the carbon group and that that could include a sale of the stainless companies within ThyssenKrupp. And as we point out before, a sale could lead to an entirely new strategy by a new owner, depending upon who that owner would be.

And I would also just comment on these kind of shifts back and forth in ThyssenKrupp's strategy during the period of review. Just go back a few years to ThyssenKrupp's decision to build this operation in the United States. Then they said we're going to build a big, new operation in the United States to service the U.S. market.

Now they say we're building assets in the United States. We're going to be bringing imports in from Mexico for some period of time, several years probably. We don't know how long. And now they're saying they may sell this asset off. So their strategy has changed considerably and remains very uncertain for the future.

They also testified in the Q&A that they're about 60 percent commissioned on one of their Z mills, therefore it could be several more years before they're producing at full capacity in the United States. And the question was asked as to whether 2013 is a reasonably foreseeable future in this context. I think it certainly isn't, given the changes that have been occurring so rapidly in their strategy.

On the issue of cumulation in the Arcelor Mittal situation, we will comment further on this in our post-hearing brief. But we think that a lot of the information that was put on the record today really helps to identify the differences in the two cases and we'll spell that out in the brief.

Lastly, I'd like to comment a little on the importance of the 12 percent anti-dumping duty that's currently applicable to Mexinox. They indicated that it's not the same as a final duty, that it's incorrect, that it's under appeal.

As a legal matter, the ITC must accept the margins as calculated by the Commerce Department in your consideration. And what is this 12 percent duty deposit means? What it means is that on a $3,000-a-ton deal Mexinox has to, as an importer, has to put $360 for each ton as a deposit with the United States Treasury. That's a lot of money to be tied up for a company that has been losing money. I don't know whether Mexinox has ever been a profitable company. But it's a very significant amount of money that would be tied up.

They're already underselling the market.

You have that data. And we believe that they would continue to undersell the market in a desperate attempt to try to make some money out of that Mexinox mill. But they've proven over and over again that despite the fact that they have lost money, and I'm not talking about any confidential information, simply my understanding. They are now and we believe in the future are willing to considerably undersell the domestic producers and cause further injuries if these orders are revoked.

And that concludes my summary. Thank you very much on behalf of all of our witnesses.

CHAIRMAN OKUN: Thank you.

MR. CONNELLY: Good afternoon. I'm Warren Connelly with Akin Gump and I'll just make a few brief comments on behalf of POSCO, just three.

First of all, there really wasn't any discussion this morning or this afternoon until Mr. Hartquist's rebuttal about the issue of underselling by Korean producers. And I do want to make a comment about that. The underselling evidence with respect to the Korean producers is truly minimal and here's why. In the last three years of the period of review, 2008 through 2010, there were seven instances of underselling. And the tonnage of those seven instances was 139 tons. 139 tons. It's truly a de minimis amount of underselling.

There were seven instances, as I said of underselling in 2008. There were 20 instances of underselling between 2005 and 2007. That was the period of time, of course, in which the domestic industry was doing extremely well. There was no possibility that those 20 instances of underselling could have had any impact whatsoever on the domestic industry, particularly when you consider the fact that the Korea industry, as we discussed this afternoon in our brief, has always been a 1 percent or less market share.

The second point, Mr. Iller called TK's U.S. plant a formidable addition to the U.S. industry. I think that's an accurate characterization and I don't think the Commission could make any finding other than the finding that the addition of a formidable competitor to the U.S. industry could only reduce the Korean exporters incentive to export to the United States.

And the final point, how much protection is enough for this industry? It's had the benefit of an order for 12 years. How much stronger does an industry have to get than having an 80 plus percent market share throughout that entire period where subject imports have only had about a 7 percent market share.

This is an industry with excellent profitability, except for the recession period. I think Craig Lewis gave a great summary of the indica of profitability and financial condition. This is an industry that's ready to compete. It's restructured. It's facing unanimously I think in the views of all the witnesses today the situation where demand is going to increase.

