

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
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CERTAIN STEEL GRATING) 701-TA-465 and
FROM CHINA) 731-TA-1161 (Final)

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THE HONORABLE DEBORAH HALVORSON, U.S.
Representative, 11th District, Illinois

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

On behalf of Alabama Metal Industries Corporation
(AMICO) and Fisher & Ludlow Inc.:

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1 Speakers are reminded not to refer in their
2 remarks or answers to questions to business
3 proprietary information. Please speak clearly into
4 the microphone and state your name for the record for
5 the benefit of the court reporter.

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

10 Mr. Secretary, are there any preliminary
11 matters?

12 MR. BISHOP: No, Madam Chairman.

13 CHAIRMAN ARANOFF: Very well. I understand
14 that our congressional witnesses have not arrived yet.

15 MR. BISHOP: That is correct.

16 CHAIRMAN ARANOFF: Then let us proceed with
17 opening statements, and we will simply stop the clock
18 and turn over to the congressional witnesses when they
19 arrive.

20 MR. BISHOP: Opening remarks on behalf of
21 Petitioners will be by Alan H. Price, Wiley Rein, LLP.

22 MR. PRICE: Good morning, Chairman Aranoff
23 and members of the Commission. I am Alan Price, a
24 partner with Wiley Rein, LLP on behalf of Petitioners,
25 AMICO and Fisher & Ludlow. Before I begin, I would

1 like to thank the Commission and its staff for its
2 hard work in this case.

3 Steel grating is a mature product that is
4 essential in certain nonresidential construction
5 applications. The case before the Commission today is
6 yet another example of what happens when Chinese
7 producers discover the U.S. market. The Chinese first
8 establish a beach head, then gain market acceptance
9 and then push in massive volumes of unfairly traded
10 product regardless of market demand to maximize
11 production at the expense of the U.S. industry.

12 The Commission has seen similar patterns in
13 numerous other investigations involving China. There
14 were virtually no Chinese imports in 2005. Chinese
15 producers discovered the market in 2006, and in just a
16 few short years Chinese grating imports went from zero
17 to nearly 30 percent of the market by surging over 500
18 percent from 2006 to 2008.

19 In the beginning, the Chinese undersell the
20 domestic industry to gain market acceptance. As the
21 market accepts the product, the margins of
22 underselling continued and even increased, and sales
23 accelerated in what was almost an uncontrollable
24 desire for volume at any price.

25 Purchasers have told the Commission that

1 price is the most important fact in their purchasing
2 decision. Purchasers confirmed lost sales and lost
3 revenue allocations. Over the period, they purchased
4 increasing quantities of Chinese grating due to
5 significant price differences.

6 While nonresidential construction increased
7 moderately from 2007 to 2008, by 2008 it was fairly
8 level. Yet Chinese grating progressively surged into
9 the U.S. market throughout 2008, completely saturating
10 the U.S. market with no relationship to actual demand.
11 As a result, Chinese grating imports captured more
12 than all of the grating demand in 2008, more than all
13 of the increasing grating demand in 2008.

14 Virtually all of the Chinese market share
15 gain came at the expense of the domestic industry.
16 One producer, Leavitt Tube, threw in the towel and
17 permanently stopped production.

18 The 2008 surge also created a significant
19 inventory overhang. Although nonresidential
20 construction and actual grating demand held up
21 reasonably well through the first half of 2009, the
22 unprecedented Chinese import surge and resulting
23 inventory overhang had devastating effects on the
24 remaining domestic grating producers in 2009.

25 Every major performance indicator plunged in

1 2009 as the remaining domestic producers had to
2 compete against Chinese inventory, new Chinese imports
3 and, until the case was filed, new Chinese offers.
4 There can be no question that the imports of Chinese
5 grating are a significant cause of material injury and
6 compel an affirmative injury determination.

7 Turning now to threat of material injury,
8 the domestic industry is highly vulnerable to further
9 material injury by even small amounts of additional
10 subject imports. The domestic industry is already
11 operating at only a fraction of its capacity and is
12 now facing rising costs and declining demand for
13 grating.

14 Nonresidential construction and grating
15 demand are not forecast to recover for many years.
16 This investigation is the only thing that stands
17 between the domestic industry's ability to continue
18 modest levels of production of grating in the United
19 States and a renewed flood of Chinese imports.

20 Had the Chinese grating producers
21 participated, they would have had to tell the
22 Commission that they are extremely export oriented and
23 possess massive amounts of excess grating capacity.
24 These same producers, while not filing a single
25 questionnaire response at the Commission, informed

1 *Steel Business Briefing* that they only exited the
2 market due to the filing of the case.

3 In fact, despite a significant inventory
4 glut created by the Chinese, at the time of the
5 preliminary determination there were still additional
6 volumes of Chinese grating entering the market in
7 2009, and until the case was filed Chinese grating
8 producers were offering to export to U.S. customers on
9 a daily basis at below market prices.

10 Had the Chinese producers participated at
11 the Commission they would have confirmed that they are
12 currently flooding the Canadian grating market with
13 unfairly traded grating, despite the fact that demand
14 in Canada followed similar trends to the United
15 States.

16 Given these facts, there is little question
17 that without an order Chinese grating will undersell
18 the U.S. industry, pass through substantial volume,
19 suppress and depress domestic prices, cause further
20 financial harm, cause workers to lose their jobs and
21 will quickly cause further material injury. Thank
22 you.

23 CHAIRMAN ARANOFF: Thank you, Mr. Price. I
24 understand that our congressional witnesses have now
25 arrived so, Mr. Secretary, can you announce the first

1 congressional witness?

2 MR. BISHOP: The Honorable Jason Altmire,
3 United States Representative, 4th District,
4 Pennsylvania.

5 CHAIRMAN ARANOFF: Congressman Altmire,
6 welcome back to the Commission.

7 MR. ALTMIRE: Thank you. Thank you for
8 having me. Good morning, Madam Chairwoman and members
9 of the Commission. Thank you for providing me with
10 the opportunity to offer my input on the effects of
11 steel grating imports from China on the American steel
12 grating industry.

13 I represent the 4th Congressional District
14 of Pennsylvania, which lies just north of Pittsburgh.
15 The 4th District is home to 20 employees of Fisher &
16 Ludlow, as you know one of the Petitioners in this
17 case. These 20 men and women who are employees in
18 Wexford, Pennsylvania, support the production of \$20
19 million worth of products such as steel bar grating
20 per year.

21 U.S. steel production has long been an
22 economic pillar of western Pennsylvania. American
23 workers produce the highest quality steel products in
24 the world, and today I am here to testify in support
25 of ensuring our industries can compete in the fair

1 market.

2 The Chinese bar grating industry, unable to
3 sell its excess production in China, has begun
4 flooding our markets with subsidized steel grating,
5 making it more difficult for U.S. manufacturers to
6 compete.

7 As you know from your own preliminary
8 finding, the facts speak for themselves in this case.
9 From 2006 to 2008, steel grating imports from China
10 surged into the U.S. market, increasing by more than
11 500 percent. If we want to explore these figures by
12 tonnage, in 2006 China exported 10,000 tons to the
13 U.S., and in 2008 that number increased to 65,000 tons
14 imported. As a result, the Chinese import presence in
15 the U.S. market jumped from 5.1 percent to 24.3
16 percent.

17 U.S. producers' share of this market
18 suffered a corresponding decline from 78.9 to 69.5
19 percent. The bottom line is startling. While overall
20 consumption of steel grating increased by one-third in
21 our nation, American producers lost 10 percent of the
22 market share. Meanwhile, Chinese imports rose to
23 nearly one-quarter of U.S. market share.

24 But this case is about more than market
25 data. Beyond these statistics, the decision you make

1 on this case will have a very tangible effect for the
2 people living in the district I was elected to
3 represent.

4 Fisher & Ludlow maintains a no layoff
5 practice. However, the rise in Chinese bar grating
6 imports into the country has forced the company to lay
7 off 30 percent of its workforce. Furthermore, Fisher
8 & Ludlow is now operating at a fraction of its
9 capacity.

10 Madam Chairwoman and members of the
11 Commission, an affirmative decision in this case will
12 allow American workers, many of them in my district,
13 to keep their jobs. And as we have discussed many
14 times here in the past and I know you're aware, the
15 American worker can compete and win against anyone in
16 the world on a level playing field, and what we're
17 asking today is consideration to make that playing
18 field more level.

19 Fair enforcement of trade laws is one of the
20 keys to lifting our nation out of the current
21 recession because, as we all know, trade encourages
22 competition and promotes innovation provided the trade
23 is conducted on a level playing field. I would urge
24 the Commission to make an affirmative determination in
25 this investigation, and I thank you again for the

1 opportunity to speak before you today.

2 CHAIRMAN ARANOFF: Thank you very much. Are
3 there any questions for the congressman?

4 (No response.)

5 CHAIRMAN ARANOFF: Thank you for coming
6 today.

7 MR. ALTMIRE: Thank you very much.

8 MR. BISHOP: The Honorable Deborah
9 Halvorson, United States Representative, 11th
10 District, Illinois.

11 CHAIRMAN ARANOFF: Good morning, and welcome
12 to the Commission.

13 MS. HALVORSON: Good morning. Thank you.
14 Thank you, Madam Chair and members of the Commission.
15 I appreciate the opportunity to be here this morning
16 to testify in favor of imposing antidumping and
17 countervailing duty orders on imports of steel grating
18 from China.

19 I am proud to represent the people of the
20 11th Congressional District of Illinois. My district
21 is home to one of Alabama Metal Industry Corporation's
22 steel grating facilities. Thousands of my
23 constituents depend on manufacturing, including steel
24 and related industries, to support their families.

25 Thousands of my constituents depend on

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1 manufacturing, including steel, as I said earlier.
2 Manufacturing is a critical part to the economy in my
3 district. The hard working men and women at AMICO's
4 Bourbonnais facility are some of the most productive
5 and innovative workers in the world and are using
6 state-of-the-art equipment to produce the highest
7 quality steel grating. They can compete with anyone
8 in the world if given a chance to do so on a level
9 playing field.

10 Unfortunately, as we've seen many times
11 before, Chinese producers are not playing by the
12 rules. They're shipping massive quantities of dumped
13 and subsidized steel grating into the United States.
14 In the space of only three years, from 2006 to 2008,
15 these unfairly traded Chinese imports have increased
16 by more than 500 percent. By 2008, Chinese producers
17 had captured almost 30 percent of the United States
18 market at the expense of AMICO and other American
19 companies.

20 For AMICO and its employees in my district,
21 this influx of unfairly traded Chinese imports has had
22 direct and harmful effects. The company has been
23 forced to cut its production and idle capacity. Even
24 worse, AMICO has been forced to lay off workers and to
25 reduce pay for those who have managed to retain their

1 jobs.

2 Other domestic producers are experiencing
3 similar harm as a result of these Chinese imports,
4 including multiple rounds of layoffs. At a time when
5 Illinois and our nation need more jobs, it's important
6 to preserve our manufacturing base and to enforce our
7 trade laws to do so.

8 My district is a diverse district, home to
9 suburban communities south of Chicago, as well as
10 rural towns in central Illinois, but one unifying
11 factor is that many of my constituents depend on
12 manufacturing for their livelihood. Many of these
13 manufacturing jobs are at risk because of Chinese
14 continued unfair trade practices.

15 These jobs and the well-being of my
16 constituents and their families literally depend on
17 enforcement of the trade laws. Unless trade relief is
18 granted in this case, unfairly traded Chinese imports
19 will continue to harm AMICO and the other domestic
20 steel grating producers.

21 I urge you to ensure that my constituents
22 have the opportunity to compete on a level playing
23 field and help prevent further harm to AMICO and the
24 domestic steel grating industry. I hope you will
25 carefully consider the evidence before you and make an

1 affirmative determination that Chinese imports have
2 materially injured the domestic industry.

3 Thank you again for the opportunity to
4 testify. If there's any questions, I'd be more than
5 happy to answer them.

6 CHAIRMAN ARANOFF: Are there any questions
7 for the congresswoman?

8 (No response.)

9 CHAIRMAN ARANOFF: Thank you very much for
10 coming in this morning.

11 MS. HALVORSON: Thank you again.

12 MR. BISHOP: Madam Chairman, that concludes
13 our congressional witnesses.

14 CHAIRMAN ARANOFF: Thank you, Mr. Secretary.
15 I believe we are ready to call the first and only
16 panel forward.

17 MR. BISHOP: Would those in support of the
18 imposition of the antidumping and countervailing duty
19 orders please come forward and be seated?

20 Madam Chairman, all witnesses have been
21 sworn.

22 (Witnesses sworn.)

23 CHAIRMAN ARANOFF: Good morning, and welcome
24 to the panel. Please proceed whenever you're ready.

25 MR. BRIGHTBILL: Thank you very much. Tim

1 Brightbill with Wiley Rein. We'd like to begin by
2 briefly reviewing the key factual information and
3 highlights of our case and in particular the evidence
4 supporting affirmative determinations in these
5 investigations. You should have copies of these
6 PowerPoints in front of you as well.

7 Let's begin with a few basic domestic
8 industry issues. The like product in this case should
9 be co-extensive with the scope of the investigation.
10 The Commission found a clear dividing line between
11 certain steel gratings which we show before you on the
12 table here today and other types of products, and no
13 domestic like product issues have been raised in this
14 investigation.

15 With regard to related parties, Petitioners
16 have requested that one U.S. producer be excluded due
17 to its import activities. During the preliminary
18 determination and investigation, Chairman Aranoff and
19 Commissioner Pinkert concluded that this producer
20 should be excluded from the domestic industry, and it
21 is even more clear in the final investigation that
22 this producer has heavily emphasized fabrication of
23 Chinese grating over domestic production during the
24 period, so its interests are not aligned at all with
25 the rest of the domestic industry.

1 As far as the domestic industry itself, it
2 does not include service centers, distributors, as
3 well as customers and end users because certain steel
4 grating is an extremely small portion of their
5 business. Similarly, fabricators do not engage in
6 sufficient production-related activities to warrant
7 inclusion in the domestic industry.

8 In fact, the vast majority of the sales,
9 production, raw materials, costs and capital
10 investment in the industry are in the production of
11 certain steel grating panels. Many fabricators of
12 certain steel grating are very small companies that
13 purchase grating irregularly and infrequently, and the
14 information obtained by the Commission in this
15 investigation further demonstrates why fabricators
16 should not be included in the domestic industry.

17 Let's take a look at conditions of
18 competition next. We'll talk more about demand in
19 relation to threat, but it is important to understand
20 just how bad the market currently is. Real demand for
21 certain steel grating is highly correlated with
22 certain key sectors in the nonresidential construction
23 market. Those include most notably manufacturing,
24 power, transportation and commercial.

