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On behalf of Utah Refractories:

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In Opposition to the Imposition of Antidumping Duty  
Order:

On behalf of SunCoke Energy, Inc. and Tianjin New Century  
Refractories Co., Ltd.:

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APPEARANCES: (Cont'd.)

In Opposition to the Imposition of Antidumping Duty  
Order:

On behalf of SunCoke Energy, Inc. and Tianjin New Century  
Refractories Co., Ltd.:

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P R O C E E D I N G S

(9:30 a.m.)

1  
2  
3 CHAIRMAN WILLIAMSON: Good morning. On  
4 behalf of the U.S. International Trade Commission I  
5 welcome you to this hearing on Investigation No.  
6 731-TA-1205 (Final) involving Silica Bricks and Shapes  
7 From China.

8 The purpose of this investigation is to  
9 determine whether an industry in the United States is  
10 materially injured or threatened with material injury  
11 or the establishment of an industry in the U.S. is  
12 materially retarded by reason of less than fair value  
13 imports from China of silica bricks and shapes.

14 Schedules setting forth the presentation of  
15 this hearing, notices of investigation and transcript  
16 order forms are available at the public distribution  
17 table. All prepared testimony should be given to the  
18 Secretary. Please do not place testimony directly on  
19 the public distribution table.

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

25 Speakers are reminded not to refer in their

1 remarks or answers to questions to business  
2 proprietary information. Please speak clearly into  
3 the microphone and state your name for the record for  
4 the benefit of the court reporter. If you will be  
5 submitting documents that contain information you wish  
6 classified as business confidential, your requests  
7 should comply with Commission Rule 201.6.

8 Mr. Secretary, are there any preliminary  
9 matters?

10 MR. BISHOP: Mr. Chairman, I would note that  
11 all witnesses for today's hearing have been sworn in.

12 (Witnesses sworn.)

13 CHAIRMAN WILLIAMSON: Thank you. Before  
14 opening remarks I just would like to acknowledge that  
15 we have in the audience a delegation of lawyers from  
16 Shandong Province in China with the International  
17 Lawyers Institute, and I want to welcome you to this  
18 hearing.

19 Can we please call the first --

20 MR. BISHOP: Opening remarks on behalf of  
21 Petitioner will be by Samuel C. Straight, Ray Quinney  
22 & Nebeker.

23 CHAIRMAN WILLIAMSON: Welcome, Mr. Straight.  
24 You may begin when you're ready.

25 MR. STRAIGHT: Thank you. Good morning, Mr.

1 Chairman, members of the Commission and Commission  
2 staff. My name is Sam Straight. I'm an attorney in  
3 Salt Lake City, Utah. I'm here with my law partner,  
4 Zach Wiseman, and we are counsel on behalf of the  
5 Petitioner, Utah Refractories.

6 Utah Refractories and we very much  
7 appreciate the time, work and effort of the Commission  
8 and the staff on this matter, which is of critical  
9 importance to the survival of both Utah Refractories  
10 and to the U.S. silica brick refractory industry as a  
11 whole.

12 I'd just like to introduce who we have with  
13 us today. We have Mr. Ray Worthen, who is the  
14 president and an owner of Utah Refractories, we have  
15 Mr. Dennis Williams, who's the vice president and also  
16 an owner of Utah Refractories, and Mr. Tom Mulholland,  
17 who is the director of Sales and Marketing for the  
18 company. We also have with us Kent Goates of Lone  
19 Peak Valuation, who is our economic consultant in the  
20 case.

21 We had planned to organize our time today to  
22 have Mr. Wiseman provide a little bit of background  
23 about how we found ourselves here in front of the  
24 Commission and filing this petition, then Messrs.  
25 Worthen, Williams and Mulholland to provide some



1 information that I think will be helpful to the  
2 Commission in this investigation specifically about  
3 the products and the processes, et cetera, and then  
4 Mr. Goates will give some remarks that focus primarily  
5 on the economic and accounting issues, and then I will  
6 give some remarks as part of our presentation. And of  
7 course we're happy to answer questions at any time  
8 during any part of our presentation.

9 And I would just like to say by way of  
10 summary and opening, the evidence developed by the  
11 staff in this case convincingly demonstrates that Utah  
12 Refractories has been, is currently being and is  
13 threatened to be materially injured by dumped imports  
14 of silica refractory bricks from China. We therefore  
15 respectfully request that the Commission confirm its  
16 preliminary determination and issue a final  
17 affirmative determination of present injury and threat  
18 of material injury in this investigation. Thank you.

19 CHAIRMAN WILLIAMSON: Thank you.

20 MR. BISHOP: Opening remarks on behalf of  
21 Respondents will be by Gregory Husician, Foley &  
22 Lardner.

23 CHAIRMAN WILLIAMSON: Welcome, Mr. Husician.  
24 You may begin when you're ready.

25 MR. HUSICIAN: Okay. Thank you. I note

1 this is my third time here in five weeks. I hope I  
2 haven't quite worn out my welcome. For those of you  
3 who were here for the Low Enriched Uranium case,  
4 you'll be thankful to note that that was not the case  
5 where there was samples of the subject merchandise  
6 sitting on the front counter.

7 I'm here today on behalf of SunCoke, who is  
8 an importer of the product. We're also with the  
9 foreign exporter, TNCR, Tianjin New Century  
10 Refractories. I'm accompanied by Dan Klett, who is  
11 here to present economic testimony, and by Steve Morey  
12 from SunCoke, who is here to talk about how this  
13 market works and the unique conditions of competition  
14 that inform the competition between the subject  
15 imports and the U.S. industry.

16 Now, if I had to characterize this case and  
17 to put it into some kind of context, I would say this  
18 is a square peg in the round hole kind of case. I  
19 think that Petitioner looked at Commission  
20 determinations and they said hey, in a lot of  
21 determinations where there's a commodity product we  
22 note that people tend to win so we think we're going  
23 to characterize this as that kind of case.

24 But the record doesn't show that that box  
25 works for this product. It's a highly differentiated

1 product, as our witnesses will be saying and talking  
2 about today, and that informs how you need to evaluate  
3 this industry.

4 Petitioner also talks about how this is a  
5 case involving displacement of sales, yet its own  
6 sales into the U.S. market have been rising. It also  
7 talks about how there's been price suppression, but  
8 the record shows sharply rising prices over the period  
9 of investigation. Most importantly, the record shows  
10 that the U.S. industry and the foreign subject  
11 producers do not sell the same kind of products, sell  
12 into the same kind of markets or sell to the same kind  
13 of customers.

14 And as we will be discussing today, this  
15 attenuated competition, which is not even mentioned in  
16 the brief of the Petitioner, is a key characteristic  
17 that informs the level of competition between them,  
18 their pricing claims, their volume claims and even the  
19 threat considerations that are important for this  
20 case.

21 What you are going to see today is exactly  
22 how different the products are; that by virtue of the  
23 fact that they're in different markets means that you  
24 don't see the kind of price or volume impacts that you  
25 are being told exist by the U.S. industry. In light

1 of all these considerations and putting these things  
2 together, we don't see any way that you can find that  
3 there is either material injury or there is threat of  
4 material injury. That kind of impact requires that  
5 there be some kind of competition, some kind of  
6 targeting of the same customers by the subject  
7 producers and by the U.S. industry, and that is not  
8 occurring.

9 In fact, what you have is the subject  
10 imports acting as a safety valve for this industry.  
11 As was developed in our prehearing brief and in the  
12 submissions of SunCoke, what you see is that the U.S.  
13 industry just does not have the capacity to serve many  
14 of the large repair and replacement projects, let  
15 alone new construction projects.

16 Simple mathematics shows this to be true,  
17 and if the subject imports were not available it would  
18 put the U.S. industry that consumes this product into  
19 grave circumstances. So the subject imports serve an  
20 important, nonprice related purpose, and that is a key  
21 consideration as well for your consideration of all  
22 the testimony you're going to hear today, as well as  
23 the record evidence.

24 With regard to the threat of material  
25 injury, we think that all the same factors that inform

1 the material injury analysis pertain equally to the  
2 future. Quite simply, with there being no material  
3 injury and no link to the subject imports in the  
4 present, you need to find something that's going to  
5 change in the future, and there's nothing that's been  
6 pointed to and nothing in the record that shows that  
7 anything is going to change.

8           You're going to continue to have little to  
9 no head-to-head competition. You're going to continue  
10 to have the U.S. industry selling into a different  
11 market than the subject imports are selling into, and  
12 the U.S. market is going to continue to be a very  
13 small portion of the sales of the Chinese producers.  
14 In light of the fact that there's nothing that is  
15 going to change in the imminent future, there's no  
16 basis for a threat finding as well.

17           So we will be dealing with all these issues  
18 later on, including through Dr. Dai, who is here from  
19 TNCR to talk about the Chinese industry and how it  
20 competes in the world and U.S. markets, and Steve  
21 Morey, who is here from SunCoke to talk about how the  
22 largest purchaser of this product deals with both the  
23 U.S. industry and with the Chinese industries and the  
24 ways in which the product serves this market.

25           So we look forward to the presentation, and

1 now I'm going to sit down and wait for a few hours  
2 until I can come up here again.

3 CHAIRMAN WILLIAMSON: Thank you.

4 MR. BISHOP: Would the first panel, those in  
5 support of the imposition of antidumping duty order,  
6 please come forward and be seated?

7 (Pause.)

8 CHAIRMAN WILLIAMSON: I want to welcome all  
9 the panelists, and you may begin when you're ready.

10 MR. STRAIGHT: Thank you, Mr. Chairman. And  
11 we would ask Mr. Wiseman to begin our presentation.

12 MR. WISEMAN: Thank you very much. I wanted  
13 to start off quickly by just sort of giving a brief  
14 history of how we got here today before you.

15 I've had the pleasure of representing Utah  
16 Refractories for the better part of a decade. It is  
17 truly an American success story. The men you see  
18 seated before you today, Ray Worthen and Dennis  
19 Williams, have been involved with this plant in some  
20 way or another for decades. Mr. Worthen started in  
21 the plant in 1979 and worked his way up through the  
22 ranks. Mr. Williams ran a trucking company that  
23 shipped product for Utah Refractories all over the  
24 country.

25 In 1998, they had the good fortune and being

1 in the right place at the right time and were able to  
2 purchase this factory and keep it operating in their  
3 community where it has been such a vitally important  
4 part of that community for many decades.

5 Utah Refractories was built in the 1940s as  
6 part of an inland defense plan designed to develop and  
7 build key industries necessary for the war away from  
8 the coast. It was built right up the road from Geneva  
9 Steel, and its roots are in refractories designed for  
10 the steel industry. That's what it did for decades,  
11 and that was what it was committed to. More  
12 specifically silica brick, but they did other types of  
13 brick as well, and until recently, until the '90s,  
14 they supplied much of the silica for the west coast  
15 and primarily in the steel industry.

16 Mr. Worthen is going to get up in a moment  
17 and talk a little bit about those strange looking  
18 bricks that are in front of you. We brought a  
19 sampling. We thought it would be interesting to you  
20 to sort of see what it is we do and what the product  
21 looks like.

22 But Utah Refractories is dedicated to really  
23 two types of business. It's dedicated historically to  
24 providing silica refractory bricks in the coke  
25 industry, in the production of coke. Those bricks are

1 used to line the walls of coke ovens. They're a very  
2 stable brick. They can retain stability under high  
3 heats, and they're relatively cheap compared to other  
4 refractories in that they're made from simple silica  
5 rock or ganister that is crushed and formed into  
6 molds. Its chemistry also makes it ideal for the  
7 application in the coke industry.

8 The other industry that we have serviced  
9 over time is the glass industry, and the reason the  
10 glass industry has been important is because high  
11 grade silica bricks used in the domes of glass melting  
12 operations, if they degrade and drip into that glass  
13 the nature of silica is such that it does not affect  
14 the opacity of the glass, being very pure rock, and  
15 can be absorbed into that glass without affecting its  
16 properties. But we have been dedicated to both of  
17 those industries throughout our history.

18 In 1998 when Messrs. Worthen and Williams  
19 took over, there was already severe pressure on the  
20 coke side of the business being exerted on them by  
21 Chinese imports, and they began at that time  
22 correspondence with Senator Hatch to try and figure  
23 out how they could remedy this problem.

24 That problem continued to increase, and by  
25 2010 it became clear that we had lost what was once



1 the most important part of our business and took up  
2 the majority of our sales, and that is the coke sales.

3 Our sales in the coke industry was almost virtually  
4 gone. Long-time customers like U.S. Steel were lost  
5 to us at that point.

6 So these two gentlemen did the only thing  
7 they knew how to do. Keep in mind this is a small  
8 company, and while it's been around a long time it's a  
9 small operation, not real sophisticated. They reached  
10 out again to Senator Hatch and asked Senator Hatch for  
11 his assistance in this problem. They also wrote a  
12 letter to the Chief Counsel for China Trade in the  
13 Office of United States Trade Representative. And  
14 they received back in January 2011 a letter from  
15 Senator Hatch who said he would inquire with the World  
16 Trade Center in Utah on a course of action.

17 In March of 2011, Senator Hatch wrote them  
18 and he forwarded a letter to them that he had received  
19 from the Executive Office of the President, and it  
20 directed them to come here. They didn't know anything  
21 about this process, didn't know anything about what  
22 happens or how this whole thing works, but it's at  
23 that point they availed themselves of this process and  
24 we find ourselves here today.

25 This step that they've taken isn't something

1 that is budgeted for at companies like Utah  
2 Refractories. It's a huge deal. It's a huge expense  
3 and it's a huge undertaking, but it's done really as a  
4 last resort. As will be explained and has been  
5 demonstrated in the materials already submitted, Utah  
6 Refractories has already been harmed in that it has  
7 lost almost entirely its sales in the coke industry.  
8 What sales it will have will be explained later, but  
9 we've lost that business certainly the way it used to  
10 be and continue to seek sales in the coke industry  
11 under enormous financial pressure.

12           Moreover, as will be shown, Utah  
13 Refractories faces a real and substantial risk of  
14 losing its remaining business in the glass industry.  
15 Both the actual and threatened harm to Utah  
16 Refractories are due primarily to the abundance of low  
17 cost Chinese silica brick being imported to this  
18 country, so hopefully if you have any questions later  
19 we'll be glad to answer those, but at this time --

20           What's that? Oh. I do want to point out  
21 that we did find out yesterday -- we've been  
22 corresponding with Senator Hatch's office, and we do  
23 expect to receive very shortly a letter from Senator  
24 Hatch in support of this petition as well. He's, as I  
25 said, been involved for a long time in advising us on

1 the course of direction.

2 MR. STRAIGHT: We'd now like to invite Mr.  
3 Worthen to begin some of our discussion, in particular  
4 talking about the products that we brought with us and  
5 you see here on the table.

6 MR. WORTHEN: Good morning. My name is Ray  
7 Worthen. I'm the president and co-owner of Utah  
8 Refractories. In a few short months, I will have been  
9 with this operation for 35 years.

10 The plant was built primarily to support  
11 Geneva Steel, which was an inland U.S. steel plant.  
12 In 1998, Dennis and I saw an opportunity to purchase  
13 the plant ourselves, and we have run it successfully  
14 despite the failure of Geneva Steel and through some  
15 very difficult economic times.

16 We have brought some samples, and I will  
17 explain these. If I may approach and show?

18 MALE VOICE: You'll need to use this.

19 MR. WORTHEN: We've brought a few samples  
20 here of the product that we make there, and --

21 MR. BISHOP: Wait. We're not picking you  
22 up. Wait one second.

23 (Pause.)

24 MR. BISHOP: Check.

25 MR. WORTHEN: Can you hear me now? These

1 samples are typical samples that we manufacture in our  
2 operation. I'll start with this 15x6-1 S-wedge. It  
3 is a brick used in the glass furnaces for their crown.

4 Just imagine a big arch. They lay these in there.

5 This is a silica insulator brick called  
6 Gen-Sil Lite. They actually place these on top of the  
7 crown to insulate the crown itself. It saves them  
8 gas. This is a blast furnace stove brick here. We  
9 refer to it in the plant as a revolver. This is a  
10 coke oven handmade brick.

11 We manufacture in three different ways. We  
12 power press, we impact press, we actually make by  
13 hand. And depending on the intricacy of the shape or  
14 the piece count depends on how we actually press the  
15 brick. This right here is a 9x4½x3. Although it is  
16 set up for the glass industry, this is a brick that  
17 will service both applications, just depending on what  
18 we do.

19 Now, the difference between all of these is  
20 very little. It's a slight chemistry change in terms  
21 of mixing, pressing, forming, firing. It's all done  
22 the same. Any questions?

23 (No response.)

24 MR. WORTHEN: Thank you. We are here  
25 because we cannot continue to compete against unfairly

1 priced Chinese imports and are asking the Commission  
2 for its help to level the playing field. Thank you.

3 MR. WILLIAMS: Since I became involved with  
4 the business, which was immediately during the time  
5 when our business seemed to decline because of the  
6 lack of sales of the silica to the steel industry, and  
7 it progressively got so bad that we only replaced  
8 emergency repair brick and failed other commodities,  
9 which were sold to them from the Chinese. At one  
10 point we were actually informed that they would no  
11 longer purchase our brick. We couldn't compete  
12 because we simply were priced out of the market.

13 And so forth we've had no business other  
14 than minor repairs and replacement brick, no actual  
15 sales, none whatsoever, and it's just financially  
16 damaged us to no end. And had we not had an emergency  
17 sale from U.S. Steel, we would be probably out of  
18 business to this day. And I beg you to please listen  
19 to our plea. We need your help. Thank you.

20 MR. MULHOLLAND: Hello. Thank you for  
21 receiving us today. I would like to just point out a  
22 couple instances from the sales side when we look at  
23 different markets of silica brick.

24 We have glass customers here in the states  
25 that also have partnerships or operations that they

1 own in Europe, and it's come to my attention that they  
2 use Chinese or Chinese type silica brick in the glass  
3 operations in Europe. I'm very concerned that this  
4 would happen here in the United States.

5 In my opinion, silica bricks are a  
6 commodity. Once somebody achieves the minimum  
7 standards and specifications they can produce this  
8 product. The Chinese can produce it in huge  
9 quantities and ship it to the United States. I see  
10 them as a threat. They can do this for the glass and  
11 the steel industry.

12 I'm aware of several applications where Utah  
13 Refractories' silica brick is mixed in the same  
14 application. For example, a coke oven built of  
15 Chinese silica brick. Sometimes they come to us. We  
16 make brick, send it and they repair their oven and mix  
17 the bricks in the same application. We've done this  
18 for several customers.

19 And over the years when you come to talk  
20 about different markets and interchangeability, I've  
21 been told by SunCoke on a sales call with Mr. Williams  
22 and Mr. Worthen that they had engineered a coke oven  
23 that was probably going to have Chinese brick in the  
24 walls and brick from the Czech Republic in the crown,  
25 so there's an example of mixing brick.

1                   These are just some of the issues where we  
2 compete. Price has become the major factor for us  
3 trying to maintain business, and it's almost an  
4 impossibility to get new business once the Chinese  
5 have established business because of the price. Thank  
6 you.

7                   MR. STRAIGHT: Dennis?

8                   MR. WILLIAMS: I'd like to add an additional  
9 point if I may, please. Yes.

10                   MALE VOICE: Just push it a little closer to  
11 you.

12                   MR. WILLIAMS: You know, we are in the glass  
13 business as well, but during this time we've noticed  
14 that pressure from imported Chinese brick has forced  
15 our price to stabilize where we can't increase our  
16 price. Our raw materials are increasing in price,  
17 which gradually is forcing us in that business to be  
18 harmed economically as well, and just every day it's  
19 another ongoing presence that the squeeze is becoming  
20 unbearable with us economically.

21                   Also there have been two customers since we  
22 filed -- I don't know what you would call it -- where  
23 we received temporary aid from the Commission that  
24 have actually come back to us and requested material  
25 because of somewhat of a price arrangement that we

1       could give them to compete with the other ongoing  
2       business or, I mean, the Chinese business, and that  
3       has been U.S. Steel and a company called Pilkington,  
4       who are actually aware of the tariff and actually gave  
5       us additional business because of those situations.  
6       It was just another godsend at the right time to keep  
7       us going.

8                   We go from time to time to time to compete  
9       with this, and it's eventually going to be our  
10      extinction. Thank you.

11                   MR. MULHOLLAND: If I may go back to the  
12      sales end, we've seen significant and real pricing  
13      pressure in both the glass and steel industries. At  
14      least two of our customers have asked us to reduce  
15      pricing because of the cheaper products from China.

16                   We hear and I hear repeatedly that although  
17      the engineers would love to buy our product, they just  
18      can't do it. We're just not competitive price-wise,  
19      and the range is such that they can't justify it and  
20      we can't lower our price to that level and maintain a  
21      viable operation. The pressure is real. It  
22      continues.

23                   It even continues to this day with some of  
24      our major glass customers that they are still actively  
25      looking to source Chinese silica brick. They're



1 telling us the price is very, very low. They intend  
2 to go this direction and source product from low-cost  
3 countries. The threat is real, and we feel the  
4 pressure every day. Thank you.

5 MR. STRAIGHT: Dennis?

6 MR. WILLIAMS: In regards to our production  
7 and our volume of production, we're of course at  
8 extremely low production right now simply because we  
9 don't have the business. Our capacity would be well  
10 over 20,000 tons per calendar year or perhaps even  
11 higher based on the type of production we're doing.

12 And it's been mentioned to us that well,  
13 everything we can do is we simply have scheduling and  
14 timing and we can always manufacture to inventories  
15 and have done in the past.

16 MR. STRAIGHT: Ray?

17 MR. WORTHEN: When we saw this serious  
18 Chinese pricing problem we reached out to our senator,  
19 Warren Hatch, and he explained that this is where we  
20 would need to come. We have never asked for relief  
21 before, and we are certainly not regulars in this  
22 arena. We are being seriously harmed, and there is a  
23 serious threat to our entire business.

24 If the Lehigh operation does not survive,  
25 the silica refractory industry in the United States

1 and in the Western Hemisphere will be lost. This is  
2 why we have filed the petition, and we need your help  
3 to level the playing field from these unfair Chinese  
4 imports. Thank you.

5 MR. STRAIGHT: We would now like to ask Mr.  
6 Goates to give a few comments specifically on the  
7 economic and accounting issues.

8 MR. GOATES: Good morning. My name is Kent  
9 Goates. I'm speaking on behalf of Utah Refractories,  
10 the Petitioner, and I'm serving as an economic  
11 consultant. To give you a brief background of myself,  
12 I've been the chief financial officer of several  
13 companies, including a billion dollar mining company  
14 and several small companies in a variety of  
15 industries. I've been a CEO and an operating partner  
16 in a venture capital firm.

17 I have a Master's degree in Accountancy.  
18 I'm a certified fraud examiner, a chartered global  
19 management accountant and a certified public  
20 accountant. I've worked as a CPA in the practice of  
21 accounting and consultancy for more than 17 years and  
22 was in senior management of companies for another 17  
23 years.

24 Over my term and career as a CPA, I've  
25 worked closely with several hundred companies, and in

1 that work, as well as my work as a CFO, CEO and  
2 operating partner, I have intimately seen the workings  
3 of companies and have a pretty clear understanding of  
4 what it takes for a company to operate and be viable.

5 I would like to make a few comments that I  
6 believe will be important to you, the Commissioners,  
7 and to your staff. First, based on my experience,  
8 Utah Refractories, the sole producer of silica brick  
9 in the United States, is in serious financial  
10 distress. If unfair competition from China continues  
11 in the form of price suppression and the taking of  
12 more of Petitioner's market share in the United  
13 States, the Petitioner will be unable to continue  
14 operations.

15 Utah Refractories has submitted its  
16 financial information to the ITC, and this information  
17 has been reviewed in detail by ITC staff. Company  
18 personnel, the attorneys and I have provided  
19 additional response to questions and have provided  
20 additional information to supplement the review. That  
21 information from the company is what it is, and it  
22 demonstrates that the Petitioner's operating income by  
23 year is either small or negative. There simply is not  
24 a lot of room for continued price suppression or the  
25 loss of additional sales and revenues because of

1 unfair Chinese prices.

2           The Petitioner has seen overall decreasing  
3 revenues from price suppression over the past nine  
4 years, and the three years under the POI are no  
5 exception. Utah Refractories' financial history,  
6 which again was also given to the ITC with the other  
7 financial information and reviewed by ITC staff,  
8 demonstrates that revenues in 2010, 2011 and 2012  
9 averaged only 84 percent of prerecession revenues from  
10 2005, 2006 and early 2007. This comes on the heels of  
11 the late 2007, 2008 and 2009 recession years when  
12 sales averaged only slightly less than they are now.

13           The fact is Petitioner's sales revenues are  
14 decreasing and have been for years. Petitioner's lack  
15 of ability to produce silica brick -- indeed it has  
16 the ability and capacity to produce silica brick to  
17 meet U.S. demand in the silica industry both in glass  
18 and steel. Simple facts borne out by the company's  
19 empirical evidence, the production that it has made in  
20 the past and the economics or the mathematics show  
21 this to be true.

22           The circumstances now are occurring in major  
23 part because Petitioner's share of the U.S. silica  
24 brick market and its ability to charge prices that are  
25 necessary for it to remain viable have been shrinking

1 due to low priced Chinese imports. Utah Refractories  
2 has seen price suppression both by customers who have  
3 demanded price concessions and by the knowledge that  
4 silica brick consumers in the United States, both in  
5 the steel and glass industries, are being courted by  
6 Chinese producers at prices well below those needed by  
7 the Petitioner.

8 The ITC has been given publicly available  
9 information from Chinese producer and supplier  
10 websites that show brick prices for U.S. markets well  
11 below Utah Refractories' prices. In fact, the ITC has  
12 itself found that Chinese silica brick is entering the  
13 United States at prices below those offered by the  
14 Petitioner, and the Commerce Department has calculated  
15 significant dumping margins of 85 to 91 percent in the  
16 preliminary determination.

17 Utah Refractories is aware that it has lost  
18 opportunities to provide silica brick and even been  
19 denied the opportunity to quote a price for silica  
20 brick because potential customers have opted to  
21 acquire less expensive silica brick from Chinese  
22 producers. The result is that the Petitioner has been  
23 forced to lower the prices on some contracts to keep  
24 work and with limited specific exceptions has been  
25 unable to raise its prices for its product with the

1 fear that it will lose even more work.

2 Historically Petitioner has been a  
3 significant producer of silica brick to both the steel  
4 and glass making industries. When Utah Refractories  
5 saw its steel industry business being eroded by  
6 Chinese imports because of lower prices, it took  
7 advantage of the purity of its silica content, which I  
8 would describe as being a former barrier to entry, and  
9 concentrated on the glass industry.

10 This is not to say that Utah Refractories  
11 lost focus in the steel industry; just that as a  
12 matter of practice they experienced fewer sales into  
13 that industry because of the dumped prices coming from  
14 China. Luckily, during the period of the POI Utah  
15 Refractories obtained an emergency contract to supply  
16 silica brick into the steel industry. That's been  
17 alluded to already.

18 The revenue from that sale added a  
19 significant amount to the company's revenues, and  
20 without it Utah Refractories' revenues during the POI  
21 would have been much lower and it would have shown  
22 significant losses, possibly to the point where it  
23 wouldn't have even been able to be here today.

24 At the same time Petitioner has been seeing  
25 reduced revenues, its costs have been increasing.

1 Data submitted by the Petitioner, which was reviewed  
2 by the ITC staff, show that cost of goods sold and  
3 salaries, general and administrative expenses or SG&A  
4 increased over its longer financial history and  
5 particularly during the period of the POI, 2010  
6 through 2012. Correspondingly, Utah Refractories'  
7 unit cost of goods sold and unit S&A increased  
8 materially over the POI.

9 Petitioner has seen increased costs,  
10 particularly in raw materials, fuel, steel, which is  
11 used in molds, and personnel related expenses,  
12 including compensation of employees and health care  
13 related expenses. As I'm sure you are aware,  
14 inflation is a factor in our economy coming in at  
15 1.5 percent, 3 percent and 1.7 percent for 2010, 2011  
16 and 2012 respectively.

17 The effect on Utah Refractories is that it  
18 is experiencing a cost/price squeeze, a nearly  
19 impossible situation where costs rising with inflation  
20 are not being covered by prices and revenue declining  
21 because of dumped Chinese silica brick. Included in  
22 this effect is the lack of capital to do anything  
23 other than to simply maintain its facilities.

24 Without the ability to sell in the U.S.  
25 market at prices competitive to those it must quote to

1 survive, meaning that Utah Refractories must be able  
2 to recognize at least a meaningful profit and positive  
3 cashflow, it will experience a painful demise.

4 Second, Utah Refractories has provided to  
5 the Commission its annual production capacity. Simply  
6 put, Utah Refractories has sufficient capacity to meet  
7 U.S. steel and glass industry demand. In addition, if  
8 required the company's capacity can be expanded for a  
9 relatively low capital and operating cost. Throughout  
10 the POI, however, Utah Refractories' capacity  
11 utilization was low, very low and declining.

12 Finally, a prehearing staff report found  
13 customers emphasized three important factors in  
14 purchasing silica refractory brick -- quality,  
15 availability and price. It is interesting to note  
16 that Utah Refractories' product is almost universally  
17 accepted and acknowledged for its quality. This is  
18 seldom, if ever, a matter of concern by any U.S.  
19 producers in either the steel or glass industries.

20 This leaves only two remaining factors,  
21 availability and price. The availability of silica  
22 brick from Utah Refractories is borne out by Utah  
23 Refractories' productive capacity, which has been  
24 proven empirically by its historical operations in  
25 production, and it has not changed. With only two



1 circumstantial exceptions, Utah Refractories can  
2 provide and produce all silica brick needs in the  
3 United States.

4           These circumstantial exceptions include one,  
5 the incidence where the so-called lumpy U.S. demand  
6 spikes within a tight timeline so that Utah  
7 Refractories' productive capacity is exceeded. Given  
8 current U.S. consumption quantities, this instance  
9 will occur only rarely, and when it might occur there  
10 is a high probability that the company could work out  
11 timing with the purchasers.

12           The second instance occurs where a purchaser  
13 artificially shortens its demand into a tight time  
14 period so that Utah Refractories' short-term  
15 production capacity cannot meet the short-term need.  
16 This instance is, of course, in the control of the  
17 purchaser. If the purchaser chooses to work with Utah  
18 Refractories and give a reasonable lead time for  
19 silica brick needed for already long-term plan new  
20 construction repairs, availability will not be a  
21 problem.

22           If the purchaser pursues a short timeline,  
23 however, even for a project it has been planning for  
24 years, then obviously Utah Refractories may have a  
25 difficult time producing all of the silica brick,

1       although it could still produce a portion of the  
2       order.

3               Once the element of availability is  
4       eliminated then the only factor remaining upon which  
5       Utah Refractories must compete is price, and that of  
6       course is where we meet the problem. Given the unfair  
7       pricing of Chinese silica brick being imported into  
8       the United States, Petitioner cannot compete on a  
9       level playing field unless the Commission acts to  
10      impose appropriate tariffs for Chinese imported silica  
11      brick. Thank you.

12             MR. STRAIGHT: As you've heard so far in our  
13      presentation today, my client, Utah Refractories, is a  
14      small Utah company that has provided jobs in Utah  
15      County for decades, and despite the consolidation of  
16      the steel industry and the entire elimination of  
17      Geneva Steel, the plant being closed and is no longer  
18      in operation. And that plant was located just down  
19      the road from Utah Refractories and Utah Refractories  
20      supplied that plant.

21             But despite that closing, consolidation of  
22      the steel industry and tough economic times, Utah  
23      Refractories has maintained its business making silica  
24      refractory bricks for both the steel and glass  
25      industries. I think that's very important that as

1 we've talked today and heard especially from my  
2 clients that they have continued to make efforts to  
3 sell their products both to steel industry consumers,  
4 as well as glass industry consumers.

5           However, as a direct result of the  
6 substantial and increasing volume of dumped imports  
7 from China of this silica refractory brick, Utah  
8 Refractories' production decreased over the POI. I  
9 will note, of course, as a direct result of this  
10 filing Utah Refractories saw a modest increase during  
11 the first six months of 2013, but this increase came  
12 because of the petition.

13           And Utah Refractories has provided  
14 corroborating evidence of that both here today and in  
15 Mr. Mulholland's declaration that we submitted with  
16 our prehearing brief where customers have indicated  
17 they've come back to us because of the filing of the  
18 petition and the preliminary dumping margins that were  
19 announced by the Commerce Department. And if the  
20 tariff is not or if the margins and if the dumping  
21 duties are not imposed, I believe we are fairly  
22 confident that that business will go away again  
23 because we cannot compete on price.

