

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:
IRON CONSTRUCTION CASTINGS FROM BRAZIL,
CANADA, AND CHINA

) Investigation Nos.:
) 701-TA-249 AND 731-TA-262, 263,
) AND 265 (FOURTH REVIEW)

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THE UNITED STATES

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
IRON CONSTRUCTION CASTINGS FROM) 701-TA-249 AND
BRAZIL, CANADA, AND CHINA) 731-TA-262, 263, AND 265
) (FOURTH REVIEW)

Main Hearing Room (Room 101)

U.S. International Trade

Commission

500 E Street, SW

Washington, DC

Thursday, October 20, 2016

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable Irving A.
Williamson, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Irving A. Williamson (presiding)

5 Vice Chairman David S. Johanson

6 Commissioner Dean A. Pinkert

7 Commissioner Meredith M. Broadbent

8 Commissioner F. Scott Kieff

9 Commissioner Rhonda K. Schmidtlein

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12 Bill Bishop, Supervisory Hearings and Information

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20 Andrew Knipe, International Economist

21 David Boyland, Accountant/Auditor

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23 Russell Duncan, Statistician

24 Elizabeth Haines, Supervisory Investigator

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1 Opening Remarks:

2 In Support of Continuation of Orders (Paul C. Rosenthal,

3 Kelley Drye & Warren LLP)

4 In Opposition of Continuation of Orders (Felipe Berer,

5 Akerman LLP)

6

7 In Support of the Continuation of the Antidumping and

8 Countervailing Duty Orders:

9 Kelley Drye & Warren LLP

10 Washington, DC

11 on behalf of

12 D&L Foundry, Inc.

13 EJ USA, Inc.

14 Neenah Foundry Company

15 U.S. Foundry and Manufacturing Corp.

16 Jason McGowan, President, D&L Foundry, Inc.

17 Thomas M. Teske, Vice President and General Manager, EJ

18 USA, Inc.

19 Scott A. Hoffman, Vice President, Municipal Products

20 Group, Neenah Foundry Company

21 Adam W. San Solo, Director of Sales and Engineering,

22 U.S. Foundry and Manufacturing Corp.

23 Michael T. Kerwin, Director, Georgetown Economic

24 Services

25 Paul C. Rosenthal and Grace W. Kim - Of Counsel

1 In Opposition to the Continuation of the Antidumping and
2 Countervailing Duty Orders:

3 Akerman LLP

4 Miami, FL

5 on behalf of

6 Saint-Gobain Canalizacao Ltda.

7 ABIFA - Associacao Brasileira de Fundicao (Brazilian Foundry
8 Association)

9 Jim Cox Sales, Inc.

10 Farmcon Pipe & Supply, Inc.

11 Gustavo Luiz de Jesus Siqueira, General Director,
12 Saint-Gobain Canalizacao Ltda.

13 James Cox, Vice President, James Cox Sales, Inc.

14 Felipe Berer and Ana Carolina Estevaso - Of Counsel

15

16 Rebuttal/Closing Remarks:

17 In Support of Continuation of Orders (Paul C. Rosenthal,
18 Kelley Drye & Warren LLP)

19 In Opposition of Continuation of Orders (Felipe Berer,
20 Akerman LLP)

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1 PROCEEDINGS

2 9:30 a.m.

3 MR. BISHOP: Will the room please come to
4 order?

5 CHAIRMAN WILLIAMSON: Good morning. On behalf
6 of the U.S. International Trade Commission, I welcome you to
7 this hearing on Investigation Nos. 701-TA-249 and
8 731-TA-262, 263 and 265, fourth review involving Iron
9 Construction Castings From Brazil, Canada and China.

10 The purpose of this investigation is to
11 determine whether revocation of the countervailing duty
12 order on heavy iron construction castings from Brazil, the
13 anti-dumping duty order on heavy iron construction castings
14 from Canada and the anti-dumping duty order on iron
15 construction castings from Brazil and China will be likely
16 to lead to a continuation or recurrence of material injury
17 within a reasonable, foreseeable time.

18 Schedules setting forth the presentation of
19 this hearing, notices of investigation and transcript order
20 forms are available at the public distribution table. All
21 prepared testimony should be given to the Secretary. Please
22 do not place testimony on the public distribution table.
23 All witnesses must be sworn in by the Secretary before
24 presenting testimony.

25 I understand that parties are aware of the

1 time allocations. Any questions regarding the time
2 allocations should be directed to the Secretary. Speakers
3 are reminded not to refer in their remarks or answers to
4 questions to business proprietary information. Please speak
5 clearly into the microphones and state your name for the
6 record for the benefit of the court reporter. If you have
7 any documents that contain information you wish classified
8 as business confidential, your request should comply with
9 Commission Rule 201.6. Mr. Secretary, are there any
10 preliminary matters?