25 It's important to understand that activity

1 in these key nonresidential sectors held up better
2 than residential construction and the general economy.
3 They held up until mid 2009, but have fallen
4 significantly since then.

5 We cited several sources in our brief in
6 terms of the recent fall in nonresidential
7 construction, including the fact that first quarter
8 2010 nonresidential construction starts fell to their
9 lowest level in 50 years. Importantly, as I
10 emphasized, demand for certain steel grating is tied
11 to this nonresidential construction market, which did
12 not collapse as quickly as the residential market.
13 It's still now looking for the bottom.

14 Now let's look again at this nonresidential
15 demand. The top line here is Census data showing the
16 actual value of put-in-place nonresidential
17 construction. The bottom line is the same data for
18 the key subsectors that are important for bar grating
19 -- manufacturing, power, transportation, commercial.

20 The important thing to note again is that
21 nonresidential spending levels held up relatively well
22 through the first half of 2009 before declining very
23 rapidly through the second half of the year. And as I
24 noted, we're still looking for the bottom.

25 Turning to supply conditions, the domestic

1 industry can fully supply the U.S. market. Not a ton
2 of subject imports are needed to supply the domestic
3 market. Chinese producers have massive capacity and
4 even more capacity than what's projected during the
5 preliminary investigation. We'll discuss this in
6 greater detail in our analysis of threat to the
7 domestic industry.

8 Chinese import volumes, as you've heard from
9 earlier testimony, resulted in a massive overhang of
10 subject merchandise. This overhang built throughout
11 the supply chain -- through importers, purchasers,
12 service centers, many others -- and the very durable
13 nature of steel grating means that it can be stored
14 for years and years.

15 Certain steel grating is highly
16 interchangeable and is sold primarily on the basis of
17 price. In addition, it's almost always sold on a spot
18 basis, not a contract basis, so the competition is all
19 the more dependent on price.

20 Turning to our analysis of material injury,
21 we begin with volume. The volume of subject imports
22 is clearly significant. As Mr. Price noted, Chinese
23 imports had virtually no presence in the market, the
24 U.S. market, in 2005.

25 Chinese grating producers discovered the

1 market in 2006, established a foothold with certain
2 key importers as customers to set the stage for a
3 sharp volume increase of about 54 percent in 2007 with
4 total volume reaching 14.5 million kilograms and then
5 an all out tidal wave in 2008, an increase of more
6 than 300 percent with total Chinese imports of grating
7 reaching about 60 million kilograms. The total
8 increase for the preliminary period of investigation,
9 2006 to 2008, was 538 percent.

10 Also as noted on these bullet points,
11 subject import market share reached 27 percent, and
12 this was at the expense of the U.S. industry. The
13 staff has also confirmed numerous lost sales and lost
14 revenue allegations. Nonsubject imports meanwhile
15 were steady or slowly declining during the period.
16 This is important because if Chinese imports were
17 simply responding to demand then nonsubject imports
18 presumably would have risen at similar rates as
19 Chinese imports. Instead they lost volume or held
20 steady and lost market share each year.

21 And then as discussed earlier, inventory
22 from the massive 2008 surge was sold into the U.S.
23 market in 2009, causing injury. The inventory is
24 highly relevant because it overhung the market and
25 forced the domestic industry to slash pricing in 2009,

1 which led to the greatest financial harm during the
2 period.

3 So now let's look at price effects. The
4 Commission often times asked the domestic industry is
5 this a volume effects case or a price effects case,
6 and we would say both of course, but the volume
7 effects are the primary problem in 2006 through 2008
8 as I've just described. Nonresidential construction
9 was expanding during this time, but the surge from
10 China was taking all of the business and then much
11 more.

12 In 2008 and 2009 is when the price effects
13 take their toll, and this is possible because
14 purchasing decisions are overwhelmingly driven by
15 price. Rod, could we back up one slide? Because
16 purchasing decisions are overwhelmingly driven by
17 price.

18 Price was not only the most frequently
19 listed factor; it was the second most frequent factor
20 affecting purchasing decisions, and the overwhelming
21 majority of purchasers always or usually purchased the
22 lowest price certain steel grating.

23 We have consistent and substantial
24 underselling by quarters at margins of up to 48.7
25 percent, and the Chinese import underselling is even

1 greater -- next slide; there you go -- when measured
2 on a volume basis than when measured on a quarter by
3 quarter basis. The average margin of underselling is
4 greater than 20 percent according to the staff report,
5 and that's consistent with the testimony you'll hear
6 today from our industry witnesses.

7 Now to address the impact on the domestic
8 industry. The domestic industry has sharply
9 deteriorated during the period of investigation and
10 also since the preliminary determination. We have one
11 producer, Leavitt Tube, which stopped production in
12 2008, and it's important to note that Leavitt Tube's
13 business model was the same one used by the Chinese
14 producers to focus on the high volume standard panel
15 sizes most demanded by customers. Leavitt could not
16 compete with the dumped and subsidized Chinese
17 imports.

18 Other domestic producers and of course the
19 ones here today have laid off workers, cut shifts and
20 production. Note that the shift and production cuts
21 began well before the dropoff in nonresidential
22 construction, and they coincide with the peak of the
23 surge in Chinese imports.

24 Operating profits have declined
25 significantly in 2009 by any measure. There are

1 operating losses among individual companies as well.
2 Capacity utilization is at an all-time low of 37
3 percent.

4 And then hopefully you can see this chart --
5 you've got it in front of you as well -- going through
6 all the various statutory indicia of material injury.
7 You see double digit declines in all of these, and
8 most notably you see a decline in operating profits
9 down more than 70 percent.

10 Now for a discussion of causation we'll turn
11 to Seth Kaplan from the Brattle Group.

12 MR. KAPLAN: Good morning, Chairwoman and
13 Commissioners. I'd like to walk through certain
14 issues about the relationship between the increase in
15 imports from China and the negative performance of the
16 domestic industry.

17 I'd start out by looking at imports from
18 China as compared to nonsubject imports from the rest
19 of the world. As you know, imports from China
20 increased. In percentage terms they nearly doubled
21 from 2006 to 2007, remaining at relatively low levels.
22 However, by the beginning of 2008 imports surged into
23 the market, increasing fivefold.

24 You could note that the nonsubject imports
25 were steady through the first several years and then

1 declined in 2009, so this really is a situation where
2 all the volume effects and price effects could be
3 attributed to China.

4 The next slide shows the imports from China
5 relative to domestic demand for steel grate. Like
6 Tim, I want to emphasize again the demand drivers for
7 steel grating are different than those for
8 nonresidential construction and that the pattern of
9 demand is different than the economy as a whole.

10 The projects that grating is used are long
11 lived and take a while, projects sometimes two, three
12 and even four years, so that once a project starts,
13 even after the economy turns in general these projects
14 are finished.

15 So you can see demand was increasing well
16 into 2009 relative to the economy as a whole before
17 turning downward in this year, which is not there,
18 pretty dramatically, but through 2009 it was pretty
19 strong. The percentage change in imports from China
20 was completely out of proportion to the percentage
21 change in demand, as you can see from the table and
22 the chart.

23 Please turn to the next slide. This shows
24 what happened. The blue line is U.S. apparent
25 consumption, and apparent consumption, as we all know,

1 is U.S. shipments plus imports, but apparent
2 consumption doesn't mean it's actually consumed in the
3 industry.

4 The purple line shows what's going on on a
5 yearly basis with those key nonresidential
6 construction factors, so while nonresidential
7 construction increased from 2007 to 2008, the increase
8 in apparent consumption driven primarily by China far
9 outstripped any increase in demand for the product.

10 And then as you see as you turn to 2009,
11 when nonresidential construction declined on average
12 slightly U.S. apparent consumption plummeted because
13 of the overhang created in 2008. If you could turn to
14 the next slide? This is illustrated by looking at the
15 components of apparent domestic consumption, as well
16 as the demand drivers. Purple is U.S. shipments, the
17 yellow are nonsubject imports, and the orange are
18 subject imports from China. The dotted lines
19 represent the demand for nonresidential construction.

20 As you can see, in 2007 things were
21 relatively balanced. There were three components to
22 the apparent domestic consumption -- U.S., nonsubject
23 and subject imports -- and there was a balance. In
24 2009, demand for the key end use sectors rose by about
25 10 percent where you can see the new dotted line in

1 2008. To meet this demand, U.S. producers increased
2 sales.

3 But you could also see the completely
4 disproportionate increase in Chinese imports. This
5 led to significant oversupply in the market, a glut in
6 the market towards the end of the year and a buildup
7 in inventories. In 2009, we could see that demand
8 fell in nonresidential construction by 5.4 percent,
9 even slightly less in the key sectors that are the
10 primary end users, but apparent domestic consumption
11 plummeted.

12 There was a large hit taken by the U.S.
13 industry. The Chinese exited the market with the
14 order and you could see that the inventories had to be
15 worked off, so there were negative effects in both
16 2008 caused by the oversupply despite the increase in
17 demand and severe effects in 2009 despite the fact
18 that demand held up reasonably well.

19 If you could turn to the next slide, we can
20 characterize the injury that occurred in both years.
21 In 2008, there were confirmed lost sales, confirmed
22 lost revenues, lost market share, price suppression,
23 lost profits. One firm exited the market, and there
24 was a decrease in capacity utilization. In an
25 industry that's cyclical and driven by nonresidential

1 construction, the failure to capture profits at the
2 peak of the market is plainly injurious to domestic
3 producers.

4 In 2009, the data speaks for itself as far
5 as the levels of various statutory factors. There was
6 price suppression, price depression, lost profits,
7 falling profit margins, decreases in employment,
8 decreases in capacity utilization and decreases in
9 total profits. The record shows that the subject
10 imports caused material injury in both 2008 and 2009.
11 Thank you.

12 MR. BRIGHTBILL: Thanks, Seth. Turning now
13 to threat, this slide shows the amount of information
14 provided by the Chinese producers in this
15 investigation. No Chinese producers appeared here and
16 none submitted a questionnaire response in the final
17 phase, not even the very few that participated in the
18 preliminary phase of the investigation.

19 This is all the more notable because I can
20 tell you from firsthand experience that the Chinese
21 producers were very active on the Commerce side of the
22 case on the antidumping and countervailing duty
23 investigation, submitting more than 20,000 pages of
24 material.

25 The final results of those investigations,

1 by the way, are due on this Friday, May 28, and we're
2 hoping that we will receive them in time to at least
3 include a brief comment in our posthearing brief.

4 So turning now to threat of material injury,
5 the domestic industry is extremely vulnerable for all
6 of the reasons that we have just highlighted with
7 regard to the injury case. All of the indicia are
8 down -- production, capacity, employment, shipments,
9 profits, capital expenditures, all of these sharply
10 down compared to previous levels.

11 As you've heard, nonresidential construction
12 will not recover in the reasonably foreseeable future.
13 Moreover, prices for steel, the principle raw
14 material, have been increasing, so while steel prices
15 are increasing steel grating prices are not. In fact,
16 they're still competing against some of the inventory
17 brought in earlier, and there are even some ongoing
18 Chinese offers in the market.

19 The mostly likely outcome would be a cost/
20 price squeeze as the U.S. grating producers would be
21 unable to pass on price increases to their customers.
22 We also know that during the period the Chinese
23 imports systematically undersold U.S. produced certain
24 steel grating and suppressed and depressed prices.

25 And finally we would just emphasize that in

1 a recessionary period the harmful effects of subject
2 imports are exacerbated. For purposes of the threat
3 determination, while we know it's export oriented, we
4 know that the Chinese industry benefits from export
5 subsidies and other policies that encourage or mandate
6 exports.

7 We know that the industry has demonstrated
8 an ability to enter this market extremely rapidly as
9 demonstrated in 2008. We also know that the Chinese
10 industry remains very active in North America as
11 demonstrated by Canada. You'll hear more about that
12 situation from our industry witnesses today. The
13 situation in Canada is very similar to the situation
14 in the United States prior to the filing of these
15 trade cases.

16 Because the Commission has no data from
17 Chinese grating producers, the Petitioners requested a
18 study of total Chinese capacity in this industry, and
19 what we found is that actual capacity in China is even
20 greater than the sizeable amount that was estimated in
21 the preliminary determination.

22 If you look at only the largest producers of
23 steel grating in China, you have confirmed capacity of
24 1.1 million tons. If you look at only the large and
25 medium sized producers, you have confirmed capacity of

1 about two million tons.

2 This is more than enough to swamp the U.S.
3 market several times over. and this is a conservative
4 estimate in that it only focuses on the large and the
5 medium sized producers in those certain production
6 ranges. And as you'll see in our brief, this was
7 actual research. It's not an estimate or an
8 extrapolation. It's real data.

9 And then just to conclude on this
10 presentation, we think it's clear from all the
11 evidence, including this direct quote from a leading
12 steel publication, that Chinese steel grating imports
13 only left the U.S. market because of the filing of
14 these cases. Absent the antidumping and
15 countervailing duties, they will come right back with
16 the same devastating effects.

17 That ends the summary presentation, so we
18 will now turn to the industry witnesses starting with
19 Joe Smith from Alabama Metal.

20 MR. SMITH: Good morning. I'm Joseph Smith.
21 I'm the president of Alabama Metals Industries
22 Corporation in Birmingham, Alabama. Since 1939, AMICO
23 has served the industrial products industry and is now
24 the largest producer of steel grating. Thank you for
25 the opportunity to testify before you once again.

1 I also want to thank Commissioner Pinkert
2 and the Commission staff who visited our facility in
3 Birmingham earlier this month. We appreciate the time
4 and the effort that you all took to come and visit our
5 facility and gain firsthand knowledge of what the
6 steel grating industry is.

7 I started with AMICO in 2006. My very first
8 customer visit was to one of our largest and longest
9 standing customers, a customer of more than 30 years
10 in California. After showing me a warehouse full of
11 grating products, we went back to his office. I
12 wanted to thank him for buying all of our products,
13 but much to my surprise he told me that some of the
14 products were not AMICO's. I couldn't tell a
15 difference in the warehouse. My own product.

16 He said that some of the product was
17 Chinese, and he had purchased it for 35 percent less
18 than what our prices were at the time in the
19 marketplace. He then asked me what was I going to do
20 about the situation, and of course he suggested a
21 really good opportunity and that was that I could
22 lower my price to meet the Chinese product.

23 I didn't realize at the time that that visit
24 would be the harbinger of things to come. In fact, by
25 2008 this very same customer was sourcing virtually

1 all of his material from China after 30 years.