24           Second, and Mr. Goates mentioned this a  
25 little bit. Utah Refractories' capacity utilization

1 rates remained incredibly low throughout the period of  
2 investigation. Utah Refractories' net operating  
3 income has been very poor throughout the POI by any  
4 measure. The key ratio of operating income to sales  
5 also showed the harm to Utah Refractories of the  
6 dumped Chinese imports, and the trend in the ratio  
7 between cost of goods sold and sales also shows that  
8 harm to Utah Refractories.

9 The harm is also compounded by the fact that  
10 given its just barely survival mode that it's  
11 operating in, it has not been able to make capital  
12 expenditures of any significant kind throughout the  
13 period of investigation. And Mr. Goates talked about  
14 some of these specific instances in more detail, but,  
15 as he pointed out, the facts are there. They've been  
16 presented to the Commission, and staff has analyzed  
17 them in detail.

18 By contrast, the Chinese capacity is  
19 enormous and is export oriented. In the public  
20 version of the staff report, the staff report  
21 indicates that China is the world's leading exporter  
22 of alumina or silica refractory brick during the  
23 period of investigation, exceeding 900,000 short tons  
24 in 2012. A massive amount of actual exports and a  
25 massive amount of capacity, which I'll talk about here

1 in just one minute.

2 Now, unfortunately in your investigation  
3 very few Chinese producers responded, and I know the  
4 Commission has seen that kind of activity before where  
5 requests are made and responses are not provided and  
6 information is not provided. Regardless of the sparse  
7 information that the Commission received, publicly  
8 available and unrebutted information shows that there  
9 is enormous available capacity in China for these  
10 products and that it is export oriented.

11 And we brought just two handouts to  
12 illustrate this point, and we've also blown them up  
13 here on these charts. And the first is a handout from  
14 the publicly available website of a U.S. company  
15 called Intersource, and it lists, and this is on page  
16 1 of our handout, major refractory locations in China.

17 And if you look at the first two entries it says SLR  
18 Silica Factory, People's Republic of China, over  
19 100,000 metric tons per year capacity for silica  
20 bricks and shapes. Then down on the next line it says  
21 over 20,000 metric tons per year capacity for silica  
22 bricks and shapes for coke oven factories.

23 That's one example from one importer of one  
24 -- I guess it's two -- factories in China. That  
25 doesn't mention all of the other capacity and

1 available capacity that's out there. The Petitioner  
2 spent quite a bit of time trying to gather as much  
3 information as it could. We provided that to the  
4 Commission, and that's also included in the staff  
5 report, the just enormous amount of available  
6 capacity.

7 And what is also interesting is if you look  
8 at what's also indicated on this first page of the  
9 handout from Intersource, if you look under the third  
10 entry it says supplier for USS Gary, Clariton and  
11 Mountain States Carbon. And this company is operating  
12 in the United States, so again there's no question  
13 that the Chinese product is export oriented and that  
14 there is a lot of it.

15 We also provided publicly available  
16 information in our prehearing brief from the internet  
17 that China is targeting the glass business in the  
18 United States. And we've provided those websites, but  
19 we also have another blowup that's here on the chart  
20 that's also in the handout that we handed, and this is  
21 again from an internet search. The company is  
22 identified as Luoyang Maile Refractory Company, Ltd.  
23 It indicates that it's in China.

24 And if you look down at the products, which  
25 are presented all in English, they mention some out of

1 scope products like full silica bricks, but if you go  
2 down to the fifth entry on this website, high quality  
3 silica brick for glass furnace, and it indicates that  
4 it is conventional silica brick for glass furnace.  
5 And as Mr. Worthen pointed out in his presentation,  
6 the difference between the two bricks, the difference  
7 between the industry applications of the bricks are  
8 very minor.

9 And what Utah Refractories has seen is this  
10 ongoing injury and harm in its glass -- I mean, sorry,  
11 in its steel industry business, and it is seeing  
12 ongoing pricing pressure, but also real threat, and  
13 again this kind of public information supports it,  
14 that Chinese imports are now also targeting and  
15 aggressively going after the glass industry business.

16 Now, we also think it's very noteworthy that  
17 only two companies have appeared here in opposition to  
18 our petition today, and it's one foreign producer out  
19 of the many questionnaires that the Commission sent  
20 out and only one importer out of again the many  
21 questionnaires that were sent out. We've explained  
22 the reasons why we think they've appeared here today  
23 in our confidential brief, and I won't go into those,  
24 but, more important, not one other importer, customer  
25 or Chinese producer is appearing to oppose this

1 petition, and most of the critical facts remain  
2 un rebutted.

3 There are some lawyer arguments that you've  
4 seen in the opposing side's brief, but many of the  
5 facts are un rebutted and you don't have a groundswell  
6 of opposition to the petition from any group of  
7 interested parties. And I know it's important for the  
8 Commission, but we believe there can be no doubt that  
9 these harms that I've gone through to Utah  
10 Refractories are caused by the dumped Chinese imports.

11 Utah Refractories has provided significant  
12 information concerning price suppression in its  
13 prehearing brief. You've heard some of those examples  
14 given here today. And the Commerce Department found  
15 preliminary antidumping duties of 84 to 91 percent.  
16 Very difficult for any company in the United States to  
17 compete against prices that are at that enormous of a  
18 margin below the prices that the U.S. producer can  
19 sell.

20 Utah Refractories can and it strongly  
21 desires to sell to both the steel and glass industries  
22 in the United States. It historically has sold to  
23 steel. It did not choose to leave the steel industry.

24 It wants to sell to the steel industry. It's been  
25 frozen out by dumped Chinese imports. And, yes, it



1 continues to sell to the glass industry, but based on  
2 this information we've provided today and in our  
3 prehearing brief that is under serious and imminent  
4 threat that those targeted Chinese imports to the  
5 glass industry will put the company out of business  
6 altogether.

7           And it's because, as Mr. Goates explained,  
8 price is such a critical determinant on these  
9 products. They are a commodity product, and price,  
10 after the other factors are taken out, becomes the  
11 critical issue. And when the prices are that far  
12 apart as we've seen in the Commerce Department margins  
13 it is impossible to compete.

14           Mr. Worthen said to us as we were preparing  
15 for the hearing he remembered a time when Utah  
16 Refractories supplied most of U.S. Steel's needs for  
17 silica refractory bricks and then almost overnight  
18 that business was gone, and it was gone to dumped  
19 Chinese imports. That's the harm that this company  
20 has felt, and they are now seeing the same kind of  
21 pressure and the same kind of changes where U.S. glass  
22 customers are either willing to accept Chinese brick,  
23 are looking to qualify it as Mr. Mulholland described,  
24 and once that happens the prices will so undercut Utah  
25 Refractories' prices that it will probably have to

1 cease operations altogether.

2 Based on all of that information, the  
3 Petitioner didn't file this case because it thought it  
4 was a commodity and looked at the research and thought  
5 hey, we ought to file a case because we might win.

6 The Petitioner filed this case because Senator Hatch,  
7 they went to him and asked him what should we do? We  
8 cannot compete against these unfairly priced imports.

9 And after some research they directed him here. This  
10 is the only venue where we can get relief from these  
11 unfairly traded imports.

12 And so we respectfully request the  
13 Commission confirm its preliminary determination and  
14 issue an affirmative final determination of injury and  
15 threat of material injury to both Utah Refractories  
16 and the entire silica refractory brick industry.  
17 Thank you. And we'd reserve the rest of our time for  
18 rebuttal.

19 CHAIRMAN WILLIAMSON: Okay. Thank you very  
20 much for your testimony, and we thank the witnesses  
21 again for coming and taking time from their business  
22 to be here today.

23 This morning we're going to begin our  
24 questioning with Commissioner Broadbent.

25 COMMISSIONER BROADBENT: Thank you, Mr.

1 Chairman. I want to welcome the witnesses.

2 Appreciate you coming here.

3 When we look at our staff report it says,  
4 and I guess this would probably be for Mr. Mulholland,  
5 just kind of a general question on the business.  
6 Firms indicate that there's some risk involved when  
7 silica bricks and shapes from different supplies or  
8 sources are mixed in one oven due to if you have  
9 different consistencies, thermal expansion, other  
10 specifications it makes it difficult. Is that true?  
11 I mean, do you have to source this stuff from one  
12 plant? Yes?

13 MR. MULHOLLAND: It's not uncommon that a  
14 major steel customer would come to us, and it's  
15 happened several times over the years that I've been  
16 with the company. They would say the brick we've  
17 imported from China has quality issues. Some of it is  
18 already installed in the oven. Some of it was  
19 rejected. And we would make an order for them to  
20 replace that brick.

21 So part of the oven is already constructed  
22 of Chinese brick and they're putting our bricks in.  
23 Sometimes it's a moderate quantity. Sometimes it's a  
24 few select shapes out of hundreds. Maybe 10 or 12  
25 shapes failed so we would replace those shapes with

1       our bricks, and they go on about their business of  
2       repairing the oven.

3               COMMISSIONER BROADBENT:   Okay.  So in your  
4       view two different types of bricks can co-exist in the  
5       same oven in a same manner?

6               MR. MULHOLLAND:   Yes.

7               COMMISSIONER BROADBENT:   Okay.  And does it  
8       make it a harder job to do if you've got to sort of  
9       match the specifications of what's already there?

10              MR. MULHOLLAND:   One would assume that  
11       whoever is selling the bricks to U.S. Steel does in  
12       fact meet the specifications.

13              COMMISSIONER BROADBENT:   Okay.  So no  
14       problem in mixing.  Okay.  Great.

15              When you are looking for customers, what  
16       kind of things do you take into account on whether  
17       you'll give them a quote or not for supplying the  
18       brick?

19              MR. MULHOLLAND:   I'll quote just about  
20       anybody.  We look at how to compete against very large  
21       refractory companies in Europe.  We look at how to  
22       compete against the Chinese.

23              One thing we can do is respond quickly, so  
24       it is not uncommon and it is our practice to try to  
25       quote a customer a firm lead time and delivery on a

1 reasonably sized project within a day, usually the  
2 same day. We come back and show interest and quote  
3 them.

4 The only times we don't quote a project is  
5 where if the scope of the material and the delivery is  
6 unrealistic we'll go back to the customer and try to  
7 get more information, but we try to quote everybody.  
8 We may draw the lines on some overseas projects where  
9 it's unclear as to what they need or who's selling the  
10 brick to an end users. We may be selective there, but  
11 in the domestic market we will quote our customers  
12 when they come and ask for it.

13 COMMISSIONER BROADBENT: So typically how  
14 many quotes are you preparing in a month and to what  
15 customers?

16 MR. MULHOLLAND: How many quotes in a month?  
17 It does go up and down.

18 COMMISSIONER BROADBENT: Sure.

19 MR. MULHOLLAND: I think at this point of  
20 the year we're probably at 150 to 160 quotations with  
21 revisions to domestic and export markets.

22 COMMISSIONER BROADBENT: And how much --

23 MR. MULHOLLAND: And I would -- sorry.

24 COMMISSIONER BROADBENT: Sorry. You said  
25 160 roughly?

1 MR. MULHOLLAND: At this point of the year.

2 COMMISSIONER BROADBENT: Yes. I know it's  
3 different.

4 MR. MULHOLLAND: Some years we're well over  
5 200, approaching 300 quotations.

6 COMMISSIONER BROADBENT: Okay. And what's  
7 the percentage of domestic versus export on those bids  
8 that you're preparing?

9 MR. MULHOLLAND: In terms of the quotations  
10 or our business?

11 COMMISSIONER BROADBENT: Both.

12 MR. STRAIGHT: And, Tom, if any of this is  
13 proprietary we can answer in the posthearing brief.

14 COMMISSIONER BROADBENT: Yes. That would be  
15 fine.

16 MR. MULHOLLAND: It may be best to answer in  
17 a posthearing.

18 COMMISSIONER BROADBENT: Okay. Do customers  
19 have mold requirements that make it difficult for you  
20 to supply them? I mean, what are the hurdles that you  
21 find? Can you pretty much supply any if the price is  
22 right, any demand for --

23 MR. MULHOLLAND: Usually the larger  
24 customers, larger businesses, whether they're steel or  
25 glass, will have their own in-house specifications for

1 silica brick. ABC Company will say this is what we  
2 want supplied. Can you meet that?

3 At that point we review it internally with  
4 production and with Mr. Worthen. We usually accept  
5 their specifications. Pardon me? Yes.

6 MR. STRAIGHT: Go ahead, Dennis. You can --

7 COMMISSIONER BROADBENT: Sure.

8 MR. WILLIAMS: Well, we maintain a vast,  
9 vast mold inventory for almost -- most of the U.S.  
10 customers, so we always have -- well, what would you  
11 estimate?

12 MR. WORTHEN: We have over 30,000 molds --

13 MR. WILLIAMS: Thirty-thousand molds.

14 MR. WORTHEN: -- in the operation right now,  
15 so we can just about satisfy anybody domestically.  
16 When we have a request for a mold we have an in-house  
17 machine shop, and we produce it ourselves.

18 COMMISSIONER BROADBENT: Okay.

19 MR. WORTHEN: If we run into a problem with  
20 scheduling, we can ship the molds out and have another  
21 independent machine shop make a mold too, which is  
22 fairly close to the operation.

23 COMMISSIONER BROADBENT: Okay. So according  
24 to our questionnaire responses, there's a big  
25 difference between silica bricks made for coke ovens

1 and made for glass ovens, glass furnaces. Do you  
2 agree?

3 MR. WORTHEN: Well, there's a difference in  
4 all of them just because of the shape itself.

5 COMMISSIONER BROADBENT: Right.

6 MR. WORTHEN: In terms of the chemistry and  
7 the method of manufacturing, there is a very, very  
8 small difference.

9 COMMISSIONER BROADBENT: So it's the higher  
10 silicon content for the glass furnace?

11 MR. WORTHEN: Yes.

12 COMMISSIONER BROADBENT: Is that right?

13 MR. WORTHEN: Yes.

14 COMMISSIONER BROADBENT: Do I have that  
15 right?

16 MR. WORTHEN: Yes. It is a higher silica  
17 content for the glass. It is a lower silica content  
18 for the steel mills.

19 COMMISSIONER BROADBENT: And that tends to  
20 be the biggest difference or --

21 MR. WORTHEN: That is the only difference.  
22 And shapes. You know, besides the shapes.

23 COMMISSIONER BROADBENT: Okay.

24 MR. WORTHEN: On any given glass order you  
25 might see 30 different shapes. On any given U.S.



1 Steel coke oven order you'll see 500 shapes, both for  
2 the same amount of tonnage.

3 COMMISSIONER BROADBENT: Okay. And tell me  
4 about there's a flooring use for this product too?  
5 It's used in construction projects. Is that right?

6 MR. WORTHEN: A what?

7 MR. STRAIGHT: I think she said flooring.

8 COMMISSIONER BROADBENT: Flooring.

9 MR. STRAIGHT: Flooring.

10 COMMISSIONER BROADBENT: Glass flooring.

11 MR. STRAIGHT: Like in construction  
12 projects?

13 COMMISSIONER BROADBENT: Yes.

14 MR. STRAIGHT: Do you know anything about  
15 that?

16 MR. WORTHEN: No. No.

17 COMMISSIONER BROADBENT: Okay. So the bulk  
18 of the business is either coke ovens or glass  
19 furnaces?

20 MR. WORTHEN: Yes.

21 COMMISSIONER BROADBENT: Okay. Good. Does  
22 Utah Refractories' ownership of I guess it's called  
23 the quartzite mine -- you have a mine that's part of  
24 your raw material. Does that give you any cushion  
25 against raw material price increases?

1           MR. WORTHEN: Basically yes, it does, but  
2 that is only part of the equation. We do have to  
3 bring in ingredients to put in with our silica quartz,  
4 so that's what generally raises.

5           Now, we have an independent contractor which  
6 does our mining, and there are slight increases every  
7 year that he takes.

8           COMMISSIONER BROADBENT: Okay. So just help  
9 me maybe. The SG&A expenses would be the silica, and  
10 then what other things are making it go up?

11          MR. GOATES: Their cost of goods sold  
12 actually would be inclusive of, and I'll comment on  
13 this point that Mr. Worthen just made. They are  
14 somewhat protected on the price of the silica, but  
15 they are not protected on the price of that raw  
16 material because they're paying for the mining of the  
17 material and the shipment to their office or to their  
18 facilities by a third party.

19          So their costs are inclusive of their raw  
20 materials, their labor and associated costs with their  
21 labor and normal cost of goods sold, things that would  
22 be included in the direct cost of their product. Did  
23 I help with that?

24          COMMISSIONER BROADBENT: Yes. Thank you. I  
25 appreciate that.

1           MR. GOATES: Yes. I guess I missed one  
2 point. One of the other ones that is a big one is the  
3 cost of firing their brick, and that's natural gas  
4 price, which have also been increasing, and that's  
5 included in their cost of goods sold.

6           COMMISSIONER BROADBENT: Good. And then I  
7 just had a final question on capacity utilization. It  
8 looks like, I mean, this is sort of a theme in a lot  
9 of the cases that we deal with where we're looking at  
10 imports from China, but in this industry in particular  
11 it seems like low capacity utilization is kind of  
12 endemic or typical of this industry across the board  
13 both domestically and in China. Would you comment on  
14 that?

15           MR. STRAIGHT: Candidly, it's hard to  
16 comment exactly on what's happening in China. What we  
17 see are these advertised amounts of capacity to  
18 provide brick of almost any amount.

19           Our own productivity capacity, I do not  
20 think it's endemic, and these guys could talk about it  
21 better, but in our discussions in preparation there  
22 are times in the past when they have operated at  
23 capacity and beyond to supply bricks to customers and  
24 especially when they were working in both steel and  
25 glass and had a lot higher percentage of sales in

1 both.

2 So I don't think it's endemic to have  
3 capacity underutilization. In China all I do know is  
4 that there is a huge amount of capacity. What exactly  
5 the utilization numbers are, it's harder for us to  
6 parse that.

7 COMMISSIONER BROADBENT: Okay. So for your  
8 operation you can be at full capacity pretty often or  
9 part of the time?

10 MR. STRAIGHT: I mean, and I think Ray would  
11 be the best person to talk about this because he's  
12 been at the plant for so long. He's seen it operating  
13 at full and beyond capacity.

14 MR. WORTHEN: It's been over 20 years since  
15 that plant was at full capacity. Early '90s.

16 COMMISSIONER BROADBENT: Okay. And that was  
17 before Geneva Steel closed down?

18 MR. WORTHEN: Yes, it was.

19 COMMISSIONER BROADBENT: Okay. Great.  
20 Thank you. I'm sorry.

21 CHAIRMAN WILLIAMSON: Thank you.

22 Commissioner Kieff?

23 COMMISSIONER KIEFF: We really appreciate  
24 you coming and talking to us, and we also just want  
25 to, at least I want to remind you of course that

1 conversations in person like this are helpful, but  
2 they're not the only thing and there is the  
3 opportunity to follow up afterwards with information  
4 in the form of data but also argument in the form of  
5 briefing, and so sometimes these conversations can  
6 help stimulate ideas for briefing by both sides that  
7 can really highlight points of contact.

8           So in order to figure out whether contact is  
9 good or bad, you have to figure out whether it's a  
10 contact sport, of course. So let's talk about an  
11 American set of sports. Both sides have American  
12 lawyers. This should be accessible to both equally.

13           You know, if coaches sit around and talk  
14 about their players and they say, you know, my  
15 player's been knocked around a whole lot, and if  
16 you're talking about basketball, that's probably bad.

17           Basketball's not supposed to be like boxing.

18           If it's the defensive line in football,  
19 that's actually a good thing. Getting knocked around,  
20 you might score as a win. It means your defensive  
21 players are really engaging the other side's offense  
22 and protecting your quarterback. Other analogies we  
23 could I'm sure come up with.

24           In the end, the rules of the game tell us a  
25 whole lot about how to think about the information,

1 and so I hope to ask today some questions about the  
2 rules -- so this is, in a sense, really more targeted  
3 to the lawyers, maybe the economists, although I  
4 welcome input from everybody -- and see if we can  
5 really make sure that we are understanding what both  
6 sides are saying through the lens of the formal legal  
7 rules.

8           So, for example, the demand in this market  
9 seems to be pretty variable and we have a very  
10 specific set of rules that we live by. We have a  
11 statute, and our statute tells us when we think about  
12 antidumping one of the things we should think about is  
13 volume.

14           So can you help us understand, help me  
15 understand, a little bit more about how we should  
16 think about this very variable volume in the context  
17 of our statutory mandate to think about volume. Does  
18 that -- can you help us better understand how we see  
19 the volume factor here.

20           MR. STRAIGHT: And on that one I think it  
21 would probably be better for us to try to address that  
22 in the briefing because we've put forth some in our  
23 opening brief and much of the specific volume numbers  
24 are proprietary and so we've been very careful on that  
25 front. So if that would be acceptable, I think that

1 would be a better one for us to try to hit in the  
2 brief.

3 COMMISSIONER KIEFF: Absolutely. You know,  
4 the questions that I'm asking you are analogous to the  
5 questions I'll ask your counterparties on the other  
6 side, and for both to follow up would be great.

7 A related question on volume would be are  
8 imports from other countries, countries other than  
9 China, relevant to our thinking in this case, and if  
10 they are, how? In which way? Do they cut in favor or  
11 against? Again, you could follow up on that later.

12 MR. STRAIGHT: And that one I can address at  
13 a very general level to say that I think the  
14 nonsubject imports really are not very relevant to  
15 your determination. The reasons why we put in our  
16 prehearing brief, and we'll put them and again  
17 reiterate that in our posthearing, but I really think  
18 the nonsubject are a nonissue in this case.

19 COMMISSIONER KIEFF: Okay. That's very  
20 helpful. Let's notice another factor we're asked to  
21 look at is price. So there's a lot of variability.  
22 These are great demonstratives, by the way. I hope we  
23 can explore them some more.

24 MR. STRAIGHT: We're even glad to leave them  
25 with you, if you'd like.

1           COMMISSIONER KIEFF:  If there's a convenient  
2 way to handle that process, that's great.  If not, I  
3 spent a lot of years at a technical school.  I always  
4 understand technology better when I can experience it.  
5     There may not be pocket-sized, but that's okay.

6           So, but there is a lot of variability.  When  
7 there's that much variability in a product space one  
8 of the hard questions we have to wrestle with is how  
9 we think about price in that context.  For example,  
10 are AUVs meaningful?  Is underselling really -- I mean  
11 how do we understand underselling when there's such  
12 variability?

13           Again, there might be convenient short  
14 answers you could give today orally, but if not,  
15 that's fine.  There's plenty of time to provide more  
16 depth later.  I just want to reveal this as something  
17 I'm wrestling with.

18           MR. STRAIGHT:  I think there is one -- we  
19 would definitely like to delve in that a little bit  
20 more and, but there is, I think one thing that is  
21 probably helpful -- and I would love these guys to  
22 help me a little bit if I get off base on this -- but  
23 there is variability in the shapes.

24           When you build a coke oven there are a lot  
25 of different shapes that go into it.  Glass furnaces



1 and some of the more modern coke ovens, fewer shapes.  
2 Nevertheless, the jobs are bid as a whole so the  
3 variability of the size I think has a lot less to do  
4 with the price than the overall price.

5 Tom's ready to talk because he -- go ahead.

6 MR. MULHOLLAND: We would look at a scope, a  
7 bill of material from a customer, and within the steel  
8 industry we quote X number of tons of silica brick.  
9 There may be hundreds of shapes, but they buy so many  
10 tons at such a price and that's it.

11 In the glass industry it's more common to  
12 quote individual pricing for an individual shape.  
13 However, one major glass customer has come back to me  
14 -- think it's more than one, perhaps three -- they  
15 want to buy by tons.

16 While we're a little bit reluctant to do  
17 that, we have an ongoing relationship with them and  
18 understand their designs. So with the caveat that you  
19 order a typical furnace, we will sell X number of tons  
20 to you at this price.

21 MR. STRAIGHT: So we can address that in  
22 more detail and with some more specifics, but I think  
23 that variability issue is not really as much of a  
24 driver.

25 COMMISSIONER KIEFF: So that's very helpful.

1       So then your opponent in his opening remarks in  
2 effect, I mean he laid down a marker. I mean he said,  
3 look, the bottom line is price seems to be stable or  
4 going up, your own sales seem to be pretty good, at  
5 least in certain snapshot periods.

6               Is he then -- in other words, is there a  
7 disagreement on the facts or is there a disagreement  
8 on the relevance of particular trend data or  
9 particular ways of looking at the facts?

10              MR. STRAIGHT: I think there's disagreement  
11 on both.

12              COMMISSIONER KIEFF: Okay.

13              MR. STRAIGHT: Yes. I think there's a  
14 disagreement on facts, and we've presented some facts  
15 that show kind of these key indicators, and what's  
16 happened over the period of investigation, and what's  
17 happened before, and that we really are in dire  
18 straights, and it is a price suppression situation, et  
19 cetera.

20              But also, I think there's some disagreement  
21 on, and I believe I also heard this morning, you know,  
22 these are two completely different products, and two  
23 completely different industries, and et cetera, et  
24 cetera, and we just fundamentally disagree with that.

25              Yes -- and we've said this since our opening

1 petition -- there's a difference in the brick that is  
2 used in a glass operation and a difference in the one  
3 that's used in a coke oven, but those differences are  
4 very small, or marginal.

5           What we're seeing is this aggressive push by  
6 Chinese suppliers now to move to what is a natural  
7 next step is into the glass industry and either one of  
8 two things is happening. Either customers in the U.S.  
9 are willing to qualify that brick and/or Chinese  
10 producers are better able to already produce to that  
11 standard.

12           COMMISSIONER KIEFF: Thank you very much.  
13 Thank you.

14           MR. STRAIGHT: Thank you.

15           CHAIRMAN WILLIAMSON: Okay. Thank you. To  
16 follow up along that lines because you talk about  
17 having lots of different shapes, very little  
18 difference between the bricks for glass and the bricks  
19 for coke, so I guess the question is how easy is it,  
20 or complicated, to change? I mean do you change  
21 frequently from one shape to another during a week?  
22 Do you have to have long production runs or can you do  
23 small ones?

24           So just how much is this variability in the  
25 shapes of the bricks and in the difference in the

1 content constrain, you know, say what kind of orders  
2 you take?

3 MR. STRAIGHT: Go ahead, Ray.

4 MR. WORTHEN: It depends on whether it is a  
5 glass run or a coke oven run. On a glass run, they're  
6 normally large volumes. We will press them in one  
7 method.

8 In the coke oven shape, they may only order  
9 one of them handmade brick out there on the end and  
10 that's why we make them handmade. It's very easy for  
11 us to change. It's just a mold. You've got the liners  
12 on the inside. They physically pound it down, they  
13 slick it off, they turn it over, there's a brick.  
14 Next one comes in, different size, different shape.

15 And we can run them both the same time.  
16 There's no distinguish in terms of how we actually  
17 form. We can be making glass brick and we can be  
18 making brick for steel.

19 CHAIRMAN WILLIAMSON: Okay. So in terms of  
20 meeting customers' demands, this variability in what  
21 they want is not a problem.

22 MR. WORTHEN: No. Not at all.

23 MR. STRAIGHT: In fact, I think they've been  
24 historically really nimble at being able to -- and I  
25 think Tom mentioned this earlier -- getting back to a

1 customer next day with here's the quote and we can get  
2 it done in this timeframe and they can --

3 CHAIRMAN WILLIAMSON: Go ahead.

4 MR. MULHOLLAND: We try to explain -- and a  
5 lot of my customers ask the same question. They seem  
6 to think when we make an order their order goes  
7 through our plant.

8 I explain to them, no, we have several  
9 orders going through. Coke oven, when we have it, and  
10 glass, several glass orders, and they're all pressed  
11 and made, formed at different times. Then at that  
12 lead time that we give them they're assembled at the  
13 other end of the process. But they're commingled  
14 throughout the production process.

15 MR. STRAIGHT: One other thing that might be  
16 helpful is -- and I know some of the staff were able  
17 to come out and tour the plant -- you know, there's an  
18 area in the plant where the pressing and the forming  
19 happens and then there are 10 kilns that are out in  
20 the back that can all be used, you know, at the same  
21 time or at least parts of different times.

22 So, as Tom's explaining, I think it's just  
23 helpful to visualize you've got a plant, you're  
24 pressing out these forms and shapes, then you take  
25 them out to the kiln, and you can be running a glass

1 order and a coke oven order at the same time.

2 CHAIRMAN WILLIAMSON: Okay. Thank you.

3 MR. WISEMAN: Mr. Chairman?

4 CHAIRMAN WILLIAMSON: Yes?

5 MR. WISEMAN: I want to point out one thing  
6 as well, and this may be helpful. You know, the brick  
7 that we start with at Utah Refractories is the glass  
8 quality brick. It's got the highest level of silica.  
9 So for us to make the coke brick, it's not a  
10 difficult thing. What we do is basically bring the  
11 silica levels down by mixing in additives.

12 So, you know, this idea that these are so  
13 very different, it's a very tough thing to do, it's  
14 not. We start at this very high level and to make the  
15 coke brick is a very simple process of just adding  
16 some additional materials to the mixture itself.

17 CHAIRMAN WILLIAMSON: Okay. Thank you. Mr.  
18 Goates?

19 MR. GOATES: If I could. This actually  
20 addresses Mr. Kieff's question a little bit, too.  
21 There is more labor required to produce the coke oven  
22 brick, the steel brick, because it requires more  
23 handmade, and the changing of molds, and so forth; and  
24 therefore it does require, that requires a higher cost  
25 to produce.

1           It can still be done in volume, but it can't  
2 be done in the high volumes that -- for example, the  
3 brick that's right there in the front, that small one  
4 that looks like it's a house brick can be done in  
5 machine form and they can turn them out. The other  
6 ones, it's a little bit more.

7           So the coke oven, or steel, brick is more  
8 labor-intensive, more costly to make, and they charge  
9 a higher price for it, but that's, you know, but  
10 making it's not different.

11           CHAIRMAN WILLIAMSON: Okay. What about the  
12 demand? I guess the Respondents are arguing that you  
13 can't supply the new coke factories or you can't  
14 supply some of your customers when they want it. You  
15 made the point that, you know, with time you can do  
16 all this, but I guess the question is nowadays  
17 everybody talks about just in time, you know, the  
18 customer's always right.

19           I think you mentioned one reason some  
20 customers might want to be short supply in the market  
21 or -- what I'm trying to get at is this question of  
22 how can you compete if you can't provide the demand  
23 that people want when they want it, which is what the  
24 Respondents are really alleging that you can't do.

25           MR. STRAIGHT: Right. What we tried to do

1 in Mr. Mulholland's declaration, and a lot of that was  
2 business proprietary, we tried to just address some  
3 specific examples and focus on price, but -- and I  
4 want to make sure Mr. Goates' testimony wasn't  
5 overstated -- he said there's really only two  
6 extremely rare instances where we couldn't meet  
7 demand. In fact, we believe we absolutely could meet  
8 the demand.

9 The problem we face is usually not even  
10 being given the opportunity to bid. So it's not a  
11 question of can you meet this in the timeframe we're  
12 asking, it's we're not even going to ask you to bid  
13 because you're not going to be able to compete on  
14 price. That's the situation we face.

15 We've talked about this quite a bit. You  
16 know, unfortunately these gentlemen don't know a lot  
17 of what's been said about them. They just don't know.

18 But they are, and have said repeatedly -- and I ask  
19 you guys to just confirm this -- that they can produce  
20 almost any order as required under the specifications  
21 from the customer in the timing that the customer  
22 requires and in the capacity that we've put in our  
23 brief.

24 Any correction to that, Tom, or any --

25 MR. MULHOLLAND: I would say on large



1 quantities and large volumes we would ask for what we  
2 would consider reasonable lead time. Many of our  
3 glass customers are just repairing a furnace and they  
4 may know that they're going to do that project a year  
5 and a half out.

6 I'd say on large capital projects it's  
7 probably not uncommon to consider ordering some long  
8 lead time items two years out. We would ask for that  
9 same consideration.

10 CHAIRMAN WILLIAMSON: Okay. So most repairs  
11 are taken, in both glass and coke furnaces, are shall  
12 we say scheduled or planned. Most, where they would  
13 need your product. Is that a fair -- how would you  
14 describe it?

15 MR. MULHOLLAND: There's the occasional  
16 emergency and we will respond to that to the best of  
17 our abilities with our customers, but I would say in  
18 most instances the outages are planned well in  
19 advance.

20 CHAIRMAN WILLIAMSON: Is there a reason why  
21 the purchaser would not want to make a commitment or  
22 make a decision early on about what they're going to  
23 order?