11 MR. BISHOP: Mr. Chairman, I would note that
12 all witnesses for today's hearing have been sworn in. There
13 are no other preliminary matters.

14 CHAIRMAN WILLIAMSON: Okay. Well, I guess
15 it's time for opening statements.

16 MR. BISHOP: Opening remarks on behalf of
17 those in support of continuation of the orders will be given
18 by Paul C. Rosenthal, Kelley, Drye and Warren.

19 CHAIRMAN WILLIAMSON: Welcome, Mr. Rosenthal.
20 You may begin when you're ready.

21 OPENING STATEMENT OF PETITIONERS

22 MR. ROSENTHAL: Good morning Mr. Chairman and
23 members of the Commission. I'm Paul Rosenthal appearing on
24 behalf of the domestic producers in this case.
25 Singer-songwriter Neil Young's lyrics "It's better to burn

1 out than to rust" were written by rock and roll stars, not
2 manhole covers. That's appropriate because the surface
3 oxidation that appears on manhole covers and iron municipal
4 castings is not actually rust I've learned. While it
5 doesn't make for a great lyric, that surface oxidation
6 actually helps those iron products last for decades.

7 But the question that the Commission is
8 considering today is how long should anti-dumping and
9 countervailing duty orders last? The Brazilian respondents
10 claim that the so-called founding fathers of the WTO did not
11 intend for import relief to stay in place as long as the
12 current orders on Brazil.

13 Well, I knew some of the founding fathers or
14 at least some of the negotiators, and despite the temptation
15 in this political season, I won't make any comparisons. I
16 will say that the original draft anti-dumping and subsidies
17 agreements issued by WTO director Arthur Dunkel would have
18 put a time limit on anti-dumping and countervailing duty
19 orders, a sunset that was automatic after five years.

20 But that provision was rejected by the
21 negotiators, the founding fathers if you will. Instead, the
22 Uruguay Round negotiations resulted in a painstakingly
23 crafted provision that allowed foreign producers to obtain
24 revocation of anti-dumping and countervailing duty orders
25 under two conditions.

1 The first one was they can stop dumping or
2 subsidizing or giving subsidies and come in and show it to
3 the Department of Commerce. Or, the foreign producers can
4 show that if the orders are revoked, their dumped and
5 subsidized imports are not likely to continue injury or
6 result in a recurrence of injury. That's what the agreement
7 says. No time limit.

8 The wording of those provisions have
9 absolutely no reference to the passage of time or the limit
10 or in no way limited duration of the orders, as tempting as
11 the Respondents' counsel would like to believe. Notably,
12 the Brazilian respondents who are here today arguing about
13 the continuation of the orders have had their so-called keys
14 to the jail in their own pockets for many years.

15 They could have gone to the Commerce
16 Department at any time and shown that they aren't dumping or
17 being subsidized. They have never been able to do that and
18 since 1992 they've never even attempted to do that, which is
19 their prerogative, of course. When the Brazilian producers
20 came to the Commission to seek revocation of the sunset
21 review, they promised to supply information to allow this
22 Commission, all of you, to reach an informed decision.

23 But they failed to do that. Of the many
24 members of the Brazilian industry who produce the subject
25 merchandise, only one producer has submitted a questionnaire

1 response. That company, Saint-Gobain, is a \$50 billion
2 multinational business with foundry operations around the
3 world. It's not some mom and pop operation lacking
4 resources or know-how concerning exports to the U.S. or the
5 world.

6 At the last minute the Brazilian Foundry
7 Industry Association has supplied incomplete data about some
8 of its members, but no more questionnaire responses have
9 been provided to you or your staff. Yet based on this
10 woefully and incomplete information, the Brazilian
11 respondents seek revocation.

12 Against this background, what the Commission's
13 record will show is a domestic industry that has shrunk
14 dramatically, with a multitude of plant closures and severe
15 employment losses, and while consolidating and investing
16 heavily, still must compete with a large volume of
17 low-priced non-subject imports from India, and that remains
18 vulnerable to injury from subject imports as the key trade
19 and financial variables have declined in this very capital
20 intensive industry.

21 The record will show also with respect to
22 Respondents that they have large amounts of capacity and
23 most important, excess capacity in each of the subject
24 countries. They have a need and ability to export to the
25 United States, and they have incentives to increase exports

1 to the U.S. along with the barriers they face in third
2 countries.

3 The record also makes it clear that importers,
4 purchasers and even foreign producers agree that if the
5 anti-dumping and countervailing duty orders are revoked in
6 this case, all three subject countries will flood the market
7 with low-priced imports and do severe damage to the
8 remaining few members of the domestic industry.