2 As I testified a year ago, we began seeing
3 Chinese grating imports in 2006 starting primarily in
4 the Gulf Coast region and Texas, which is where large
5 quantities are consumed with the oil exploration
6 arena. Chinese producers were able to enter the
7 market by targeting the highest volume, big ticketed
8 items and offering them at incredibly low prices,
9 between 25 and 35 percent below our domestic prices.

10 Once the Chinese producers discovered the
11 U.S. market, the push was on. From 2006 to 2007,
12 imports increased by more than 50 percent, from 9.3
13 million kilograms to 14.5 million kilograms. Then the
14 pace of the surge accelerated with the Chinese imports
15 increasing by 300 percent in 2008.

16 The worst of the surge came in the second
17 half of 2008 when more than 46 million kilograms
18 swamped the market in a period of only six months.
19 I'd like to note that that six month period of
20 production surge from the Chinese equaled our
21 production in all of 2009, so six months of their
22 production equaled my company's production for a full
23 year.

24 The surge in Chinese imports had no rational
25 connection to demand. While demand for nonresidential

1 construction increased by roughly 10 percent from 2007
2 to 2008, Chinese imports increased by 300 percent.
3 When imports spiked in the second half of 2008, demand
4 was leveling off and beginning to decline. Rather,
5 the Chinese product was pushed into the U.S. market
6 because it was being sold at 25 to 35 percent below
7 the domestic pricing levels.

8 With such low prices, Chinese producers were
9 able to make huge volumes, produce and ship large
10 volumes of steel grating into the U.S. marketplace.
11 Chinese prices were so low that the importers stocked
12 up and bought well beyond the actual need. Much of
13 the surge went into inventory, creating a massive
14 inventory build, and by the end of 2008 and early 2009
15 these inventories clogged the entire U.S. distribution
16 system and overhung our market.

17 As a result, we were not only competing with
18 dumped Chinese imports shipped to the United States in
19 2009; we were competing with dumped Chinese imports
20 being sold out of inventory, kind of a double whammy.
21 These inventories forced us to cut our prices even
22 further and resulted in lower sales volume to compete
23 with sales in a very weak market.

24 As demand began to collapse in the second
25 half of 2009, the impact of the inventory build was

1 even more harmful. We competed even more fiercely for
2 the few remaining sales left in a depressed and
3 saturated market. In fact, we felt the impact of
4 these inventories throughout 2009 and into early 2010.
5 But even with the inventories and the saturated
6 market, the Chinese continued to push additional
7 product into the United States, forcing our prices
8 down even further.

9 A year ago I testified about the real and
10 lasting harm Chinese imports were causing to AMICO,
11 including cuts in our production, sharp sales and
12 revenue losses, greatly reduced capacity utilization,
13 falling profits and reduced wages and worker head
14 count. I testified that we hadn't reached the bottom
15 yet and that the conditions would continue to
16 deteriorate.

17 Unfortunately, these predictions were
18 accurate. Since I was here last year, conditions at
19 AMICO have only gotten worse. In 2009, AMICO suffered
20 production declines of more than 25 percent from 2008.
21 At our Birmingham facility we were forced to shut down
22 one of our two forge machines used in the production
23 of steel grating. The other machine runs eight hours
24 per day. Prior to the surge we had one manufacturing
25 machine operating 24 hours a day, and the second

1 machine was running 16 hours a day.

2 The story is similar in our other
3 facilities. As a result, our profits dropped
4 dramatically in 2009. Even worse, we were forced to
5 lay off workers, reducing our workforce by 20 percent
6 in 2009, and because plant workers are paid bonuses
7 based on production they also saw steep cuts in their
8 income.

9 This injury is a direct result of dumped and
10 subsidized Chinese imports. I've seen long-time
11 customers stop buying from us and source exclusively
12 from China. I've even the aggressive and relentless
13 pricing tactics by the Chinese and the daily offers of
14 product of 25 to 35 percent lower than the domestic
15 prices.

16 We've had to cut production and lower prices
17 as a direct result. Because the market is so weak,
18 we've had to try to meet every Chinese price that our
19 customers would share with us, even if the price
20 doesn't make any sense in the marketplace.

21 But I also know that imports are a cause of
22 the harm for the following reasons: AMICO
23 manufactures a range of products other than steel
24 grating. Included in this would be metal lathe for
25 the residential construction business and expanded

1 grating used in industrial applications.

2 Sales of these products are weak, but have
3 held up relatively well despite the recession, while
4 sales of steel grating have plummeted much more
5 sharply. It's clear to me that the cause of this
6 discrepancy is a direct result of dumped and
7 subsidized Chinese grating.

8 As I look forward to the prospects for AMICO
9 and the rest of the domestic industry, it's rather
10 bleak. We carefully monitor a demand forecast for the
11 nonresidential construction market, and all indicators
12 point to weak demand for the next several years.

13 Nonresidential construction is a lagging
14 indicator and lags behind the general economy by
15 roughly 18 months. The bottom line is that we're
16 stuck with this market for quite some time, and any
17 recovery will be a long, slow process.

18 We know of past experience that the Chinese
19 steel grating producers do not act based on market
20 principles and that they remain interested in
21 returning to the U.S. market. Unless orders are
22 imposed, the Chinese will quickly push large volumes
23 of low-priced product into the United States with
24 devastating consequences for AMICO and the rest of the
25 U.S. industry.

1 But in this market, even a fraction of
2 Chinese previous market share would cause additional
3 material injury to AMICO, forcing further reductions
4 in production and capacity utilization and ultimately
5 closing some of our other facilities. In fact, as
6 more and more of our customers have made the decision
7 to source from China, the very viability of the
8 domestic grating production is in doubt.

9 Without relief from these unfairly traded
10 imports, AMICO and other domestic producers will, like
11 Leavitt Tube, be forced out of business. On behalf of
12 AMICO and its workers and their families, I urge the
13 Commission to find that imports from China have
14 injured our industry and threaten us with additional
15 material injury. Thank you for your time today.

16 MR. PRICE: Thank you. Alan Price, Wiley
17 Rein. I would now like to introduce Mr. Brian Rutter,
18 president of Fisher & Ludlow.

19 MR. RUTTER: Good morning. My name is Brian
20 Rutter, and I am the president of Fisher & Ludlow. I
21 have over 23 years of experience in the steel grating
22 industry, and as the president of Fisher & Ludlow I
23 oversee all of the company's operations.

24 Fisher & Ludlow, which is both a producer
25 and a distributor of steel grating, has operations in

1 the United States and in Canada and is familiar with
2 the steel grating market and market actors.

3 When I came before the Commission almost a
4 year ago I spoke about the impact that dumped and
5 subsidized imports from China were having on Fisher &
6 Ludlow. Unfairly traded Chinese imports began to
7 increase in 2006, and once they started coming in they
8 did not stop until the filing of this case.

9 In three short years, Chinese grating
10 imports went from zero percent of the U.S. market to
11 capturing nearly 30 percent of the market. Because
12 Chinese imports accelerated far beyond demand levels,
13 they created an enormous inventory buildup.

14 Chinese producers continued to aggressively
15 ship to the United States in 2009, despite significant
16 inventories of Chinese steel grating already in the
17 United States market. In fact, in 2009 there was so
18 much inventory on the ground that the lead times for
19 shipments of Chinese grating imports was only one day.

20 These inventories continue to impact the
21 market today. The supply and balance created by the
22 incredible volume of Chinese imports caused injury to
23 our company. While this injury was apparent to me
24 when I was testifying before the Commission staff in
25 June last year, it had not yet fully manifested

1 itself.

2 In 2009, all of our performance indicators
3 were down significantly from 2008, including
4 production, shipments, capacity utilization, revenue
5 and worker head count, to name just a few. In fact,
6 all of the evidence of injury you have just heard from
7 Joe Smith are also true for Fisher & Ludlow.

8 But I would like to focus the remainder of
9 my testimony on the threat of even further injury as a
10 result of dumped and subsidized Chinese grating
11 imports. These unfairly traded imports continue to
12 pose a threat to the well-being of our company and to
13 the viability of the domestic grating production.

14 Because of the massive surge in Chinese
15 imports, our company is extraordinarily vulnerable to
16 any volume of dumped Chinese grating. Our production
17 has fallen dramatically, and our capacity utilization
18 is at all-time lows. We have experienced losses for
19 the first time in a long time, and despite Fisher &
20 Ludlow's no layoff practice we have had no choice but
21 to let 30 percent of our workforce go.

22 Making matters worse, our raw materials
23 costs are rising and demand for nonresidential
24 construction has now collapsed and is not expected to
25 pick up any time soon. In fact, this is the worst

1 market we've seen in over 30 years, and all
2 projections indicate that nonresidential construction
3 will not recover for the next several years.

4 Given these circumstances, Fisher & Ludlow
5 and the rest of the domestic industry are extremely
6 vulnerable to renewed waves of Chinese imports. Even
7 a small amount of additional dumped Chinese imports
8 will cause further injury, forcing us to make
9 additional cuts in production and to lay off
10 additional workers. Unless orders are imposed, Fisher
11 & Ludlow will simply not be able to recover from the
12 effects of dumped and subsidized Chinese imports.

13 Unfortunately, all of the evidence points to
14 the fact the Chinese will quickly ship significant
15 volumes to the U.S. if the orders are not imposed.
16 Chinese products are fully accepted in the United
17 States. They have priced their product at whatever
18 price is needed to capture as many sales as possible.

19 Chinese producers have flooded the market
20 with unprecedented volumes and will do so again if
21 given the opportunity. They only stopped due to the
22 filing of this case and will certainly return to the
23 U.S. market if allowed. In fact, we see continued
24 interest in the U.S. market through reports of
25 circumvention taking place through Canada today.

1 The Chinese grating industry has massive
2 production capability, enough to supply the U.S.
3 market many times over. Unless orders are imposed,
4 China's excess supply will be sent here. Chinese
5 producers have already proven that they can use their
6 capacity to ship large volumes to the U.S. market in a
7 very short period of time, and because of government
8 subsidies Chinese producers can supply steel grating
9 to the United States at less than our cost of
10 production.

11 We will therefore continue to see Chinese
12 product sold at 25 to 35 percent below our prices.
13 Even a fraction of this excess capacity would saturate
14 the U.S. market and cause additional injury to the
15 domestic industry. Even a tiny portion of China's
16 previous import levels would decimate us, resulting in
17 more layoffs and the closure of additional domestic
18 facilities.

19 China's continued interest in the North
20 American market is also evidenced by its current
21 shipment of low-priced steel grating to Canada. In my
22 current role, I monitor the volume and price at which
23 competing merchandise is sold in the U.S. and Canadian
24 markets. The decline in nonresidential construction
25 in Canada tracks the decline in the United States.

1 As a result, demand trends for steel grating
2 in Canada have largely mirrored demand trends in the
3 United States, yet we have seen increased offers of
4 Chinese steel grating at large volumes and low prices
5 in Canada well after the filing of this case in May
6 2009. Indeed, there has been no let up in Canada.

7 Based on sales quotes and information on
8 bids that Fisher & Ludlow has lost to Chinese
9 competition, it is clear that Chinese steel grating
10 continues to enter the Canadian market at prices about
11 40 percent below those of Fisher & Ludlow's prices and
12 despite the decline in demand for grating in Canada.

13 We are at a critical juncture. If orders
14 are imposed, domestic grating producers will be
15 permitted to recover from the devastation created by
16 the dumped and subsidized imports. Without trade
17 relief, Fisher & Ludlow and other grating producers
18 will see a renewed wave of dumped and subsidized
19 imports.

20 We will be forced to lay off more workers,
21 become niche product producers and focus largely or
22 entirely on fabrication operations. Chinese imports
23 have already claimed one victim, Leavitt Tube. If
24 orders are not imposed, Chinese imports will claim
25 additional victims.

1 In the coming months, I do not want to tell
2 any more of my workers that their manufacturing jobs
3 have been outsourced to China. On behalf of Fisher &
4 Ludlow, its employees, their families, I respectfully
5 urge the Commission to find that unfairly traded
6 Chinese grating imports have injured our industry and
7 threaten us with additional material injury. Thank
8 you for your time.

9 MR. PRICE: I would like to introduce Ms.
10 Linda Andros, Legislative Counsel for United Steel
11 Workers of America.

12 MS. ANDROS: Thank you. Good morning,
13 Chairman Aranoff and Members of the Commission. My
14 name is Linda Andros, and I'm the legislative counsel
15 for the United Steel, Paper and Forestry, Rubber,
16 Manufacturing, Energy, Allied and Industrial Workers
17 International Union known as the United Steel Workers.
18 I am pleased to be here today on behalf of our 850,000
19 members.

20 The United Steel Workers is the largest
21 industrial union in North America, and represents
22 workers across a broad swath of the nation's
23 manufacturing base, including workers at the two
24 petitioning companies here today. We represent the
25 workers at AMICO's Birmingham, Alabama, manufacturing

1 facility which I understand Commissioner Pinkert and
2 the staff toured earlier this month. We also
3 represent workers at Fisher & Ludlow's Saegertown,
4 Pennsylvania, manufacturing facilities.

5 I would like to begin by briefly describing
6 the situation facing both of these groups of workers,
7 and then make some further comments as to the many
8 ways this trade case is really a prime example of the
9 tremendous harm that has occurred in U.S.
10 manufacturing over the last decade and more from
11 unfair competition.

12 First, the surge of dumped and subsidized
13 imports of Chinese steel grating has harmed Fisher &
14 Ludlow and AMICO as well as the domestic industry as a
15 whole which you have heard here today. The volume of
16 dumped and subsidized Chinese imports has increased by
17 over 500 percent. That is no small increase. This is
18 a knock-out blow, again as you've heard. These
19 imports come in at prices well below what the domestic
20 industry could meet. The price difference is 25 to 30
21 percent. The harm to the companies and to our workers
22 and union members that has resulted is all too real.
23 This is real harm that is happening.

24 At the preliminary conference the Commission
25 staff heard from a local union member of the USW, Mark

1 McIlney, he is the steelworker at Local 1917, and he
2 represented 44 workers at the Saegertown,
3 Pennsylvania, plant, and that's not include the seven
4 workers who have just been laid off.

5 At that time he told you how the steel
6 grading production that had been running 24 hours a
7 day in 2008 was down to 12 hours a day in 2009, and
8 that the company sales were actually down 46 percent.
9 Unfortunately, but not surprising, the situation at
10 the Saegertown plant has only gotten worse and the
11 injury even more apparent since that status
12 conference. Saegertown's experience is
13 typical of all of the Fisher & Ludlow facilities as
14 you've just learned.