24 MR. MULHOLLAND: I've asked myself that time  
25 and time again. If I had the opportunity not to worry

1 about something until the last minute and I knew I  
2 could get a very low price, I think I would go that  
3 direction.

4 CHAIRMAN WILLIAMSON: Okay. Has there been  
5 any trends in the industry along this line?

6 MR. MULHOLLAND: Pardon me?

7 CHAIRMAN WILLIAMSON: Any trends in the  
8 industry? You know, it's like 20 years ago would they  
9 always order early?

10 MR. MULHOLLAND: I'd say in our glass side  
11 there's more planning. Some of our customers want to  
12 have brick up to a year before it's installed to  
13 ensure that in the event that they do have a problem  
14 because they're pushing their furnace to their maximum  
15 operating limit that our material is there for them.  
16 I would say most people would give us at least nine  
17 months. These are small orders for the glass  
18 industry.

19 For the recent order with U.S. Steel I think  
20 we pushed, pushing 11, 12 months for that lead time,  
21 and that meets their schedule. We sat down and went  
22 over the schedule with them of what we could do.

23 CHAIRMAN WILLIAMSON: Okay. Thank you. Is  
24 there a risk involved in using bricks from different  
25 sources in a given oven or furnace, and is this risk

1 higher or lower in coke ovens versus glass?

2 MR. STRAIGHT: So risk of using different  
3 bricks from different sources in different ovens, and  
4 is it higher in a coke oven versus a glass oven --

5 CHAIRMAN WILLIAMSON: Yes.

6 MR. STRAIGHT: -- and I think the answer is  
7 no, but go ahead, Tom.

8 MR. MULHOLLAND: I had mentioned before that  
9 we supply replacement brick for companies that are  
10 using Chinese brick. I do know of some instances in  
11 the glass industry where one customer, well, I guess a  
12 few customers, are taking excess inventories that they  
13 had. They're mixing our brick with European  
14 suppliers, suppliers from India, and although maybe  
15 it's not the best practice, but they're doing it to  
16 save money. They would take what they have and  
17 construct a crown out of it.

18 CHAIRMAN WILLIAMSON: Okay. Thank you.  
19 Okay. Thank you for those answers.

20 Commissioner Aranoff?

21 COMMISSIONER ARANOFF: Thank you. I add my  
22 welcome to my colleagues' to all of you.

23 During the period of time that we're looking  
24 at here has your product been rejected by a customer  
25 on a quality basis?

1 MR. STRAIGHT: Just so you guys are clear,  
2 the period is 2010, '11, and '12.

3 MR. WORTHEN: No, it has not. Never in the  
4 15 years that we have owned it have we had a  
5 rejection.

6 COMMISSIONER ARANOFF: Have you had any kind  
7 of complaints from customers?

8 MR. WORTHEN: None at all.

9 COMMISSIONER ARANOFF: Do you have a  
10 recordkeeping system that would record that sort of  
11 thing or just you haven't had any so you don't have --

12 MR. WORTHEN: We haven't had any at all.

13 COMMISSIONER ARANOFF: Okay.

14 MR. WILLIAMS: I might add to that, though.  
15 We have had where it's been transported in shipment  
16 and has been damaged and we've replaced it, but that's  
17 wasn't due to manufacturing.

18 COMMISSIONER ARANOFF: Okay. Go ahead.

19 MR. MULHOLLAND: If there is a complaint,  
20 usually the sales guy's the first to know about it.  
21 Yes, we've had some issues with broken brick. We did  
22 have one customer complaint that I was aware of. It  
23 was a glass furnace in Chile. But it was not our  
24 brick.

25 The brick was tested, we provided quality

1 tests, went back in the files, and the issue with that  
2 customer was they put a new roof on the building  
3 itself and didn't connect the down spout properly so  
4 every time it rained, it drained on top of the  
5 furnace, which is not good for the bricks.

6 Have we had our bricks fail in service or  
7 customers come back and make a claim because of  
8 quality? No, that has not happened.

9 COMMISSIONER ARANOFF: Okay. The  
10 Respondents have described the qualification process  
11 with purchasers as being very extensive. Can you  
12 describe from your experience what the process is like  
13 to qualify your product with a customer.

14 MR. STRAIGHT: Are you clear on the  
15 question?

16 MR. MULHOLLAND: Extensive?

17 MR. STRAIGHT: No. Just what is the process  
18 to qualify at a customer, if there is one.

19 MR. MULHOLLAND: I would say it is probably  
20 twofold. Let's say a small customer would come and  
21 say to us we need silica brick, and we would say we  
22 make this silica brick and this is what we offer you,  
23 and they're comfortable with that.

24 Larger customers, we'll develop an in-house  
25 specification for silica brick. We look at the

1 chemical and the physical properties of the brick, we  
2 review them internally. In most cases we accept them.

3 If there is an exception, we would state  
4 that. For example, U.S. Steel states that you must  
5 ink stamp the bricks with the part numbers. We take  
6 exception to that. We press into the brick the actual  
7 size and shape of it for identification purposes.  
8 That would go through the various things, chemical and  
9 physical.

10 COMMISSIONER ARANOFF: Before a customer  
11 will buy your brick, either the first time they buy  
12 for you or maybe for a particular job, do they come  
13 out at your factory, do they ask for sample products  
14 that they test, or do they just come to an agreement  
15 with you on the specifications and that's it?

16 MR. MULHOLLAND: Some of our larger glass  
17 customers where we've done well over 100 furnaces have  
18 not questioned our quality. They've developed an  
19 internal spec and they have not come to our plant.  
20 Other large glass customers will come out and inspect  
21 their order prior to shipment.

22 Some, mostly foreign companies that are  
23 large, we would send specimens to their testing lab  
24 and that becomes part of their database. They would  
25 take our bricks, test them, put them in, and say, yes,

1 you are qualified to pursue business at our  
2 operations.

3 COMMISSIONER ARANOFF: So for what you would  
4 view as sort of the high end of the spectrum for a  
5 qualification process, the more complicated process  
6 that you've gone through, how long would that take?

7 MR. MULHOLLAND: How long it would -- it  
8 would depend on our customer and what they want to do.  
9 Usually we would send the specimens and they would do  
10 the testing internally, or else send them out to a  
11 ceramic laboratory.

12 MR. WILLIAMS: It's involved -- it is rather  
13 an easy process for us. We have our specifications  
14 and we use outside testing and laboratories to produce  
15 to the specifications that we want and check our  
16 specifications. So it's rather a very easy process  
17 for us, and our customers are totally aware of our  
18 physical properties of our product.

19 COMMISSIONER ARANOFF: Okay. Now, you  
20 showed us earlier this morning some websites from  
21 Chinese firms advertising products that could be used  
22 in the glass industry. Do you have any knowledge of  
23 situations in which you U.S. purchasers in the glass  
24 industry have actually either used Chinese product or  
25 have evaluated and approved the quality of any

1 particular Chinese supplier's product to meet their  
2 needs?

3 MR. MULHOLLAND: I would say yes. There are  
4 some flat glass manufacturers that use silica brick  
5 from China. One of our largest customers has an  
6 ongoing program. I had mentioned their goals with low  
7 cost country sourcing.

8 They tell me they are actively looking at  
9 plants in China, the engineers are going to China. In  
10 fact, they wanted to come to our plant and observe our  
11 processes in great detail. We did not permit that.

12 So, yes, they are going, and they are saying  
13 we are going to source from low cost countries. It's  
14 predominantly China for silica brick. We've been  
15 fighting that battle for a while with --

16 COMMISSIONER ARANOFF: Okay. If in your  
17 posthearing brief if you want to give us, you know,  
18 names of who, the companies that you're talking about  
19 and the kind of volumes that you're talking about,  
20 that would be really helpful.

21 MR. MULHOLLAND: Be very pleased to do so.

22 COMMISSIONER ARANOFF: Thank you. Have you,  
23 yourself had the opportunity, or anyone in the company  
24 had the opportunity to take a look at any Chinese  
25 producers' product for the glass market? Have you



1 seen it? Evaluated how good it is? No? No. Okay.

2 Now, we know from our record in this case  
3 that we've talked about sort of spikes in demand that  
4 can happen in this market, and we know that the spike  
5 in imports in 2011 was due to a single large project.

6 Is that a project that your company could have  
7 supplied? Would you have had enough capacity to meet  
8 the required quantities and deliver on time?

9 MR. STRAIGHT: I don't believe they know  
10 what the project is because it was confidential. So  
11 they don't know --

12 COMMISSIONER ARANOFF: Okay. Yes. I didn't  
13 know if it was big enough, but it might just be common  
14 knowledge. If they can't answer the question, that's  
15 okay.

16 MR. STRAIGHT: Yes. But, Kent, go ahead.

17 MR. GOATES: I can comment that it was if  
18 the amount of that order was within the unused excess  
19 capacity that they had at the plant.

20 COMMISSIONER ARANOFF: Okay. All right.  
21 That's helpful. Can you talk to me a little bit --  
22 and maybe I start with you, Mr. Mulholland -- how do  
23 you put together a price for a particular project?

24 You talked about the fact that some people  
25 want a quote by tonnage and some want a quote or get a

1 quote by the piece, priced by the piece, but when  
2 you're getting to that price that you give the  
3 customer, do you cost out each piece separately and  
4 add them up?

5 Do you add in the cost of any new molds that  
6 you need? Do you do it on like a cost plus basis to  
7 come to what you bid? I'm trying to figure what all  
8 the factors are that go into the price quote that you  
9 put out.

10 MR. MULHOLLAND: I would say, in general  
11 terms, we look at what material they want, what shape,  
12 the number of shapes, and how complex the shape is to  
13 arrive at a cost per piece, and we would apply that  
14 across the bill of material to come up with a cost per  
15 ton, if required.

16 So we look at the, what is involved with  
17 each shape and we have enough of a feel for a  
18 manufacturing process where we know what that's going  
19 to cost and that's reflected in the price.

20 In general terms, for example, if somebody  
21 orders 10 straight brick, that price is a little bit  
22 higher than if somebody orders 10,000. We would  
23 extend a volume discount at that point.

24 COMMISSIONER ARANOFF: Okay, but when you're  
25 looking at your cost, you're adding in your cost of

1 materials, your cost of manufacturing, you're adding  
2 in the cost of any new molds that you might need to  
3 make for the job.

4 MR. MULHOLLAND: Sometimes the molds are an  
5 individual line item on a quotation, sometimes  
6 customers prefer that it's amortized over so many  
7 cents a piece on an order. It depends on what the  
8 customer would want. We clearly identify if there is  
9 a requirement for --

10 COMMISSIONER ARANOFF: Right. And then, of  
11 course, you're not selling at cost so you're doing  
12 some kind of cost plus when you create your quote,  
13 right?

14 MR. MULHOLLAND: I would say yes.

15 COMMISSIONER ARANOFF: Okay. If there's  
16 anything else you can share confidentially about how  
17 that process works, that would be very helpful. I  
18 thank you all for your answers.

19 MR. STRAIGHT: Thank you.

20 CHAIRMAN WILLIAMSON: Thank you.

21 Commissioner Pinkert?

22 COMMISSIONER PINKERT: Thank you, Mr.  
23 Chairman. I join my colleagues in thanking all of you  
24 for being here today to help us to understand these  
25 issues.

1           I noticed in your testimony that you said  
2           the company was established to serve Geneva Steel, or  
3           at least in part, and that Geneva Steel doesn't exist  
4           anymore. Does that mean that you now have a  
5           locational disadvantage with respect to the steel  
6           industry?

7           MR. MULHOLLAND: No. It's a factor we need  
8           to consider. Most of our business is sold Ex Works.  
9           The freight is clearly identified. Would I say it's a  
10          disadvantage? No. We effectively compete against a  
11          lot of European countries and their logistics are a  
12          little more difficult to get product here, to the  
13          States.

14          MR. WILLIAMS: Well, we're the only U.S.  
15          producer so we wouldn't really have any competition as  
16          far as freight-wise because it's a moot point as we  
17          are not shipping across the ocean or any long distance  
18          transportation. It's a relatively short distance for  
19          U.S. suppliers.

20          MR. WORTHEN: Also, we enjoy a location of  
21          great proximity to a mine, a source of our raw  
22          material, that is actually a huge advantage for us  
23          locationally.

24          COMMISSIONER PINKERT: Perhaps for the  
25          posthearing you could actually give us some numbers

1 that would compare your logistical costs with those of  
2 relevant competitors. You mentioned the European  
3 competitors, for example. Just to give us some idea.

4 MR. MULHOLLAND: Sure.

5 COMMISSIONER PINKERT: Okay. Now, do  
6 purchaser loyalty and existing relationships with  
7 purchasers make it difficult to compete in the steel  
8 industry segment given that other suppliers have  
9 entered into those relationships with those customers?

10 MR. STRAIGHT: Could you just repeat the  
11 question so we make sure we have that?

12 COMMISSIONER PINKERT: Do purchaser loyalty  
13 and existing relationships with purchasers now make it  
14 difficult for you to compete in the steel segment of  
15 the market?

16 MR. STRAIGHT: I mean -- and, Tom, I'll let  
17 you answer this -- I think the immediate answer is  
18 it's that's really not the issue. The issue is price.  
19 Tom can go ahead and talk about it. He's been in  
20 this industry for -- go ahead, Tom. Yes.

21 MR. MULHOLLAND: My whole career has been in  
22 refractories. With some other companies, but I've  
23 sold the products at Utah Refractories for 15 years.  
24 I've witnessed this firsthand.

25 Relationships are important with people, but

1 the end of the day, you have to meet that need with  
2 quality. That's not an issue. When I'm told time and  
3 time again you guys are giving us great quality,  
4 you're giving us great service, you respond to our  
5 emergency requests, but regretfully I can't give you  
6 this order here because your price is just too high,  
7 it's frustrating. Time and time again I hear that  
8 from customers. Unfortunately, more frequently.

9 COMMISSIONER PINKERT: Do you document those  
10 conversations?

11 MR. MULHOLLAND: Internally? We discuss  
12 business on a daily basis within the plant.

13 MR. STRAIGHT: In the prehearing brief,  
14 attached to Mr. Mulholland's declaration, he did  
15 provide some contemporaneous notes that he had taken  
16 with some conversations. So he does do -- I don't  
17 know that he does it every time, but he does, he has  
18 documented some of those, and we've provided some of  
19 those.

20 COMMISSIONER PINKERT: But as a general  
21 matter, you would make some sort of a note of that  
22 kind of conversation?

23 MR. MULHOLLAND: A formal, long report, no.  
24 We're a small company. We talk. We know what's  
25 expected. When I'm asked what's happened to that

1 project, we talk about it and we relay the  
2 information.

3 I may put some notes to myself from time to  
4 time to keep track of what happened to a quotation,  
5 lost to Chinese, lost to whoever, whatever, but is  
6 there is a formal recordkeeping system of each  
7 quotation? No.

8 COMMISSIONER PINKERT: The reason I'm asking  
9 a number of questions about this is because I'm trying  
10 to get some idea of the timing of the problem that  
11 you've had with respect to the Chinese pricing. Is  
12 that an ongoing problem that you are experiencing  
13 difficulties with now, or is that a problem that you  
14 experienced in the past?

15 MR. STRAIGHT: I think it is both. It is an  
16 ongoing problem that they experience now when they're  
17 turned down, not even allowed to bid on projects  
18 because of pricing; they certainly have experienced it  
19 in the past, which is what led them to reach out to  
20 Senator Hatch's office, et cetera; and then it's the  
21 future looking pressure that they're seeing in the  
22 glass industry. The ongoing harm in the steel  
23 industry, it continues.

24 Go ahead, Tom. You can fill in some more  
25 detail.

1                   MR. MULHOLLAND: Yes, we still lose  
2 opportunities due to price within the steel industry.  
3       However, it was mentioned before the customer came  
4 back and said we can do business with you because  
5 we've considered the possibility of this temporary  
6 tariff, you're competitive now, and they happily gave  
7 us the business. So that was some sign of hope there.

8                   We still see tremendous pressure within the  
9 glass industry. It's been going on for quite some  
10 time and it hasn't let off. I am very, very concerned  
11 that once Chinese product is qualified, trialed, and  
12 brought over here we will experience the same issues  
13 that we've seen in steel.

14                  COMMISSIONER PINKERT: Thank you. Now, does  
15 the original supplier of brick for a project have a  
16 cost advantage in bidding on replacement work because  
17 it already has the needed molds for the brick?

18                  MR. STRAIGHT: Maybe that's one better to  
19 answer -- I don't know, and maybe that's better to  
20 answer in the brief, but -- okay. If that would be  
21 okay, we'd put that in our brief.

22                  MR. GOATES: I'd like to actually comment on  
23 that to one degree, and the answer to that is  
24 obviously no where this plant has got more than 30,000  
25 molds and has done them for most of the major



1 producers, has molds already existing, and yet that  
2 has not caused them to be able to get the business.

3 COMMISSIONER PINKERT: Okay. If you want to  
4 supplement that in the posthearing. What I'm  
5 particularly interested in is whether this particular  
6 problem makes it difficult for Utah Refractories to  
7 compete for replacement work if it did not supply the  
8 original project, okay?

9 A follow-on question. Have you ever  
10 declined to bid on a project because it required  
11 creating too many new molds?

12 MR. STRAIGHT: Have we ever declined to bid  
13 on a project because it required making too many new  
14 molds. I think that's one we probably ought to just  
15 look at, and if we can put it in the brief. Unless  
16 you know off the top of your head.

17 MR. WORTHEN: No, we have not declined ever.  
18 Right now we are -- the mold shop is very busy right  
19 now.

20 COMMISSIONER PINKERT: Okay. This is a more  
21 technical accounting kind of question, but should we  
22 make adjustments to the cost of goods sold and the  
23 selling general and administrative expenses -- in  
24 other words, the cogs and the SG&A -- that are  
25 recommended by SunCoke in Appendix A to its prehearing

1       brief?

2                   MR. STRAIGHT:  Let me let Kent address that.  
3       The answer is no, but let me let him address it.

4                   MR. GOATES:  Yes.  We don't believe so.  We  
5       don't believe that those costs that are being proposed  
6       are not market-based.  We don't see a reason why those  
7       should be removed.  Simply because these fellows are,  
8       it's closely held, they're still market-based costs.

9                   MR. STRAIGHT:  We're glad to address that in  
10       more detail in the, because we hadn't seen that,  
11       obviously, at the time of our prehearing brief and we  
12       can give you more detail on that.  We absolutely don't  
13       think those adjustments should be made.

14                   We think staff did a thorough job and looked  
15       at our information.  They had conversations with us,  
16       and with Kent, and with an accountant, you know,  
17       verified the information.  I don't think any  
18       adjustments are appropriate that SunCoke has proposed.

19                   COMMISSIONER PINKERT:  Thank you for  
20       agreeing to take a look at that in the posthearing.  I  
21       would ask one other question which I'm sure you can't  
22       address here, but perhaps you can address it in the  
23       posthearing.  Look at the difference between the  
24       calculations of return on assets in the staff report  
25       and the operating income of the industry and help me

1 to understand any differences that you might observe  
2 between those two.

3 MR. STRAIGHT: We will.

4 COMMISSIONER PINKERT: Okay. Thank you very  
5 much. With that, I turn the witnesses over to the  
6 next Commissioner. Thank you very much.

7 CHAIRMAN WILLIAMSON: Commissioner Johanson?

8 COMMISSIONER JOHANSON: Thank you, Mr.  
9 Chairman. I would like to thank all of the witnesses  
10 for appearing here today. I know that some of you  
11 came a fairly long way.

12 I'd like to start off by speaking about  
13 Geneva Steel. At one point in time not that long ago  
14 I looked at a picture of old Geneva Steel, the old  
15 plant, and it was giant. It must have been one of the  
16 largest ones in the country. I've seen pictures of  
17 the plants in Pittsburgh which were big as well, but  
18 this seemed like a large operation.

19 What year did Geneva Steel shut down, and  
20 how did that impact your company, and did that  
21 influence your decision to produce less in the way of  
22 bricks for coke ovens?

23 MR. WORTHEN: Geneva Steel actually shut  
24 down around 2004, and prior to 2004 we were doing U.S.  
25 Steel brick coke oven batteries back east here. We

1 had also entered the glass market in the late '80s.

2 Geneva Steel, yes, I think it was 2004, yes,  
3 that it was completely -- and now it is stripped right  
4 to the ground and there's raw ground there left.

5 COMMISSIONER JOHANSON: Is there regional  
6 steel production in the mountain west area?

7 MR. WORTHEN: Nucor.

8 COMMISSIONER JOHANSON: Are they in  
9 Colorado? They're in Utah, correct?

10 MR. WORTHEN: They're in Utah, yes. Nucor  
11 is in Utah. They require no silica brick at all.

12 COMMISSIONER JOHANSON: Okay. Did the  
13 shuttering of Geneva Steel, though, did that influence  
14 your move towards producing more for the glass market?

15 MR. WORTHEN: We kind of seen it coming  
16 because, you know, most steel mills outside of the  
17 coke oven battery are not big silica users. They  
18 require different types of refractories. The plant  
19 also made a different type of refractories. When  
20 Geneva Steel went down, we shut them operations down  
21 at that point.

22 MR. STRAIGHT: I think, kind of to directly  
23 answer, I don't think that was the factor that led to  
24 let's diversify between glass and steel. They had  
25 started glass in the '80s. I mean the late '80s. I

1 think they were looking at both and producing both.

2 After Geneva had shut, but -- and, guys, if  
3 you can correct me on this -- I think before Geneva  
4 shut we were supplying a lot of coke oven customers  
5 out on the East Coast.

6 Is that right, Tom? Yes.

7 MR. WORTHEN: Yes. We also supplied a dual  
8 coal and coke job out on the East Coast.

9 COMMISSIONER JOHANSON: Okay. What is the  
10 state of the glass industry right now? I know that  
11 all industries for the past several years have been,  
12 well they're pretty much walloped, I assume, in 2008,  
13 2009. What is happening with glass, and how is that  
14 impacting your production?

15 MR. STRAIGHT: If you guys know, and that  
16 may be one we need to get a little more for you in the  
17 posthearing, but do you have any kind of sense of  
18 where the glass industry is now demand-wise, and how  
19 it's doing?

20 COMMISSIONER JOHANSON: Is that coming back  
21 or has it come back?

22 MR. MULHOLLAND: I'd say with the economic  
23 downturn glass was affected. There was at that time a  
24 shift towards solar glass production. One point that  
25 affected them as well was a reduction in the number of

1 new housing starts. So if you think of window glass,  
2 architectural glass, we saw a downward trend there.

3 On the container markets, I'd say they're  
4 kind of stable. We've seen some consolidation where  
5 some companies are trying to acquire other companies  
6 to increase market share, we've seen a couple plants  
7 close in container glass, we've seen one new one open  
8 in the Pacific Northwest to make wine bottles. Their  
9 biggest concern are plastics. But I'd say it's kind  
10 of a stable industry for containers.

11 COMMISSIONER JOHANSON: Containers being  
12 like bottles, glass? Okay.

13 MR. MULHOLLAND: Beer bottles, wine bottles,  
14 and jars. There's a push there for greener,  
15 recyclable material and glass is pushing that hard to  
16 change consumer preferences.

17 In terms where it affects us, the repair  
18 schedule for furnaces, we've seen some of those  
19 increase recently. People are coming and saying we're  
20 going to do a project in 2014. So they're going to  
21 spend money and repair a large furnace, they're  
22 planning that far ahead, so they have confidence. So  
23 I'd say those are good signs for glass.

24 COMMISSIONER JOHANSON: How about auto  
25 glass? With the resurgence of the U.S. auto industry,

1 has that impacted your shipments? Is there auto glass  
2 produced in the U.S.?

3 MR. MULHOLLAND: Well, the answer would be I  
4 guess twofold. Let's say there were several players  
5 selling to the domestic auto glass industry. And this  
6 is assuming cars are produced here, and using glass  
7 produced here, and not importing the glass. When one  
8 closes, another one picks up the business. The  
9 production shifts. Does it affect us? Probably not.

10 COMMISSIONER JOHANSON: Okay. I've got a  
11 question kind of going back to silica bricks 101. I  
12 was wondering if you all could describe the process of  
13 producing the molds for the silica bricks, and the  
14 shapes that you produce, and, for example, what are  
15 these made of? How labor-intensive is this? How long  
16 does it take to produce the bricks?

17 MR. STRAIGHT: Just, so to create the molds  
18 and then to create the bricks themselves?

19 COMMISSIONER JOHANSON: Focusing on the  
20 molds.

21 MR. STRAIGHT: Molds.

22 COMMISSIONER JOHANSON: Yes.

23 MR. STRAIGHT: Okay. Go ahead, Ray.

24 MR. WORTHEN: We can generally turn a mold  
25 around in about three or four days depending on the

1 intricacy of the mold. We use several different  
2 steels to produce this mold depending on the volume  
3 that we're going to get through it.

4 Generally, it comes through as a A-7 tool  
5 steel. We have an in-house machine that figures out,  
6 he actually gets a picture of the brick, what they  
7 want. Then he has to turn right around, make it in  
8 three-dimension, downsize it, and then machine it.

9 COMMISSIONER JOHANSON: So you can get it  
10 done in a very short, basically short order.

11 MR. WORTHEN: Yes.

12 COMMISSIONER JOHANSON: How often do you  
13 make bricks in a short period of time? I mean is this  
14 pretty common?

15 MR. WORTHEN: To do bricks in a short period  
16 of time?

17 COMMISSIONER JOHANSON: Right.

18 MR. WORTHEN: There's no really short period  
19 of time for silica because if I put a brick on today,  
20 it is six weeks before it can go out the gate.

21 COMMISSIONER JOHANSON: Why is that?

22 MR. WORTHEN: It has a long firing curve.

23 COMMISSIONER JOHANSON: Okay. What are your  
24 projections for U.S. demand going forward? I know  
25 it's always hard to look in the future, but I know any



1 business has to think about that.

2 MR. MULHOLLAND: I'd say, in general terms,  
3 since 2009 I feel the market's improved a little bit.

4 Some of our customers that had planned outages pushed  
5 their furnaces longer than perhaps they ideally wanted  
6 to to try to save money.

7 What we're seeing now is as economy  
8 improves, customers are starting to have confidence  
9 and they're allocating funds to repair furnaces that  
10 are perhaps a little bit overdue. So I would think it  
11 would improve slightly.

12 COMMISSIONER JOHANSON: Is that the case  
13 with bricks being sold for the coke industry versus  
14 the glass industry, or are they both basically in the  
15 same projection?

16 MR. MULHOLLAND: I would say coke industry  
17 is going to be dependent, obviously, on the amount of  
18 basic steel production. That's a little bit of a more  
19 of a complicated answer.

20 COMMISSIONER JOHANSON: Okay. Do you all  
21 have projections -- you're in this business, you might  
22 know -- as to what's going on worldwide and in China?

23 In that region of the world. I mean as you all  
24 export, I was thinking you might have --

25 MR. STRAIGHT: We don't have a lot of data

1 on that. I mean we've gotten some publicly available  
2 data really more for the case, and we've seen what  
3 staff has been able to compile and we've analyzed that  
4 for the case, but I don't think we have a lot of  
5 internal analysis of that kind of stuff.

6 COMMISSIONER JOHANSON: Okay. You all are  
7 fairly sizeable exporters. I know that is, a fair  
8 amount of your business ends up being exported. How  
9 do you respond to the Respondents' contention that the  
10 U.S. industry is not able to fill large orders for the  
11 coke and steel industry, possibly in part due to  
12 exports?

13 MR. STRAIGHT: Twofold. Number one, I mean  
14 we completely disagree with that. If the work were  
15 here, we'd absolutely be able to fill it. We've shown  
16 that with the numbers, and we think the math adds up,  
17 and that's really not an issue. I think our client  
18 has tried to develop business wherever it can.

19 I think there's an important distinction --  
20 and I can't remember if Dennis talked about this this  
21 morning -- about the kind of exports we have.

22 Maybe you explain that, Dennis or Tom.  
23 Where our exports come from.

24 MR. WILLIAMS: I can explain the export  
25 situation. It's simply we do business with

1 engineering firms who consequently have contracted out  
2 of the United States, and so when we do business with  
3 them, they quote, we price the brick, sell it to them  
4 or their end user, which would be an engineering firm,  
5 or some of the companies that we do business with, the  
6 corporations. Some of their plants are based outside  
7 of the United States.

8 Most of it, though, is done within the  
9 United States and it's shipped to their outlying  
10 facilities.

11 MR. STRAIGHT: I think when you take a look  
12 at the capacity utilization, I mean that's a, we're  
13 trying to do the best we can to sell where we can, but  
14 our capacity utilization numbers show we could meet  
15 the demand here, in the U.S.

16 COMMISSIONER JOHANSON: Okay. Well, thank  
17 you. My time's going to expire in about 10 seconds so  
18 I will stop at that, but thank you again for appearing  
19 here today.

20 MR. STRAIGHT: Thank you.

21 CHAIRMAN WILLIAMSON: Thank you.

22 Commissioner Broadbent?

23 COMMISSIONER BROADBENT: Yes. Following up  
24 a little bit on those export questions, who do you  
25 compete with internationally, and what markets do you

1 sell to?

2 MR. MULHOLLAND: I would say in the export  
3 markets we predominantly compete against European  
4 producers. We've seen Chinese pressure within Mexico.

5 My distributor's telling me that. So he's starting  
6 to feel pressure there. By and large, it's been the  
7 Europeans at this point.

8 COMMISSIONER BROADBENT: Okay. So you're  
9 exporting a lot to Europe right now?

10 MR. MULHOLLAND: No. I was saying European  
11 silica brick --

12 COMMISSIONER BROADBENT: The German  
13 competition in the domestic market.

14 MR. MULHOLLAND: Please?

15 COMMISSIONER BROADBENT: Tell me where your  
16 biggest export markets are. Third country markets.

17 MR. MULHOLLAND: The largest one  
18 geographically for the period of time turned out to be  
19 Europe.

20 COMMISSIONER BROADBENT: Okay. To Germany  
21 or to --

22 MR. MULHOLLAND: Russia, Portugal, Spain.  
23 We had two large projects in Russia.

24 MR. STRAIGHT: If this is confidential, if  
25 you kind of feel --

1 MR. MULHOLLAND: No. No, that's fine.

2 MR. STRAIGHT: Okay.

3 COMMISSIONER BROADBENT: Okay. So how much  
4 of production is exported?

5 MR. STRAIGHT: If we could address that in  
6 the posthearing, that would be --

7 COMMISSIONER BROADBENT: Sure. Okay. All  
8 right. But it's a significant percentage.

9 MR. STRAIGHT: I think it depends on the  
10 year.

11 COMMISSIONER BROADBENT: Okay. All right.  
12 Given what a big presence the Germans have in this  
13 market, did you consider filing against Germany? I  
14 know someone had asked you that before, but is the  
15 pricing completely different?

16 MR. STRAIGHT: I think the price that we've  
17 seen from Europeans is completely different, and then  
18 I also think we're able to compete with European  
19 pricing in the U.S., and I also think much of what we  
20 see -- and again, I'm going to be a little vague  
21 because of the protective order -- much of what we see  
22 is just not relevant to this case.

23 COMMISSIONER BROADBENT: Okay. So what  
24 market segment are the German imports of silica brick  
25 serving in the U.S. market?

1 MR. STRAIGHT: And -- okay. Go ahead, Tom.

2 MR. MULHOLLAND: Coke oven and glass.

3 COMMISSIONER BROADBENT: Both.

4 MR. MULHOLLAND: Yes.

5 COMMISSIONER BROADBENT: Okay. So there's  
6 no evidence that would lead us to believe that we  
7 should attribute your market share loss to any of this  
8 German competition, even though it seems like you're  
9 competing in the same market segments.

10 MR. STRAIGHT: I think on that, that's where  
11 I come back to this point that we've put in the  
12 prehearing, and we'll put it in the post again, that  
13 it's just not relevant, and that we are able to  
14 compete on price with European producers, including  
15 the Germans.

16 COMMISSIONER BROADBENT: Okay. Now, do the  
17 Chinese compete with you in Europe? When you export  
18 to Europe. Are the Chinese successfully exporting to  
19 Europe?

20 MR. STRAIGHT: If you know.

21 MR. MULHOLLAND: I'm not sure.

22 COMMISSIONER BROADBENT: Okay. I wanted to  
23 follow up a little bit on Commissioner Pinkert's  
24 questioning about customer loyalty. Within our price  
25 data it looks like the majority of purchasers reported

1 contacting only one supplier for a quote.