Yes, there are disagreements about the extent of that increase, but I believe the report, the independent report that Commissioner Pearson referred to in table 4-17, which I think we can rely on as independently based, provides more than an ample basis for the Commission to conclude that this industry is posed for growth and is going to continue to profit. There just isn't I think in any way, shape, or form a possibility that Korean imports could have any sort of impact that would be more than minimal. Thank you.

MR. LEIBOWITZ: Madame Chairman, members of the Commission, staff, I'll only take a few minutes. Lewis Leibowitz, for the court reporter.

I want to leave you with a couple of brief thoughts. First of all, I want to leave you with one word, "likely." The speculation and assumptions piled on top of assumptions and speculations piled on top of speculations have run rampant today. Your job is determine whether injury is likely to resume, since it doesn't exist now as a result of revocation of the orders or any of them as we've discussed them today. This law is not an insurance program. And it is based on likely injury.

Now it's clear in this case, and how many times can you say that, that the domestic industry, which includes the Alabama mill, which is ramping up will benefit from revocation of the order on Mexico because of the synergy between the Alabama mill and the Mexican mill. This is a perfectly legitimate relationship and it's one that will strengthen the domestic industry taken as a whole.

There is some confusion about Mr. Hartquist's statement about Chinese imports in the EU. I'm not sure what he's referring to. There was a reference in our testimony about the level of imports being very small, perhaps nearly zero from the ThyssenKrupp affiliate in China and the United States. I don't remember anything about Europe, but we're going to check the record when we get the transcript and respond to that.

Then again the speculation, the ThyssenKrupp schedule, the ThyssenKrupp aim is clear, a local supply strategy for three major regions and the spinoff that was announced early in May, as Mr. Iller made very clear, will not change that strategy.

If the stainless business is spun off, it will be spun off as a whole, including VDM, some nickel alloys and so forth, but it will not be split up in the foreseeable future. The only thing that is uncertain and is every-changing are the characterizations that Petitioners put ThyssenKrupp's plans. The plans themselves are clear and have not changed.

Mr. Hartquist referred to the cold rolling mill being 60 percent commissioned. That's not what was said. The cold rolling mill, the first one is up and running and it is about at 60 percent of its rated capacity. The 12 percent anti-dumping duty I stand by Mr. Lewis' remarks. The duty is not a duty. It's a deposit and it is on appeal and I think the appeal will be at least, in part, successful. I would be remiss if I didn't say that zeroing played a major role in the calculation of that duty by the Commerce Department, but there are other things wrong with it too.

Now Mexinox knows what its doing when it comes to living an anti-dumping order. They've lived with it for 12 years and they're going to continue to live with it if they have to, but we're asking you to revoke it because it's no longer needed to avoid likely injury to the domestic industry.

Their record is amazing. I think they're better at estimating anti-dumping margins than anyone else that I know of and I include in that group people that work on Constitution Avenue. Mr. Hartquist is not entitled to know, unless he looks at it under APO if Mexinox as a unit is profitable or not. But the ThyssenKrupp strategy is sound and it has been based on long planning and long thought and there is no indication that Mexinox has been intentionally losing money to disrupt the American market. That is not what this case is about.

Now I point out also, and this is my final point, that Petitioners remarked that somewhere around a third of the price comparisons with Mexinox showed underselling. They didn't tell you that two-thirds showed overselling and the trend is clear, that Mexinox is not a market disrupter. They are not a price leader and that's simply the record that's before the Commission. I thank you Commissioners and staff or your indulgence today and we look forward to our post-hearing submissions and to your consideration of the evidence. Thank you.

CHAIRMAN OKUN: Thank you.

Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by June 6, 2011. The closing of the record and final release of data to parties is June 29, 2011. And final comments are due July 1, 2011.

With no other business to come before the Commission, this hearing is adjourned.

(Whereupon, at 4:21 p.m., the hearing in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Stainless Steel Sheet and Strip from Germany

INVESTIGATION NO.: 701-TA-382 and 731-TA-798-803

HEARING DATE: May 25, 2011

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: 5/25/11

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's
Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

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

SIGNED: Carlos E. Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Andre Bellamy
Signature of Court Reporter