15 Commissioner Pinkert and the ITC staff also
16 had the opportunity to tour the AMICO Birmingham
17 facility and to meet with our union employees there.
18 I understand that you saw two forge welding machines,
19 one of which now sits idle, and the other of which is
20 down to just a single shift. At the same time AMICO
21 cut production it also has been forced to lay off
22 skilled union workers because of these Chinese imports
23 as was just explained to you.

24 Delay is particular damaging. Clearly they
25 damage the workers, the damage the family, the damage

1 the communities, they damage morale, and also because
2 this is a very skilled area. These are very highly
3 skilled workers. If you are going to bring back, you
4 know, hire new workers you are going to have to train
5 them for a significant period of time because there is
6 a lot of cost involved in that.

7 Unfortunately, the experience of these two
8 companies is emblematic of what's happening in
9 manufacturing on a much larger scale. Both AMICO and
10 Fisher & Ludlow are manufactures and they make steel
11 grating, and they manufacture and sell those to a
12 variety of service centers to sell to fabricators and
13 end users. The products they make make jobs and not
14 only for the companies and for our union members, but
15 for many others. There is a big multiplier effect
16 here.

17 And these products go into our factories,
18 they go into our oil rigs and into our city sidewalks,
19 for example, but beginning in 2006 Chinese
20 manufacturers discovered this market and as they have
21 done with many other kinds of products, and steel
22 products in particular, they quickly work to exploit
23 it. Imports increased by about 50 percent in 2007,
24 and then in a huge surge as you just had explained to
25 you in 2008.

1 These Chinese producers exploited as much as
2 they could and used whatever dumped and subsidized
3 prices they needed to make sure that they entered this
4 market and gained as much market share as possible.

5 When you seen an onslaught like this coming
6 from abroad, companies like AMICO and Fisher & Ludlow,
7 they have two choices really. They can fight, they
8 can stand up and fight and protect their workers,
9 their capacity in the United States and jobs for their
10 workers and protect the community as they did here by
11 seeking relief from unfairly traded imports, or they
12 can really simply give up on manufacturing, scale back
13 drastically, maybe become a mixed supplier, maybe even
14 a user of dumped and subsidized Chinese grating rather
15 than have it made in the United States. So it's a
16 pretty stark choice when in fact companies put
17 themselves out of business quickly by turning over
18 their actual manufacturing, in this case they would be
19 turning it over to the Chinese.

20 Again, the Commission is all too familiar
21 with this progression of events. You have seen it
22 many times in many forms in many products.

23 Our union understands the Commission cannot
24 solve all the problems of American manufacturing, but
25 we do expect that you will fully enforce the trade

1 laws to help the workers at AMICO and Fisher & Ludlow
2 so that our employees can compete on a level playing
3 field and therefore our manufacturing jobs will get to
4 stay here in the United States rather than be lost by
5 another wave of Chinese imports.

6 For all these reason then, we ask you to
7 make an affirmative determination for the workers, the
8 USW members, their families, their communities and, of
9 course, for this industry. Thank you.

10 MR. PRICE: Thank you. Alan Price, Wiley
11 Rein.

12 Finally, before we end our presentation I
13 would briefly like to address the application of
14 adverse facts available in this case. While the facts
15 in this case strongly support an affirmative
16 determination, we also believe it is appropriate for
17 the Commission to apply adverse facts available to
18 every question of fact in this case in favor of the
19 domestic industry.

20 In several recent cases, the Commission has
21 been wrestling with the application of facts available
22 versus the application of adverse facts available.
23 Normally the Commission is hesitant to apply adverse
24 facts when cases involve more than one country or
25 where there is some participation by some responding

1 countries and not others.

2 That's not the case here. While the Chinese
3 grating producers filed over 20,000 pages of
4 information and questionnaire responses and argument,
5 an intensive an exhaustive defense at the Commerce
6 Department, those chose not to defend at the
7 Commission. I believe that this was no accident.
8 After having looked at the facts in the case, I
9 believe the Chinese government and the Chinese grating
10 producers concluded that their best chance of success
11 lies in defending the dumping and subsidy
12 calculations, not an injury case.

13 Given the wholesale lack of participation at
14 the Commission, the application of adverse facts
15 available in this case is appropriate.

16 Now, I also want to be clear. While we
17 believe that application of AFA is appropriate, we
18 also believe that the record strongly supports an
19 affirmative determination whether or not adverse facts
20 available are applied here.

21 I want to thank you for your time. My
22 clients urgently need relief and this concludes our
23 direct presentation. Thank you.

24 CHAIRMAN ARANOFF: Thank you very much and
25 welcome again to all of the witnesses. We appreciate

1 you taking your time away from your businesses and
2 traveling here to help us understand your industry and
3 answer our questions.

4 We are going to begin the questioning today
5 with Vice Chairman Pearson.

6 VICE CHAIRMAN PEARSON: Thank you, Madam
7 Chairman.

8 I also would like to greet all of you,
9 welcome you here. I have not had a chance to see
10 steel grating manufactured, however I have been known
11 to walk on it from time to time, and have always been
12 glad that I haven't tried to do so in high heels.
13 When you get the high heel proof version, put that on
14 the table too.

15 I'm curious about the issue of whether
16 fabricators should be included in the domestic
17 industry. I understand you're recommending that not
18 be the case, but help me to understand.

19 The fabricators are purchasing steel grating
20 and then they fabricate it into some other product.
21 What are they making when they fabricate it?

22 MR. SMITH: Joe Smith from AMICO.

23 Fabricators are an important part of the
24 supply chain to the end user. Fabricators take our
25 standard panels of bar grating that we both produce,

1 and then cut it into smaller pieces. They may cut
2 access holes for pipe to penetrate through it, that
3 type of thing. Sometimes it's very job-specific in
4 its design. Sometimes it has to be fabricated right
5 on the job site. So there is a number of fabricators
6 out there.

7 They range from a very small shop, a single-
8 man operation with a cutting torch who climbs up and
9 cuts a hole in something so that a piece of grating
10 will fit in the openings, or it could be a very
11 elaborate shop that fabricates a complete oil well
12 derrick and bar grating then is just a small portion
13 of that.

14 So from our perspective, and my perspective,
15 fabricators are important to the supply chain but they
16 are not manufacturers of bar grating. There is only
17 three major producers of bar grating in the country,
18 and it's proof that fabricators don't have to buy bar
19 grating from us as one of our largest customers
20 formerly now buys 100 percent of Chinese grating to
21 fabricate for U.S. applications.

22 VICE CHAIRMAN PEARSON: Okay. So after
23 fabrication is the product that's sold still within
24 the scope?

25 MR. BRIGHTBILL: Yes. Tim Brightbill, Wiley

1 Rein.

2 The scope does include fabricated products
3 and that's important because, as you've just heard,
4 there is a wide range of fabrication. In fact,
5 fabrication can be as simple as cutting the panel in
6 half, or cutting a corner off or a small hole, putting
7 an end band around the outside. There are very simple
8 forms of fabrication, including those that could be
9 done on the job site as you've just heard.

10 So fabricated product is within the scope.
11 If fabricated was not within the scope, it would be
12 extremely easy to circumvent any eventual order simply
13 by cutting a corner off or cutting a panel in half.

14 VICE CHAIRMAN PEARSON: Okay. And so the
15 domestic producers of steel grating also all are
16 fabricators or are there some that are selling only
17 the unfabricated product?

18 MR. RUTTER: Well, all the domestic
19 producers have some form of fabrication that they do.
20 Typically it would be the extremely large projects
21 that require a lot of support function to that project
22 whereas most of the independent fabricators
23 concentrate on the smaller end of the scale.

24 VICE CHAIRMAN PEARSON: Okay. So just as a
25 matter of competitive advantage the large producers

1 don't have the -- probably don't have the wherewithal
2 to fabricate for small projects. You're letting some
3 other specialty shop do that.

4 MR. RUTTER: As Joe had mentioned, some of
5 that takes place right on the job site and it's so
6 diverse in the field up there, the number is literally
7 thousands of people who can fabricate grating.
8 Usually most of those it's a very minor part of what
9 they do in their business but they are still
10 fabricating the gratings.

11 VICE CHAIRMAN PEARSON: Okay. And given the
12 different types of fabrication that you've mentioned,
13 is there any way to discuss some average value added
14 from fabrication?

15 MR. RUTTER: Well, by far the largest
16 components of investment in the business is in the
17 manufacturing of the panel. The fabricators add a
18 relatively minor amount of value added, and they have
19 a relatively minor amount of investment in that
20 process.

21 VICE CHAIRMAN PEARSON: Okay.

22 MR. BRIGHTBILL: Tim Brightbill, Wiley Rein.

23 I think the Commission has some information
24 in its report as well as far as the value added by
25 fabrication, and without discussing it specifically,

1 it's a relatively low value, and again that's because
2 of the wide range of fabrication, so much is rather
3 minor in nature.

4 It is true that the domestic industry also
5 does the minor fabrication as well. I mean, I think
6 the Commission saw examples of toe plates or end bands
7 that are rather minor fabrication in addition to the
8 more sophisticated engineering, so they do the whole
9 range as well, and they compete with others that do.

10 VICE CHAIRMAN PEARSON: Okay. The steel
11 grating that's imported by ocean vessel, is it shipped
12 in containers or is it shipped out on the deck
13 somehow?

14 MR. RUTTER: Brian Rutter, Fisher & Ludlow.

15 It's typically shipped in containers just to
16 protect it from the elements.

17 VICE CHAIRMAN PEARSON: What's the maximum
18 length that that product can be?

19 MR. RUTTER: Well, they can put it in a 40-
20 foot container, but the more popular sizes are 20 feet
21 long and 24 feet long, so they are well within the
22 range of fitting in that container.

23 VICE CHAIRMAN PEARSON: Okay, so you don't
24 have any limitations really on the type of Chinese
25 products that can do -- or the type of imported

1 product from any country. They can go into a
2 container.

3 MR. RUTTER: No.

4 VICE CHAIRMAN PEARSON: Okay.

5 MR. BRIGHTBILL: Tim Brightbill.

6 I would just emphasizes, yes, it's head-to-
7 head competition. The vast majority of the imports
8 are in the 20 and 24-foot range. The Commission
9 pricing products overall are all 20 and 24-foot. So
10 there is direct competition all the way up and down.

11 VICE CHAIRMAN PEARSON: Okay, thank you.

12 Dr. Kaplan, I'm wondering how you would
13 suggest that we might sort out the effects of the
14 recession from the effects of subject imports. If we
15 were go to back to page 16 of the slide show, you have
16 a list of causation factors and that list for 2009, I
17 would be very surprised if at least some portion of
18 all those factors don't relate to the recession.
19 Price suppression, price suppression, lost profits,
20 small profit margins, decrease in employment, decrease
21 in capacity utilization, those are all very consistent
22 with the types of adjustments one would see in a
23 recessionary environment.

24 How would you suggest that we address that
25 issue without incorrectly attributing to the subject

1 imports factors that really relate more closely to the
2 recession?

3 MR. KAPLAN: That's a very good question. I
4 would like to refer to slide 14, and in slide 14 what
5 we do is look at the demand specific to the products
6 in question, and both Tim and I emphasized that in our
7 direct testimony, that the demand for steel gratings
8 did not follow the general economy as a whole.

9 So if you could see in 2009 demand -- the
10 U.S. economy overall fell much more than demand for,
11 in particular, for steel grating. If you even go back
12 one slide further, you can see that demand really
13 didn't start falling off for the type of construction
14 put in place that use the steel grating until the
15 second half of 2009, and even then the real big
16 decline didn't really start until the very end of 2009
17 and into this year.

18 So one of the ways to try to distinguish
19 between the recession and demand for this product is
20 to look at the specific demand drivers.

21 VICE CHAIRMAN PEARSON: Right.

22 MR. KAPLAN: And that way not conflate the
23 effects of, for example, residential construction
24 which really went in the tank with nonresidential
25 construction which actually was increasing in the

1 first part of 2009. So if you look at demand
2 specifically for this product you can separate the
3 effects that you see in m checklist between imports
4 and demand by looking at the import volume and the
5 overhang that was caused relative to the minor decline
6 in demand at the end of 2009.

7 VICE CHAIRMAN PEARSON: Right. You've made
8 the point fairly well that nonresidential construction
9 is a lagging factor here, and you're looking at like
10 18 months after the rest of the economy gets going
11 before you see much in nonresidential construction,
12 and perhaps the same on the downside, but still
13 wouldn't we expect to see in response to the recession
14 some meaningful changes in the supply chain?

15 The distributors would certainly be aware
16 that demand is going away. They don't want to be left
17 holding inventory so they must stop ordering well in
18 advance of when the actual nonresidential construction
19 projects are completed.

20 MR. KAPLAN: Well, they are going to keep an
21 inventory level to supply the projects that they've
22 been contracting for, but slide 15, the purchases
23 stopped on the domestic side, and even the imports,
24 well before the demand started to fall in 2009,
25 because of the vast oversupply in 2008.

1 So in our discussions last night among
2 ourselves we were talking there is still Chinese
3 grating on the ground that came in in 2008, still
4 suppressing prices, still taking away sales even into
5 2010.

6 VICE CHAIRMAN PEARSON: Okay. Well, I
7 apologize. I better cease this conversation here
8 because I wasn't paying attention and I have run well
9 over. Apologies, Madam Chairman.

10 CHAIRMAN ARANOFF: Commissioner Okun.

11 COMMISSIONER OKUN: Thank you, Madam
12 Chairman.

13 I join my colleagues in welcoming you all
14 here today. Appreciate your willingness to answer
15 questions and all the information you have supplied
16 thus far. Maybe just continue along the line of what
17 was going on with the two inventories and what's still
18 affecting the market because I was trying to
19 understand that from some of those things the
20 producers said about what's going on in the market
21 now. You have this demand which is not expected to
22 recover and I think you have a lot of good information
23 on what the demand protections are. You know our
24 record, it's always hard for us to determine what is
25 in inventory, foreign subject, non-subject, and

1 domestic.

2 So maybe if the producers and then if Dr.
3 Kaplan could add, what's impacting the market now in
4 terms of prices, volumes, et cetera? Any of you can
5 start. Mr. Rutter?

6 MR. RUTTER: The type of projects is very
7 intensive in grating. The large industrial projects,
8 you know, refineries, steel plants, products in that
9 type of construction, and throughout 2009 we did not
10 see a very large drop off in those construction sites.
11 Those are usually multi-year projects; takes several
12 years worth of engineering to get them going, and get
13 the capital in place, and once they start construction
14 it's very rarely that they would stop with a steel
15 mill or whatever half done. They may slow it a little
16 bit, but that carried on through most of 2009.