2 Seven purchasers only solicited quotes from  
3 your company, citing proven quality and historical  
4 performance. Many of these purchasers stated that  
5 they had sourced from your company for many years and  
6 didn't plan to change or even to look elsewhere.

7 Can you address this in terms of how much  
8 customer loyalty you think is part of the market in  
9 your posthearing brief? You may want to say something  
10 now.

11 MR. STRAIGHT: One of you, I think you  
12 answered it a little bit before, but why don't we give  
13 you some more detail in the posthearing.

14 COMMISSIONER BROADBENT: Yes. Okay. Good.  
15 Is there a sense that someone will buy the Geneva  
16 Steel facility? What are you guys thinking?

17 MR. STRAIGHT: It's gone.

18 MR. WORTHEN: It's gone.

19 COMMISSIONER BROADBENT: Has it been --

20 MR. WORTHEN: It's been disassembled.

21 COMMISSIONER BROADBENT: Is that right?

22 MR. WORTHEN: Yes.

23 COMMISSIONER BROADBENT: It's what?

24 MR. WORTHEN: Most of the equipment has been  
25 sent overseas. They actually made a Harley Davidson

1 shop out of a lot of the building, which is very nice,  
2 may I add.

3 COMMISSIONER BROADBENT: Yes. It sounds  
4 like you've been there a lot.

5 MR. WORTHEN: I've been there a few times.  
6 No. It's just a vacant field now is all it is.

7 COMMISSIONER BROADBENT: It is. Okay.

8 MR. WORTHEN: Yes.

9 COMMISSIONER BROADBENT: We had seen some of  
10 our research that -- and this is more on the, this is  
11 kind of a random question, but just, I was just  
12 curious. There's a process called direct reduced iron  
13 using natural gas rather than coke as the input into  
14 steel. Is that a process that's coming on line, and  
15 do you think about the future? That that may be more  
16 of the steel making process than the coke ovens in the  
17 future?

18 MR. STRAIGHT: If you know.

19 MR. MULHOLLAND: This is -- you're saying  
20 direct reduced iron?

21 COMMISSIONER BROADBENT: Yes. Direct  
22 reduced iron using natural gas rather than coke.

23 MR. MULHOLLAND: No, I couldn't comment on  
24 that. I'm sorry.

25 COMMISSIONER BROADBENT: Okay. Mr.



1 Chairman, I think that's all the questions that I have  
2 right now. I'll yield to Commissioner Kieff.

3 COMMISSIONER KIEFF: I have no further  
4 questions. I really appreciate very much the  
5 questions of my colleagues and your answers, and so  
6 look forward to the posthearing and appreciate very  
7 much the discussion, unless any one of you wanted to  
8 say something more right now.

9 (No response.)

10 COMMISSIONER KIEFF: So I'll yield the rest  
11 of my time then to Chairman Williamson.

12 CHAIRMAN WILLIAMSON: Sorry. Thank you. I  
13 was just thinking about additional questions.

14 I was curious to what extent you can provide  
15 us in our posthearing evidence on or information on  
16 the breakdown between, for coke brick between  
17 replacement and new projects. I'm sure, I assume it  
18 varies from year to year, but can you characterize the  
19 difference and any trends you're seeing?

20 MR. STRAIGHT: I think that would be easier  
21 if we could do that in the posthearing brief and just  
22 give you kind of our sense of it.

23 CHAIRMAN WILLIAMSON: Okay. Yes. That  
24 would be helpful. The other, you talked about the  
25 threat from China as in term of the brick for glass

1 and I think you've mentioned a few little examples.

2 I wonder if you can give further examples  
3 and further sort of document that threat. Again, that  
4 might be posthearing, but any additional evidence you  
5 can on this would be helpful.

6 MR. STRAIGHT: We'll do that, and we'll try  
7 to give the specific names -- I think Tom's already  
8 got a note on that -- in the posthearing.

9 CHAIRMAN WILLIAMSON: Is there anything we  
10 can learn from your export experience about your  
11 competitiveness? You know, sort of conditions of  
12 competition with the Chinese. I mean, you know, we've  
13 had a lot of questions about the exports and you've  
14 answered a lot of that, but I was just wondering, what  
15 does that tell us about the nature of the Chinese?  
16 Your ability to compete in this market.

17 MR. STRAIGHT: You know, we'd want to make  
18 sure we get you a good answer and carefully --

19 CHAIRMAN WILLIAMSON: Yes. No, in the  
20 posthearing is fine.

21 MR. STRAIGHT: -- put that in the  
22 posthearing brief. I think that would make the most  
23 sense.

24 CHAIRMAN WILLIAMSON: Good. Okay. Thank  
25 you. Hold on a second. You didn't seem to have much

1 information about the quality of the Chinese bricks,  
2 but I wondered, have you heard any complaints, any  
3 industry rumbles about the quality of Chinese brick?

4 MR. STRAIGHT: So I think, in a general term  
5 -- and Tom could fill this in a little bit more -- we  
6 probably have heard some complaints about Chinese  
7 brick before, but it's kind of twofold.

8 Number one, for the most part now, customers  
9 are satisfied with it and they are not complaining  
10 about it. Number two, the cost is so much cheaper  
11 that even if there is a quality problem and an earlier  
12 failure problem, they'll still buy it knowing that  
13 they may get a shorter lifespan out of it, but it's so  
14 much cheaper that the economics make sense.

15 Tom, anything else?

16 MR. MULHOLLAND: No. No, I would agree with  
17 that. We've heard about some quality issues; however,  
18 the customer continues to buy Chinese brick. I think  
19 perhaps the quality is improving from China.

20 CHAIRMAN WILLIAMSON: Is that true both in  
21 respect to the brick for coke and the brick for glass?

22 MR. MULHOLLAND: I'm speaking strictly  
23 towards coke at this point.

24 MR. STRAIGHT: I think for glass what we're  
25 seeing, and I think what you've asked for is the

1 additional information about the specific instances  
2 where we're hearing pressure from glass customers.  
3 We've provided some of that, but we'll provide some  
4 more.

5 MR. MULHOLLAND: Yes.

6 CHAIRMAN WILLIAMSON: Okay. Is there any  
7 difference in terms of replacement frequency with  
8 respect to I guess the ovens for glass and the ovens  
9 for brick? You've mentioned that the Chinese product  
10 doesn't seem to last as long but it's cheaper. How  
11 does that play with respect to both industries? Glass  
12 for both industries.

13 MR. STRAIGHT: So is the replacement  
14 schedule more frequent in glass versus coke ovens or  
15 -- do you know? I don't know that.

16 MR. MULHOLLAND: A glass furnace may last  
17 two years or 20 years. A coke oven I would say could  
18 last 20 to 30 years with repairs. It's kind of  
19 difficult question to answer. Each one's a little bit  
20 different.

21 CHAIRMAN WILLIAMSON: Two to 20 years?  
22 That's a big difference. Is it sort of depend on how  
23 they use it or how they take care of it?

24 MR. MULHOLLAND: They're making glass but  
25 they're making it a different way than somebody else.

1       Perhaps they're shutting the furnaces down on the  
2 weekend and the other place is running continually and  
3 never shuts the furnace down, which would prolong the  
4 life.

5               The only thing that would shut it down would  
6 be refractories wearing out, if run properly. We've  
7 heard of furnaces approaching 20 years in glass and  
8 coke.

9               CHAIRMAN WILLIAMSON: I bet I know which  
10 customers you target the most.

11              MR. MULHOLLAND: That's why each order's  
12 important.

13              CHAIRMAN WILLIAMSON: Okay. Thank you. I  
14 think you've answered some questions about the molds.  
15 I don't know if we've answered the question whether  
16 there's a difference between the molds for glass and  
17 the molds for the coke ovens.

18              MR. WORTHEN: Yes, there is a difference  
19 just depending on the shape. Every mold is different.

20              CHAIRMAN WILLIAMSON: I guess in terms of  
21 producing it. The amount of labor, the cost of  
22 producing one versus the other, things like that.  
23 Anything that's relevant for us here.

24              MR. WORTHEN: Probably not, but you can kind  
25 of see a difference right here versus -- you know,

1 there is some difference. You've got a rectangular  
2 mold right there. You know, fairly easy to make.  
3 Outside of this revolver right here you've got pins  
4 floating, cut outs. That is a very difficult mold to  
5 make. So, yes, there is a little bit of difference,  
6 but by general, generally speaking, not really.

7 CHAIRMAN WILLIAMSON: And you've got a good  
8 machinist so it doesn't make a difference --

9 MR. WORTHEN: We've got a very good  
10 machinist.

11 CHAIRMAN WILLIAMSON: Okay. Thank you. I  
12 was wondering, I guess there's -- and I don't know if  
13 this is one you need to do posthearing. I guess  
14 there's a, staff report indicate that your sales to  
15 the steel industry have only been for replacement  
16 furnace. This has been really since I guess the late  
17 '90s. So the question is did you already lose this  
18 business, you know, a long, long time before this case  
19 for the new furnaces?

20 MR. STRAIGHT: Again, I don't know that for  
21 new furnaces it could be characterized as we lost the  
22 business a long, long time before the case.

23 Go ahead.

24 MR. WORTHEN: Yes and no. It's just kind of  
25 gradually come until about the mid-2000s and, bam,

1 then it was just cut off.

2 CHAIRMAN WILLIAMSON: Okay. Not because  
3 people stopped building new furnaces, but because the  
4 Chinese competition has been such --

5 MR. WORTHEN: Yes. Yes. Because of the  
6 Chinese competition. Pricing.

7 CHAIRMAN WILLIAMSON: Okay. Does this also  
8 get to the fact that people sometimes, if they're  
9 going to use replacement they'll go to you, where if  
10 it's a new furnace they're going to say, well, I'm  
11 just going to get the Chinese stuff because it's  
12 cheaper?

13 MR. WORTHEN: Well, and on the coke side,  
14 none of them are coming to us. That's the problem  
15 here. Yes.

16 CHAIRMAN WILLIAMSON: Okay.

17 MR. STRAIGHT: And it's based on price.

18 MR. WORTHEN: And it's based on price.  
19 Correct.

20 CHAIRMAN WILLIAMSON: Okay. Good. I think  
21 those are all of my questions, so I'll turn it over to  
22 Commissioner Aranoff. Thank you.

23 COMMISSIONER ARANOFF: Thanks, Mr. Chairman.  
24 In every case there's one of us that still has lots  
25 of questions left when the others run out and I think

1 it's my turn today.

2 Most of the industries that we look at, it's  
3 very typical for a customer to issue a request for  
4 quotations and put a project the size of some of these  
5 furnace projects out for competitive bidding because  
6 they think that that's how they get the best price and  
7 find out what products many possible suppliers offer.

8 That doesn't seem to be the practice in this industry  
9 looking at our record. There's almost no evidence of  
10 projects being put out for competitive bidding. How  
11 did that happen?

12 MR. MULHOLLAND: I mean, I think that's a  
13 difficult one for us to answer I think, but I do know  
14 that even during the period of investigation we have  
15 made bids and submitted bids on projects that there  
16 has been some competitive bid process, but it's hard  
17 to know exactly why the phenomenon that we see.

18 And we as we were working on the front end  
19 of this, we had hoped that maybe soliciting bid  
20 information might provide some more detail and some  
21 more information, and I think you're right. We didn't  
22 get very much helpful information. And that wasn't  
23 our urging or strong desire to do it that way. It was  
24 just we were trying to think how are we going to get  
25 the best usable information. Go ahead, yeah.



1           MR. WILLIAMS: Right. And I think the  
2 problem that we run into is and the discussions that  
3 Tom's already talked about is the communication that  
4 look, we're not going to have you bid on this because  
5 there's just no way you're going to meet the price.

6           COMMISSIONER ARANOFF: Right. And then I  
7 think some of you testified in response to questions  
8 from Commissioner Pinkert that you don't keep sort of  
9 sales calls, records, and things like that so that  
10 every time that somebody said that to you, you don't  
11 write it down in some place.

12           MR. MULHOLLAND: Occasionally I'll write  
13 myself a note. But believe me, when you chase a  
14 project for two or three years, people are planning to  
15 build this, and it comes down to price, it sticks in  
16 there.

17           COMMISSIONER ARANOFF: Okay, got it. One of  
18 the other things that turned up in our record -- and  
19 this is in the public part of the staff report. It  
20 says that of the four purchasers that responded to the  
21 lost sales allegations, they all said that they had  
22 not switched purchases of silica bricks and shapes  
23 from the U.S. producer to suppliers of the Chinese  
24 product since January 2009, I think it was, or maybe  
25 it was 2010.

1                   Why do you think that is? Do you think it's  
2 because we just have a sample size, or do you think  
3 it's because the switching, to the extent that it  
4 occurred, predates our period of investigation?

5                   MR. STRAIGHT: And I think -- I think what  
6 is happening is it's kind of -- it's a very careful  
7 answer. It's they didn't switch, but they didn't let  
8 us bid or didn't allow us even to participate. So  
9 it's not that there is a denial that a sale was lost.  
10 It's just, hey, we haven't done anything different.  
11 That doesn't mean that we were not excluded and not  
12 allowed to bid or not allowed to compete for those  
13 kind of projects.

14                   But, Tom, anything else you'd add to that?  
15 Okay.

16                   COMMISSIONER ARANOFF: Okay.

17                   MR. WORTHEN: One point that I would add,  
18 though, is even on the replacement projects in the  
19 coke industry that we've talked about today, we  
20 weren't allowed to bid on the initial project. They  
21 only came to us after they needed help, and they were  
22 in a position where they needed to replace their  
23 bricks.

24                   So in some cases, the first time we learned  
25 of that initial project was when they came to us for

1 replacement brick.

2 COMMISSIONER ARANOFF: Okay, okay. And let  
3 me just ask this question, just to round out our  
4 record. I mean, you've talked at some length about  
5 being pushed out of the market for coke projects in  
6 the United States. Is that equally true for your  
7 export projects? Or are you still competing for  
8 export projects and sometimes getting export projects  
9 in the steel sector?

10 MR. STRAIGHT: And I think for all of this  
11 export issue, which, you know, frankly came up  
12 primarily in the Respondent's brief, if we could just  
13 address that in the posthearing to make sure we get  
14 you good answers. I just don't know that we're as  
15 prepared on -- and I think some of it is pretty  
16 confidential of what exactly the export situation is.

17 COMMISSIONER ARANOFF: Right. And the  
18 reason that I'm asking that particular question is  
19 just because evidence that if it is in fact the case  
20 that the U.S. product is competing in the steel sector  
21 for projects outside the U.S. more than it is inside  
22 the U.S., it would tend to support your argument that  
23 competition is not attenuated and that you're sort of  
24 ready and able to compete in that sector.

25 MR. STRAIGHT: Yeah.

1                   COMMISSIONER ARANOFF: Okay. Another thing  
2 that comes up in the public record in the staff report  
3 is that when purchasers are asked to identify a price  
4 leader in the U.S. market -- now, in a lot of cases --  
5 well, in some cases we'll see where purchasers will  
6 say, oh, if you mean who raises prices first, that's  
7 the U.S. producer, and if you mean who lowers them  
8 first, that's, you know, whoever the subject import  
9 producer is in that particular case.

10                   In this case, none of the purchasers who  
11 answered named any Chinese producers as a price  
12 leader. Any thoughts on why that might be the case or  
13 what that tells us?

14                   MR. STRAIGHT: The one piece of data -- I  
15 mean, I think, one, you have to look at the data set  
16 of what the Respondents were, and I won't go into that  
17 because it's confidential. But the one thing I do  
18 think is important, when you look at the other table  
19 that the staff put together on comparison head-to-head  
20 of Utah Refractories and Chinese, not one Respondent  
21 -- and I'm quite sure I'm right, but not one  
22 Respondent said that Utah Refractories had better  
23 pricing than Chinese. And most of them said that Utah  
24 Refractories' pricing was inferior to the Chinese,  
25 meaning pricing was higher.

1                   So that to me summarized the data pretty  
2 well.

3                   COMMISSIONER ARANOFF: Okay. All right.  
4 That's a good answer. As you point out, the  
5 Respondents do argue in their brief that the decline  
6 in the domestic industry's export volume over the  
7 period that we're looking at entirely accounts for the  
8 decline in the domestic industry's production and  
9 capacity utilization during this same period.

10                  Do you want to respond to that or talk about  
11 how that should be considered in the Commission's  
12 causation analysis here?

13                  MR. STRAIGHT: And I think, you know, we  
14 disagree with it, but I think for the detailed reasons  
15 we'd prefer to do that in the posthearing brief, if  
16 that's okay.

17                  COMMISSIONER ARANOFF: Okay, sure, yeah. If  
18 pricing in this market were where you would like and  
19 needed to be, what kind of investments would Utah  
20 Refineries make, like to make, in your facilities?

21                  MR. STRAIGHT: And, Kent, maybe you could  
22 talk about that a little bit.

23                  MR. GOATES: The constraining factor int his  
24 company's production is it's number of kilns. It has  
25 ten. For a fairly -- a relatively modest -- if it was

1 operating at capacity for a relatively modest capital  
2 cost and operating cost, it could add more kilns. For  
3 example, it could increase its productive capacity by  
4 20 percent fairly quickly at a very reasonable price.

5 COMMISSIONER ARANOFF: Okay. How do you  
6 think that your facility compares from a technology  
7 standpoint and a sort of age and being kept in tiptop  
8 condition standpoint compared to producers in China or  
9 European producers with whom you compete?

10 MR. STRAIGHT: I think with China it's  
11 difficult for us to say exactly what their -- how our  
12 facilities would compare with theirs, and I'm not sure  
13 on Europe.

14 COMMISSIONER ARANOFF: Okay. All right.  
15 Nobody knows. Is there any generalization that you  
16 can make about the relative prices for silica bricks  
17 for use in the steel industry versus for use in the  
18 glass industry? Do the range of prices that you would  
19 quote for these products tend to overlap, or do bricks  
20 for one segment of the market tend on average to have  
21 higher prices than bricks for the other segment.

22 And I'm asking that because I'm trying to  
23 figure out how much we can look at average unit value  
24 data, and so it would be helpful to know if we can  
25 make these kind of generalizations or not.

1 MR. STRAIGHT: I think there is a lot of  
2 overlap. There is some difference.

3 Go ahead, Tom.

4 MR. MULHOLLAND: It obviously depends.  
5 Again, we consider volume and the complexity of the  
6 bill of material. So overlap, I'd say yes.

7 COMMISSIONER ARANOFF: Okay.

8 MR. GOATES: As a general rule, however, the  
9 brick that is sold into the steel industry is at the  
10 higher end of that, of their range of prices.

11 COMMISSIONER ARANOFF: Okay. All right.  
12 Well, thank you very much for all of those answers.

13 Thanks, Mr. Chairman.

14 CHAIRMAN WILLIAMSON: Thank you.

15 Commissioner Pinkert?

16 COMMISSIONER PINKERT: I just have a couple  
17 of things. First a clarification. My question about  
18 operating income and what I called return on assets,  
19 let me clarify that a little bit. It's operating  
20 income ratio, and it's listed as return on investment  
21 in the staff report.

22 MR. STRAIGHT: Thank you.

23 COMMISSIONER PINKERT: Thank you. Now,  
24 regarding price suppression, I have a couple of rather  
25 technical questions. First of all, either here or in

1 the posthearing, can you tie the price suppression  
2 argument that you're making to the prices of the  
3 subject imports, to the pricing? In other words, it's  
4 not just the movement in the COGS-to-sales ratio that  
5 I'm interested in, but tying it specifically to the  
6 pricing of the subject imports.

7 MR. STRAIGHT: Yeah, I think we can. I  
8 think we provided some of that information in Mr.  
9 Mulholland's declaration in the prehearing brief. But  
10 we will certainly focus on that issue, and I think  
11 they are tied without question.

12 When we were hearing from a customer, you  
13 need to reduce your price because of Chinese price, to  
14 me there isn't a closer tie.

15 COMMISSIONER PINKERT: Thank you. And then  
16 also, as I'm sure you're aware, Mr. Straight, the  
17 statute, when it talks about price suppression, talks  
18 about price increases that would otherwise have  
19 occurred. And that's normally interpreted as price  
20 increases that would normally have occurred to cover  
21 cost increases.

22 But my question is what is your best case  
23 for why the price increase would otherwise have  
24 occurred to cover the cost increases but for the  
25 subject imports?



1           MR. STRAIGHT: Yeah. And again, we'll  
2 address that in more detail. But the simplest answer  
3 is when you have customers who are specifically tying  
4 their request for price concessions or decreased  
5 prices to subject imports to Chinese brick, you are  
6 unable to make a price increase that you otherwise  
7 would have been able to do to cover your increasing  
8 costs, but also to cover or to provide some reasonable  
9 profit.

10           So, therefore, they are really tied in  
11 together, and that's where we could have increased  
12 prices more, but for seeing these dumped imports and  
13 having the pressure come from customers on those  
14 imports. And I think then it also goes to the prices  
15 that we either would have charged or would have  
16 increased to coke oven customers who wouldn't even  
17 talk to us at all. And so that suppresses our price  
18 to a point where, I mean, we can't -- they won't let  
19 us bid because they claim our price just is not even  
20 close to competitive. So we would have either  
21 increased or at least had those sales at a reasonable  
22 price but for the subject imports.

23           COMMISSIONER PINKERT: Thank you very much.  
24           Anything that you can do to supplement that in the  
25 posthearing, I'd greatly appreciate it. I appreciate

1 all of the testimony, and I pass the panel to the next  
2 commissioner.

3 CHAIRMAN WILLIAMSON: Okay. Commissioner  
4 Johanson?

5 COMMISSIONER JOHANSON: Thank you, Mr.  
6 Chairman. And I have a question, which you all have  
7 possibly kind of answered, but I just wanted a little  
8 bit of clarification on this since I'm not familiar  
9 with the product at issue.

10 Could you all please elaborate on the  
11 differences between silica bricks and shapes produced  
12 for use in a coke oven versus those used in glass  
13 furnaces?

14 MR. STRAIGHT: Sure. And I think the  
15 differences, as Mr. Worthen pointed out earlier, are  
16 very minor, and the primary difference is in the  
17 content of silica, the percentage of silicon dioxide  
18 that is in the brick. The glass industry, typically a  
19 higher percentage of silicon dioxide; coke oven,  
20 typically a lower percentage of silicon dioxide. But  
21 what we're seeing is glass customers being willing to  
22 qualify things that in the past they might not have.  
23 So we're seeing that difference even shrink.

24 But there is -- and what the difference is  
25 driven by is the desire for glass-making customers to

1 have as pure a silica as possible so it doesn't damage  
2 the glass as it's being made, or foul it.

3 COMMISSIONER JOHANSON: Okay. Thank you for  
4 your response. And when you all receive requests for  
5 -- when you all receive a request for a proposal or a  
6 request for a bid from a customer, what factors do you  
7 consider when deciding whether or not to provide a  
8 quote on the project?

9 MR. STRAIGHT: I mean, I think as they've  
10 said earlier, they quote on all of them. But go  
11 ahead.

12 MR. MULHOLLAND: Almost all --

13 COMMISSIONER JOHANSON: So it's pretty  
14 consistent then?

15 MR. MULHOLLAND: We do both.

16 COMMISSIONER JOHANSON: Okay.

17 MR. MULHOLLAND: When somebody comes to us,  
18 we give it our best shot.

19 COMMISSIONER JOHANSON: Okay. Well, thank  
20 you. That concludes my questions, and thank you again  
21 for appearing here today.

22 MR. STRAIGHT: Thank you.

23 CHAIRMAN WILLIAMSON: Commissioner Kieff?  
24 I'm sorry. Commissioner Broadbent?

25 COMMISSIONER BROADBENT: Yeah. I want to

1 thank the witnesses. I think I've got a couple of  
2 questions, but we'll do it after the hearing. Thank  
3 you.

4 CHAIRMAN WILLIAMSON: Commissioner Kieff?

5 COMMISSIONER KIEFF: Thank you very much.  
6 No further questions.

7 CHAIRMAN WILLIAMSON: Okay. I had just a  
8 couple right here. You've already talked about AUVs  
9 some, but I was wondering, do you agree with the  
10 Respondents that AUVs are useful for price analysis in  
11 this case?

12 MR. STRAIGHT: Say again, pardon me?

13 CHAIRMAN WILLIAMSON: Whether or not average  
14 unit values -- the Respondents contend that average  
15 unit values are useful for price analysis in this  
16 case, and I was wondering whether you agree or  
17 disagree with them on that.

18 MR. STRAIGHT: They are -- they may be  
19 useful. I think it's just a little bit challenging in  
20 this case, but that is an issue that we want -- I  
21 mean, we addressed it a little bit in our prehearing  
22 brief. I'd really like the opportunity to redress  
23 that in the posthearing brief, if we could.

24 CHAIRMAN WILLIAMSON: Good, okay. Thank  
25 you. And then could you comment here or posthearing

1 on whether we should rely on the financial data  
2 reported in table 6-1, or the data as suggested by our  
3 staff that appears in table 6-2?

4 MR. STRAIGHT: Yes. And just two points on  
5 that. Number one, we had relied primarily on appendix  
6 C-1 that provided the financial information. And it  
7 appears that adjustments were made there and, you  
8 know, we're comfortable with that. We think as  
9 between table -- and I really should let Kent -- go  
10 ahead, Kent, if you can explain a little bit the  
11 difference between 6-1 and 2.

12 CHAIRMAN WILLIAMSON: Or if you want to do  
13 it posthearing, either one.

14 MR. GOATES: Do you want to address that  
15 here or do you want to do it --

16 MR. STRAIGHT: We'll do it posthearing.

17 CHAIRMAN WILLIAMSON: Okay, fine. Thank  
18 you.

19 Those are all the questions I had. Does any  
20 other commissioner have questions for this panel?

21 (No response.)

22 CHAIRMAN WILLIAMSON: Good. Does staff have  
23 any questions for this panel?

24 MR. McCLURE: Thank you, Mr. Chairman. Jim  
25 McClure, Office of Investigations. Staff has no

1 questions. We would like to thank everybody for  
2 jumping on the airplane and coming in from Utah. And  
3 thank you for the trip and everything. You've been  
4 very cooperative.

5 CHAIRMAN WILLIAMSON: Okay. Thank you. Do  
6 Respondents have any questions for this panel?

7 MR. STRAIGHT: I would like to say, Mr.  
8 Chairman, and to all the staff, we really appreciate  
9 the time, hard work, all the effort that the staff has  
10 put in, that you've obviously put in in preparing for  
11 this. It means a lot to our company, as I think  
12 you've been able to glean from our submissions and  
13 what we've said today, and we just really would  
14 appreciate and urge a confirmation of that preliminary  
15 finding of injury. Any other questions?

16 CHAIRMAN WILLIAMSON: Okay. Thank you.

17 MR. STRAIGHT: Thank you.

18 CHAIRMAN WILLIAMSON: Thank you. Do  
19 Respondents have any questions?

20 MR. HUSISIAN: No, I have no questions.  
21 Thank you.

22 CHAIRMAN WILLIAMSON: Okay. Thank you.

23 MR. HUSISIAN: We have no further questions.  
24 We'll address the Commission in our normal testimony.

25 CHAIRMAN WILLIAMSON: Okay. Thank you.

1 Well, I think since you heard the bells tolling, I  
2 think it's time for lunch. So we will reconvene at 1  
3 o'clock. And please remember, this room is not  
4 secure, so please don't leave any business  
5 confidential or proprietary information on the seats.

6 And again, thank you very much to this panel for your  
7 testimony.

8 (Whereupon, at 12:00 p.m., the hearing in  
9 the above-entitled matter was recessed, to reconvene  
10 at 1:00 p.m. this same day, Thursday, November 21,  
11 2013.)

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1 going on. We will, of course, put them in our  
2 posthearing brief so that we can fully discuss them in  
3 the context of APO information to fully explore the  
4 information in the record.

5 After that, we have on behalf of TNCR --  
6 Nithya Nagarajan is here today with her client, Dr.  
7 Dai. They are from TNCR, on behalf of TNCR, and  
8 they're here to talk about the Chinese industry and  
9 how the Chinese participants compete not only in the  
10 United States market, but worldwide, and within China,  
11 which also is a key issue for the Commission in  
12 determining the threat of material injury.

13 Finally, Dr. Swift, to my left, who is also  
14 from Foley & Lardner, will be discussing threat issues  
15 and the issues you need to be going -- to be  
16 considering those issues as well. Although the staff  
17 report doesn't notice, I will note that we have a two  
18 to nothing edge in doctorates on our panel, so I hope  
19 the Commission will take that into account when  
20 rendering its determination.

21 And then finally I will be giving a little  
22 conclusion to put things into context before we move  
23 on to your questions.

24 So the first issue which was discussed so  
25 extensively this morning, we were pleased to see, is

1 the different nature of this product. Although the  
2 Petitioner has tried its hardest to try to make this  
3 into a straight-up commodity product and to put it in  
4 the realm of the commodity jurisdiction, that is just  
5 not the case, as shown by either the record or by Mr.  
6 Morey's testimony, which you're going to hear later  
7 today.

8 It's not just a matter of meeting minimum  
9 qualifications, as we heard this morning. It's a  
10 matter of being able to differentiate the products  
11 that are intended for very different uses within the  
12 coke oven product and the glass industry.

13 Second, as both Mr. Morey and Dr. Dai will  
14 discuss, sales occur on the basis of availability and  
15 quality, not price, in this market. The third thing  
16 we're going to be talking about is that as the  
17 recovery of demand from the recession has occurred,  
18 rising demand for this product, sharply rising prices,  
19 and the U.S. industry's performance, which has been  
20 increasingly strong over the period of investigation,  
21 shows that there is no material injury.

22 And finally, the last thing I'm going to  
23 talk about is that there is no link between the levels  
24 of subject imports and the performance of the U.S.  
25 industry.

1           So let me explore the implication of these  
2 things before I move on to the industry witnesses, who  
3 can provide you with firsthand knowledge about what  
4 we're talking about today.

5           The first thing that we're going to talk  
6 about is obviously the sharp differences in the  
7 products that are sold by the subject producers and  
8 that are sold by the U.S. Petitioner, Utah  
9 Refractories. This has important implications for  
10 this case, especially with regard to the evaluation of  
11 the impact of subject imports for both price and  
12 volume considerations.

13           The evidence shows that there is little  
14 head-to-head competition between subject imports and  
15 domestic production, as well be developed in detail in  
16 Mr. Morey's testimony.

17           Now, I want to start out in part because Mr.  
18 Straight says we don't like to quote any facts by  
19 going straight to the staff report on this. And I'm  
20 going to have to skip one sentence, which is how Utah  
21 Refractories characterizes this issue of  
22 interchangeability because it's APO. So I'll refer  
23 people to page Roman numeral II-2 in the staff report.

24           So this is how the staff summarized the  
25 evidence that's in the record. And just hitting the

1 public parts, it says, and this is a quote, "Molds for  
2 silica bricks and shapes used in the glass industry  
3 are often standard sizes and can be machine made.

4 However, silica bricks and shapes used in coke-oven  
5 applications often require hundreds of shapes, many of  
6 which are hand-molded by impact press or hand formed.

7 Generally, silica bricks and shapes used in the glass  
8 industry are not interchangeable with silica bricks  
9 and shapes used in the coke industry."

10 Then there is an APO quote from Utah  
11 Refractories, which I can't repeat in the public  
12 forum. And then it goes on to repeat publicly, "Nine  
13 responding importers and all ten purchasers reported  
14 that silica bricks and shapes used in the glass  
15 industry are not interchangeable with the silica  
16 bricks and shapes used in the coke industry. Firms  
17 reported that the two end-use types required different  
18 chemical compositions and shape requirements. Many  
19 also noted that glass furnaces require a higher grade  
20 or type -- higher grade silica or type A brick."

21 So that's the summary of all the evidence in  
22 the record put together by the staff, and we would  
23 submit that this is exactly right. In other words,  
24 rather than the quote, "marginal," unquote differences  
25 between the two products, which is what you heard this

1 morning, what we're seeing is the two products are  
2 made with a different input. They're manufactured in  
3 a different way. They're used in a different way by  
4 different industries, by different producers, and what  
5 you see is that you never are going to displace a  
6 glass brick by a coke-oven brick or vice versa.

7           And that in the end is the reason why we  
8 care about this issue. The reason that we're here and  
9 talking about whether this is a commodity or not is  
10 because there is such a sharp delineation between the  
11 subject sales and the sector they're going into and  
12 the U.S. industry sales.