17 We saw a terrific amount of price pressure
18 from fabricators and from other supply sources that
19 were using Chinese grating to supply into these
20 projects throughout 2009.

21 Now that we're into 2010, we still see this
22 price competition and we still see quite short
23 delivery from people who are quoting Chinese grating
24 and we read that to mean that the grating is here on
25 the ground somewhere if they can deliver it within a

1 few days rather than a month to get it across on a
2 boat.

3 But we are now seeing these projects, these
4 large projects, new ones are not coming on soon right
5 now, so the back log in those projects is dropping off
6 rather dramatically at this time, and that's where we
7 are forecasting it will take quite awhile for those
8 projects to turn around and start back up again.

9 COMMISSIONER OKUN: Mr. Smith, did you have
10 anything additional to add?

11 MR. SMITH Yes, Joe Smith from AMICO.

12 As Brian said, we've seen a void of large
13 project estimates. I think the economy, obviously,
14 played havoc with institutions being able to plan a
15 new power house as an example or maybe a new petro-
16 chemical facility just because of the uncertainty. A
17 lot of the work that we're seeing right are smaller
18 jobs, quick turn type work which requires small
19 quantities of grating. We see that as being very,
20 very competitive on pricing that just is not
21 reasonable in the marketplace today with the increases
22 in the price of steel.

23 So it's obvious to us there is a large
24 overhang of grating out there yet in specific sizes
25 that is ideal for these small projects that people are

1 putting into the environment. So from our
2 perspective, although the economy has played havoc and
3 reaped havoc on our industry, it hasn't -- it hasn't
4 ceased the importation of grating. It's still coming
5 in through the first part of last year, and continues
6 to remain in the marketplace, and is being offered at
7 very, very low prices.

8 COMMISSIONER OKUN: On the pricing side, and
9 Dr. Kaplan, it looks like you're reaching for a
10 microphone so I'll let you maybe respond because the
11 other part of the question I had was really, you know,
12 to talk about '08 pricing and whether you anticipate
13 the '08 pricing to return if demand were to -- well, I
14 guess the demand as you project it, because I need to
15 understand a little bit more about '08, and both the
16 present material injury and threat of material injury
17 because prices are going up. You can obviously look
18 at the steel input and see what happened with that.

19 We've got a lot of supply in the market
20 which you've all talked about, and I'm trying to
21 understand why the dynamics took what seems like a
22 long time to put pressure you the prices. I mean,
23 maybe that's wrong from a producer's perspective, but
24 just looking at the record the trends that we see I'm
25 just trying to understand a little bit more, you know,

1 what happened with the pricing and then what would you
2 anticipate in the future as well? Dr. Kaplan, I'll
3 start with you.

4 MR. KAPLAN: One of the things that I looked
5 at in trying to figure out the effects of the imports
6 was to try to look at the import findings and then the
7 price peaks in the pricing products, and the imports
8 really had their biggest effect in the second half and
9 towards the end of 2008, and I would ask you to look
10 at the trends of the domestic prices during 2008, and
11 see when the prices peaked, and I think that's
12 indicative of the pressure that the imports put on
13 domestic prices despite very strong demand in 2008.

14 In 2009, when demand continues to remain
15 relatively strong, the overhang created further
16 depressed prices, and now in 2010 we're getting closer
17 to the situation that Commissioner Pearson discussed
18 earlier where you have the overhang still of inventory
19 and now demand is really starting to fall
20 significantly, so you have the double whammy of
21 continued harm from inventory overhang and declining
22 demand, creating both a current injury and
23 vulnerability of future injury.

24 But back to your question again, look at
25 peak, what quarter they peaked in. Look at when the

1 imports came in and the overhang started, and look at
2 what prices have happened since the last of 2008, and
3 I think it's consistent with imports causing price
4 suppression and depression.

5 COMMISSIONER OKUN: Mr. Smith?

6 MR. SMITH: Yes, if I might add. Joe Smith
7 from AMICO.

8 I think it's really important to understand
9 that in the market that we serve, both Brian and my
10 company, and I think the other producer of steel
11 grating, there is a little bit of discipline in the
12 market when it comes to pricing. Our key input to our
13 product is steel, and as steel goes up or goes down
14 the price of our product has to go up and down to
15 cover that cost as well.

16 There is certain capacities and levels of
17 availability of steel in our country, and one of the
18 things that is noted in many publications today is
19 that the capacity of steel in China outstrips any of
20 their demand, so they've got a huge number of small
21 inefficient steel mills that are owned by local
22 governments and small companies that have to have an
23 outlet for their steel, and our product isn't highly
24 sophisticated. It's something that if it sinks in
25 water that's probably the primary specification for

1 whether or not bar grating works.

2 And so almost virtually any manufacturer of
3 steel could produce bar grating, and that's exactly
4 what is happening in the People's Republic. These
5 small companies have now entered into a product that
6 they found an export market for, and so they've got
7 huge access to steel, an oversupply of steel in their
8 own country. They have no outlet for it, so they have
9 found a way to move that out with support from the
10 Chinese government, and irrational pricing. They
11 don't care about making a profit. They just care
12 about getting rid of that steel that they've already
13 produced.

14 And so from my perspective, you know, this
15 injury is continuing. They continue to bring in
16 products, Chinese products. Now they are
17 circumventing some of the rules by bringing it through
18 Canada, and we've got cases where it probably comes
19 through Mexico as well, and it's causing continued
20 injury to us, and the pricing is not affected by our
21 discipline in the market of having to make a profit,
22 and pay the wages that we pay.

23 COMMISSIONER OKUN: Yes, Mr. Rutter, did you
24 want to add something?

25 MR. RUTTER: This is Brian Rutter. I have

1 just a small point to add.

2 As he mentioned, the steel costs are by far
3 the largest component in the cost of steel grating.
4 In 2008, with the fluctuations in the cost of steel,
5 the Chinese grating products basically took the top
6 off the market in what was a relatively good year from
7 a demand standpoint. Since then, and even to today,
8 we are experiencing increased steel imports costs and
9 are totally unable to push that through to the
10 marketplace because of the price pressures of the
11 Chinese grating that is still sitting there on the
12 ground.

13 COMMISSIONER OKUN: My red light has come
14 on. Thank you.

15 CHAIRMAN ARANOFF: Commission Williamson.

16 COMMISSIONER WILLIAMSON: Thank you, Madam
17 Chairman, and I do want to express my appreciation to
18 the witnesses for their testimony today.

19 I just want to clarify what you mean.
20 Several of you early on referred to the Chinese
21 industry discovering the U.S. market. I was thinking
22 about Christopher Columbus was looking for India and
23 discovery North America. It seems to me like the
24 Chinese thought they saw a market and it turns out it
25 wasn't there, the decline went down. Can you just try

1 to help me explain? I'm trying to figure out why this
2 sudden surge in the U.S. market in 2008.

3 MR. SMITH: If I may. I'm Joe Smith from
4 AMICO.

5 You really have to look at what was
6 happening probably prior to 2007-2008 to understand
7 the opportunity. In 2005, we had a devastating storm
8 in the Gulf region called Katrina, and that storm
9 knocked out a lot of highly noted oil rigs and petro-
10 chemical facilities, and so the demand for bar grating
11 in 2005 and more in 2006 increased because of repair
12 activities that needed to go on in the Gulf coast
13 region.

14 So in 2006, we saw some increase in demand
15 primarily in the Gulf region, and those products are
16 products that seem to be what the Chinese importers
17 focused on. That demand drove opportunity for all of
18 us. I mean, 2007, 2008 were fairly strong years from
19 a demand standpoint, and from a business perspective
20 they were reasonably profitable for all of us.

21 That opened the window. That showed
22 somebody that, gee, if I've got all this excess
23 capacity and no place to put it, why don't I just take
24 it over there, and we can get rid of it over there,
25 and I think what happened is we opened the door, not

1 because we couldn't supply, but because they saw that
2 we were being profitable and that there was demand,
3 and there was opportunity here.

4 And so as that opportunity came it just so
5 happened their timing was a little bit off because
6 that demand leveled off and had started to decrease,
7 but their product still keeps coming in at
8 ridiculously low prices, so we continue to see that
9 today.

10 COMMISSIONER WILLIAMSON: Okay.

11 MR. PRICE: Alan Price, Wiley Rein.

12 I just want to add that I think we've had
13 substantial testimony from the witnesses that the
14 imports were offered at prices just dramatically lower
15 than domestic prices; that purchasers all say, hey,
16 this product is bought on price, and the underselling
17 data you have, which is very large margins of
18 underselling. The margins of underselling actually
19 increased in 2008 when the surge occurred.

20 It's a situation where there is an
21 opportunity we're addicted to the volume, let's get
22 more volume, you know, and I'm going to keep moving
23 this no matter what. It's a phenomenon we have seen a
24 lot of China case, and somewhat unique to China cases,
25 and this is just one more example of it, this

1 incredible surges with incredible amounts of
2 underselling, and while the quarterly comparisons
3 indicate very substantial amounts of underselling, we
4 actually look at the volumes. Virtually all of the
5 volume was undersold and by very large amounts, so
6 this indicates that the price was used to move volume
7 and volume on top of volume, and once the market was
8 established, once the product gained credibility, it
9 was just free for all; you know, please take more,
10 here. It's cheaper, cheaper, cheaper. We want to
11 move more volume, we'll move more volume.

12 COMMISSIONER WILLIAMSON: Okay. I'm sorry,
13 Mr. Rutter.

14 MR. RUTTER: I just wanted to make a point.
15 Just the enormity of what they did. Over a period of
16 about 18 months they went from zero to 30 percent of
17 the total U.S. market of a product line. There isn't
18 a domestic competitor anywhere that would just drool
19 at that. You know, we've been trying to grow our
20 market share for 25 years and it just went by us like
21 we were standing still. It's just an absolutely mind-
22 boggling task to go from zero to 30 percent of the
23 total market in 18 months.

24 COMMISSIONER WILLIAMSON: Okay.

25 MR. SCOTT: Michael Scott with Alabama

Heritage Reporting Corporation
(202) 628-4888

1 Metals.

2 I'm the token sale guy.

3 I think it's important to note that while
4 Joe mentions that there are several customers of ours
5 that aggressively participated in Chinese grating, and
6 there were large chunks, there were a lot of our
7 customers that reluctantly were resigned to buy it
8 because they couldn't avoid the price difference and
9 how much it would compromise their business. These
10 are customers that are loyal as can be, would bring us
11 into the plant and say, I had no other option but to
12 buy this grating, and we in some cases never knew
13 about it because they never would assume that we could
14 meet that price because it was so much lower. So it
15 just got pervasive in a very short period of time,
16 went from several concentrated traders and consumers
17 to everybody knew, everybody was aware of it,
18 everybody knew that the grating was available, and the
19 offers were being made to anybody who was in the fuel
20 business was getting a fax over their machine saying,
21 here is the Chinese grating price, which it went --
22 you know, it was ridiculous how fast it just spread
23 throughout the entire industry.

24 COMMISSIONER WILLIAMSON: Okay. Thanks for
25 those answers.

1 I guess the only question I have on this is
2 we've seen some industries where, like particularly
3 energy where the prices were skyrocketing and it was
4 almost like a spec list phenomenon. Here it looks
5 like the Chinese saw a market and, as you said, by the
6 time they got here the market had changed. Suppose
7 Katrina had a limited effect. Mr. Kaplan?

8 MR. KAPLAN: Yes. I think in fact now the
9 market has changed but when they got here they changed
10 the market. The market was strong and it continued to
11 remain strong for awhile after they entered, but there
12 is a real distinction between how the market is doing
13 in terms of the end uses and how the domestic produces
14 are doing.

15 You know, it's a little about where you
16 stand depends on where you sit. On the U.S. side,
17 this was an extraordinary surge of imports and it
18 wrecked the market. From the Chinese side, this is a
19 drop in the bucket. So you know, their shipments to
20 the United States, you know, didn't register in terms
21 of their grating capacity, but in terms of our grating
22 demand capacity in the U.S. it swamped things.

23 COMMISSIONER WILLIAMSON: Okay.

24 MR. KAPLAN: And you know, I think as Alan
25 had talked about previously, you know, they are 40

1 percent of the world's steel production now. When I
2 started this they were smaller than the United States.
3 Now they are five times bigger.

4 COMMISSIONER WILLIAMSON: Okay.

5 MR. KAPLAN: You know, they sneeze,
6 everybody catches a cold, and that's exactly what has
7 happened here. They saw an opportunity to move steel
8 through grating, and they entered the market, and
9 swamped it in a matter of months.

10 COMMISSIONER WILLIAMSON: Okay, good. Thank
11 you. I want to move on to a couple of other points.

12 On slide 15, or page 15, is that chart drawn
13 to scale? It looks like the -- shall we say the
14 excess shipments in '08 equal the amount of -- the
15 amount that the production was below demand in '09.
16 Is that an accurate --

17 MR. KAPLAN: It's not drawn exactly to scale
18 so as not to reveal confidential information. That's
19 why we also took numbers off the axis on the left
20 side, but it's indicative of the relative size of the
21 two. So they are not exactly offsetting, it's
22 indicative that there were well oversupplies in 2008,
23 and created an overhang then that meets the difference
24 between production and demand in 2009.

25 COMMISSIONER WILLIAMSON: Good. Okay.

1 Thank you.

2 I want to go back briefly to this question
3 of the fabricators. Now, if fabricators were included
4 in the domestic industry, would this raise related-
5 party issues based on the use of subject imports?

6 MR. BRIGHTBILL: Tim Brightbill, Wiley Rein.

7 I think we should probably address that in a
8 post-hearing brief. Your question is whether or not
9 there would be related-party issues if fabricators
10 were included in the domestic industry, right?

11 COMMISSIONER WILLIAMSON: Yes. You
12 indicated, I guess, the fabricated product is within
13 the scope but you said the fabricators are not.

14 MR. BRIGHTBILL: I mean, first of all, if
15 you included all fabricators, there are so many out
16 there that I don't think it would affect any result
17 depreciably, but there may be some that are related-
18 party issues, so I think we had better address that in
19 the brief if you don't mind.

20 COMMISSIONER WILLIAMSON: Good. Thank you,
21 and my time has expired. Thank you for those answers.

22 CHAIRMAN ARANOFF: Commissioner Pinkert?

23 COMMISSIONER PINKERT: Thank you, Madam
24 Chairman. I join my colleagues in thanking all of you
25 for being here today. I'd also like to thank Mr.

1 Smith and his colleagues for the plant tour at AMICO.
2 I want to begin with 2008, and this question is
3 directed to Mr. Kaplan, but anybody on the panel can
4 take it after I get his comments. I heard you say
5 that demand was very strong in 2008, and I'm wondering
6 whether you're basing that on the apparent consumption
7 numbers or some of the other numbers that you showed
8 us today.

9 MR. KAPLAN: I'm basing that on the final
10 demand, rather than on apparent consumption. So I'm
11 looking at the end uses, and I've also discussed
12 demand in the market with the industry
13 representatives, which I'm sure, you know, speaks in,
14 but, you know, both the government data of
15 construction put in place for use that uses that
16 product and then the market information by the
17 executive sales folks all indicate that demand was
18 strong. What was also indicated by the data and in
19 conversation, that the increase in imports far
20 outstripped any increase in demand from 2007 to 2008.
21 So strong times, things had gotten stronger.

22 You know, I think the chart shows demand
23 from the end uses went up and construction put in
24 place by about 10 percent. The same time, we have a
25 five fold, 500 percent increase in imports. So from

1 the Commission and statutory perspective of looking at
2 the industry in the context of the business cycle,
3 you're at the peak of the business cycle in 2008 to
4 the beginning of 2009, and you have imports come in
5 and take away what should be, you know, peak profits
6 that carry you through what's going on in 2010 and has
7 been discussed and forecasted, 2011 and 2012. So that
8 was my point of that chart.

9 Because people were profitable doesn't mean
10 they're not injured, especially in a cyclical industry
11 in a peak of the cycle. You see the injury in 2008
12 because they should have been doing better given how
13 strong demand was. That was taken away in the last
14 part of 2008, and then in 2009, when things are still
15 strong, the imports just cratered everything. So I'm
16 looking at the end use to determine demand, and I'm
17 looking at the apparent domestic consumptions to see
18 if that was over or under supplied and whether things
19 went into inventory.

20 MR. PRICE: Alan Price, Wiley Rein. I also
21 want to point out that the Commission record in this
22 case shows a fairly large number or percentage of the
23 market. You've quantified lost revenues and lost
24 sales for in both 2007 and 2008 and those are
25 confirmed allegations, and what that shows you is that

1 the imports did take and did have an impact in the
2 peak market years 2007 and 2008, and so there was harm
3 in that period. It's not that the imports were a
4 benign factor in the market in 2007 and 2008, but
5 obviously the injury intensifies as the imports
6 continue to increase into the marketplace and results
7 in both inventory overhang and numerous other problems
8 in the market.

9 COMMISSIONER PINKERT: Staying with this
10 2008 demand issue, I noticed that in the brief there
11 was a discussion of a moderate decline in actual
12 demand from the second half of 2008 to the first half
13 of 2009. Again, is that based on apparent consumption
14 or is that statement based on some other measure?

15 MR. KAPLAN: Yeah. That's based on the end
16 use markets. We've seen again and again in steel
17 cases that apparent domestic consumption, because it
18 counts both demand and the change in inventories, it
19 is not necessarily a good indicator of what's
20 happening in the end market. We have to go somewhere
21 else and look to see if this stuff is getting used or
22 whether it's getting stored. In this case, it was
23 plainly getting stored. The representatives from the
24 industry have testified that they're still delivering
25 Chinese grating on one day's notice, meaning that it's

1 still in the country. I could point to the structural
2 beams case years ago and certain pipe cases.

3 When there's a fire sale going on, people
4 stock up. What the Commission I suggest should be
5 careful to do is to distinguish between the imports
6 plus shipments and the real underlying demand. The
7 nice part about this case is that the demand is in
8 these specific nonresidential construction areas.
9 Things started falling off, I would say, in nonres on
10 average in the first part of 2009, and the specific
11 sectors where it's concentrated, actually in the
12 latter half of 2009. So the decline in U.S. shipments
13 was unrelated to demand in 2009, but rather to the
14 overhang created in 2008 by the oversupply in a strong
15 market.

16 COMMISSIONER PINKERT: Well, let's stay with
17 that oversupply issue or overhang issue. Is there any
18 way that we can quantify the impact of the draw down
19 of inventories in 2009?

20 MR. KAPLAN: I think you could quantify the
21 effects by looking at what's happened to the industry.
22 Unlike some other steel industries, there's not
23 records kept through the Service Center Institute on
24 grating, but we have an enormous amount of
25 circumstantial and direct evidence that the

1 inventories were here. First we saw how much they
2 oversupplied the market, and I think the best thing
3 for me to do now is to discuss what, or to ask the
4 industry representatives to tell you, you know, where
5 they've seen the stuff stocked, what's happened to
6 certain customers that were very large that haven't
7 reordered since then -- they're still shipping, they
8 must have the Chinese stuff in stock -- what they've
9 seen, what they've heard.

10 COMMISSIONER PINKERT: I'd like to hear
11 that, but I just want to clarify one thing from your
12 testimony, Dr. Kaplan. Are you saying that the
13 majority of the imports that came in during the surge
14 in 2008 went into inventory? is that what you're
15 saying?

16 MR. KAPLAN: Yeah. I'm saying that
17 inventories of grating increased significantly. So
18 either the U.S. -- you know, as it was testified
19 earlier, sometimes you don't even know where the
20 product comes from when you're looking at it, you
21 know, but there was a big stock of the stuff. Since
22 the big increase in the stock was Chinese, my guess is
23 most of the inventories were, given the discussion
24 about being able to order Chinese and having it pulled
25 out, but that's, you know, inferences. Clearly, it

1 created an enormous overhang, and whether the
2 overhang, who's it is, it's overhanging the market.
3 The overhang was precipitated plainly by, you know,
4 the imports going to 30 percent of the market in one
5 year and completely swamping any increase in demand we
6 saw in 2008. I think the industry folks can tell you
7 the specifics better than I can.

8 MR. SCOTT: Mike Scott with AMICO. It's
9 important to reiterate that unlike a lot of other
10 steel products, grating has really a sole purpose.
11 It's a walking surface. So grating is very specific
12 in its use. It goes into a structure in a project on
13 a very specific timeline. So there are square
14 footages built in the sectors of construction that
15 typically utilize a significant amount of grating. So
16 you can take a look at, from an end use standpoint,
17 those metrics and say there's only so much grating
18 that's going to be laid down. It's not like tubing
19 where if it wasn't going to be a pipe, you can make
20 more basketball hoops or you could substitute for some
21 structural. It is single purpose. So you can make
22 some equations or some math that says that bubble that
23 came in, it went into inventory. I know conceptually
24 it's tough to believe. We still today can't sell
25 certain sizes to certain customers because they have

1 Chinese grating sitting on the ground. So to Dr.
2 Kaplan's point, whether it's this specific panel of
3 Chinese grating or our grating, a panel of ours that
4 they were just mixing in the inventory to determine
5 which one it is, we don't know. We know the overhang
6 of the inventory is still presenting significant
7 problems today.

8 MR. SMITH: If I might add, this is Joe
9 Smith from AMICO, before we get the red light I guess,
10 an example of this is that we had, one of our most
11 significant customers resided in the midwest. He was
12 a dedicated, loyal customer of ours for 35, 40 years.
13 His father started the business. We had
14 relationships. I think they named one of their
15 grandsons after my former sales guy. It was one of
16 those types of relationships. They did primarily, and
17 to this day do primarily fabrication work. So they
18 take steel grating manufactured by somebody and
19 fabricate it.

20 Brian would love to have that customer but I
21 know he probably doesn't sell to him because all the
22 product in his shop, and his business has continued to
23 grow through the period in question, is 100 percent
24 Chinese grade. He has no manufacturers, domestic
25 manufacturers, that will sell to him because of what

1 his relentless drive to get our prices down, get us
2 down, get us down. He uses solely Chinese grating.
3 He's built a new warehouse down in Texas and it's full
4 of grating. I mean, we can drive you to the place and
5 it's all Chinese grating. It's still on the ground.
6 He's still making business and doing what he's doing.

7 Now, to top that off, our second largest
8 customer for years was in California who in 2009
9 ceased buying from us and joined relationships with
10 this guy out of the midwest, and now they both are
11 using Chinese grating. Before that time, 2007, 2008,
12 they bought 100 percent of their requirements from us.
13 They don't buy them from us anymore. We've lost those
14 sales. They're not going out of business. We know
15 where they're getting their grade. It's damning to
16 our industry.

17 COMMISSIONER PINKERT: Thank you. Thank
18 you, Madam Chairman.

19 CHAIRMAN ARANOFF: In a number of the cases
20 that we've seen involving steel products lately, there
21 was a huge run up in prices in 2008, which we do see
22 here, and one of the questions that we looked at is
23 whether imports were pulled into the market by
24 purchasers who were desperate to secure supply and
25 avoid further price increases that they were

1 foreseeing or whether those imports were pushed into
2 the market by subject producers who were anxious to
3 maximize their sales at any price. The distinction
4 does matter if you're looking at the threat issue. I
5 know you've argued that the increase in subject
6 imports in 2008 exceeded any true increase in
7 consumption, but to me, the issue is not so much
8 whether the demand was real or phantom, but whether it
9 was a push or a pull that brought the imports into the
10 market. What evidence do we have on the record that
11 would help me distinguish between those two scenarios.
12 Dr. Kaplan?

13 MR. KAPLAN: Yeah. I think one of the
14 things to look at is the underselling. When
15 something's pulled into the market, oftentimes you can
16 get a premium. There's capacity constraints, there's
17 shortages, people are panicking, and the new enter
18 into the market to get a price premium. In cases
19 where it's pushed into the market you often see a
20 large price discount. Entry is due on price,
21 especially in a price sensitive product like this. So
22 here there is absolutely no evidence, in fact, the
23 contrary, that there were any shortages. Even at the
24 peak in 2008, both of the producers here could have
25 made a lot more grating and supplied the market.

1 So there's no issues of allocation, there's
2 no issues of shortages, there's no issues of capacity
3 constraints, there's no issues of transportation
4 problems. You know, you've got an industry that's
5 willing and able, the capacity is in place, the demand
6 is high, and there was no need to draw in imports. At
7 the same time, if you hold a fire sale and they're
8 pushed in, people will buy. From the threat side you
9 have two problems. One is the imports that came in
10 weren't like everyone bought five or 10 percent of
11 their stuff from the imports.

12 Now you have guys that are completely huge,
13 huge customers that are 100 percent Chinese. These
14 guys know, and as the sales folks have talked, all
15 their competitors know. So if you allow this in now,
16 you have guys that are just going to fill up their
17 warehouse again, and then, through the price
18 competition, and the knowledge of those prices, and
19 the fax machines and all that, it will be, as your
20 question says, pushed in once again. So it was pushed
21 in before, as evidenced by the pricing and the lack of
22 any kind of constraints on U.S. production, and it
23 will be pushed in again given the knowledge in the
24 market and the fact that specific large customers are
25 now 100 percent Chinese.

1 CHAIRMAN ARANOFF: Okay. Mr. Rutter, did
2 you want to add to that?

3 MR. RUTTER: Brian Rutter, Fisher & Ludlow.
4 I'd like to, you know, just make the point again it's
5 all throughout that period. The domestic
6 manufacturers would have had absolutely no problem
7 supplying increased volumes. The industry was far
8 from being maxed out at that time. In fact, what we
9 were seeing is the price discount for the Chinese
10 grating. We ended up with more competition in that
11 the discount was so large that some of the importers
12 could in turn put a small mark up on it and sell it
13 still cheaper than what we could to further
14 distributors down the chain.

15 CHAIRMAN ARANOFF: Okay. Once a purchaser
16 has ordered grating, either from you or from an
17 importer, how hard is it to cancel an order?

18 MR. SCOTT: Cancel an order of grating?

19 CHAIRMAN ARANOFF: Yes.

20 MR. SCOTT: Happens all the time. Pick up
21 the phone today and call us and say I don't want it.

22 CHAIRMAN ARANOFF: And there's no
23 consequence to that?

24 MR. SCOTT: There is to us.

25 CHAIRMAN ARANOFF: Well, right, but not to

1 the purchaser. They haven't signed anything, they
2 haven't made any binding commitment to pay you. They
3 can just say, you know what, never mind.

4 MR. SCOTT: Customer can call today and say
5 I need a truckload of grating, and we can get it all
6 ready. He can call tomorrow morning and say never
7 mind, and we can't ship it because we won't get paid
8 for it. That has happened, you know, quite a bit.

9 CHAIRMAN ARANOFF: Is that true even if
10 you're producing something to order for the customer?

11 MR. SCOTT: If it's to order. We do very
12 little production to order. We sell 20 foot and 24
13 foot panels, either three foot wide or two foot wide.
14 If a customer, a big large service center of ours,
15 called and asked for that, and sometimes they'd call
16 and cancel.

17 CHAIRMAN ARANOFF: Okay. No. I mean, one
18 of the things I've been trying to think about is, you
19 know, if importers, seeing where things were going in
20 the market in late 2008 into 2009, could have canceled
21 some of these orders that they made before they ended
22 up in inventory and why that didn't happen.

23 MR. SCOTT: It's hard to explain because it
24 is different than certain other of the industries that
25 would appear here. In the period of time in 2008,

1 even when demand was okay, and especially in 2009, we
2 would have good customers of ours order a truckload of
3 grating and then call us the next day and say, wait a
4 second, I just got an offer from this trader, and
5 could this be real? It's 30 percent less than yours.
6 So they cancel our order and buy it from the trader,
7 the Chinese grating from the trader, and then they get
8 mad at us because they think we've been taking
9 advantage of them. I can't tell you how many times
10 that has happened. Our response to the customer is we
11 can't meet that price. Not won't, can't. It's below
12 our cost.

13 CHAIRMAN ARANOFF: Okay. I know that this
14 product doesn't degrade over time so you can keep it
15 around a long time and sell it later, but there has to
16 be some cost to carrying a lot of inventory. You
17 can't just leave it outside, right? You have to be
18 paying warehousing costs, and I don't know if it needs
19 any kind of climate control. How minimal, really, are
20 the costs?

21 MR. SCOTT: You can store it outside. Most
22 of it is stored outside. You know, if it's
23 galvanized, it will last a long time, if it's painted,
24 it will last, again, a long time. Even if it's bare
25 and you bring it in, you can store it outside. Most

1 people do. They just leave it outside. When you're
2 going to use it, you just do whatever you're going to
3 do to it. Most people don't store it inside.

4 CHAIRMAN ARANOFF: Okay.

5 MR. BRIGHTBILL: This is Tim Brightbill,
6 Wiley Rein. The Commission saw in the plant tour in
7 Birmingham that the grating is stored outside.
8 There's a roof over it, but there's no climate control
9 or anything whatsoever.