13           Remember, the question is, has there been a  
14 volume impact or a price impact. Well, if the Chinese  
15 product is coming almost completely in one sector, and  
16 if those products are not interchangeable, and if  
17 people never substitute one for the other, then you  
18 have to say if the U.S. industry is in the other  
19 sector, how can you have a volume impact. How can the  
20 product -- and you heard the Petitioner say this  
21 morning that they're concentrating it in the glass  
22 industry. How can their glass industry sales be  
23 displaced by sales of subject merchandise that are not  
24 in the glass sector, if they're not interchangeable as  
25 the purchasers are saying and as the staff report

1 summarizes?

2 So those are the facts that are in the case.

3 And when you look and consider the price impact,  
4 you're never going to see a glass purchaser going out  
5 and getting a quote from Chinese producers of coke-  
6 oven bricks and saying, well, we've got -- you know,  
7 we note that the Chinese are selling to the steel  
8 industry, and we've got a quote, and we require you to  
9 match that.

10 It just doesn't happen because the products  
11 are different. They are not interchangeable, as the  
12 staff summarized the information.

13 Now, a related issue that comes up with  
14 regard to this is the U.S. industry said, oh, well, we  
15 could move into the coke-oven sector if we wanted to  
16 because we already can make the very difficult glass  
17 product. What they neglect to consider is you also  
18 have to think about how is this playing out on the  
19 Chinese side. And as we're going to hear later today  
20 from Dr. Dai, the Chinese industry does not have the  
21 ability to make that movement because they're in the  
22 easier to produce coke side, and they are not able to  
23 make the glass products that meet the U.S. and Western  
24 standards.

25 What we found out as part of this case, and

1 it's listed in the staff report several times, is that  
2 the U.S. market primarily takes what is known as the  
3 type A bricks, which are made with a very low level of  
4 impurities that was mentioned this morning by Utah  
5 Refractories. So in order to make the glass product  
6 for the U.S. market, you not only need to have that  
7 special input, which has the very low level of  
8 impurities, but you need to be able to make products  
9 that meet the very demanding specifications for the  
10 glass industry.

11 That's not always true. In the Chinese  
12 market, where approximately 20 percent of the sales  
13 are into the glass market, it's not of that type A  
14 product. And Dr. Dai is going to be covering that  
15 later today. So the fact that the Chinese industry  
16 can supply glass product into the Chinese market does  
17 not mean that they can supply the U.S. market or for  
18 that matter the European market. And that's part of  
19 the reason why you see such a sharp and low amount of  
20 sales into the glass industry into the United States.

21 It's because the Chinese industry is just not there  
22 and in a position to be able to satisfy this demand.

23 Now, in many determinations, the Commission  
24 has stated that where you have a domestic-like product  
25 that's sold into two markets, but you have this kind

1 of attenuated competition, then that creates an uphill  
2 barrier for the Petitioner who is seeking to put in  
3 place -- is seeking protection of antidumping duty  
4 order. You have to take into account where there is  
5 head-to-head competition because if you don't have  
6 that head-to-head competition, you're not going to  
7 have the volume displacement, and you're not going to  
8 have the price impact. And that is something that the  
9 U.S. industry, as you saw, they completely skipped  
10 over in their prehearing brief, and they skipped over  
11 it in their testimony as well.

12 It was only once the Commission started  
13 asking questions about it that they went reluctantly  
14 into the issue of the differences in these products.  
15 And the reason why is it's not just that the Chinese  
16 are, you know, a little bit skewed into the coke side  
17 and the U.S. industry is a little bit skewed into the  
18 coke side, it's that you have an almost utter lack of  
19 competition and overlap between the two sectors and  
20 therefore between the two industries.

21 Secondly, a word about the available quality  
22 -- the availability and quality issues that come up.  
23 As we heard this morning, the Utah Refractories says  
24 it is able to make the quality product that they feel  
25 that a purchaser such as SunCoke, which is the largest



1 consumer of this product in the country, would need.  
2 We have no doubt that that's true. We think Utah  
3 Refractories probably could produce the quality that's  
4 needed here.

5 But quality is only one piece of it. A  
6 silica brick that you can't get is useless. The  
7 issues is not just the quality and whether you can  
8 meet the specifications, it's also whether you can get  
9 it there, not only in the required quantities, but in  
10 the right delivery sequence, which requires you often  
11 to produce an entire oven of all the shapes that are  
12 needed for that. And if they're not there on time,  
13 then it's not useful.

14 So what we heard is that this is -- because  
15 of this, there is a severe constraint on the ability  
16 to contract with Utah Refractories.

17 Now, with regard to the claims that this is  
18 just a commodity product, in addition to the problems  
19 of availability and being able to meet the delivery  
20 schedule, there is none of the indicia in the record  
21 that you would expect to see for commodity product.  
22 And people who have been in these cases know what  
23 commodity products generally look like. They compete  
24 on the basis of price. They're interchangeable. And  
25 there is really nothing to differentiate them based on

1 quality or anything like that.

2 Well, what we see here is that price is  
3 listed as only the third most important factor by  
4 purchasers after quality and availability, as the  
5 staff report states. We see in the staff report that  
6 most purchasers only contact a single supplier, which  
7 is not what you see when you have a commodity-type  
8 product. That's what you see when people are not  
9 shopping around based on price, but where they are  
10 looking at factors other than price.

11 We also see that purchasers report that they  
12 will remain with a supplier even if they are aware of  
13 lower-priced options, as the staff report also notes.

14 Again, that would make no sense if this were a  
15 commodity-type product.

16 We also see a high degree of customer  
17 loyalty. People hardly ever switch, as Commissioner  
18 Aranoff mentioned this morning. They don't send  
19 things out for bids, and they tend to be very loyal to  
20 the people who have supplied them in the past. All of  
21 these things are inconsistent with the idea that it's  
22 a commodity product.

23 I also would note that when you have  
24 underselling and low prices, as claimed by the U.S.  
25 industry, for a commodity product, you see major

1 shifts in market share because people flood to the  
2 cheaper product, and you don't see that here as well.

3 So the staff report, as it summarizes the  
4 record, is very much inconsistent with this idea that  
5 this is a commodity product.

6 In addition to this, I note that there is,  
7 for lack of a better word, a certain arrogance in the  
8 presentation that we saw by Utah Refractories this  
9 morning. What they basically said was we would be  
10 able to supply customers like SunCoke, we would be  
11 able to do the larger products, if only these  
12 companies would run their business in consideration of  
13 our constraints.

14 In other words, what they said was, we  
15 deserve the right to quote, and it's not fair that  
16 people are not coming to us because if they would only  
17 come to us, we would be able to show them that there  
18 is an ability to quote. Well, the fact is, and it was  
19 submitted in confidence, that when SunCoke, for  
20 example, has gone to them and asked if they could  
21 supply, they have said no. And I would also point  
22 out, and it's confidential so I can't go into it, but  
23 on pages 2-8 and 5-15 of the staff report, there is no  
24 fewer than six different instances where Utah  
25 Refractories has been unable to supply a project for

1 one reason or another, and only one of them involved  
2 SunCoke.

3 So this isn't an issue that has come up just  
4 from SunCoke. Other people are seeing it as well, and  
5 we would submit that this is the reason why you see  
6 such things as a staff report noting that they have  
7 not supplied a single new facility in the coke  
8 industry since they have been known as Utah  
9 Refractories in 1998.

10 There is also a certain amount of arrogance  
11 in the kind of their mix and match argument, saying,  
12 well, at the very least, we can come in and we could  
13 supply part of a project. Well, as they stated this  
14 morning, and this is a quote, the idea of mixing and  
15 matching is, quote, not a best practice, end quote,  
16 which is how it was described this morning. But you  
17 can do it.

18 But the question comes up, is why would you  
19 want to do that? What we found out today in our  
20 preparation yesterday is that a new coke facility can  
21 cost hundreds of millions of dollars. Moreover, this  
22 product isn't just part of the lining, it's part of  
23 the integral construction of it. It actually is  
24 holding up many parts of it. And it's just one piece  
25 of it that's worth a few million dollars out of a

1 facility that's literally hundreds of millions of  
2 dollars, and which operates at thousands of degrees of  
3 heat.

4 So the question becomes why would you for  
5 something so expensive want to introduce this kind of  
6 risk for the convenience of Utah Refractories?

7 Another example of what I'm calling their  
8 arrogance is they said if you only gave us enough  
9 notice, we could produce the product for a company  
10 like SunCoke. They suggested a year or optimally even  
11 two years would certainly give them enough time.

12 Well, that's true. If you look at the excess capacity  
13 -- and the number is not only in the staff report, but  
14 it was provided to SunCoke ahead of time, which is why  
15 they mention it in their questionnaire submission.

16 What they're talking about is they have  
17 somewhere around 10,000 metric tons of capacity extra,  
18 taking into account their current customers. That's  
19 the figure that they told SunCoke fairly recently.

20 Well, if you consider that a SunCoke new  
21 facility can take as much as 16,000 metric tons of  
22 silica bricks, it's only simple mathematics to say  
23 that, yeah, if they were given enough time, such as 20  
24 months or so, then they would be able to supply a  
25 project such as that. But that is, as Mr. Morey is

1 going to discuss later on, it's simply inconsistent  
2 with the realities of capital construction project of  
3 this size, and it doesn't even work for repair  
4 projects as well, where you need to shut down an oven  
5 and cut off much of the product that occurs in order  
6 to do this.

7           Again, it's not up to SunCoke to run their  
8 business so that they can accommodate the capacity  
9 constraints of Utah Refractories. The same thing with  
10 regard to they would be able to deliver if only they  
11 were given extra delivery time. Again, this is -- it  
12 has nothing to do with dumping. When you go to  
13 someone who can meet your delivery requirements, that  
14 is an attribute as well.

15           The fact that Utah Refractories can produce  
16 a quality product is really not a dispute. The fact  
17 that they could if given enough time supply a company  
18 such as SunCoke is not really in dispute. The fact  
19 that delivery and availability is an essential  
20 attribute for any larger repair project and for any  
21 new facility is very much an issue in this case, and  
22 it very much goes to the reason why companies like  
23 SunCoke and other large purchasers choose not to  
24 contract with Utah Refractories.

25           Third, with regard to the trends analysis

1 and some of the questions that we saw from  
2 Commissioner Kieff this morning -- we also will cover  
3 these in our posthearing brief. But we would note a  
4 few salient facts that are very important in general  
5 terms from the staff report.

6 As shown on page 4-9 of the staff report,  
7 demand is growing, and Utah Refractories, as shown in  
8 the staff report as well, has been able to take  
9 advantage of this because its own shipments into the  
10 U.S. market as growing as well, and the exact figures  
11 are provided into the staff report.

12 The statement this morning that sales fell  
13 is highly misleading because if you look at what  
14 happened, the sales didn't fall to the U.S. market.  
15 What fell were sales to the export market. And I  
16 would refer you to the confidential figures that are  
17 on page Roman numeral III-6 of the staff report, which  
18 in mathematical and very simple terms shows what the  
19 reason why their sales have fallen off.

20 As Commissioner Aranoff noted, all lost sale  
21 allegations were denied, as stated on page Roman  
22 numeral V-27 of the staff report. This is not  
23 surprising because you have this lack of head-to-head  
24 competition.

25 Finally, with regard to other volume issues,

1 we see that there are basically no subject sales to  
2 the glass industry, so there can really be no volume  
3 impact from them. And when we saw the large spike in  
4 2011 sales that was mentioned by Commissioner Aranoff,  
5 and the subsequent large fall in 2011, it's apparent  
6 that it was a non-event as far as Utah Refractories  
7 was concerned.

8 Their sales didn't fall. Their profit  
9 didn't fall. The prices actually went up in that  
10 year. It was a non-event because again you have this  
11 lack of head-to-head competition. And that's a little  
12 controlled experiment you can look at if you want to  
13 evaluate causation from a volume standpoint and from a  
14 price standpoint as well.

15 With regard to price factors, we see that  
16 the prices of sales by Utah Refractories into the U.S.  
17 market have risen sharply, as shown by page 3-6 of the  
18 staff report. And it's a striking and very large  
19 number. And I would submit that a number that large  
20 is utterly inconsistent with the idea that there has  
21 been price suppression by subject imports.

22 I also would note that the volume of subject  
23 imports is not that great. With regard to that issue,  
24 you could throw all of the silica bricks that are  
25 coming into the U.S. market into the harbor right now,



1 and it wouldn't have a very large impact on the excess  
2 capacity and the capacity utilization rate of the U.S.  
3 industry because you're talking about less than 2,000  
4 tons a year of this capacity.

5 With regard to causation, reflecting the  
6 lack of any head-to-head competition, what you see is  
7 that the price trends for both the glass and the steel  
8 sectors are similar. Again, remember, all the Chinese  
9 imports are coming in in the glass industry. So if  
10 they were truly seeing this kind of price suppressing  
11 impact that they're saying, you would expect to see  
12 the prices in the glass industry to be differentially  
13 lower and to be suppressed as compared to the price  
14 trends in the coke industry. But you don't see that.

15 The sales prices for both of them were  
16 moving in parallel with each other, again reflecting  
17 that there is no real impact from the subject imports  
18 on the U.S. industry.

19 Finally, as Commissioner Broadbent brought  
20 up, we also have to consider the impact of non-subject  
21 imports in this area. What we see is that the  
22 quantity of nonsubject imports is much higher, and  
23 it's rising at a much greater rate if you look at the  
24 difference between 2010 and 2012, then the very stable  
25 level of the Chinese imports.

1           We also see, as shown on page 4-6 of the  
2 staff report that the prices for the nonsubject  
3 imports, particularly from Germany, are extremely low.

4       We also see that the imports that are coming in from  
5 Germany, as they stated this morning, are in both the  
6 glass industry and in the coke industry. So unlike  
7 the case with China, you see head-to-head competition  
8 between the German imports and the performance of --  
9 and the sales of Utah Refractories.

10           So basically, what you see is all the claims  
11 that they're making about China, where there is no  
12 record support, and where you do have this attenuated  
13 competition, actually apply with regard to Germany.  
14 But those are nonsubject imports. And again, I would  
15 contrast all of this with the 2011 and 2000 spike in  
16 the Chinese imports, which were a non-event from a  
17 causation standpoint for this industry.

18           I also would point out, too, that if you  
19 want to look and see the biggest impact on change on  
20 the volume of sales of Utah Refractories, you need to  
21 compare the level of exports to other markets.

22           In short, if you put together the nonsubject  
23 imports and you examine the performance of Utah  
24 Refractories in the export markets, neither of which  
25 has anything to do with the Chinese imports, you would

1 see some kind of link there. But you do not see any  
2 kind of link to the subject merchandise.

3 So each of these topics we're going to  
4 explore in detail later on. This is a rather long way  
5 to just try to put things into context. I'm going to  
6 turn things over now to Mr. Morey, who is going to  
7 talk about the issue of how SunCoke uses this product  
8 and why they have not been able to deal with Utah  
9 Refractories, not just for the period of  
10 investigation, but for going on 20-plus years. Thank  
11 you.

12 MR. MOREY: Good afternoon. My name is  
13 Steve Morey. I've worked for SunCoke Energy for nine  
14 years. I'm the director of construction for SunCoke,  
15 which means that I oversee construction of new coke  
16 ovens. As a result, I directly oversee the  
17 procurement of silica bricks for new coke facilities,  
18 and I'm generally familiar with their use in new  
19 construction as well as repair and replacement  
20 projects.

21 The construction of a new coke facility is a  
22 major undertaking that requires that SunCoke commit  
23 hundreds of millions of dollars in capital  
24 contributions. Under our typical business model,  
25 SunCoke will not embark on such an extensive project

1 unless it has first lined up customers for output of  
2 the plant.

3 In other words, we sell the coke under a  
4 long-term contract before we're appropriated to build  
5 the plant. What this means is that once construction  
6 has begun, it really needs to be completed on time.  
7 Otherwise SunCoke will not be able to supply its coke  
8 customers, who are counting on SunCoke to supply their  
9 own plants with coke on a specific time line.

10 Delay would also be extremely expensive  
11 because of the large amount of capital that's tied up  
12 in the project, which is a dead-weight cost until the  
13 facility is up and running and generating revenue.

14 Further, we have contracts with railroads to  
15 haul coal in and coke out that are time sensitive with  
16 substantial financial penalties for non-performance.  
17 New plant construction generally takes about 18 months  
18 and involves the work of somewhere between 500 and 800  
19 high-skilled craft laborers, depending on the size of  
20 the plant.

21 Silica brick is only one piece of the very  
22 large and expensive construction project, but it's an  
23 important one. Because the silica brick is an  
24 integral part of the construction of the facility, it  
25 is one of the first major steps in the construction of

1 the coke battery, the heart of the plant.

2 This means that silica brick needs to be  
3 delivered in a very tight schedule, generally between  
4 the third and fifth months of the project, initial  
5 deliveries beginning in the third month with full  
6 delivery by the fifth month.

7 SunCoke's repair and replacements also are  
8 intricately choreographed projects that need to be  
9 completed to a tight schedule. A major repair and  
10 replacement project can involve 100 to 150 craft  
11 labor, who need to quickly finish the repairs because  
12 the coke oven needs to be put back online as quickly  
13 as possible to meet production needs.

14 Silica bricks are a custom-made product.  
15 SunCoke's facilities require silica bricks that are  
16 manufactured to very tight tolerances and with  
17 consistent thermal expansion properties that must meet  
18 SunCoke's design criteria.

19 Because of the tight schedules and the need  
20 for the silica brick to perform for years, up to 30  
21 years, at extremely high temperatures, two attributes  
22 are not negotiable for SunCoke. One, the brick must  
23 be available on very tight schedules required by both  
24 new construction and repair and replacement projects.

25 And two, it must meet the exact quality

1 specifications of SunCoke.

2 It's only we're 100 percent assured that  
3 these requirements can be met that we even start to  
4 look at the economics of the silica brick at issue.

5 An additional issue is the timing of  
6 deliveries, which is closely related to the issue of  
7 availability. SunCoke's facilities use 23 different  
8 silica brick shapes. These shapes fit together in a  
9 proprietary SunCoke design, and are not shapes that  
10 any competitor would use.

11 I think it was stated earlier that  
12 competitors use hundreds of different shapes. For any  
13 new construction or repair and replacement, we need  
14 these bricks to be delivered not only on time, but in  
15 sequence. This is a problem for smaller manufacturers  
16 because they prefer to make a single-sized brick and  
17 then move on to the next, impeding delivery of  
18 complete assemblies, useful and needed for  
19 construction.

20 I admit that SunCoke delivery and quality  
21 requirements are strict. But this is driven by the  
22 requirements of the industry. It's driven by our  
23 business model. Other consumers of silica bricks are  
24 going to have the same constraints. No one can afford  
25 to idle a new construction or a facility being

1 repaired while it waits for delivery of a single  
2 input.

3 Why doesn't SunCoke use Utah Refractories?  
4 SunCoke mainly operates using unionized labor, both  
5 for the construction of its plants and their repair  
6 and further operation. SunCoke also has a strong  
7 preference for using domestically sourced materials  
8 where possible. Doing so is important to SunCoke. It  
9 is important for our customers, which are also often  
10 unionized.

11 Nonetheless, it's not possible for SunCoke  
12 to use Utah Refractories. As it laid out in detail in  
13 our confidential submissions, we have a 20-year  
14 history of trying to use this company, even before it  
15 was called Utah Refractories. We generally have not  
16 been able to do so, either because the company has not  
17 had the capability to serve our needs, or because it  
18 did not seem interested, probably due to capacity  
19 constraints.

20 Simple mathematics show that Utah  
21 Refractories is not in a good position to supply  
22 SunCoke. In our discussions with Utah Refractories,  
23 we've been informed that they have a domestic capacity  
24 of at most 20,000 metric tons of silica brick per  
25 year, and that at most 10,000 tons of capacity would

1 be available for a SunCoke project. This means Utah  
2 Refractories has maybe 800 tons of capacity a month  
3 that it can dedicate to SunCoke.

4 Since a new coke facility will require  
5 anywhere from 13,000 to 16,000 tons of silica brick,  
6 that would mean that it would take as long as 20  
7 months to produce the silica bricks we need for a new  
8 facility. Although we would prefer to domestically  
9 source our silica bricks, we can't delay a facility  
10 for that long.

11 It's also my view that Utah Refractories  
12 cannot meet SunCoke's repair and replacement needs for  
13 two reasons. First, we have a strong preference to  
14 use only refractory bricks that are sourced from a  
15 consistent input material. Although it is possible,  
16 and it was said earlier, to mix and match silica  
17 bricks from different inputs, doing so introduces a  
18 new risk, which is differential thermal expansion.

19 Silica bricks needs to perform at extremely  
20 high temperature for many years. If they expand at  
21 even slightly different rates, this will potentially  
22 lead to gapping and cracking, risking structural  
23 integrity. Second, we have occasionally reached out  
24 to Utah Refractories over the years. We have found  
25 that due to their small size, they can only provide



1 silica bricks for relatively small repair jobs on an  
2 extended timetable that would require us to idle areas  
3 of facility under repair for a much longer time than  
4 necessary.

5           So why does SunCoke use TNCR? SunCoke has  
6 used TNCR for many years. This is based on its proven  
7 ability to meet our availability, delivery, and  
8 quality needs. We have looked not only at Utah  
9 Refractories, but at producers worldwide, and no one  
10 else comes close to meeting those needs. We found  
11 their customer service to be exemplary, as illustrated  
12 by their post-shipping quality checks that assure that  
13 we seldom need to cut, custom-fit, or regrind the  
14 silica bricks that they provide to us.

15           Our reject rate for TNCR product is less  
16 than 1 percent, a very good rate, reflecting the high  
17 quality of the silica brick. Our ability to rely on a  
18 proven supplier for this important component is  
19 essential, and not at all driven by the economics of  
20 their pricing.

21           Utah Refractories might be able to deliver  
22 the required quality, but its inability to meet our  
23 delivery and quantity requirements means that they're  
24 just not an option.

25           Outlook for the future -- finally a word

1 about the future. If an antidumping order is put in  
2 place, SunCoke will not be sourcing from Utah  
3 Refractories. It just does not have the capacity to  
4 meet our needs, and the same is going to be true for  
5 other large consumers as well.

6 Nonetheless, based on everything I know  
7 about the industry, the outlook for Utah Refractories  
8 is strong. We closely track steel demand because it  
9 strongly influences the demand for coke. With demand  
10 for automotive and appliances strongly increasing as  
11 we get farther away from the 2008 recession, demand  
12 for steel is growing within the United States. This  
13 means that there will be a greater demand for coke,  
14 which translates to a higher demand for new  
15 construction and repair.

16 Although Utah Refractories cannot serve the  
17 needs of many larger consumers, Utah Refractories  
18 should be able to compete in its area of expertise,  
19 which is small quantities of silica bricks for repair  
20 and replacement. With regard to worldwide demand, I  
21 see from the public materials in this case that Utah  
22 Refractories claims that the U.S. market will be a  
23 magnet for future Chinese imports.

24 As a long-time participant in the industry,  
25 I just don't see how that can be the case. SunCoke is

1 a global producer of coke, which puts us in a good  
2 position to gauge worldwide demand for silica bricks.

3 We operate plants in partnership with Brazil and  
4 India, and this placement is no accident. Coke plants  
5 generally are placed near either major sources of coal  
6 or near steel production facilities to minimize  
7 transportation costs.

8 The biggest driver of demand for coke  
9 worldwide is the rapidly growing steel markets outside  
10 the United States, in countries such as Brazil,  
11 eastern Europe, India, and China, basically the brick  
12 countries. This means that strongest forward demand  
13 growth for silica bricks is going to be outside the  
14 United States.

15 Thus, while we expect that the U.S. market  
16 will continue to grow during the ongoing economic  
17 recovery, the U.S. market is never going to have the  
18 same kind of coke consumption or consumption growth as  
19 we're seeing in the other countries, especially in  
20 China. This necessarily means that these markets are  
21 going to be the most attractive markets for non-U.S.  
22 producers of silica bricks, especially if they're  
23 located nearby.

24 In conclusion, I want to thank you for your  
25 time, and I look forward to answering your questions.

1           MR. KLETT: Good afternoon. My name is  
2 Daniel Klett, with Capital Trade, testifying on behalf  
3 of Respondents. I will address three issues. First,  
4 competition is very limited between U.S. producers and  
5 imports from China. Second, the bid pricing data you  
6 collected show no evidence of adverse price effects.  
7 Third, certain factors in Utah Refractories' reported  
8 financials should be considered for your impact  
9 analysis, including implications from it being a  
10 privately held company with just two owners. I will  
11 be referring in general terms to certain BPI exhibits  
12 that you should have.

13           You heard earlier the technical reasons why  
14 silica bricks for coke ovens and glass furnaces are  
15 not interchangeable, a finding also supported in the  
16 staff report. This is important because during the  
17 POI, imports from China were concentrated in sales to  
18 the steel sector for coke ovens and sales by Utah  
19 Refractories were concentrated to glass-sector  
20 customers, as shown in confidential slide one.  
21 Moreover, since 1998, all sales by UTR to the steel  
22 sector have been for replacement, with no sales for  
23 new coke ovens.

24           Utah Refractories claims that it was pushed  
25 out of selling silica bricks to the steel sector, but

1 its lack of success in this market segment reflects an  
2 inability to meet customer requirements for timely  
3 delivery of required volumes. This is definitely the  
4 case for new coke oven construction. Utah  
5 Refractories had sold most silica bricks to this  
6 market since 1998. Although Utah Refractories claims  
7 it is willing to sell into this market, major repair  
8 and replacement jobs can run into thousands of tons,  
9 and new coke oven projects even larger volumes.

10 These requirements and the associated  
11 delivery schedules sharply limit the projects where  
12 Utah Refractories can compete. However, Utah  
13 Refractories has continued to sell to the steel sector  
14 for replacement and to the glass sector. As shown in  
15 confidential slide two, its total U.S. sales do not  
16 support a finding of injury.

17 In its preliminary determination, the  
18 Commission noted that exports accounted for a large  
19 share of reported U.S. production over the POI. This  
20 fact is also relevant to causation and adverse effects  
21 relating to U.S. production, as shown in confidential  
22 slide three.

23 The absence of adverse effects or a causal  
24 link is even more clear based on an evaluation of  
25 sector-specific facts. As the staff report notes,

1 glass and coke oven bricks are not at all  
2 interchangeable. With subject imports in the glass  
3 sector being virtually nonexistent, it is hard to see  
4 how Utah Refractories is at all injured for its sales  
5 into this market.

6 In its prehearing brief, Utah Refractories  
7 cited to snippets from certain purchaser  
8 questionnaires to support its contention that China is  
9 now targeting the glass market segment. However, a  
10 review of those questionnaires in their entirety do  
11 not support its contention, and we will provide  
12 details in our posthearing brief.

13 In its prehearing brief, Utah Refractories  
14 claims that silica bricks are commodities, and that  
15 purchasers report that U.S. and China-origin bricks  
16 are interchangeable. These statements grossly  
17 oversimplify the nature of competition in this market.

18 Utah Refractories classifies its own silica bricks  
19 into Gencil brand type A bricks for the glass sector,  
20 and Grefco brand type B bricks for coke ovens for the  
21 steel sector.

22 Glass furnaces require higher purity type A  
23 silica bricks. Lower purity bricks for coke ovens  
24 cannot be used for glass ovens. The fact that Utah  
25 Refractories and imports from China differ in the

1 market segments into which they sell necessarily  
2 limits the degree of interchangeability. The  
3 responses of individual purchasers on  
4 interchangeability who happen to be *only* in the steel  
5 or glass sector do not take this factor into account.

6 As surprise effects, the staff decided in  
7 this preliminary phase investigation to collect  
8 comparative bid data because silica bricks sales are  
9 project-specific. This also reflects the reality that  
10 this is not a commodity product, but rather the types  
11 of bricks purchases can differ significantly,  
12 depending on the specific furnace project in which  
13 they will be used, both in shape and chemical content,  
14 as you heard earlier.

15 Utah Refractories, for example, has 30,000  
16 different molds, given the wide variety of shapes and  
17 dimensions for coke and glass ovens. As noted in the  
18 staff report, ten purchasers reported bid data, eight  
19 of which reported contacting only a single source for  
20 a quote. This is not a characteristic of a commodity  
21 market, but rather reflects the importance of a long-  
22 term customer/supplier relationship.

23 Only two purchasers reported receiving bids  
24 from competing suppliers. And as detailed in our  
25 prehearing brief, neither of these supports a finding

1 of underselling or adverse price effects related to  
2 imports from China. Moreover, purchasers also  
3 reported that they seldom change suppliers, and many  
4 reported that they purchased from a silica brick  
5 supplier, even though there were other cheaper options  
6 available. Again, this is not a characteristic of a  
7 commodity market.

8 In its prehearing brief, Utah Refractories  
9 relies heavily on broad AUV comparisons to support its  
10 adverse price effect allegations. However, given the  
11 differentiated nature of this product, AUVs are  
12 meaningless for price comparisons. This is precisely  
13 why your staff departed from its normal practice and  
14 did not collect quarterly volume and value data in  
15 this final phase for underselling purposes.

16 The financial data do not support Utah  
17 Refractories' allegations of injury or causation. In  
18 its prehearing brief, Utah Refractories relies on  
19 financial data it reported that is reflected in table  
20 6-1 of the prehearing report. And by the way, table  
21 C-1 of the prehearing report actually is unadjusted  
22 financial data. It did not use the financial data  
23 recalculated by your staff, as reported in table 6-2.

24 Please refer to confidential slide four.  
25 The corrections made by your staff changed the view of



1 the U.S. industry and its financial performance.

2 Normally the Commission observes inverse  
3 relationships between industry performance and subject  
4 import volume and market share. But here this  
5 relationship is absent during the POI. Put simply,  
6 there is no correlation between the financial  
7 performance of the U.S. industry and the level or  
8 market share of subject imports.

9 We also believe the Commission should  
10 recognize certain implications for Utah Refractories'  
11 reported financials that flow from the fact that it is  
12 a private company with just two owners. The specifics  
13 are confidential, but one of the most important is  
14 highlighted in confidential slide five. There also  
15 are other unanswered issues with respect to its  
16 reported financials, which we identified in our  
17 prehearing brief.

18 Absent observable adverse effects during the  
19 POI, Utah Refractories essentially reverts to an  
20 argument that it was pushed out of the steel sector by  
21 imports from China well before the POI, relying on its  
22 version of competitive events many years before 2010  
23 or even before 2009.

24 These allegations should carry no weight.  
25 For large volume sales of silica bricks for new coke

1 ovens, UTR has made no sales since at least 1998, and  
2 hence cannot be attributed to any POI impact of  
3 subject imports.

4 With regard to the repair and replacement  
5 market, neither does the evidence show adverse  
6 effects. We will provide the confidential details in  
7 our posthearing brief.

8 For the glass sector, where Utah  
9 Refractories has faced very little competition from  
10 China during the POI, UTR claims that it is being  
11 pushed out of this market and is seeing pressure on  
12 prices from Chinese imports. These claims cannot be  
13 taken seriously given the virtual absence of sales by  
14 China to the sector.

15 To the extent Utah Refractories is relying  
16 on a threat analysis, Mr. Swift will address these  
17 issues in more detail later. However, the few  
18 specific instances of threat alleged by UTR for the  
19 glass sector are either factually incorrect or omit  
20 important facts reported by certain purchasers to  
21 which Utah Refractories refers in its prehearing  
22 brief. Thank you.

23 MS. NAGARAJAN: Good afternoon. My name is  
24 Nithya Nagarajan. I'm counsel to Tianjin New Century  
25 Refractories, a Chinese producer and exporter of

1 silica bricks and shapes. Allow me to introduce Dr.  
2 Yong Dai, the General Manager of TNCR. He's come from  
3 China specifically to attend this hearing and provide  
4 the Commission with his personal testimony in this  
5 matter. Dr. Dai?

6 MR. DAI: Thank you for allowing me to  
7 testify today. My name is Yong Dai. I am a general  
8 manager of Tianjin New Century Refractories, Ltd.  
9 TNCR is a Chinese Manufacturer of silicon brick and  
10 shapes. We sell our product in Chinese market, around  
11 the world, including United States. Let me begin by  
12 explaining my background. I earned my PhD degree in  
13 mineralogy from Miami University Ohio, and I have 20  
14 years of experience in refractory industries.

15 I worked on both U.S. side and the Chinese  
16 side. Before becoming a general manager of TNCR about  
17 10 years ago, I worked for Harbison-Walker Refractory,  
18 which operated a silica brick plant in Maryland until  
19 1999 when UTR become the only silica brick facility in  
20 the United States. During my time at Harbison-Walker,  
21 I work with SunCoke to supply their Indiana harbor  
22 facility in 1996.