10 CHAIRMAN ARANOFF: Okay. In the preliminary
11 phase of these investigations, as you pointed out in
12 your direct presentation, I determined to exclude a
13 certain producer from the domestic industry. I think
14 this question is probably for posthearing, but in the
15 analysis, I highlighted several facts that I thought
16 weighed against excluding, and then on balance decided
17 to exclude that producer anyway. I know in your
18 direct testimony you said there's even more reason
19 now, that it's even clearer, so I wanted to ask you if
20 you would go back and look at the factors that seem to
21 point the other way that I have looked at in the
22 preliminary determination, tell me what's happened
23 with respect to those and flesh out a little bit your
24 claim that it's even more clear on the current record
25 that this producer's interests don't lie in domestic

1 production.

2 MR. BRIGHTBILL: Tim Brightbill, Wiley Rein.
3 We'll go back and do that. I would just emphasize
4 that although we strongly feel they should be excluded
5 from the industry, it doesn't affect the injury and
6 threat analysis to a great deal. We're still injured
7 regardless of whether they're included or excluded.

8 CHAIRMAN ARANOFF: Understood, and I
9 understood from your brief you were arguing that
10 demand for this product is not affected by any of the
11 federal government stimulus spending, and I just
12 wanted to clarify that a little bit. Were you arguing
13 that the initial shovel-ready projects, all the road
14 paving and whatever's been going on for the last year
15 don't involve your products, which I perfectly well
16 understand, or were you arguing that there are no
17 projects that could potentially be covered by stimulus
18 spending as some of the more complicated projects gear
19 up in which your product would play any significant
20 role?

21 MR. SCOTT: This is Mike Scott again with
22 AMICO. That's a good question. I don't think we
23 definitely know the answer. I know that when the
24 American Recovery and Reinvestment Act came out, we
25 took great pains to try and understand as much of it

1 as we could, and we have a program that would certify
2 any of our grating that it meets the requirements of
3 ARRA as well as the melted in America, buy American
4 provisions.

5 We certify it if a customer needs to have
6 that certification. I've yet to fill one out for bar
7 grating. We have, and I have signed them for our
8 other product lines, I have yet to be asked for
9 conformance to ARRA for bar grating.

10 CHAIRMAN ARANOFF: Okay. Because in theory
11 it could go into bridges?

12 MR. SCOTT: Yes.

13 CHAIRMAN ARANOFF: Okay. I guess my time is
14 up. Let me wait until the next round and turn to Vice
15 Chairman Pearson.

16 VICE CHAIRMAN PEARSON: Thank you, Madame
17 Chairman. Mr. Price, Mr. Brightbill, in our
18 preliminary determination, we made a threat finding.
19 Now, at this point in the investigation, the volume of
20 subject imports peaked nearly two years ago, and I
21 know you've said you see both present injury and
22 threat in this case, but I'm wondering which is the
23 better case because if it's present injury, are we now
24 seeing more than just the lingering effects of those
25 earlier imports?

1 MR. BRIGHTBILL: Tim Brightbill, Wiley Rein.
2 No. I think the thing that captured this the best was
3 the chart that Dr. Kaplan put up in terms of all the
4 different forms of present injury that exist, and it's
5 not just an inventory overhang story and lingering
6 effects. You also have the one producer that was
7 taken out of business. You have the continued price
8 suppression and depression. You have the confirmed
9 lost sales and lost revenues.

10 We think although there was a threat finding
11 at the preliminary phase, the evidence is much more
12 clear now of present material injury, and I think our
13 industry witnesses could also state how they're
14 presently materially injured, not just threatened.

15 MR. PRICE: Let me add to it. With regard
16 to threat, we also think there's substantial evidence
17 of continued threat of material injury. All of the
18 basic factors as outlined in our brief support a
19 threat determination. There's substantial excess
20 capacity in China. There's substantial capacity added
21 to a substantial underselling, price suppression,
22 price depression.

23 The Chinese producers have obviously elected
24 not to participate at this Agency. They have elected
25 not to give you any information. The only statement

1 we could actually find in any kind of trade source
2 regarding this product line happened to be in SBB in
3 late December, and the Chinese producers in that
4 statement said they backed out of this market because
5 of this case, so we know they're interested in the
6 market. We know they'll return to the market. They
7 have obviously complete credibility in this market.

8 The customers obviously know their product.
9 It's fully accepted. They're competing as Mr. Rutter
10 said very aggressively right now in Canada. Both Mr.
11 Rutter and Mr. Smith testified that in fact we have
12 some circumventing issues, which we're dealing with,
13 so they're incredibly interested in re-entering this
14 market instantly. All the evidence indicates that
15 they will do so in substantial volumes, and frankly it
16 doesn't take much given how weakened the market is
17 going forward to cause imminent material injury.

18 VICE CHAIRMAN PEARSON: Okay. So you like
19 both the present and the threat cases?

20 MR. PRICE: Quite frankly, when you go back
21 to a lot of the older cases of the Commission, there
22 are cases that the Commission found threat and injury
23 or injury and threat I think saying in that way, and I
24 think that both findings are appropriate in this
25 investigation, and I think there's good evidence on

1 injury that the post petition effects should be
2 discounted or post-petition shipments should be
3 discounted from the Chinese because it's fairly clear
4 from the only statement you have out there that the
5 case itself was responsible for them essentially
6 backing off the marketplace.

7 I think both of these are strong cases. I
8 think the Chinese have obviously elected to
9 participate very, very effectively at the Commerce
10 Department. They've elected not to defend here. I
11 think this is a very strong case. I think we've given
12 you prime facia cases on injury. I think we've given
13 you prime facia cases on threat, and based upon that,
14 I think you should make both findings in this case.

15 VICE CHAIRMAN PEARSON: Okay. Dr. Kaplan?

16 MR. KAPLAN: And this is just maybe a
17 question for the Commission, but it's a question to
18 myself. If an importer comes in and massively
19 oversupplies the market in a short period of time, and
20 then you bring a case, and it takes a year for the
21 case to work through, the market was tanked at its
22 peak. It continued through the following year,
23 although imports were not at the same level. Is that
24 not injury? Certainly, the effects have carried
25 through to now, and there's imports on the ground now,

1 and they're having effects now, but the big import
2 surge was the end of 2008.

3 I'm an economist. I'm not a lawyer. The
4 injury's worked its way through, and it's still here.
5 As a legal matter, do they have to be contemporaneous?
6 I don't know, but it's kind of an odd thing where
7 someone comes in, destroys the market. It takes a
8 year and a half for the litigation to proceed.
9 There's no injury because it was a year and a half
10 ago. There's a negative vote. They destroy the
11 market again. Well, there's no injury. I think
12 there's both injury and threat of injury in this case.

13 VICE CHAIRMAN PEARSON: Mr. Brightbill?

14 MR. BRIGHTBILL: Tim Brightbill very
15 briefly. We understand you have to cast an injury
16 vote based on the day that you vote, but if you look
17 at these companies and where they stand on the day
18 that you vote in terms of number of workers, in terms
19 of idle machinery, available capacity, there is
20 present material injury. It's not just indicia of
21 threat. It's present as well.

22 MR. PRICE: And let me just add there's
23 evidence that imports are a current cause of that
24 injury and discount any concerns you have about any
25 declining imports because of the statements that we've

1 provided from the *Steel Business Briefing* saying that
2 they've backed off the market because of the case, so,
3 I mean, I think all of those factors say this is an
4 injury case. I also think it's a good threat case
5 because of all the factors we've gone through, and
6 that's it, and I'll leave Mr. Kaplan's theoretical
7 musings about economics for a debate over a glass of
8 wine at some point.

9 VICE CHAIRMAN PEARSON: Okay. Well, as most
10 or all of you on the panel are aware, I also am not
11 learned in the law, so I am in the camp with Dr.
12 Kaplan. However, I have an understanding that there
13 is some case history that could shed doubt on whether
14 a material injury finding, present injury, if we were
15 to make it whether it would not be subject to
16 challenge because of this whole question of lingering
17 effects of an import surge that did come in some
18 considerable time ago. That's why I was asking the
19 question. From a standpoint of writing a solid
20 opinion in the event I should vote in the affirmative,
21 am I able to write a more sound opinion as threat than
22 I am as material injury?

23 MR. PRICE: I think you might have sound
24 opinion on both and without any question here. Some
25 of the lingering threat effects caselaw that you're

1 referring to preceded also some of the amendments to
2 the statute on post-petition effects or discounting
3 the post-petition effects out there, effects of filing
4 a case and discounting that. I think there's little
5 question that in this case there is still current
6 material injury from the imports on vote day.

7 It doesn't mean the imports have to be
8 entering on vote day, and we have these timing issues
9 in multiple steel cases going back to 1999 where we
10 see sort of these timing questions, and there's little
11 question that there's current material injury in many
12 of these cases. In addition, the post-petition
13 effects provision allows you to say that some of the
14 letup in imports is due to the filing of the case, so
15 therefore I can discount that, and I think you should
16 in this case.

17 I think actually another slide of Mr.
18 Kaplan's basically showed that not only do we have the
19 statement, but all of a sudden you can just see the
20 imports drop after the filing.

21 VICE CHAIRMAN PEARSON: Okay.

22 MR. PRICE: Anyway, on threat, I think
23 they're equally sound.

24 VICE CHAIRMAN PEARSON: Okay. Well, I was
25 hoping to give the Chairman back a minute of time that

1 I took when I shouldn't have the first time around,
2 but if you could? For purposes of the post-hearing,
3 if you could shed some additional light on this, give
4 some guidance because it is an issue. It's there. I
5 don't pretend to understand it fully. I'm sure that
6 you do, so let me know, and with that, Madame
7 Chairman, I believe I have no further questions. I'd
8 like to thank this panel very much for their
9 participation.

10 CHAIRMAN ARANOFF: Commissioner Okun?

11 COMMISSIONER OKUN: Thank you, Madame
12 Chairman. This might just be a followup to the Vice
13 Chairman's request, but for post-hearing, I know
14 you've had a lot of questions about the inventories
15 and whether they're currently affecting the market and
16 whether they will affect the market in imminent
17 future, if you could just brief that in your post-
18 hearing so that I could see which numbers you think we
19 can look to in the staff report along with the
20 information that the producers have provided. I think
21 that would be helpful.

22 On the post-petition effects, Mr. Price and
23 Mr. Brightbill, I think one of the things I think when
24 we talked about how do we look at '09 and not
25 attributing injury due to what's going on in demand,

1 and I think you've addressed that in many ways in
2 trying to point us to the demand. This demand
3 actually looked different than in some of the other
4 cases where demand dropped off, real demand, demand
5 for your dancing product dropped of.

6 I think it would be helpful for me to have
7 your legal reasoning on how the Commission should look
8 at what's the evidence of a post-petition effect
9 versus evidence that other things were going on in the
10 market as subject imports exited, so I think that
11 would also be useful. Did you get a copy of
12 production question yet? I don't think they'll brief
13 that. Does it matter in this case? I mean, we raised
14 it. Someone in the back who hasn't spoken yet. There
15 you go, you get your chance. You're waiting for this
16 question. Why is someone going to ask it?

17 MR. DEFRANCESCO: Robert E. DeFrancesco,
18 Wiley Rein. Commissioner, we don't think it applies.
19 As you know, there's the three factors. The third
20 factor, which would be the product that sold in the
21 merchant market has to be different from the product
22 that's internally consumed, and we don't think that
23 really applies here.

24 COMMISSIONER OKUN: Okay. And that goes
25 back as well, I mean, not the same provision law, but

1 that goes back to your fabricator's argument about
2 what the fabricator's end product is. It's not a
3 different product. It's within the scope, and I know
4 you're providing additional information on that.
5 Okay. That's helpful, and then I know that you have
6 provided a good deal of information about the Chinese
7 market, and I take your point on the lack of
8 participation from the Chinese.

9 My question is I know, Mr. Smith, you had
10 talked about it, and others have talked about it, in
11 terms of demand for casts in the Chinese market or the
12 worldwide market, is there someplace the Commission
13 should be looking to to estimate that because as you
14 know, the Courts in evaluating the Commission's
15 opinions have often asked us to explain not just that
16 excess capacity exists, which I understand the data
17 you have on the record, but would need to have
18 incentive to come back on the market both in pricing
19 and on their own home market demand.

20 I feel like our record lacks a little bit in
21 terms of what's going in the Chinese market, but if
22 there's anything post-hearing you can provide, again
23 taking into account you've already provided a great
24 deal of information, and we don't have the other side
25 here. From a commissioner's perspective, it's just

1 better to write an opinion when you can look at
2 information.

3 I also take your point on why you think
4 adverse inferences apply in this case and that we
5 shouldn't have the discomfort that I've had in many
6 other cases, so I will look at it again with an open
7 mind, but if you can find something on demand in
8 foreign markets and the Chinese market in particular,
9 I think that would be very helpful, anything with
10 respect to pricing, and with that, I don't think I
11 have any other questions for this panel.

12 I very much appreciate all the answers
13 you've given and all the information, and, Ms. Andros,
14 I don't have any questions on labor, but I appreciate
15 your being here and testifying as well.

16 CHAIRMAN ARANOFF: Commissioner Williamson.

17 COMMISSIONER WILLIAMSON: Thank you, Madame
18 Chairman. I just have a few additional questions.
19 There's been a lot of talk about the fabricated
20 product, and I was just wondering are there imports of
21 fabricated steel grating from China, and if there are,
22 how significant are these imports?

23 MR. RUTTER: We understand that yes, it does
24 happen. It is not a major portion of the market. By
25 far, it's vastly overwhelmed by the standard product

1 of panels coming in.

2 MR. BRIGHTBILL: Commissioner, Tim
3 Brightbill, Wiley Rein. There are some limited
4 products that are considered fabricated, things like
5 stair treads, for example, so that is fabricated to
6 some extent, and that is brought and as well as some
7 of the simpler applications. I think it's fair to say
8 there's some fabricated imports as well.

9 COMMISSIONER WILLIAMSON: Okay. Thank you
10 for that. Mr. Rutter, Mr. Smith, you've made
11 reference to circumvention I think through Canada and
12 Mexico, and I was wondering if you could elaborate on
13 that phenomena.

14 MR. RUTTER: Through the data that's
15 publicly available as far as imports of grating into
16 the United States. We see shipments from Canada
17 coming into the United States as the largest
18 manufacturer of grating in Canada that we cannot
19 identify, and with the limited number of manufacturers
20 in Canada, we can say with certainty that it was not
21 manufactured there even though it would seem that's
22 how it came across the border as a Canadian product.