23 I'm here today to discuss five issues. The  
24 first, silica brick are not interchangeable or  
25 commodity items. They are highly-specialized items

1 and have different physical property, different size,  
2 shapes and are made from different input. Most  
3 importantly, silica brick that are intended for coke  
4 and glass market are never interchangeable. The  
5 second, TNCR, like all Chinese manufacturer sales to  
6 the U.S., almost completely within the steel market.

7 Third, TNCR does not see Utah Refractory as  
8 a competitor. We sell almost all our import product  
9 to the steel industries. Nearly all of those sales  
10 are for large, new project and large repair jobs. We  
11 never see Utah Refractory selling in this area, and  
12 instead, they sell mainly in the glass industry, and  
13 when they do sell to steel industry, they sell to some  
14 smaller jobs. In my view Utah Refractory will never  
15 be a direct competitor. Their capacity is too small  
16 for them to compete for the same job as TNCR and the  
17 other Chinese company are supplying.

18 Fourth, I do not sell my product based on  
19 price. Instead, my customer always focuses on TNCR  
20 ability to meet their delivery schedule and the  
21 quality concerns. They even care about sourcing of  
22 input of the silica brick. My customer only start to  
23 care about price after I have proven TNCR can meet  
24 their quality, availability and delivery requirements.

25 Finally, the Chinese industry is not targeting the

1 U.S. market.

2           Ninety percent of the silica brick produced,  
3 which is over two million tons in China, are sold and  
4 used in Chinese market. The remainder are sold  
5 primarily in the market outside the United States.  
6 The U.S. sales are only a tiny fraction of the Chinese  
7 export. This is because there are much better export  
8 opportunities for Chinese producer in the other  
9 countries. As I mentioned earlier, silica brick are  
10 not interchangeable. This are especially true for  
11 brick manufacturer for glass and steel industries.  
12 There are many difference between the product and to  
13 prevent them to being used interchangeably.

14           For example, the coke oven comes in dozen  
15 and sometime hundreds of different shape. Not all  
16 those shapes will work or used by glass industry  
17 customer. The glass brick are most machine pressed  
18 and standardized shapes. Secondly, the brick used in  
19 coke oven can be high level in purity. This make them  
20 suitable for glass applications. Instead, brick  
21 produced for U.S. glass industries are super duty or  
22 Type A silicon with a very low impurity levels.

23           With regard to performance, the silica brick  
24 manufacturer of a glass industry must be able to  
25 withstand a much higher temperature than brick made

1 for coke oven industries. If you use coke brick in  
2 glass furnace, they will deform, fail. It is also not  
3 possible to substitute the Chinese and the U.S. brick  
4 in glass market. The brick that Chinese produce or  
5 make for Chinese customer are very different from  
6 those that are acceptable in the United States or  
7 Europe.

8 So far, as I'm aware, TNCR is the only  
9 company that can manufacturer glass tank brick that  
10 meet the U.S. and European standard which require a  
11 very low level of impurity. This will require excess  
12 of specialized technology which TNCR licensed from  
13 Harbison-Walker. It also requires excess of special  
14 deposits of raw silica, especially low-level  
15 impurities. No other Chinese company as I know can  
16 meet this kind of requirement.

17 Another important factor for evaluating this  
18 market is a difference in Chinese and the U.S. selling  
19 strategies. China sales in U.S. are almost  
20 exclusively in the coke industries. As far as I know,  
21 Chinese producer has only sold a few dozen tons of  
22 silica brick in the United States glass industry over  
23 last few years, a few years. We just do not compete  
24 with Utah Refractory in this area.

25 I do not see any sign of the situation will

1 change. As I explained earlier, coke brick include  
2 hand-made in dozens and sometimes hundreds of  
3 different shape. All of this shape require their own  
4 mold, and those mold need to be replaced frequently.  
5 It would be very expensive for small producer like  
6 Utah Refractory do large coke brick project. It also  
7 will be time consuming.

8 It typically take between seven or 10 days  
9 to manufacture a new mold, and the producer need to  
10 make their large quantity for the large project. This  
11 constrains to limit Utah Refractory ability to compete  
12 in this area especially when you consider they're a  
13 smaller size. While I'm sure that Utah Refractory  
14 will be able to work on small repair and replacement  
15 jobs, they are unable to supply large volume of brick  
16 required for new coke facility or larger repair or  
17 replacement project.

18 On the other side, we have no interest in  
19 competing in their market. As I mentioned earlier,  
20 U.S. glass customer require Type A and a super-duty  
21 brick. Only one of our plant can make this kind of  
22 product. It is already booked up for the orders from  
23 the Chinese customer. No other Chinese producer has  
24 developed this capabilities. This is because the  
25 Chinese glass industry has a much higher tolerance for

1 impurity and a much higher demand. The Chinese  
2 producer have no incentive to go after U.S. demand for  
3 the product that are not easy to make.

4 In short, do not consider Utah Refractory as  
5 a competitor. In fact, I can recall single instance  
6 where TNCR and Utah Refractory ever both quoting the  
7 same jobs. Utah Refractory claims that U.S. customers  
8 only buy Chinese brick of price. I don't understand  
9 this claim. As I explained earlier, our customer come  
10 to TNCR because we can provide high-quality product  
11 that meet their specification and delivery schedules.

12 Failure to meet this requirement would cost our  
13 clients a lot of money. This is why they charge a  
14 very high penalty, as much as several thousand dollars  
15 if our delivery are just one day late.

16 The quality is critical. Silica brick are  
17 heated to 1,000 degrees in coke oven for decades at a  
18 time. Premature brick failure would be disaster. At  
19 a minimum, it is very expensive to repair, and also,  
20 at worse, it can cost significant damage to the whole  
21 coke facility. Our customer trust us to get a size,  
22 shape, specification right. Of course, our customer  
23 care about price, but price is not a dividing factors,  
24 and the reason why TNCR is often the source supply for  
25 the big project is because we can always deliver large



1 quantity of brick on time and at a high quality.

2           It is rare our silica brick to be rejected  
3 for quality reasons. Our business is built on trust,  
4 reliability and not on low price. Turning to the  
5 threat, I see that Utah Refractory argue that Chinese  
6 industry's numbers, in numbers, has nowhere to sell  
7 except to United States. This argument only tell you  
8 the half story. The reason Chinese has the largest  
9 silica brick industry in the world because it has the  
10 largest demand for silica brick in the world.

11           China has worked a large steel and glass  
12 industries, and unlike the U.S. market, most Chinese  
13 steel company using blast furnace that require coke.  
14 That is why 90 percent of Chinese silica brick is used  
15 in China. The remaining 10 percent is not sold in  
16 United States. Instead, Chinese producer export their  
17 brick to countries like India, Ukraine, and those  
18 country also have large steel industries, and they use  
19 the blast furnace.

20           This means that there is more demand for  
21 Chinese product in those countries especially when  
22 compared to demand in United States. Ultimately, the  
23 United States represent only a tiny fraction of  
24 Chinese export. It is even harder to see threat in  
25 the glass industry. As I explained earlier, Chinese

1 glass maker does not require same super-duty brick as  
2 the U.S. counterparts. The Chinese producer have no  
3 commercial incentive to make this. This means that  
4 glass brick made in China cannot meet U.S. industrial  
5 standard spec.

6 It is worth noting that China is a net  
7 importer of glass tank silica brick, most ones that  
8 manufactured in Europe. Once again, there is no sign  
9 that this will change even though TNCR has the  
10 capability to manufacture of this glass tank bricks.  
11 We have only shipped a few thousand tons to United  
12 States. The fact that there are better sale  
13 opportunity for us in China. This is why we are not  
14 competing with Utah Refractory in the U.S. market and  
15 have no plan to do so.

16 Finally, I should mention a word about  
17 Chinese questionnaire response. TNCR submitted a  
18 questionnaire response. We also asked our Chinese  
19 silica brick producer to do so. The response from all  
20 other producer was the same. They see no reason to  
21 participate because the U.S. market is such a small  
22 part of their business. The possibility of anti-  
23 dumping orders is just not important to them, and  
24 despite what Utah Refractory claim, there was never a  
25 strategy to withhold information from the Commission.

1                   Thank you very much again for the  
2                   opportunity to testify today. I would be happy to  
3                   answer any questions. Thank you.

4                   MR. SWIFT: Good afternoon, Commissioners.  
5                   My name is Christopher Swift. I'm with Foley &  
6                   Lardner, and it's a pleasure to appear today before  
7                   you on behalf of SunCoke energy. My role today is to  
8                   help the commission distinguish between what the  
9                   Petitioner has said about the threat case and what the  
10                  record actually shows about the threat case, and in  
11                  order to draw those distinctions, I think it's  
12                  important to begin by identifying two fundamental  
13                  flaws in what the Petitioners have presented to you in  
14                  their prehearing brief and also what they presented to  
15                  you today.

16                 First, as everyone here at the table has  
17                 noted, the Petitioner has conveniently ignored the  
18                 fact that we're dealing with two distinct categories  
19                 of brick: Silica brick for glass ovens, and silica  
20                 brick for coke ovens. These bricks are sold in two  
21                 distinct sectors, and they have two distinct uses.  
22                 Second, Petitioner ignores a very common-sense  
23                 principle that the Commission has articulated over and  
24                 over and over again in its prior cases. Sir?

25                 CHAIRMAN WILLIAMSON: Your red light's on.

1 You're not wrapping up.

2 VOICE: Apparently, he's saying to wrap up.

3 MR. SWIFT: Okay. We'll move to the wrap  
4 up.

5 CHAIRMAN WILLIAMSON: You can make your  
6 points in the questions.

7 MR. SWIFT: We'll be happy to do so. Thank  
8 you, Commissioner Williamson. The wrap up is as  
9 follows. We have no indicia of harm. We have no  
10 indicia of a price effect. We have no indicia of a  
11 volume effect. We have no indication whatsoever that  
12 these circumstances are going to change, and because  
13 we have no indicia that the Chinese industry, as Dr.  
14 Dai has explained, plans to target the U.S. market at  
15 any time in the near future.

16 In fact, everything that Dr. Dai has  
17 described, and everything that Mr. Morey has described  
18 in terms of world markets seems to indicate that the  
19 demand is in foreign markets, not in the U.S. market,  
20 and because this is a demand-driven product rather  
21 than a supply-drive product, because it's not a  
22 commodity product like soybeans or peanuts or even  
23 ball bearings, there's no indicia of threat in the  
24 future. Thank you, Commissioner.

25 CHAIRMAN WILLIAMSON: Thank you, and I want

1 to thank all the witnesses for coming to testify this  
2 afternoon and particularly those who have come along  
3 way to do so. We'll begin our questioning this  
4 afternoon with Commissioner Kieff.

5 COMMISSIONER KIEFF: Thank you very much,  
6 Mr. Chairman, and thank you very much to the lawyers  
7 and the witnesses. Like this morning, this  
8 afternoon's presentation has been very helpful,  
9 although I'm noticing very different, so I'm hearing  
10 two totally different stories, and I get that you're  
11 highlighting that. This kind of though reminds me of  
12 an old Agatha Christie murder mystery where everybody  
13 seems to agree there's a dead or dying body, but there  
14 are these big debates about whether the poison killed  
15 the victim, the revolver killed the victim, the  
16 autodefensation killed the victim.

17 Look, I guess to put my cards on the table,  
18 as I hear the argument this afternoon and as I heard  
19 it this morning, and as I see it in the documents, it  
20 seems to be consistent with several states of the  
21 world being possible, so it's possible, and I think  
22 probably very likely, that all of the activity in  
23 China is happening for all sorts of very, very good  
24 and legitimate reasons that are almost not paying any  
25 attention to the U.S. market, but that could be true

1 regardless of whether we have a case here or not.

2 In other words, it need not be the case that  
3 China industry is in some way targeting this domestic  
4 industry. It need only be the case that there is a  
5 subsidy that someone else has found and a harm that  
6 we're being asked to find. Intent is not really the  
7 issue. Another thing that seems to be possible is  
8 that the stories the lawyers have told this afternoon  
9 might be consistent with no harm, but they might be  
10 equally consistent with an immense amount of harm.

11 In other words, wouldn't the industry look  
12 the way you have described if you had just about  
13 suppressed it? Wouldn't it look just that way?  
14 Wouldn't most of the story you've told be true?

15 MR. SWIFT: Commissioner Kieff, thank you  
16 for the question. If I can respond to each of your  
17 points in turn, I agree that it sounds today like the  
18 Petitioners and the Respondents are arguing from very  
19 different premises. You might say we're arguing from  
20 different planets in fact given the substantial  
21 differences and the representations that have been  
22 made to you including some of the deviations between  
23 some of those representations in the staff report.

24 Here's what we do know for certain. We know  
25 that Chinese and U.S. producers are selling into

1 completely different segments of the U.S. market and  
2 don't compete head to head. We know that U.S. --

3 COMMISSIONER KIEFF: I'm sorry. I think  
4 what they're saying is that's because you've already  
5 squashed them out of that market.

6 MR. SWIFT: If I could address that point,  
7 Commissioner? We know that U.S. producers' prices and  
8 production haven't been affected. We know that during  
9 the period of investigation that we have, these are  
10 the facts that we have, and they're clear in the  
11 record, and we also know that there's no indication  
12 that anything has changed in the past, and so getting  
13 to your question, Commissioner, it's very difficult  
14 for us to see how the domestic industry could be  
15 threatened by or suppressed by Chinese importers who  
16 are selling different products with different  
17 performance characteristics to different customers for  
18 different purposes.

19 COMMISSIONER KIEFF: Let me try asking this  
20 question then. Can you point to anything, and maybe  
21 you don't have to. Maybe I'm asking a question for  
22 which the, if you will, burden of proof is not borne  
23 by you, in which case please tell me, but even so, I'd  
24 still like to know more. What are the reasons to feel  
25 confident that this company, this domestic industry,

1 got out of selling to the steel business for reasons  
2 that are totally unrelated to the subject imports? In  
3 other words, even if the subject imports hadn't  
4 happened, they would not have met that demand?

5 MR. KLETT: Commissioner Kieff, this is Dan  
6 Klett. I think there's two important issues and maybe  
7 three. With regard to the coke sector, you hear Mr.  
8 Morey say that the reason that they buy from China is  
9 because of a non-price reason. In other words, they  
10 can't get the required quantities from the U.S. that  
11 they can get from China. Now, the two stories you  
12 heard are different.

13 I mean, Utah Refractory says well, we could  
14 provide it given enough lead time, but then you heard  
15 from Mr. Morey that given their business model, that's  
16 just unrealistic, and I think Commissioner Williamson  
17 said earlier today, you know, basically Utah  
18 Refractory is asking SunCoke to change its business  
19 model to accommodate Utah Refractory's, so I think  
20 that's an important distinction. It's a factual  
21 distinction.

22 COMMISSIONER KIEFF: So to make sure I'm  
23 hearing you, are you basically saying that the facts  
24 of this consumer demand are such that they only buy  
25 big loaves of bread deliverable tomorrow and artisanal



1 bakeries that can deliver smaller loaves later may be  
2 nice but can never meet this particular demand?

3 MR. KLETT: I think that's a good analogy,  
4 yes.

5 COMMISSIONER KIEFF: And if it turned out  
6 the facts were different, in other words, if it turned  
7 out in the posthearing briefing that was subject to  
8 debate, you're saying it would be appropriate for us  
9 to focus on that, but if it turned out there was no  
10 debate about that, this would be in a sense a slam-  
11 dunk case in your favor?

12 MR. KLETT: Yes, and I think one thing, and  
13 maybe Mr. Morey can go into this in a bit more detail,  
14 but I don't think Utah Refractory in their direct took  
15 into account the unique business model that SunCoke  
16 has for why their delivery requirements is such that  
17 it is, at least with regard to the coke sector.

18 MR. MOREY: As I said earlier, we enter into  
19 long-term take or pay contracts with off-takers to  
20 support our appropriate-grade estimates that allow us  
21 to go forward with appropriation to build a product,  
22 and that's when the starting gun goes off on a  
23 project. Thereafter, we have an off-taker client that  
24 wants their coke on a specific day for their specific  
25 reasons, so they're driving us to this skill, this

1 uncomfortable schedule, and we don't have any room to  
2 maneuver, to accommodate suppliers' specific --

3 COMMISSIONER KIEFF: Yes, please.

4 MR. HUSISIAN: I was going to say there have  
5 been so many questions we skipped over your very first  
6 question which is how do we know that they haven't  
7 been driven out by the Chinese producers? I would  
8 point out, there's a period of investigation, and they  
9 put in profit and stuff going back to years and years  
10 before the POI, and they talk about it, but their  
11 level of sales to the U.S. market as they say in their  
12 petition at the beginning of the POI to the coke  
13 industry was zero.

14 At the beginning of the POI, they've  
15 actually gone up since then with the confidential  
16 numbers in there, so to the extent they're saying that  
17 they were driven out by subject imports, (1) it's hard  
18 to see because the subject imports are only less than  
19 two thousand metric tons, but (2) they were at zero at  
20 the beginning of the POI. They can't be driven down  
21 to less than zero, and to the extent they want to  
22 complain about pre-POI stuff, that's not in the  
23 record. They didn't ask for an extended period of  
24 investigation. It's just not relevant.

25 COMMISSIONER KIEFF: Okay. So then just a

1 quick followup, and again, even if we don't have the  
2 answer here, it's okay because it could be in the  
3 documents afterwards would be how does everything that  
4 you're saying address or relate to the evidence? I  
5 mean, it's only testimony all the evidence, so it  
6 could be wrong, but the evidence that it looks like  
7 they have stories of people, you know, asking them to  
8 make quotes but then not getting the sales, and they  
9 seem to have, despite a lot of customer loyalty and  
10 stickiness, they seem to be getting more sales post-  
11 petition. Are those things either irrelevant or  
12 untrue?

13 MR. HUSISIAN: I would say the latter,  
14 untrue because again you have to look by industry.  
15 With regard to the glass industry, there is virtually  
16 zero imports from China, so they can't be losing any  
17 sales there because there's no imports coming in, and  
18 with regard to the coke side of things, they started  
19 out at zero and moved upwards into it, so I don't see  
20 how you can have any kind of displacement in their  
21 main industry, which is the glass, when there's just  
22 no imports coming in to do that displacement.

23 COMMISSIONER KIEFF: Thank you. Mr.  
24 Chairman?

25 CHAIRMAN WILLIAMSON: Thank you. I asked

1 the Petitioners this morning, I don't know if you have  
2 any information on this now or post hearing, and if  
3 you look at the consumption of silicon brick for coke  
4 refractory, any idea about the percentage that it's  
5 for new projects and percentage going into repair or  
6 replacement and are there any trends there?

7 MR. MOREY: Well, during the study period,  
8 it's all been repair, but prior to from 2004 to 2010,  
9 we built three major coke battery projects in the  
10 United States, and they're referenced in our  
11 submittal, and each one exceeded 13,000 metric tons of  
12 silica brick supply.

13 CHAIRMAN WILLIAMSON: Do you have any idea  
14 about other users, other companies that would have  
15 built --

16 MR. MOREY: Generally, the only other users  
17 in the U.S. market are steel companies themselves that  
18 have legacy batteries, and the only construction  
19 associated with those batteries is typically a major  
20 rebuilt or repair project, so I would classify that  
21 primarily as repair.

22 CHAIRMAN WILLIAMSON: So you're saying under  
23 the period of investigation, the whole silica brick  
24 for coke use has been for use in repair and  
25 replacement?

1 MR. MOREY: That's correct.

2 MR. KLETT: Commissioner Williamson?

3 CHAIRMAN WILLIAMSON: Yes.

4 MR. KLETT: There is confidential  
5 information on the record with regard to another U.S.  
6 producer that SunCoke may not be aware of.

7 CHAIRMAN WILLIAMSON: Okay. Fine. Thank  
8 you. Okay.

9 MR. KLETT: But, you know, in terms of what  
10 went on during the POI.

11 CHAIRMAN WILLIAMSON: Okay. Good. So  
12 anything you want to say or can say in post hearing  
13 about the present situation and what you might say is  
14 going to happen in the foreseeable future what the  
15 trends are?

16 MR. KLETT: Yes. Sure, we'll do so.

17 CHAIRMAN WILLIAMSON: Good. Thank you. One  
18 thing, I was very curious. Mr. Husisian, you  
19 mentioned this. There's a difference between brick  
20 used for coke factories and those used for glass, but  
21 is there a difference between manufacturers in the  
22 sense that can many manufacturers produce both? I  
23 think Utah just said this morning that they could  
24 produce both, and they can switch back and forth. Do  
25 you disagree with that?

1           MR. HUSISIAN: No. I agree with that. I  
2 think it's actually supportive. What they actually  
3 said this morning was because they can make the very  
4 low impurities Type A product that's intended for the  
5 glass market, they can step down and mix in some  
6 additives in order to make a product that's intended  
7 for the coke industry. Now, that's well and good, but  
8 that doesn't mean that a producer that can only make  
9 lower-level glass products for uses that are not  
10 generally seen in the United States that they would be  
11 able to take the step up to make the low impurity  
12 product as well.

13           In order to do so, as Dr. Dai said, you need  
14 to have a very low impurity input product, and you  
15 would need to optimize your product, your production  
16 so you can make it, and as Dr. Dai was telling us  
17 yesterday when we were prepping for the hearing, he  
18 said when they first tried to make this, they had a  
19 70-percent failure rate because it's very difficult to  
20 do, and so they've only optimized one of their kilns  
21 to make this product, and that kiln is booked up as he  
22 said.

23           So, you know, the fact that Utah  
24 Refractories can go from the most demanding product to  
25 make the coke stuff doesn't mean that the Chinese can

1 make the opposite track because they would have to go  
2 into the more difficult product, and they don't have  
3 any incentive to do so because the demand isn't there  
4 in the Chinese market for that kind of Type A product.

5 MR. DAI: Greg, let me --

6 CHAIRMAN WILLIAMSON: Yes, Dr. Dai. Yes.  
7 I'll let you speak for yourself.

8 MR. DAI: Yes. To manufacturers, I just  
9 give you a fact. China has a manufacturer about now  
10 it's required about two million tons, but the Chinese  
11 are still import the Type A silica brick from outside  
12 for glass tanks, so if there's no difference, they  
13 have made this a long time ago, so there is a major  
14 difference. You have the firing. You have the raw  
15 material selections, and they're all so important  
16 because the high purity.

17 This brick is a very -- when you make it as  
18 he, Greg, said, that sometime you have find out  
19 cracking rate by 17 percent. If there's a crack,  
20 nobody want to buy your brick who has a crack inside,  
21 so it's very difficult to make.

22 CHAIRMAN WILLIAMSON: Is it a question of  
23 having to import the right raw material, or is there  
24 more than just how you do it?

25 MR. SWIFT: You need the right raw material

1 input, different, and then you need a manufacturer  
2 production process different from your coke higher  
3 impurities material. It's easier to produce. You  
4 need the firing is different.

5 CHAIRMAN WILLIAMSON: But you can use the  
6 same facilities, I take it?

7 MR. DAI: Same?

8 CHAIRMAN WILLIAMSON: Different inputs and  
9 maybe a different process in time?

10 MR. DAI: Same kiln you just cannot. For  
11 example, if your kiln is not in good shape, you will  
12 not be able to make this kind of product.

13 CHAIRMAN WILLIAMSON: You said not what?

14 MR. DAI: Not good shape. For example,  
15 you're not maintain where your kiln is on. Let's say  
16 you're tunnel kiln to manufacture this kind of brick,  
17 you will have very difficult to get a high yield.

18 CHAIRMAN WILLIAMSON: Okay. Because I  
19 assume there is demand for the glass in China.

20 MR. DAI: Yes. They import.

21 CHAIRMAN WILLIAMSON: Yes.

22 MR. DAI: I even, when I started the company  
23 back 2003, we even go back to Mr. Tom Mahoney for a  
24 possible representation sell their product in China.  
25 I even approach them, yes.



1                   CHAIRMAN WILLIAMSON: Okay. Okay. Thank  
2 you for that clarification. Okay. I don't know. You  
3 may have already touched on this. Whether or not for  
4 repair and replacement, to what extent to purchasers  
5 try to keep the same source as the original  
6 construction? You may have already answered this, but  
7 I --

8                   MR. MOREY: It's desirable to try to source  
9 the materials from the same location and match brick  
10 chemistries. If you have different sources, you  
11 introduce a potential for risk if the brick  
12 chemistries don't match, and you get differential  
13 thermal expansion, but it would also depend somewhat  
14 on the location of the repair, and the criticality of  
15 the structural integrity of that location because we  
16 have other components on our designs that are  
17 supported by the ovens.

18                   We have cat walks above the ovens that are  
19 supporting personnel, and we have large emergency vent  
20 stacks, large steel tunnels, common tunnels they call  
21 them, that are quite heavy, supported by the battery,  
22 so depending the location, the utilization of the  
23 product and the disparity between brick chemistries,  
24 we make a judgment on where to source the material.  
25 Also, the urgency of delivery would be a

1 consideration, too.

2 CHAIRMAN WILLIAMSON: Okay. Thank you.

3 Let's get some more background on molds for bricks. I  
4 guess, Dr. Dai, can you give us some more background  
5 on the molds for bricks you produce? What are they  
6 made of? How labor intensive is the process and what  
7 are the mold life spans? I asked a similar question  
8 this morning.

9 MR. DAI: On silica brick, the mold is like  
10 make any kind of brick is two steel, a very tough  
11 steel to make a mold boxes, and on the inside, you put  
12 a liner to put it to the sides where the cavity, which  
13 is exactly meant you said like this morning, the  
14 sample here, and then you press it. That's the steel.  
15 We are feel like a simple, rectangular four days,  
16 week, and some complicate mold without making the  
17 boxes. We have a box outside just to make the liners,  
18 probably a week, you know, for a mold to process ready  
19 to use.

20 CHAIRMAN WILLIAMSON: Okay. Are there  
21 significant differences between molds for glass bricks  
22 and molds for coke?

23 MR. DAI: For the mold making, they're  
24 shaped different. Otherwise, they're similar.

25 CHAIRMAN WILLIAMSON: Okay. Okay. Thank

1 you.

2 MR. DAI: Also, for the mold, just  
3 additional information, when we make a mold, normally  
4 we charge to the customer. The mold we have was  
5 actually owned in our facility owned by the customer.  
6 They pay for it.

7 CHAIRMAN WILLIAMSON: Okay. Thank you.  
8 Commissioner Aranoff?

9 COMMISSIONER ARANOFF: Thank you, all, for  
10 being here this afternoon. Mr. Morey, are there  
11 multiple suppliers, either Chinese, European or from  
12 wherever who would meet the kind of specifications  
13 that you have for quality and delivery and are  
14 available to compete for your business?

15 MR. MOREY: From a quality standpoint, yes,  
16 there are. From a volume standpoint and ability to  
17 meet the schedule, the field gets narrowed down.

18 COMMISSIONER ARANOFF: But it's more than  
19 one?

20 MR. MOREY: It's more than one.

21 COMMISSIONER ARANOFF: So given that there's  
22 more than one supplier that could meet your needs, do  
23 you typically put your requirements out for  
24 competitive bidding, or do you typically sole source?

25 MR. MOREY: In the past, it depends on

1 whether it's new construction or repair, but in the  
2 recent past, it's been sole source predominantly in  
3 support of new construction. When I say the recent  
4 past, I mean 2004, not the study period. In the study  
5 period, quite frankly, our quantities have been  
6 extremely small, and as a result, I'm not sure if  
7 they're competitive bid or not.

8 COMMISSIONER ARANOFF: Okay. Just so I  
9 understand you, you just told me that typically you  
10 put the new construction, you've been sole sourcing?

11 MR. MOREY: Yes.

12 COMMISSIONER ARANOFF: But sometimes, you  
13 will put the repair jobs up for bid even through  
14 they're smaller jobs?

15 MR. MOREY: Yes, because again, going back  
16 to the ability to meet our large quantity requirements  
17 in a timely fashion.

18 COMMISSIONER ARANOFF: Okay. Can you  
19 describe what the process of qualifying a supplier is  
20 like?

21 MR. MOREY: We've updated that process in  
22 the recent past, but basically, we contact suppliers,  
23 or in some cases, they contact us, and they come in,  
24 make a presentation, show us the types of products  
25 they're capable of making, and they discuss the types

1 of quantities they're able to make, and we have  
2 quality discussions. We meet their team. We usually  
3 get invited to their facilities to go and review their  
4 capabilities, and if they make the cut on capacity and  
5 quality, then they'll be allowed to participate in the  
6 inquiry process.

7 COMMISSIONER ARANOFF: Okay. Mr. Klett, let  
8 me turn to you for a pricing question. The Commission  
9 obviously in the final we didn't collect quarterly  
10 pricing data or attempt to gather bid data that would  
11 show head-to-head competition, didn't come up with too  
12 much that was useful. What weight can we put on the  
13 AUV data that we have and on AUV trends? Should we  
14 say too much product mix problem. We just can't look  
15 at that, or is it good for something?

16 MR. KLETT: I'm going to break this out  
17 between trends and comparisons. With regard to  
18 trends, clearly, you may still have some product mix  
19 issues, but on the other hand, when you're looking at  
20 pricing trends, you also can be looking at costs, so  
21 to a certain extent, the pricing trends and the cost  
22 trends, you know, in tandem, you know, tell you  
23 something that maybe pricing trends or at least  
24 control for may be some of the product mix issues in  
25 terms of whether the industry is doing better.

1           I mean, one of my slides you have volume  
2 trends, and you have revenue trends, and that kind of  
3 tells you something about the pricing trends as well,  
4 so I think for trends, notwithstanding some possible  
5 product mix issues, I think it's still somewhat  
6 useful, especially in combination with corresponding  
7 cost changes. For comparatives, especially with  
8 regard to underselling, I think it's very, very  
9 dangerous or much less useful to use that information  
10 primarily because of product mix issues, I mean,  
11 especially within each sector.

12           In the steel sector, for example, you may  
13 have some AUV comparisons, but given the different  
14 projects and given the project-specific nature of the  
15 bids, I'm not sure that is very meaningful in terms of  
16 underselling, so I think that's the reason your staff  
17 went out and collected the bid information, and the  
18 fact that you don't have many comparatives from the  
19 bid information, I think, in and of itself tells you a  
20 whole lot. I mean, I think it tells you about the  
21 attenuated nature of competition even within a sector  
22 and customer loyalty to a single supplier.

23           You do have a couple instances where you do  
24 have some comparatives on the bid data, although it's  
25 only two out of the 10 bids you got, and I think even

1 that provides some useful information as well.

2 COMMISSIONER ARANOFF: Okay. Thank you.  
3 Mr. Husisian, let me turn to you for a legal issue,  
4 and I was going to ask this this morning to the  
5 Petitioners' panel as well. I didn't get around to  
6 it, but you're welcome to address it post hearing.

7 If I were to find, hypothetically, that the  
8 record in this investigation shows that the domestic  
9 industry has the technical ability and the capacity to  
10 make bricks for coke applications, not every sale that  
11 comes up in the U.S. market, but more than they're  
12 selling to now, but that yet it sold none or virtually  
13 none of its product into that sort of application  
14 during the period because it was pushed out by low  
15 prices from Chinese product, so that's all  
16 hypothetical if I found that, is there any legal  
17 reason why I could not find present material injury  
18 even if I found that the pushing out had happened well  
19 before the POI?

20 MR. HUSISIAN: I hear what you're saying.  
21 It's sort of like a material retardation analysis  
22 applied to one sector of the market. I guess what  
23 you're saying is it possible to find that the presence  
24 of the subject imports prevented them from regaining  
25 toe-hold in the coke industry bricks. Is that

1 basically what you're saying or asking?

2 COMMISSIONER ARANOFF: That's one way of  
3 looking at it, or you can look at like in a sunset  
4 review where we talk about continuation of material  
5 injury, that the material injury started at some point  
6 in history, but it continues to now because the  
7 statute says we have to make a finding of present  
8 material injury as of the vote day.

9 MR. HUSISIAN: Right. I'm not aware of any  
10 case where the Commission has done that. What they  
11 usually say is, you know, to the extent it's possible  
12 that there was pre-POI injury, we can't evaluate that  
13 because we don't have the information in the record,  
14 so when people have tried to argue that, I think the  
15 Commission has stated that it's not cognizable in part  
16 because you just can't evaluate the pre-POI  
17 information because it's not the record, and you  
18 didn't inquire into it as well.

19 I'm swallowing a little bit because I don't  
20 see how you can get to the assumptions that you have  
21 there, but you're required by the statute to find that  
22 there's a significant volume and a significant price  
23 impact, and when the U.S. industry is entirely absent  
24 from selling in that market, in part because they've  
25 said we don't compete for the large, new facilities



1 and things like that, it's hard to see that it's  
2 there.