23 COMMISSIONER WILLIAMSON: Okay. Mr. Smith,
24 do you want to --

25 MR. SMITH: Yes, and a lot of it is

1 speculation because we only hear from our customers
2 who maybe have lost a job to someone else that had
3 just an unusual price in the grating that came across
4 from Mexico. There are producers in Mexico that
5 produce, but there are also a lot of importers that
6 then resell it back into the U.S., especially in the
7 Texas Coast area. The Canadian numbers are very
8 prominent in the Canadian importation as increased. I
9 think we can see that. I keep blaming Brian since I
10 don't produce in Canada, and he keeps denying.

11 COMMISSIONER WILLIAMSON: Okay. Thank you.
12 Thank you for that elaboration. On page 54 and 55 of
13 your brief, you state that excess quantities of
14 grating are held in customer warehouses and storage
15 centers. We've talked somewhat about this already,
16 but I guess if there is any kind of evidence you want
17 to point to in post-hearing, that would be
18 particularly helpful for this Commission to figure out
19 how to deal with these inventory levels and get a
20 better handle on that.

21 MR. PRICE: Alan Price, Wiley Rein. We'll
22 be happy to address that in a post-hearing brief.

23 COMMISSIONER WILLIAMSON: Okay. Thank you.
24 Let's see. You argue that the petition caused subject
25 imports to diminish in 2009. However, the domestic

1 industry regained most of the market share that it
2 lost in 2008. It really regained in the first half of
3 2009, and this is mostly before the petition was filed
4 in late May of 2009, so how does the timing of imports
5 support your position?

6 MR. PRICE: Well, there's several different
7 elements of this. One is we have a large inventory
8 build in 2008. We had the Chinese producers
9 continuing to sell into the market in 2009 with new
10 additional volumes. As Chinese inventory is sold,
11 obviously the Chinese producers would like to replace
12 that inventory. The petition filing largely prevented
13 that.

14 Remarkably, the volume that came in in 2009
15 didn't come in in the last quarter at all and really
16 reduced somewhat in the second half of the year post-
17 petition, and what happened was it was really coming
18 in at a higher level, and so it had to be shut off
19 because of all the risks of critical circumstances.
20 Suspension risks with CBD cases, which basically have
21 a suspension as quickly as 90 days after filing, so I
22 think the volume levels are actually in some ways
23 marked yellows or understated because it's averaged
24 over a full year. Tim?

25 MR. BRIGHTBILL: Tim Brightbill. Just to

1 underscore that, we provide a monthly breakout of the
2 import levels. It's a very clean HTS category, and
3 the levels for the first quarter '09 were actually
4 still very strong and comparable to first quarter 2008
5 and first quarter 2007, and then you have the industry
6 article saying that Chinese producers slowed down in
7 advance of the filing of the case. The case was filed
8 in May, so if they slowed down in advance, that's
9 consistent I think with the import volumes you saw in
10 the first quarter of 2009 and then less afterwards.

11 MR. PRICE: Alan Price. I just want to
12 reiterate that the article is very clear that they
13 slowed down because they had heard rumors the case was
14 coming, so it's the practical realities if you're a
15 foreign producer, and you know a case is coming, the
16 suspension risks come out very quickly sometimes, and
17 so the case clearly had an impact on the marketplace.

18 COMMISSIONER WILLIAMSON: Okay. Thank you
19 for that answer. I have no further questions, and I
20 want to thank the witnesses for their testimony.

21 CHAIRMAN ARANOFF: Commissioner Pinkert.

22 COMMISSIONER PINKERT: Thank you, Madame
23 Chairman. I just have a couple. My first one is
24 probably best answered in the post-hearing because it
25 may deal with proprietary information, but I noted a

1 statement in the brief that a U.S. company's decision
2 to increase its purchases of subject imports over the
3 period contributed to the exit of one of its domestic
4 suppliers from the market, and I'd just like you to
5 flesh out why you connect those two events.

6 MR. PRICE: We will be happy to, and a lot
7 of the details are proprietary, so we will flesh it
8 out.

9 COMMISSIONER PINKERT: Thank you. Now,
10 during the plant tour at AMICO, I did get to see a
11 product, it's not a subject product, but it was
12 claimed that it dealt with the problem that the Vice
13 Chairman talked about with the high heels, so I'm
14 wondering does it in fact deal with high heels, or is
15 it just a product that's a little easier to walk on?

16 MR. SMITH: I was going to wait and give you
17 the pitch at the tail end, Mr. Commissioner. We do
18 make a wheels and heels bar grating product. It's
19 closely spaced, and you'll find it in New York City on
20 subway grating, particularly in and around the areas
21 where there might be shows where women dress
22 appropriately for the show, and so I have some of that
23 in stock. If I could offer it up to you, I'd be glad
24 to send it in.

25 CHAIRMAN ARANOFF: There's some metro grates

1 around the corner that get me every time if you want
2 to just replace them on your way out.

3 MR. SMITH: We'll be glad to talk to DOT or
4 anybody here in the city. If they've got shovel-ready
5 projects, we've got grating for them.

6 COMMISSIONER PINKERT: Thank you, and with
7 that, I have no further questions.

8 CHAIRMAN ARANOFF: Okay. Can you tell me
9 how the prices of steel inputs are factored into the
10 prices for steel grating? Do you price for the steel
11 and the fabrication separately, or you give the
12 customers one price?

13 MR. SMITH: I'd be happy to explain that,
14 but it would be in the post-brief if that's
15 appropriate. I think the way we cost our product and
16 the way we price it is probably best not known by
17 Brian, and I'm sure he doesn't want me to know either,
18 but we do use a standard cost system, so we bring our
19 material in, and we base it on standard costs, and
20 then we have variations of that, and I think we had an
21 accountant in our facilities the other day from the
22 Commission that may be able to explain that to you as
23 to how we do it specifically, but I'll be glad to
24 answer that.

25 CHAIRMAN ARANOFF: Okay. And what I'm

1 mainly getting at is in a lot of steel consuming
2 sectors there's a formula so that the cost of the
3 steel input can be indexed to some public index and
4 passed on to the customer. That's not true in your
5 business?

6 MR. SMITH: Yes. When we do projects that
7 span long periods of time, we will use CRU, which is a
8 steel measurement, and so we will escalate and de-
9 escalate based on what's happening to CRU, and that's
10 how we buy our material with our mills. It used to be
11 pretty common that we'd buy annual contractor steel.
12 It's not so anymore with the volatility in the
13 marketplace.

14 What we usually try to do is if we've got
15 some long-term project where someone has a need for a
16 power plant and wants the grating two years from now,
17 we'll say it's this amount per square foot based on
18 this price of steel today, but if the index goes one
19 way or the other, then we'll move with that
20 percentage, so that is done in the marketplace. It's
21 fairly common on projects and large quantities.

22 CHAIRMAN ARANOFF: Okay. So one of the
23 things that I'm interested in is sort of a before and
24 after the Chinese product became significant in the
25 market. Has the customer acceptance of that model

1 changed, or do they just not ask you to quote at all?

2 MR. SCOTT: Mike Scott with Alabama Metals.
3 I think it's important to distinguish the different
4 customers. Our typical panel customer we never use an
5 index. They don't. It's simply they pick up the
6 phone and ask what the price is per panel of grating,
7 and then we sell it. What Mr. Smith is referring to,
8 is if we are in the fabrication sale, and we are
9 quoting a two- or three-year project, whether it be an
10 oil project, whether it be a large manufacturing
11 plant, a coal-fire plant, we will in fact agree to a
12 price.

13 Then, we will allow that price to move from
14 a delta standpoint equal to the CRU or American Metal
15 Market pricing, whichever one we agree to, and at the
16 time of shipment, whatever the delta movement is at
17 the time of the quote, then we do that, and we've got
18 several of them. Recently, I will tell you that model
19 is getting harder and harder to enforce. Most just
20 want a price, and that's it. I don't want it to move.
21 Just give it to me, and if you won't, I can go
22 somewhere else, and we've seen that recently because
23 of the overhang of some of the inventory.

24 There are some of the other fabricators that
25 can quote a price good for a year because they've got

1 that much inventory sitting on the ground.

2 CHAIRMAN ARANOFF: So in a typical inquiry
3 about a spot sale, which I think is probably the most
4 common, you're not quoting or talking about the price
5 of the steel separate from the rest like a base price
6 plus a steel surcharge type of a formula? You just
7 quote one price?

8 MR. SCOTT: Yes. They call up a reference,
9 a type of grating, the spacing and the size of the
10 grating, and then we give them a price.

11 CHAIRMAN ARANOFF: Okay. All right.

12 MR. RUTTER: Brian Rutter, and that is by
13 far the majority of those quotes. Anything that is
14 indexed like these long-term projects make up a
15 relatively small portion of the market. By far the
16 lion's share is a spot price. This is what it's going
17 to be, and then we have to take the risk of any steel
18 increases or decreases.

19 CHAIRMAN ARANOFF: I've always wondered
20 because there's a couple of levels in the steel
21 industry where they're able to use that surcharge
22 formula, and they buy it that way, and they sell it
23 that way, and eventually at some point it stops, and
24 whoever it is who's there holding the bag when it
25 stops gets the risk, and that would be you.

1 MR. RUTTER: We're at the bottom of the hill
2 where it all rolls.

3 CHAIRMAN ARANOFF: Okay. All right. Do
4 your customers usually tell you what the prices are
5 that are being offered by competitors or who those
6 competitors are?

7 MR. SCOTT: Yes and no. Some of our
8 customers do. I will say in the normal course of
9 doing business, they will give you some guides as to
10 whether your competitive or not. That changed a
11 little bit in 2008 and 2009 because of the disparity
12 between our price and the Chinese price was so great
13 that they felt compelled to tell us the gap, not you
14 guys need to get more competitive.

15 In that case, we got some pretty specific
16 references from our customer base because they were
17 just really befuddled as to how the price gaps would
18 be so big. When we're just competing against other
19 traditional competitors, we typically will get
20 guidance as to whether our prices are competitive or
21 not.

22 CHAIRMAN ARANOFF: Okay. Let me turn to
23 another item. There's been discussion in this case
24 about what's been going on in Canada, and as a general
25 rule, the Commission's been reluctant to place all

1 that much weight on these kind of examples from other
2 countries because we usually don't have enough
3 information in our record from which we can assess
4 whether conditions of competition are the same in the
5 U.S. marketplace as the Canadian market.

6 We have some testimony on the record that
7 the demand conditions are very similar in the Canadian
8 market. I don't know if there's any reports or other
9 neutral sources that you can put on the record to
10 support that. In addition, in the U.S. it's true that
11 there's sufficient domestic capacity to satisfy
12 demand. Is that also true in Canada, or is it
13 different?

14 MR. RUTTER: Brian Rutter. Yes, we
15 manufacture as well in Canada, and there is plenty of
16 capacity there to service the whole market.

17 CHAIRMAN ARANOFF: Okay.

18 MR. PRICE: Alan Price. This is regarding
19 your first question. We'll add additional information
20 in the post-hearing brief.

21 CHAIRMAN ARANOFF: Okay. Thanks. That will
22 be helpful because as I said it's a little out of the
23 ordinary to rely on this sort of thing, so if I'm
24 tempted to do so in this case, if you could have
25 something to cite to, thanks. Let's see if I have any

1 more questions. With that, I think I may have
2 exhausted all my questions. Let me see. Are there
3 any more questions from Commissioners? No? Do the
4 staff have any questions for the panel?

5 MR. DEYMAN: George Deyman, Office of
6 Investigations. The staff have no questions.

7 CHAIRMAN ARANOFF: That was sort of an
8 abrupt ending. Mr. Price?

9 MR. PRICE: Chairman Aranoff, one quick
10 request. I see our post-hearing brief is due next
11 Tuesday. Commerce is officially supposed to release
12 the final margins on Friday, but in practical real
13 world, that means Tuesday at noon, and I'm wondering
14 if we can file our brief on Wednesday. That way we
15 can at least incorporate whatever information they
16 come up with for the post-hearing brief.

17 CHAIRMAN ARANOFF: I'm going to take that
18 under advisement and consult with staff, and I'll have
19 someone get back to you.

20 MR. PRICE: That would be appreciated.

21 CHAIRMAN ARANOFF: Okay. Let's see. With
22 that, I guess we've completed the questioning.
23 There's just a closing statement. Yes, so five
24 minutes for closing. Mr. Brightbill, is that going to
25 be you?

1 MR. BRIGHTBILL: That will be me, Chairman
2 Aranoff. I have a beautiful five-minute closing
3 statement already to go. I'm not so sure that it's
4 necessary at this point. You've heard many of our
5 arguments for the fourth and fifth and twelfth time,
6 and so I won't add one more. Why don't I instead make
7 two points? First of al, we would like to thank the
8 Commission and the staff for their thorough
9 investigation of this industry. It's a new product
10 for the Commission.

11 We've appreciated the opportunity to answer
12 your questions both throughout the investigation and
13 in particular throughout the plant tours during the
14 preliminary and final investigations, and then the
15 last point I would make is the most important point
16 that I can make of all, and that is that this is
17 extremely important to the domestic industry. It's
18 critically important, and it could well determine
19 whether or not they will remain domestic producers or
20 whether they themselves will be forced to stop
21 production and become users of Chinese steel grating.

22 I have had the opportunity to make four
23 visits to steel grating facilities during the course
24 of this case, and so I'd like to leave you with the
25 impression that I've picked up. I can't say it

1 perhaps as eloquently as Joe or Brian, but this case
2 means a great deal to the workers at every single one
3 of these facilities, and so we appreciate your
4 attention to all the details on behalf of those
5 employees at AMICO and Fisher & Ludlow. They are
6 injured, and they do need your help, and so for those
7 reasons, we ask that the Commission return affirmative
8 determinations in these cases. Thank you very much.

9 CHAIRMAN ARANOFF: Thank you, and I do want
10 to thank all of the witnesses for the time that you
11 spent with us this morning and for the additional
12 information that we've asked you to provide. Post-
13 hearing briefs, statements responsive to questions and
14 requests of the Commission and corrections to the
15 transcript must be filed by June 1, 2010. We'll
16 advise you if that date changes.

17 Closing of the record and final release of
18 data to parties takes place on June 17, 2010, and
19 final comments are due June 21, 2010. With that, we
20 have no further business. I hope everyone enjoys
21 their lunch, and this hearing is adjourned.

22 (Whereupon, at 12:02 p.m., the hearing in
23 the above-entitled matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Steel Grating from China
INVESTIGATION NO.: 701-TA-465 and 731-TA-1161
HEARING DATE: May 25, 2010
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: May 25, 2010

SIGNED: Raymond M. Vetter
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: Gabriel Gheorghiu
Signature of Court Reporter