3 So I'm not sure how you can find a price and  
4 a volume impact that is entirely attributable to pre-  
5 POI behavior and then somehow time machine that  
6 forward under the statute to find the present material  
7 injury effect.

8 COMMISSIONER ARANOFF: Yes. It's a bit of a  
9 chicken and egg-type of a question, right? Because  
10 you tell me that the market is completely segmented,  
11 and there's no competition, the imports are in one  
12 segment, the domestic industry's in the other segment.

13 Then, then the other side responds that's not  
14 attenuated competition, that's evidence of injury.

15 MR. HUSISIAN: Right. And to the extent  
16 that's evidence of injury might mean that they had a  
17 good case to bring in 2003 or something. That's not  
18 the fact pattern that's before you, and what the  
19 record shows is they actually are making a successful  
20 re-entry into that industry, and moreover, in the  
21 industry that is their stronghold, they're not seeing  
22 any impact of the subject merchandise at all within  
23 the glass industry.

24 I note the U.S. industry also did not ask  
25 for a separate like product analysis, which would

1 have, if they had asked for it, then you would have  
2 gathered the information like you do, you know, at the  
3 questionnaire phase to look separately at the two  
4 products. If they wanted to argue that they were  
5 being materially retarded from the entering into or  
6 re-entering into the coke industry, they should have  
7 asked for two separate like products.

8 They didn't, and so the information, once  
9 again, is not on the record to separately evaluate  
10 whether they're being retarded from coming into that  
11 industry, because that's what the statute does. For  
12 situations where the U.S. industry is being prevented  
13 from going into an industry, there's a material  
14 retardation provision, and if they had asked for a  
15 separate like product, you could do that kind of  
16 analysis for the coke industry, but since they did not  
17 ask for that.

18 Since the Commission doesn't have the record  
19 to do that kind of analysis, it seems like that ship  
20 has sailed, and you have to look at the industry as a  
21 whole and then do your normal attenuated competition  
22 analysis.

23 COMMISSIONER ARANOFF: Okay. Well, my time  
24 is up, but thank you for those answers.

25 CHAIRMAN WILLIAMSON: Thank you.

1 Commissioner Johanson?

2 COMMISSIONER JOHANSON: Thank you, Mr.  
3 Chairman. I'd also like to thank the witnesses for  
4 appearing here today and in particular, Mr. Dai, I  
5 understand you came a very long way. Mr. Dai, I'm  
6 going to start with a question for you. You noted  
7 that there's little silica brick production in China  
8 for the coke industry, and I was wondering why is that  
9 the case? I'm sorry. For the glass industry. I  
10 apologize. For the glass industry, why is that the  
11 case?

12 MR. DAI: The Chinese glass industry produce  
13 their silicon brick, they can produce, but they cannot  
14 sell to the western standard like a Type A brick. The  
15 Chinese, the glass industry engineering firm have its  
16 own spec, which is for a factor. Normally, we refer  
17 to a flocked factor, which is one time of aluminum  
18 plus two times alkaline levels, that's the chemical  
19 result test. You have to keep under .5 in order to  
20 qualify to be used for in Western glass tank  
21 applications, but in China, most silica brick plant,  
22 you have to realize the most silica brick plant is a  
23 running the steel making area. They supply mainly for  
24 coke ovens. Majority want coke oven construction  
25 where take 16,000 tons. The largest glass tank only

1 take 500 tons to 700 tons. That's most, so you have  
2 China steel production is a lot larger, a lot larger,  
3 so that's why the people all go for the business.  
4 When they see the glass people, I can produce with my  
5 raw material from the mountains. I just make it, but  
6 I cannot reach that purity level. I only can do 1  
7 percent instead of .5 percent, and then the Chinese  
8 glass industry accept it. That's why their glass tank  
9 will be life span is shorter, okay?

10 COMMISSIONER JOHANSON: For glass products?

11 MR. DAI: For glass tanks, so the majority  
12 people are -- China consuming glass industry is the  
13 second largest consumer for the silica brick, but they  
14 just lower quality, not qualify for Western glass tank  
15 applications. We are a licensed product from the U.S.  
16 company who closed their silica brick plant. We make  
17 under their name, but we don't -- China is still  
18 import silica brick for glass applications so far  
19 still with significant quantities.

20 COMMISSIONER JOHANSON: I'm just curious as  
21 to why China doesn't ramp up and produce more for the  
22 glass industry. It's just rare, to be frank with you,  
23 we deal usually with imports in the United States, and  
24 we don't have a whole lot of cases --

25 MR. DAI: They have not see any import in

1 the last 20 years for glass industry, probably only  
2 like 30 tons.

3 COMMISSIONER JOHANSON: Into the United  
4 States?

5 MR. DAI: Into United States.

6 COMMISSIONER JOHANSON: Okay. I'm just  
7 wondering why we're exporting this product to China  
8 because China is such a major producer of so many  
9 different products.

10 MR. KLETT: Commissioner Johanson?

11 COMMISSIONER JOHANSON: Yes.

12 MR. KLETT: One of the things that Dr. Dai  
13 told me yesterday, and maybe he can clarify, is that  
14 for glass bricks, and I think he just indicated,  
15 there's actually two different qualities. There's the  
16 Type A, which is the brick that's used in Western  
17 glass plants which requires a high purity silica rock,  
18 and apparently there's an issue of availability of  
19 that high purity silica rock in China, which is one  
20 constraint.

21 Then, China does make silica bricks for its  
22 own glass sector, but it's a lower purity silica brick  
23 for a non-western type glass plant, so that's one of  
24 the constraints.

25 MR. DAI: China importing silica brick is

1 mainly for the plant like owned by a foreign company  
2 like a Pilthen 10, PPG, you know, Coling in China.  
3 When they are building plant in China, they will  
4 require this kind of brick, so that's why they import,  
5 a lot of import. Now, some Chinese company want to  
6 build a plant, engineered by American company like  
7 Techman in Pittsburgh or Toledo Glass, TECO, they go  
8 to China engineering glass tank that will require,  
9 specify this kind of brick.

10 Now, our small facility is main target for  
11 this kind of company, but they still have to import.  
12 That's why it's still in that import of silica brick  
13 into China market.

14 COMMISSIONER JOHANSON: Couldn't Chinese  
15 producers of silica brick import the inputs if you  
16 need higher-quality inputs from abroad and produce it  
17 there for glass production?

18 MR. DAI: Yes, they can. There is a rock in  
19 China that will be able to produce, but this one is  
20 most are far away remote area. You have to ship.  
21 Like if we make in coke oven silica brick, the silica  
22 rock to our input is under \$20, but if we buy a silica  
23 brick -- like we make a silica rock for our glass tank  
24 brick manufacturer, we have to shipping from where the  
25 input is about \$150, \$120 a ton, so you have to ship

1 in the material to that area. The majority the silica  
2 brick manufacturer are in the area where it don't have  
3 a high purity silica rock.

4 COMMISSIONER JOHANSON: Okay. Thank you for  
5 your explanation and kind of following on that  
6 question, you noted the different inputs are used in  
7 the production of silica brick in China. Is the  
8 production process the same as in the United States?

9 MR. DAI: Yes. There are forming, firing  
10 from this aspect, but when you are producing a silica  
11 for a glass tank, you will require different firing  
12 curves. For example, you have to say a certain  
13 temperature is a longer time. Just firing curve  
14 different.

15 COMMISSIONER JOHANSON: How about like the  
16 labor involved?

17 MR. DAI: That will be very similar.

18 COMMISSIONER JOHANSON: Okay. Okay. Thank  
19 you for your explanation on that. On page C-1 of  
20 Respondents' prehearing brief, SunCoke asserts that  
21 there are many instances when substitutability of U.S.  
22 produced in China and Chinese silica bricks and shapes  
23 is extremely limited, and you've noted that in your  
24 statement. However, Table 2-8 of the prehearing staff  
25 report shows that purchasers found silica bricks and

1 shapes from the United States and China comparable on  
2 most factors.

3 Could you all possible comment on that  
4 because, of course, the big issue here is how  
5 substitutable are these products, and I know we're  
6 talking on and on about that, but that, of course, is  
7 very important in any determination that will be made.

8 MR. KLETT: Commissioner Johanson, I'm going  
9 to take the first cut at this because it's from your  
10 purchaser questionnaires, and I have a better sense of  
11 what's in there. The purchasers by and large were  
12 either a coke oven or either a purchaser that bought  
13 silica bricks for coke ovens, for purchasers that  
14 bought silica bricks for glass, so when they talk  
15 about interchangeability or comparability, (1) they're  
16 only talking about within that sector they're  
17 comparable.

18 So they're not talking about comparability  
19 or interchangeability of silica bricks for glass  
20 versus silica bricks for coke ovens because they're in  
21 only one or the other, and the other part is that when  
22 all those factors when they're talking about  
23 comparability, I think they're focused typically in  
24 that question I think is kind of physical  
25 characteristics, although there are other issues as



1 well such as availability.

2 At least with respect to physical  
3 characteristics, you know, I think Mr. Morey said that  
4 in terms of the quality of physical characteristics of  
5 a Utah Refractories' brick for his applications versus  
6 a Chinese brick that there really isn't a quality  
7 issue per se, so I think the purchaser questionnaires  
8 have to be looked at, you know, in that context.

9 COMMISSIONER JOHANSON: All right.

10 MR. MOREY: Okay. There's two components of  
11 quality. If you think in terms of there's a brick  
12 chemistry aspect, which Dan just alluded to, but also  
13 it's important to understand there's two fundamental  
14 types of coke ovens. Our technology is a non-recovery  
15 process. Once again, as I said in my statement, we  
16 only have 23 shapes, which are unique to our design.  
17 Most of the conventional ovens that the steel  
18 companies build in the United States are bi-products  
19 plants.

20 They're vertical while ours are horizontal,  
21 and they use hundreds and hundreds of brick shapes, so  
22 from a shape standpoint, the bricks aren't  
23 interchangeable. As far as dimensional tolerances, I  
24 can't speak for theirs, but for ours, they have to be  
25 very tight because as I said earlier, we build our

1 ovens with significantly high-priced journeyman, union  
2 labor, and if the bricks do not fit, then a lot of  
3 extra time is spent on site cutting and grinding to  
4 make them fit, so brick tolerance is a key issue, and  
5 it's important to understand the difference between  
6 the two types of technology within the coke industry.

7 COMMISSIONER JOHANSON: All right. Thank  
8 you for your responses. My time is expiring.

9 CHAIRMAN WILLIAMSON: Thank you.  
10 Commissioner Broadbent?

11 COMMISSIONER BROADBENT: Thank you. I want  
12 to thank the witnesses for coming and particular  
13 again, Dr. Dai, for making the trip from China. I  
14 want to compliment you on your excellent English.  
15 Coming from Ohio, I hear just a faint Miami University  
16 accent there, which I think is very healthy, so we  
17 appreciate you making the effort to participate in our  
18 discussion.

19 I wondered who could tell me about where the  
20 imports from Germany compete? What market segments?  
21 What do we know about that?

22 MR. HUSISIAN: That's actually answered in  
23 the confidential staff report.

24 COMMISSIONER BROADBENT: I was afraid of  
25 that.

1           MR. HUSISIAN: It indicates that they're  
2           overwhelmingly in one sector, but just to be careful,  
3           I don't want to say which sector.

4           COMMISSIONER BROADBENT: So the secret  
5           sector that I got to go find out about? Okay.

6           MR. HUSISIAN: I forget which sector it is,  
7           but yes, the answers is the information is there, and  
8           we'll make sure we point it out to you.

9           COMMISSIONER BROADBENT: Now, is this the  
10          end-user sector at all? You can't say?

11          MR. HUSISIAN: It's the one end-user sector.  
12          I mean, it's --

13          COMMISSIONER BROADBENT: And what is an end-  
14          user sector again? I forgot.

15          MR. HUSISIAN: Well, there's two end-user  
16          sectors. There's the coke ovens for the steel  
17          industry, and then there's the glass sector as well.

18          COMMISSIONER BROADBENT: But that's a third  
19          category versus --

20          MR. KLETT: Commissioner Broadbent?

21          COMMISSIONER BROADBENT: Yes.

22          MR. KLETT: I think in the questionnaire,  
23          there was some double counting or ambiguity because  
24          some purchasers or importers when they listed their  
25          customers, they put end user, but the end user was

1       either steel or glass, and so there was some efforts  
2       by your staff to clarify that so that if an importer  
3       said end user, it could actually be more specific in  
4       terms of what the end user was. Oftentimes, it was  
5       reclassified into the glass or the steel, so I think  
6       the glass and the steel really are the main end-user  
7       categories.

8                   COMMISSIONER BROADBENT: And our end-user  
9       category in the report really belongs in one of those  
10      other two categories?

11                  MR. KLETT: I think for the most part.  
12      There may be some other -- and we went through the  
13      questionnaires, and in one of the exhibits to our  
14      brief, we tried to clarify which specific end-user  
15      sector is should have been classified, and we  
16      documented that, and I think the staff matches most of  
17      ours as well except for one discrepancy, but we can go  
18      into that in our brief.

19                  MR. HUSISIAN: We should also point out here  
20      the staff actually contacted us. SunCoke, as we noted  
21      in the brief, is currently listed as an other end use  
22      purchaser, and SunCoke should be in the category of  
23      the coke side, you know, the steel side as you can  
24      tell from the name, so there was a little bit of  
25      ambiguity in the way the question was phrased, so the

1 staff contacted us, and we confirmed that, and we need  
2 to get back and do that, but it really does break down  
3 to those are the two sectors, either people are  
4 selling it into one sector or the other.

5 Then, there's a couple of really oddball,  
6 tiny uses for, which at least in one case, the staff  
7 said these prices are so crazy, and it's for such a  
8 strange use that we're not even including it within  
9 the figures. It really does break down to either the  
10 coke side or the glass side.

11 COMMISSIONER BROADBENT: What's an oddball  
12 use? What would be an oddball use?

13 MR. HUSISIAN: You know, sometimes it comes  
14 for, you know, use in like flooring or for solar  
15 applications or things like that, but it was so tiny  
16 that it just basically dropped out. It's like, you  
17 know, 99 plus percent either as we were saying from  
18 one of these two end-use sectors.

19 COMMISSIONER BROADBENT: Okay. So the  
20 flooring was the auto dealership flooring use, which  
21 is very minuscule.

22 MR. HUSISIAN: It may have been. I didn't  
23 pay that much attention to it because it dropped out.

24 COMMISSIONER BROADBENT: Okay.

25 MR. HUSISIAN: But there is a footnote in

1 the staff report about one where the price was like 20  
2 or 30 times as much as anyone else because it was so  
3 highly specialized. That wasn't for flooring. It was  
4 for another product use, but it was like a couple of  
5 tons.

6 MR. SWIFT: Commissioner Broadbent, we heard  
7 earlier from the Petitioners that nonsubject imports  
8 were not relevant for the scope of this particular  
9 investigation. I think if you look at both the staff  
10 report and you look our discussion in the prehearing  
11 brief, once you identify the sector in question, you  
12 will find that they could potentially be quite  
13 relevant with respect to your threat analysis.

14 COMMISSIONER BROADBENT: Okay. Sorry for  
15 that. That was probably my fault in that question.  
16 Mr. Husisian, why would U.S. Steel reach out to Utah  
17 Refractories for an emergency repair of a coke  
18 facility if Utah Refractories had lead time that were  
19 too long and no history of providing silica bricks to  
20 that furnace?

21 MR. HUSISIAN: Let me make a start at it,  
22 and maybe Steve can add onto that as well. Everybody  
23 agrees that Utah Refractories can make the quality  
24 brick that's needed. In terms of whether they can  
25 supply, it depends in part on what other products they

1       happen to be running at that time. As Steve said  
2       earlier, they're only looking at on average a few  
3       hundred tons per month, but depending on what else  
4       they're running, whether they have other capacity or  
5       things like that, they may be able to come in and pick  
6       up a project.

7                 We have seen that when they were approached  
8       for as little as a fairly small repair and replacement  
9       job that they said they couldn't do it, and other  
10      people in the staff report, where it summarizes, other  
11      people were also told at times that they were full up  
12      and couldn't supply as the staff summarizes, so, you  
13      know, there may be situations where they can come in,  
14      but it's been SunCoke's experience that just can't be  
15      a reliable source of supply, and you would know more  
16      about this than I do.

17                MR. MOREY: Yes. I can't speak for U.S.  
18      Steel's demand other than the fact that we just built  
19      a battery continuous to U.S. Steel's property in  
20      Granite City, which is in the record, and we're the  
21      largest new supplier of coke to U.S. Steel, so this  
22      must have been associated with one of their existing  
23      batteries, a repair job, and they made a selection  
24      based on, you know, a limited repair life, the battery  
25      life might be expected to be just a number of few

1 years as opposed to a long term.

2           It may have taken them too long to source,  
3 you know, bricks from their desired location,  
4 whichever that might be because it's a different type  
5 of technology than ours. It's a bi-product, as I said  
6 earlier, as opposed to -- or a non-recovery oven, so I  
7 couldn't tell you exactly what motivated them, but I  
8 would suggest that they had a past relationship with  
9 Utah Refractories, and they knew that they could  
10 supply a small quantity in a short order. Yes.

11           COMMISSIONER BROADBENT: Okay.

12           MR. MOREY: Maybe Utah was the original  
13 supplier of brick for that battery, and maybe there  
14 was a question of brick compatibility also.

15           COMMISSIONER BROADBENT: And what do you  
16 expect U.S. Steel to do in the future?

17           MR. MOREY: That would be speculation on my  
18 part. I can just say that we built their last coke  
19 battery in the United States, and it wasn't for them.  
20 We own the battery. They're one of our off-taker  
21 clients.

22           COMMISSIONER BROADBENT: Okay. Does this  
23 panel know anything about this? Just kind of an  
24 interesting question that the staff came up with about  
25 this process of direct reduced iron using natural gas



1       rather than coke to produce steel? Is that at all  
2       coming online? Are you doing it in China?

3               MR. DAI: The DRI is not common in China.  
4       It's mainly blast furnace, still use a lot of coke  
5       oven brick.

6               COMMISSIONER BROADBENT: Right. And then is  
7       it being used anywhere in the world do you know?

8               MR. DAI: United States has an ore somewhere  
9       in South Africa and Mideast where there is no coal.

10              COMMISSIONER BROADBENT: Okay. Okay. Is  
11       there much of that in the U.S. right now?

12              MR. DAI: U.S. last year built a plant in  
13       Minnesota, two years ago built a plant in Minnesota.  
14       Others? I think there is probably two facility in the  
15       United States.

16              COMMISSIONER BROADBENT: Thank you very  
17       much. That's really interesting. Okay. And then my  
18       last question, how do we assess the U.S. performance  
19       and the financial indices given the existence of  
20       pretty large export volumes in this case from the  
21       domestic industry?

22              MR. KLETT: Commissioner Broadbent, this is  
23       Dan Klett. At least with respect to production and  
24       shipments, you can pretty much calculate what the  
25       effect of production changes is due to U.S. sales

1 versus export sales, so that's a pretty simple  
2 exercise, and because, as everyone acknowledges,  
3 because of the custom nature of this product, very  
4 little is held in inventory. I mean, export sales  
5 plus U.S. sales essentially equals production, so you  
6 don't have any kind of inventory problems with using  
7 sales.

8 On the financial side, it's a bit more  
9 complicated because your financial data does not break  
10 out financials for U.S. production versus exports, but  
11 there is one thing you can, although it may be  
12 difficult to quantify, and that is that because a  
13 certain portion of costs are fixed, to the extent that  
14 production declines are largely explained by export  
15 declines, and if production declines result in higher  
16 fixed costs and therefore lower profitability, that  
17 would be attributable to the decline in exports, but  
18 in terms of the actual quantification of that, you'd  
19 have to know kind of what portion of costs are fixed  
20 versus variable.

21 MR. HUSISIAN: Yes, and there's two other  
22 things that we know about, the exports as well, first  
23 that the exports have declined a great deal over the  
24 POI for Utah Refractories while the U.S. shipments  
25 have gone up, and, of course, you can't attribute

1 declining exports to the other country to subject  
2 imports coming into the United States. The second  
3 thing is the staff report summarizes the average  
4 selling prices for the U.S. exports, and the U.S.  
5 industry is selling its product for a much higher  
6 amount in the U.S. market than it's selling its own  
7 product into other markets, so again, that  
8 contraindicates the idea --

9 FEMALE VOICE: Mr. Husisian, we're going  
10 there again.

11 MR. HUSISIAN: I'm not giving -- I'm only  
12 telling the trends and the comparison and not saying  
13 what the numbers are.

14 MALE VOICE: (Away from microphone.)

15 CHAIRMAN WILLIAMSON: Commissioner Kieff?

16 COMMISSIONER KIEFF: Thank you, and, Mr.  
17 Husisian, the dialogue you were having with  
18 Commissioner Aranoff at the end of her questioning  
19 about in a sense chicken and egg and causation, if  
20 both sides could follow up on that in the post  
21 hearing, that would be helpful, so that's just for  
22 later. If you could talk more about that, I look  
23 forward to reading that.

24 The other thing I notice is that you've  
25 talked a lot this afternoon about this kind of very

1       rushed need to supply coke customers with high volume,  
2       and then they get hooked, and then first of all, we've  
3       got the D.C. police crime lab right across the street,  
4       so we all want to remind them that we're talking about  
5       a different kind of coke, and we'll go with the  
6       analogy of bakers and loaves of bread, but if we could  
7       follow up on that for a second and just ask in the  
8       posthearing briefing could you maybe talk more about  
9       the state of the record on those facts?

10               So the facts about customer loyalty, the  
11       size of the purchase blocks, in other words they need  
12       to buy so much with so much lead time -- I'm sorry.  
13       So little lead time, essentially short life cycle  
14       between the order and the delivery, and the reason I'm  
15       asking is I'm trying to figure out whether our record  
16       is strong enough, which is to say whether we have  
17       enough coverage to conclude that in effect there isn't  
18       much competition in the relevant market, so if you  
19       could talk about that, that would help.

20               Also, can you tell us more in the  
21       posthearing brief or now about what Petitioner says  
22       has happened to their sales, so the end of our last  
23       Q&A. I think in effect you were telling me that what  
24       they say is basically not correct or is irrelevant  
25       about what's happened to their sales after the

1 petition, and so if you could maybe in the brief tell  
2 us more about why it's not correct or why it's  
3 irrelevant or why it cuts in your favor because I  
4 think they think it's real, and I think they think it  
5 cuts in their favor, so it will help me understand  
6 more about why it doesn't. If you could explain that?

7 Then, I guess the next question would be how  
8 do transportation costs fit in here, if at all, and  
9 that one maybe talk a little bit about here, but then  
10 also briefing. Tell me is transportation basically  
11 irrelevant, matter a lot?

12 MR. HUSISIAN: There's some information in  
13 the staff report about that without going into what  
14 the transportation costs are is they're a natural  
15 limitation on the ability of people who are far away  
16 to compete, you know, in a market that's farther away.

17 There's a natural advantage to people who are close  
18 by in that they only have the inland freight, but they  
19 don't have the ocean freight as well, and that's  
20 somewhat of a limitation on the ability of people who  
21 are far away to compete.

22 But then again, as we saw in the record,  
23 people have said that they will buy a higher-priced  
24 product if it meets their availability and quality  
25 standards and not necessarily go for the cheapest

1 product as well because they care about the quality  
2 and the availability, so those are kind of  
3 counteracting factors. This is an industry where  
4 there's extreme loyalty to someone who has proven that  
5 they can meet the availability and the quality  
6 standards.

7           What was interesting to me was to find out  
8 how exactly they repair these furnaces. It's not a  
9 matter where you shut down the furnace and you go in  
10 and someone chips out a brick. They continue to heat  
11 the furnace at several thousand degrees while they are  
12 repairing it, so as you can imagine, it's a big deal,  
13 and they have to heat it a special way using natural  
14 gas.

15           It's more expensive, so not only are you not  
16 producing, but you're putting in expensive natural gas  
17 while people are placing in and welding in new pieces  
18 of silica brick, which is one of the reasons why the  
19 idea that you'll say well, if I can get some dumped  
20 stuff and save a little bit of money on it, it's worth  
21 it even if the product fails sooner is just crazy  
22 because you got to repair these things at like 3,000  
23 Fahrenheit, and you're not going to put at risk the  
24 facility like that.

25           To me, the way I think of it is kind of like

1 sending the space shuttle up, and do you really want  
2 to have the outside covering that went to the lowest-  
3 cost bidder, or do you want the person who's going to  
4 give you the highest quality because it's so  
5 catastrophic if there's a failure, so these kind of  
6 quality and availability issues go in and become  
7 paramount.

8 With regard to your other questions then,  
9 yes, we'll be happy to cover them in the posthearing  
10 brief because a lot of it is shown by the confidential  
11 data and just in case there's a three-strikes-you're-  
12 out-rule on people saying you're getting too close, I  
13 don't want to discuss anymore.

14 MR. SWIFT: Commissioner Kieff, I think it's  
15 also important with respect to your question is there  
16 enough information in the record? It depends on how  
17 you see this market. If you see this market as a  
18 market that's driven by supply push, which is to say  
19 these are all, you know, inconsequential commodities  
20 that are all substitutable, they're soybeans or  
21 peanuts or ball bearings, then you might be able to  
22 come to something approximating the Petitioners'  
23 conclusions.

24 But if you look at the staff report, if you  
25 look at the response to questionnaires, it's very

1 clear that this market's not driven by supply push.  
2 It's driven by demand pull, right? It's driven by the  
3 customers who need to build these facilities like  
4 SunCoke or customers in China as well pulling the  
5 resources in to meet their needs, not by people  
6 manufacturing a large volume and dumping it out into  
7 the market in order to gain market share.

8 When you understand the nature of that  
9 business, it becomes clear that there's more than  
10 adequate information in the record for you to issue a  
11 negative material injury determination, and it also  
12 shows that there's more than adequate evidence in the  
13 record for you to issue a negative threat  
14 determination as well.

15 COMMISSIONER KIEFF: Maybe then a followup  
16 question because it looks like the AUV data is  
17 generally lower on the subject imports in the kind of  
18 complicated, more intricate, more shape-specific part  
19 of the market, so doesn't that then look like  
20 underselling or adverse price effects, or am I just  
21 reading it wrong?

22 MR. KLETT: No. I mean, the numbers are  
23 what the numbers are, and if those are the  
24 relationships, I think your characterization is  
25 correct, but I think there's problems with the AUV



1 data for purposes of underselling, and it's the reason  
2 your staff actually collected bid information and not  
3 quarterly information because the bids are project  
4 specific, and basically underselling, you have to  
5 control for all the various parameters for a  
6 particular project so you have an apples to apples  
7 comparison, and unless you do it on a project-specific  
8 basis is that by definition apples and oranges?

9 MR. HUSISIAN: Yes, and as Utah Refractory  
10 said this morning, the pricing has so many different  
11 variables. Sometimes, they role the price into the  
12 molds, for example, Sometimes, they pull it out as a  
13 separate line item. Sometimes, there's just the few  
14 shapes, which are more efficient to run because people  
15 like to run, you know, an entire shape, and then move  
16 onto the next one, so that's going to be cheaper, you  
17 know, and then sometimes you'll have hundreds of  
18 shapes, in which case it's going to drive up the per-  
19 piece cost.

20 Sometimes, there's different chemistry  
21 issues. There's just so many variables that it would  
22 be extremely difficult to even get to a good bid  
23 comparison, and then when you throw in the product-  
24 type mix issues that you can have on this as well,  
25 it's hard to do much of a pure underselling-type

1 analysis for this, and that's why we think that this  
2 is really -- the AUVs are most useful for trend.

3 COMMISSIONER KIEFF: So, I guess, then  
4 another question is going back to Mr. Morey's  
5 discussion about kind of the big volume, the short  
6 lead time, how representative is that customer pattern  
7 of the domestic customer partner? Are all domestic  
8 customers like that? I mean, I get that your  
9 businesses, and that's a perfectly good business, is  
10 it the only business model?

11 MR. MOREY: I can't answer for the other  
12 customers but ours is model of growth domestically and  
13 internationally, and we do have -- it's public record.  
14 We do have a project in development for permitting as  
15 we speak, major project.

16 MR. KLETT: Commissioner Kieff, in terms of  
17 whether SunCoke is representative, I mean, I think Mr.  
18 Morey told me yesterday that in terms of new coke oven  
19 construction, they're probably one of the only  
20 companies that have done such a thing over the last --  
21 I don't know. How many years? Doctor?

22 MR. DAI: More than 50 years.

23 COMMISSIONER KIEFF: Thank you all very  
24 much, and by the way, that concludes my questions if  
25 that helps.

1                   CHAIRMAN WILLIAMSON: Thank you.

2                   Dr. Dai has explained why a number of  
3 Chinese producers didn't respond to our  
4 questionnaires, but I was just wondering in light of  
5 the coverage, why shouldn't we take adverse  
6 inferences? Briefly.

7                   MR. HUSISIAN: Yeah. This actually has come  
8 up in several cases that we've looked at to see where  
9 this situation came up, and what the Commission has  
10 done is it's looked at the state of the record and say  
11 do we have enough information here to evaluate items.

12                   I mean, it's really not an issue at all with  
13 regard to material injury because we have coverage  
14 through the importer questionnaires. As the staff  
15 notes, there's quite a bit of coverage on the importer  
16 side, and you have full information with regard to the  
17 prices and the quantities, things were coming in.

18                   With regard to the threat side, the  
19 Commission has stated in so many cases that where you  
20 have a situation of no material injury you need to  
21 look for some kind of trigger that's going to report  
22 that. That doesn't have anything to really do with  
23 the questionnaires. It's a question of is there  
24 anything to indicate that this really low level of  
25 imports is going to change.

1           And there's plenty of information in the  
2 record with regard to how things have been very stable  
3 over time, how you have this attenuated competition  
4 and no indication it's going to change. So when the  
5 Commission has looked at issues like that in the past  
6 it has stated that based on the information in the  
7 record we're going to issue a negative determination  
8 where there's no indication that anything is going to  
9 change and think the same thing should be done here as  
10 well.

11           You know, further it's kind of a Catch-22  
12 that the U.S. industry is trying to put us into, which  
13 is when you have a situation where a negative  
14 determination on threat grounds is perfect, which is  
15 the foreign industry really couldn't care less about  
16 the U.S. industry, that's the situation where people  
17 are most likely not to respond, and what they're  
18 saying is is yeah, gee, the very fact that nobody  
19 cares about the U.S. industry, we're going to now turn  
20 that into a way to issue a determination.

21           What you have before you right now is the  
22 country's biggest consumer of the product and its sole  
23 supplier, and they're here before you right now, have  
24 submitted questionnaire responses and are giving you  
25 good information with regard to how the Chinese

1 industry works. And we're basically conceding the  
2 information that would come up in a threat context,  
3 which is we can see the Chinese industry is very big  
4 and they may even have excess capacity, I mean, which  
5 are the two things you look at from the foreign side  
6 questionnaire responses. We say that's just not  
7 relevant.

8 The question is is yeah, that was true last  
9 year, two years ago, three years ago, five years ago,  
10 and the U.S. market has never been a target for that,  
11 so we're basically conceding the items they're saying  
12 in their brief, like there may be 430,000 tons of  
13 capacity. Dr. Dai is saying it's even larger than  
14 what Utah Refractories is saying. It doesn't matter.

15 As the Commission has said in many cases, well, you  
16 know, they may have had excess capacity or there may  
17 be a large industry, but it's never been a target or  
18 reason that the U.S. market was targeted.

19 And nothing is going to change, the same  
20 thing as here right now. There's no indication that  
21 in 2014, 2015, 2016, pick your year, that there's  
22 going to be any change in the market and in fact the  
23 testimony we have right here is that because of  
24 production constraints and the way things are set up  
25 there's very little ability to target the U.S. market.

1       So I would submit that there's plenty of information  
2       in the record to support a negative threat  
3       determination.

4                   CHAIRMAN WILLIAMSON: Thank you.

5                   Mr. Morey, when an oven or a furnace is  
6       under repair, how long is it usually out of service?  
7       I assume it varies, but what are the factors that  
8       control the length?

9                   MR. MOREY: Well, you said it. It varies  
10       depending on the nature of the repair and the extent  
11       of the repair, but we have a fairly large repair  
12       program going on right now at one of our batteries and  
13       some of the ovens are out of service as long as three  
14       to four weeks. Some of them are out of service for a  
15       matter of several days.

16                  CHAIRMAN WILLIAMSON: Okay. Is most of the  
17       repair work sort of planned, or do you very often get  
18       sort of emergency type things where you need new  
19       silica bricks?

20                  MR. MOREY: Both. It'll be both. Some we  
21       have the luxury of planning in advance. Some they're  
22       emergency repairs.

23                  CHAIRMAN WILLIAMSON: Okay. Dr. Dai, this  
24       leads me to the question of given the length of the  
25       supply chain, does that mean that a foreign supplier

1 has to have a pretty large inventory in the U.S.?

2 I don't want to get into any confidential  
3 information, but I'm just curious. It seems like if  
4 you've got to supply customers and occasionally  
5 repairs are an emergency, what does that say about if  
6 you've got to compete in this market what you have to  
7 have?

8 MR. DAI: For our industries, nobody make  
9 any inventory to put in stock for next shipment.

10 CHAIRMAN WILLIAMSON: Okay. Because what,  
11 there's too much variety in the --

12 MR. DAI: Yes. Because everybody we have  
13 once SunCoke gave us a start, we jumpstart and then  
14 later on they said now hold. We hold for almost a  
15 half a year and then we get started. You don't want  
16 to put so much inventory on your hand, which is a cost  
17 to you. So now we only get confirmed orders we get  
18 started. So every product. Every. We don't ship  
19 like oh, you have 100 tons of soybeans there you ship  
20 out. No. You give us order. We will make for you.  
21 If no order, we are not going to make because for  
22 them, all different people have used different shapes.  
23 It would be not -- you cannot. It's not  
24 interchangeable. They cannot use it.

25 CHAIRMAN WILLIAMSON: Okay. Thank you.

1           MR. MOREY: I think it should be further  
2 said that we have limited surplus product left over  
3 from the construction of our recent batteries that  
4 creates a very minor inventory for us to facilitate  
5 emergency repairs in some of the smaller projects in  
6 the recent past.

7           CHAIRMAN WILLIAMSON: Okay. Thank you.  
8 We've seen in some other sectors where there are a lot  
9 of bids. Is there any cycle to shall we say when the  
10 bids are coming due? Do you have like a lot of  
11 factories got repaired say five years ago? Do people  
12 know pretty far in advance when there's going to be  
13 maybe a frequent number of bids? How much  
14 intelligence is there about the pricing that the bids  
15 go for now and might affect future bids?

16           MR. MOREY: We have an oven inspection team  
17 that surveys the ovens and recommends to management  
18 repair recommendations, and then typically we have to  
19 wait for project approvals and appropriations and we  
20 work to budgets just like everybody else.

21           And then once it's decided that we're going  
22 to execute the repairs then generally that has to be  
23 coordinated with our clients' outage times for their  
24 blast furnaces sometimes and also it has to be  
25 coordinated with production schedules within our own



1 plant. And so I will say that we may know months in  
2 advance and plan our repairs months in advance, but  
3 typically it's not years in advance.

4 CHAIRMAN WILLIAMSON: Okay. Thank you. Mr.  
5 Swift, I only have a few minutes, but do you want to  
6 -- any points on threat that haven't gotten made now  
7 that you wanted to make?

8 MR. SWIFT: Thank you, Commissioner. There  
9 are a few points that I'd like to make. The first off  
10 is as you've heard from everyone here today, there's a  
11 big difference between a market that's driven by  
12 supply push and demand pull, and this is a demand pull  
13 market. That's the way it's been during the period of  
14 investigation, it's the way it's been for the last few  
15 decades, and it's the way it's going to be in the  
16 future.

17 And under those conditions and under the  
18 very reasonable rule of reason that the Commission has  
19 applied in the past, unless you can show some reason  
20 why that would suddenly all change you don't really  
21 have a threat. You have a continuation of the status  
22 quo.

23 You know, it's also important to note that  
24 there's a big difference between having an enormous  
25 capacity to do something and actually doing something

1 with it, and when you look at the record during the  
2 period of investigation and even before the record  
3 shows that the Chinese producers have been selling  
4 overwhelmingly 90 percent, perhaps even more, into  
5 their own domestic market.

6 Why is that? Well, it could have something  
7 to do with the fact that the Chinese steel industry is  
8 10 times larger than the U.S. steel industry. It  
9 could have something to do with the fact that the  
10 Chinese glass industry is 20 times larger. It could  
11 have something to do with the fact that there's  
12 7 percent plus GDP growth and they have a population  
13 of over a billion people.

14 It might have something to do with the fact  
15 that they're going to move a hundred million Chinese  
16 peasants into urban areas in the next 10 years, and  
17 that's going to require a lot of steel and a lot a  
18 glass for infrastructure, automobiles and housing, not  
19 to mention appliances.

20 In short, if you look at what China has been  
21 doing with this capacity during the period of  
22 investigation, they've been using it to run these very  
23 large blast furnaces for their own domestic  
24 consumption, and where they have been exporting in any  
25 kind of significant quantities, as Dr. Dai said, has

1       been to the other BRIC countries. Forgive the double  
2       entendre. It's been to places like India and Eastern  
3       Europe that are undergoing similar kinds of economic  
4       and industrial transformations and where the demand is  
5       very high.

6                Again, it brings us back to this is a demand  
7       pull market, not a supply push market, and that isn't  
8       going to change because the product and the  
9       characteristics of the product aren't going to change.

10      You know, to the extent that it matters when we're  
11      framing these issues it's important to get both sides  
12      of the story. To say something that's big doesn't say  
13      anything about what you're going to do about it. To  
14      say something looks scary doesn't mean that it's  
15      actually been a problem in the past. Simply asserting  
16      something doesn't make it so.

17               We have to go with what the record shows,  
18      and what the record shows is there's been no direct  
19      head-to-head competition. There's been no material  
20      injury by virtue of volume or price effect. There's  
21      been no fundamental change in the orientation of the  
22      Chinese industry with respect to the United States or  
23      the world markets generally.

24               And on the basis of all of those things,  
25      there's just no credible basis to say that suddenly

1 tomorrow the Chinese industry is going to divert its  
2 attention from a high demand/high value local  
3 industry, local market, to a very small, very low  
4 demand or intermittent demand U.S. market that's  
5 already served by other producers.

6 Those things just don't add up,  
7 Commissioner, and I think it's important that the  
8 Commission look at the facts in the record rather than  
9 extrapolating from some of the speculation we heard  
10 earlier today.

11 CHAIRMAN WILLIAMSON: Okay. Thank you.

12 MR. SWIFT: Thank you, sir.

13 CHAIRMAN WILLIAMSON: Commissioner Aranoff?  
14 Commissioner Johanson, any further questions?  
15 Commissioner Johanson? Okay.

16 COMMISSIONER JOHANSON: I was wondering if  
17 one of you could address the possible postpetition  
18 effects in this investigation. The Petitioners refer  
19 to this at page 30 of their brief.

20 MR. KLETT: Commissioner Johanson, I think,  
21 I mean, there's two issues. One is that postpetition  
22 whether you see an improvement or not, and that's just  
23 factual. I mean, you can look at the data and see if  
24 interim 2013 is better than interim 2012. But the  
25 more difficult issue is whether that can be

1       attributable to the benefits of the petition, and I  
2       think that really is fact based.

3               And this morning Utah Refractories said that  
4       they were getting more inquiries from customers. You  
5       know, whether that's due to the case or whether that's  
6       due to just a general economic or economic recovery in  
7       general, one way to disentangle that would be, for  
8       example, if the new inquiries were from glass  
9       customers where China has not really been present in  
10      the market.

11             To me the inference is that if the  
12      improvement is in the glass sector that's probably  
13      more due to the economic recovery and the implications  
14      for increased demand for glass rather than China  
15      because China has just not really been in the glass  
16      market. I mean, I know that they said that they have  
17      glass customers where China has been targeting those  
18      customers, and in their prehearing brief they pointed  
19      to three purchaser questionnaires. I mean, I think  
20      when you look at their purchaser questionnaires I  
21      don't think factually that supports their contention.

22             They say they're going to provide some  
23      additional information in their posthearing brief on  
24      inquiries from new glass customers because of the  
25      case, and we'll just have to see what that shows.

1           MR. HUSISIAN: One other point. What you're  
2 seeing in interim 2013 from both a price and a volume  
3 impact is just a continuation of what you were seeing  
4 over the period of investigation. If you look from  
5 the 2010 to 2012 time period, you don't see a link to  
6 price or volume. You see sharply rising U.S. prices.  
7 You see rising sales into the U.S. market by the U.S.  
8 producer and you see that the sales in 2012 of the  
9 subject merchandise compared to 2010 are very stable  
10 as well.

11           So it's not like we're saying oh, my  
12 goodness. Everything turned around in 2013 so that  
13 indicates that you shouldn't find threat or material  
14 injury. We're saying it's consistent with the story  
15 you're seeing for the entire POI.

16           COMMISSIONER JOHANSON: All right. That  
17 concludes my questions, and thank you all again for  
18 appearing here today.

19           COMMISSIONER BROADBENT: Thank you. I think  
20 I'm next. Just a couple of extra ones. This is for  
21 Dr. Dai again.

22           We know that the U.S. imports glass from  
23 China, meaning that some Chinese glass producers can  
24 produce to U.S. standards. You say that U.S. glass  
25 producers use imported silica brick in China. Is that

1 right?

2 MR. DAI: The U.S. customer buy the Chinese  
3 made product?

4 COMMISSIONER BROADBENT: The Chinese glass  
5 product. Yes.

6 MR. DAI: As I recall, only 10, 20 tons ever  
7 export to this country.

8 COMMISSIONER BROADBENT: Okay.

9 MR. DAI: Nothing significant.

10 COMMISSIONER BROADBENT: We had one question  
11 we wanted to sort out.

12 (Pause.)

13 COMMISSIONER BROADBENT: Right. Yes. Okay.  
14 All right.

15 MS. NAGARAJAN: Pardon. Sorry to interrupt,  
16 Commissioner Broadbent.

17 COMMISSIONER BROADBENT: Yes.

18 MS. NAGARAJAN: But I think there was some  
19 confusion. Dr. Dai mentioned in his initial testimony  
20 that TNCR is the only Chinese producer that is  
21 qualified to produce glass bricks at the Type A  
22 standard, and China is a net importer from elsewhere  
23 in the world of Type A glass bricks for their own  
24 glass refractory lining and then glass production.

25 COMMISSIONER BROADBENT: Okay. I mean, what

1 we're going to have to fight with here is this is kind  
2 of a demand driven industry. How do we know that  
3 China just doesn't move up the value chain like  
4 they've done in so many other products? I mean, why  
5 is the production of silica bricks just a bridge too  
6 far for China? They won't be able to do it.

7 MR. DAI: The China silica brick production  
8 are also declining since 2005. You can see the  
9 capacity are gradually because the Chinese Government  
10 take a lot of capacity out for the environmental  
11 reasons.

12 They used to allow to produce with the  
13 beehive kilns, with very old technology. Now in China  
14 it's illegal you produce in silica brick with beehive  
15 kilns. So they explode. The government now sent  
16 people. Either they will pay you to take out your old  
17 kilns or you're not allowed to produce and they will  
18 just blow you up, the kilns. You have to build a new  
19 kiln to replace.

20 Now the capacity has declined, but the  
21 demand is still there because the glass production and  
22 the steel production in China is still there. Glass  
23 production is 20 times of U.S. producing and steel is  
24 U.S. probably like 10 times, but they need that much.  
25 That's consumed every year by them. Yes.



1                   MR. KLETT: Commissioner Broadbent, this is  
2 Dan Klett. I mean, I think the question, there's a  
3 second part and that is that would they move up the  
4 value chain for the purpose of targeting the U.S.  
5 market with this class or Type A silica brick.

6                   And I think Dr. Dai's point was that the  
7 U.S. market for Type A silica brick is so small  
8 relative to the other markets for China, the coke  
9 ovens and the lower grade glass brick, that it doesn't  
10 make economic sense to make that investment to move  
11 up, given the size of the U.S. market.

12                  MR. SWIFT: Commissioner, if I might?

13                  MR. DAI: Also let me add one thing. The  
14 U.S. production of glass are using much less because  
15 they switch away and substitute with other type of  
16 product for the glass crowns. And a majority -- or  
17 the big glass tank -- for producing the windows all  
18 move away from conventional silica brick crowns.

19                  That's why in China it's still large.  
20 Everybody is still producing with a conventional crown  
21 brick. The usage just significant higher. Yes, they  
22 are moving up, getting better, but if there's no  
23 economic incentive they were not going that better  
24 because they have capacity enough to manufacture, to  
25 sell in China market. Why they'd want to make some

1 improvement to shipping out overseas, you know?

2 MR. SWIFT: Commissioner? Commissioner  
3 Broadbent? If I may speak very briefly to the legal  
4 standard in terms of your value chain analysis?

5 The precedents here that matter require the  
6 Commission to make reasonable inferences from what is  
7 known today, not to imagine possibilities that may  
8 happen in the future. It could be in five or 10 or 30  
9 years that China's producers will have moved up the  
10 value chain. One would expect that they would.

11 But we have to look at the record now as it  
12 appears to us and draw inferences from there, not draw  
13 inferences based on speculation or projection.

14 MR. HUSISIAN: Yes. I think what  
15 Christopher is saying is if you went to a Chinese  
16 producer and said wow, we can hand you on a silver  
17 platter the entire last output that Utah Refractories  
18 is selling, given that the Chinese industry is selling  
19 hundreds of thousands or even perhaps a million or  
20 more metric tons, if they could pick up that tiny bit  
21 of U.S. production they're going to say why would I  
22 invest in making this difficult product in order to  
23 pick up a couple thousand tons of sales?

24 If you just look at it mathematically it's  
25 just not a market worth investing into if you can sell

1 your existing quality stuff into a very large Chinese  
2 market. It's just too small. Even if they could  
3 capture a hundred percent of what Utah Refractories  
4 sells each year, it's just not worth it.

5 COMMISSIONER BROADBENT: I just had one more  
6 question. I just want to make sure that we've got as  
7 much evidence as possible that China is a net importer  
8 of silica brick, and I think that I'm told the basket  
9 category is refractory products or something. Is  
10 there another way we could figure that out, that China  
11 is importing, a net importer of silica bricks?

12 MR. KLETT: Commissioner Broadbent, I want  
13 to make sure that in terms of whether they're a net  
14 importer I think Dr. Dai's testimony only related to  
15 the Type A glass where it's a net importer, not in  
16 terms of all silica brick.

17 COMMISSIONER BROADBENT: Yes.

18 MR. KLETT: So I just wanted to make that  
19 clarification.

20 COMMISSIONER BROADBENT: Right. And we're  
21 just having trouble.

22 MR. KLETT: Yes.

23 COMMISSIONER BROADBENT: Is there a way to  
24 verify that?

25 MR. KLETT: No, but I understand as a

1 factual matter. We'll see what we can do.

2 COMMISSIONER BROADBENT: Great. Thank you  
3 very much for the posthearing. And I just want to  
4 thank all the witnesses. Really appreciate your  
5 testimony. I'm concluded.

6 CHAIRMAN WILLIAMSON: Does any other  
7 Commissioner have additional questions?

8 (No response.)

9 CHAIRMAN WILLIAMSON: No? Does staff have  
10 any questions for this panel?

11 MR. McCLURE: Thank you, Mr. Chairman. Jim  
12 McClure, Office of Investigations. I want to thank  
13 everybody for coming in, particularly you, sir.  
14 That's a long way to sit in front of us here in  
15 Washington. Anyway, thank you. We have no questions.

16 CHAIRMAN WILLIAMSON: Do Petitioners have  
17 any questions for this panel?

18 MR. STRAIGHT: No, we do not.

19 CHAIRMAN WILLIAMSON: Thank you. Then it's  
20 time for closing statements. The Petitioners had 20  
21 minutes of direct and five minutes for closing for a  
22 total of 25 minutes, and those opposed have five  
23 minutes total if we combine the time.

24 So I want to thank this panel very much for  
25 their testimony and for you coming from so far. I

1 would ask you to take a seat in the back, and we'll  
2 have closing statements. Thank you.

3 (Pause.)

4 MR. STRAIGHT: We'd like to thank you all  
5 very much again for all of this time and effort and  
6 preparation that's gone into this hearing today.  
7 There was obviously a lot of work done by the  
8 Commission, by the staff, and we very much appreciate  
9 it because the issue is such an important one to our  
10 company and to the industry as a whole in the United  
11 States.

12 And I don't intend at all to take a full 25  
13 minutes. I'm going to try to be succinct and address  
14 what I think are the critical issues. And as I've sat  
15 here today and especially through the second half of  
16 the hearing, Commissioner Kieff kind of mentioned this  
17 analogy of everybody kind of agrees the body is dying  
18 or dead, but it's unclear what the cause is.

19 And to me the cause is very clear, not  
20 surprising, but I think what we see from the  
21 Respondents is a very elaborate straw man -- complex,  
22 but nevertheless a straw man -- which is this effort  
23 to claim that silica refractory bricks are not a  
24 commodity. They are a very specialized, highly  
25 complex product.

1           And I would submit that that is really  
2           undone by this Commission's recent determination and  
3           the Commerce Department's determination in the  
4           Magnesia Carbon Brick case, a very similar type of  
5           refractory product. It includes over 3,000 different  
6           kinds of shapes that are put into refractories, and it  
7           was determined to be a commodity type product. A very  
8           similar analysis applies here. It's a commodity, yes.  
9           It's made to order, but it is a commodity. They ship  
10          by the ton of bricks.

11          The second leg of the straw man is that  
12          there is some overarching material difference between  
13          the market, and somehow the market or the products  
14          themselves need to be segmented. Petitioner has said  
15          since it filed the petition there is a category of  
16          silica refractory brick. We were very careful to  
17          exclude what are called full silica bricks. We said  
18          those shouldn't be in. They don't belong. But  
19          everything else that is a silica refractory brick that  
20          contains at least 90 plus percent silicon dioxide  
21          should be in. That includes bricks that include 91  
22          percent silicon dioxide and 96 percent silicon  
23          dioxide. It's one product.

24          Yes, there are two end users, and we have  
25          been very candid since the beginning of this

1 investigation that there is a small difference between  
2 the bricks that go to the glass industry and the  
3 bricks that go to the coke oven industry or the steel  
4 industry. Those differences are very small and, as  
5 our clients testified today, the bricks can be made in  
6 the same factory using the same processes. There are  
7 slight differences in purity and chemistry and that's  
8 the difference.

9 Now, I think the reason they're trying so  
10 hard to make up this segregated market claim is  
11 because they want to confuse the issue of  
12 interchangeability. What is your interchangeability  
13 analysis? The critical question is are Utah  
14 Refractories' silica bricks interchangeable with  
15 Chinese silica refractory bricks? That's the key  
16 question. And on that question the answer is yes.

17 And let's talk about that. And today we  
18 heard some testimony that we'd never heard before that  
19 confirms our suspicion that at least one Chinese  
20 producer can make U.S. grade acceptable glass silica  
21 refractory bricks. They testified about it today.  
22 It's the first time we'd heard that. We've heard it  
23 in the industry, but now we have a producer confirming  
24 that a Chinese company can do it. So where does that  
25 leave us? The bricks that are being sold to both the

1 coke oven industry and now we have confirmed here  
2 today the glass industry, whether they're from Utah  
3 Refractories or from China, can be interchangeable.  
4 That's the relevant inquiry.

5 Now, what is happening in the market right  
6 now? What's happening is exactly what we've described  
7 in our petition, described in our questionnaire  
8 responses, described in our briefing. And as  
9 Commissioner Aranoff talked about, this issue of did  
10 the injury happen a long time ago or did it happen  
11 now? And under the statute I'd submit the question  
12 isn't when did the injury first occur. It's is there  
13 injury occurring now during the period of  
14 investigation.

15 And we submit unquestionably there is injury  
16 occurring now. And how have we demonstrated that?  
17 Through exclusion from bidding on coke oven  
18 projections, from the lack of coke oven business that  
19 we have. As we've said time and time again, our  
20 client has built entire coke ovens. They handed me  
21 this note while we were waiting. For Jewell Coke,  
22 which is a subsidiary of SunCoke, our client, Utah  
23 Refractories, provided 14,000 tons to build that brand  
24 new facility when it was built. Now, this was many  
25 years ago, but to suggest that somehow Utah



1 Refractories is incapable of building a new coke oven  
2 in a timely way is just simply not supported by the  
3 history and the facts.

4           What you also didn't hear today was exactly  
5 what it is the lead time that SunCoke is demanding.  
6 They didn't say. Is it three months? Is it 12  
7 months? What is it? What you do have is the contrary  
8 testimony from Mr. Mulholland where Utah Refractories  
9 has won an agreement from U.S. Steel and U.S. Steel  
10 has given us 11 months to do the lead time. If we  
11 came across as arrogant, we certainly had no intention  
12 to come across that way. All we're asking for us that  
13 we be given the customary and reasonable lead times in  
14 the industry. We're not asking for special treatment.  
15 We're asking allow us to bid and allow us to meet  
16 your needs.

17           And I would really encourage the  
18 Commissioners to review the competing affidavits that  
19 have been submitted. Mr. Mulholland submitted a  
20 declaration where he described his interactions with  
21 SunCoke. He provided emails that show his exchanges  
22 with SunCoke. He said what he said and the people  
23 from SunCoke said back. When you look at the other  
24 affidavits it's a lot of speculation. It's a lot of  
25 conjecture. It is very thin on facts about what is

1 the actual experience between Utah Refractories and  
2 SunCoke.

3 And Mr. Morey was here today. My clients  
4 have never met him before. They haven't had any  
5 interaction with him, and I don't think he said  
6 anything to the contrary; that he's here to describe  
7 exactly his interactions with Utah Refractories. It  
8 was much more in the way of generalities.

9 I think it's also important, and my client  
10 said this to me over and over. We've never said no to  
11 SunCoke. They were quite emphatic about that, and you  
12 couldn't see them or hear them as they were saying  
13 that to me, but they said we haven't said no to  
14 SunCoke. We would love to do a job at SunCoke, and we  
15 think we can meet their quantity, their quality and  
16 their time delivery demands. So again, I just urge  
17 you to look at the declarations because I believe we  
18 provide specific facts. SunCoke provides some very  
19 vague and general assertions.

20 Let me go and just address a couple of  
21 points that came up especially in the questioning.  
22 Number one, there were quite a few questions about  
23 Geneva Steel and what was the deal with Geneva Steel.

24 And again my clients pulled me aside at the lunch  
25 break and said Sam, you've got to remember. For

1 Geneva Steel we weren't selling them silica refractory  
2 bricks primarily. We were selling them magnesia, high  
3 alumina, chromag, all different kinds of refractory  
4 bricks, and we really went into silica when we saw  
5 that Geneva was going out of business.

6 So Geneva really has no impact in the case.

7 We gave you the information as a historical kind of  
8 signpost of why the refractory plant was built in the  
9 first place, but the demise of Geneva had no impact on  
10 our sales of silica brick because we had so few to  
11 Geneva during the time that it was open.

12 Also with respect to our geographic scope of  
13 our sales, we sell throughout the country. Anywhere  
14 that there's a need we sell and we sell throughout the  
15 country. And as our witnesses testified today, they  
16 are happy to bid on any project that they're given an  
17 opportunity to bid on.

18 So I then want to talk about this specific  
19 notion of the harm that's occurred. And if you look  
20 at almost any measure, and we'll give you more detail.

21 We've given it in the prehearing brief. Almost any  
22 measure, and I agree with Commissioner Kieff. This  
23 patient is dying, if not near dead. And the issue  
24 becomes the causation of that, and we think the facts  
25 that we've shown and, yes, we've related some

1 anecdotal evidence about what customers have told us,  
2 but to us that's the best evidence.

3 If a customer says we're not letting you bid  
4 because you can't hit this price, there's no way you  
5 can, we believe that's very strong evidence of the  
6 price suppression problem we've had in this case. And  
7 that goes for current injury. We're being excluded  
8 from selling to steel industry customers right now,  
9 present material injury.

10 The threat issue becomes even stronger, and  
11 one of the things that Respondents said was you need  
12 to base your threat analysis on reasonable inferences  
13 known today. I could not agree more. Here are the  
14 facts we know today. We have submitted these by  
15 declaration. We have had glass customers tell us to  
16 reduce our prices because they're looking to qualify  
17 Chinese glass producers, silica producers.

18 Second, you have a witness here today from  
19 China indicating that his plant can make U.S. grade  
20 silica refractory brick for glass furnaces. Well,  
21 then really the only argument that was left was we  
22 don't intend to send that to the U.S. There are no  
23 documents to support that that I'm aware of. There  
24 are no figures or statistics to support that that I'm  
25 aware of. Instead, you have this statement.

1           But we've submitted with the prehearing  
2           brief and we will be submitting with the posthearing  
3           brief a pile of publicly available Chinese websites  
4           that indicate they have and are ready to sell glass  
5           industry silica refractory bricks, and I would ask the  
6           question, and we provided this with our prehearing  
7           brief. If TNCR really has no intent to sell glass  
8           refractory SRB to the U.S., why on their website do  
9           they advertise in English under their heading for  
10          silica the Super Silicor series for applications in  
11          glass furnaces? TNCR provides Super Silicor series  
12          silica bricks and accessory materials.

13                 Those are the facts, and the reasonable  
14          inference to draw from those facts is that's exactly  
15          where Chinese producers are going, including the  
16          Chinese producer that's here today telling us that he  
17          can make silica refractory bricks that qualify for  
18          U.S. glass applications, not to mention this volume of  
19          other publicly available websites, some of which we've  
20          submitted, additional ones we'll submit in the  
21          posthearing brief.

22                 So the only reasonable inference to draw  
23          from that is that the Chinese can and will, and I  
24          couldn't agree more. It's not a question of intent to  
25          injure us. It's a question of whether it will injure

1 us and whether we're being injured now and there's a  
2 real threat in the future, and we think both of those  
3 are so clearly satisfied in this case.

4 There was also quite a bit of reference to  
5 Utah Refractories as a small producer. It's small,  
6 and there was analogy about an artisan bread maker  
7 versus a massive Wonder Bread maker. And I think  
8 again, and some of this is in the confidential  
9 information so I won't delve too far into it, but I  
10 think when you look at the facts of the production  
11 capacity here versus other production capacity that's  
12 out there in the world you will see that it's very  
13 hard to categorize Utah Refractories as a small  
14 producer that could only meet these small needs that  
15 happen from time to time.

16 What you see from the facts is Utah  
17 Refractories has the ability to meet all of the U.S.  
18 demand if it's allowed to compete on a level playing  
19 field, and to us that is a critical determination and  
20 a very, very important factor to keep in mind as the  
21 Commission makes its determination.

22 I think to conclude what I'd like to make  
23 sure that we've conveyed today is not a sense of we're  
24 looking for a handout, a special favor, we're looking  
25 for concessions from customers that they meet our

1 demands instead of us meeting theirs. That's not what  
2 we're looking for at all. We're looking for a level  
3 playing field against imported Chinese silica  
4 refractory brick so that it's at prices that we can  
5 compete with.

6 And the Commerce Department today -- I  
7 received this by email, so I believe it's accurate and  
8 I will just share this with you that Commerce today  
9 gave us the final dumping margins in the case and for  
10 TNCR the final dumping margin is 63.81 percent and the  
11 country-wide entity rate is 73.10 percent. Commerce  
12 has done its work. It worked hard, just like your  
13 staff and you have all worked hard, and it found  
14 significant dumping margins that are absolutely  
15 injuring our client and really threaten to injure our  
16 client in the future to the point of driving them and  
17 this entire U.S. industry out of business.

18 For all those reasons and the reasons we'll  
19 put in our posthearing brief, we respectfully request  
20 that the Commission confirm its preliminary  
21 determination and issue a final determination of both  
22 current material injury and the threat thereof. Thank  
23 you.

24 CHAIRMAN WILLIAMSON: Thank you. Okay.

25 MR. HUSISIAN: Thank you. I would like to

1       thank Mr. Straight for preserving one of the longest  
2       streaks in legal history. I've been doing these cases  
3       for 21 years, and I've yet to see a case where the  
4       Petitioner didn't get up and say we're just looking  
5       for a level playing field. So I thank him for  
6       preserving that streak in his closing statements.

7               I have seven quick points in five minutes,  
8       so let me go quickly. The first issue, he says they  
9       have never said that they can't supply SunCoke and  
10      they've never said no. That is correct, but let's  
11      look at how they've said yes. Even when they were  
12      asked in a budgetary quote to gauge their future  
13      availability if they would be able to sell an amount  
14      that was less than 2,000 tons, they said sure, we can  
15      do so. We can start delivering in five months, and it  
16      will take us 12 months to complete the delivery.

17             That does not work even for a repair and  
18      replacement. Can you imagine to have this several  
19      thousand degree repair and replacement job going on  
20      and you're waiting for seven different months and for  
21      a 12 month period for the bricks to come through?  
22      That's the reality. That is what they said when they  
23      were asked for even a relatively small repair and  
24      replacement job.

25             If you don't believe SunCoke, look at the



1 five other instances where it's indicated in the staff  
2 report that Utah Refractories was unable to supply  
3 other purchasers, including some where they said  
4 sorry, we can't. We're full. That's in the staff  
5 report. That's one of the facts that Mr. Straight  
6 says we're not paying attention to, but it's in the  
7 staff report and it's shown in the purchaser  
8 questionnaire responses.

9           Again, as Mr. Morey said, it's simple  
10 mathematics. Roughly 800 tons of monthly capacity,  
11 16,000 tons of demand. It just takes too many months.  
12 They don't have the capacity. This is not something  
13 that SunCoke is just making up. This is based on what  
14 they are saying about their own capacity.

15           With regard to the Jewell plant, I would  
16 point out the time period. This was the Jewell.  
17 Supply was in the 1960s and the 1980s. Completely  
18 different business model that was maintained by  
19 SunCoke, which wasn't even called SunCoke back then,  
20 and I would submit that anything that was before I was  
21 born is probably before the POI.

22           With regard to the commodity argument, let's  
23 not get too confused about what this means. Think  
24 about if this were a case on fasteners and it covered  
25 nails and screws. Clearly nails are a commodity.

1 Clearly screws are a commodity. But they're not  
2 interchangeable with each other. If this were a case  
3 like that and a hundred percent of the Chinese imports  
4 were coming in in nails and a hundred percent of the  
5 U.S. sales were of screws then you would have a tough  
6 time saying that the sales of the one product were  
7 suppressing prices or quantities of the other.

8 So it's important that this product is not a  
9 commodity, but again every purchaser agrees and nine  
10 out of 10 imports agree that you can't exchange the  
11 silica brick that's intended for the coke facilities  
12 with those for the glass facilities. Whether it may  
13 be the fact that one form of glass silica brick is  
14 comparable to another doesn't matter. What matters is  
15 whether or not their commodities within each of the  
16 sectors, whether they're interchangeable for each  
17 other, because you have this sharp difference in the  
18 markets and the end use sectors where the companies  
19 are selling.

20 With regard to causation, you've got a great  
21 controlled experiment here. 2011, huge spike in  
22 Chinese imports to satisfy the one project we've been  
23 taking about. 2012, big decline. Tremendous. We're  
24 looking at eight, tenfold changes in this. It's a  
25 great controlled experiment. It's a nonevent as far

1 as selling prices, quantities shipped into the U.S.  
2 market by Utah Refractories, its profits. You  
3 couldn't have a better proof that there's no  
4 causation.

5 Finally, with regard to China and the glass  
6 industry he mentioned that TNCR is able to make the  
7 Type A silica brick. He doesn't mention that they  
8 only have one kiln that can do this and that it's  
9 booked up. If that's the threat that they're looking  
10 at, not much there.

11 So again, in conclusion you've got to look  
12 at this market in terms of what's going on with regard  
13 to the imports for the glass industry and sales by the  
14 U.S. industry into the glass industry. Same thing for  
15 the demand model on the coke side. By looking at it  
16 that way it's very apparent that there's no head-to-  
17 head competition, and that is in the end the entire  
18 story with regard to both material injury and threat  
19 of injury. Thank you.

20 CHAIRMAN WILLIAMSON: Thank you. I thank  
21 everyone for participating in today's hearing.

22 Closing statement. Posthearing briefs,  
23 statements responsive to questions and requests of the  
24 Commission and corrections to the transcript must be  
25 filed by November 27, 2013. Closing of the record and

1 final release of data to the parties will be by  
2 December 5, 2013. Final comments are due by  
3 December 9, 2013. With that, this hearing is  
4 adjourned.

5 (Whereupon, at 3:54 p.m., the hearing in the  
6 above-entitled matter was concluded.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Silica Bricks and Shapes from China  
**INVESTIGATION NO.:** 731-TA-1205  
**HEARING DATE:** November 21, 2013  
**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: November 21, 2013

SIGNED: LaShonne Robinson  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

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

SIGNED: Rebecca McCrary  
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: David W. Jones  
Signature of Court Reporter