9 Actually and interestingly, the Brazilian
10 respondents agree with us with respect to what would happen
11 if the anti-dumping orders on China and Brazil are revoked.
12 As you'll hear this morning, however, the Brazilian
13 respondents' attempts to differentiate themselves from the
14 other subject imports has no basis.

15 Indeed, the Brazilian respondents' central
16 claim that its products are higher end specialty products
17 that don't compete with the U.S. industry is simply full of
18 holes. As our witnesses will explain this morning in
19 further detail, the Commission should continue the
20 anti-dumping and countervailing duty orders with respect to
21 Canada, Brazil and China. Thank you.

22 CHAIRMAN WILLIAMSON: Thank you.

23 MR. BISHOP: Opening remarks on behalf of
24 those in opposition to continuation of the orders will be
25 given by Felipe Berer, Akerman LLP.

1 CHAIRMAN WILLIAMSON: Welcome Mr. Berer, and
2 you may begin when you're ready.

3 OPENING STATEMENT OF RESPONDENTS

4 MR. BERER: Good morning members of the
5 Commission, members of the staff. It's good to be here
6 after a few years back here. My name is Felipe Berer. I'm
7 a partner with the law firm of Akerman LLP in Miami,
8 Florida. Our firm represents the Brazilian respondents'
9 coalition in this investigation. The coalition is
10 comprised of Saint-Gobain, a Brazilian leading producer and
11 exporter of the subject merchandise; ABIFA, the Brazilian
12 Foundry Association, a trade and business association in
13 Brazil, Jim Cox Sales, Inc. and Famcon Pipe and Supply,
14 Inc., two U.S. importers of the subject merchandise from
15 Brazil.

16 I'm here today with my associate, Ana Estav o
17 and with Gustavo Siqueira, the General Director of
18 Saint-Gobain, and James Cox, the Vice President of James Cox
19 Sales, Inc. We support revocation of the 30 year old
20 anti-dumping and countervailing duty orders on iron
21 construction castings from Brazil. We also respectfully
22 request that the Commission decumulate Brazilian imports
23 from Chinese and Canadian imports in its injury
24 determination.

25 We provided in our prehearing brief several

1 reasons for that, and I will not repeat them right now. In
2 summary though, the imports from these countries face vastly
3 different conditions of competition in the U.S. market. On
4 top of it, Brazilian imports do not have any discernible
5 adverse impact on the U.S. industry. After decumulation, it
6 will be evident that injury to the domestic industry is not
7 likely to continue or recur if the orders are revoked as to
8 Brazil.

9 In general, I believe the record of this
10 investigation is crystal clear and it speaks for itself. I
11 see four main reasons why this Commission should make a
12 negative determination as to Brazil in this investigation.
13 Number one, changes in conditions of competition. As we
14 know, much has happened since the Commission's last full
15 review of these orders in 1999.

16 Even more has changed since the original
17 investigation in 1986, more than 30 years ago. There are
18 currently eight known Brazilian companies that manufacture
19 the subject merchandise in commercial quantities, including
20 Saint-Gobain who is here today. These Brazilian producers
21 of iron construction castings have a modest production
22 capacity when compared to the industries in the U.S., China,
23 Canada and India. They operate at high capacity utilization
24 levels and therefore, and this is very important, the
25 Brazilian industry no longer poses a threat to the U.S.

1 industry like it did back in the 80's, and is no longer
2 capable to ship significant quantities of iron construction
3 castings to the U.S. market.

4 The Brazilian industry has no plans to
5 increase capacity or production in the foreseeable future,
6 and in fact the record shows a trend in the opposite
7 direction. The past couple of years have been marked by
8 massive layoffs and capacity reduction. There is no
9 indication that these conditions will change in the near
10 future. Simply put, this is a shrinking industry in Brazil.

11 In addition, the inventory levels are
12 negligible, as have been the Brazilian exports to the U.S.
13 market during the past 30 years. The industry is not export
14 orientation. Historically, about 90 percent of the total
15 production in Brazil has been sold within the Brazilian
16 domestic market. There are also no barriers to entry in any
17 other country that could provide the impetus for the
18 diversion of shipments to the U.S. market.

19 In any case, even if one was to consider the
20 absurd scenario in which upon revocation of the orders, all
21 Brazilian exports of the subject merchandise were to be
22 completely diverted to the U.S. market, the fact is still
23 that they would still be at negligible levels. Therefore,
24 not only do Brazilian producers no longer have the capacity
25 to adversely impact the domestic industry in a discernible

1 way, but the landscape is now characterized by markedly
2 different conditions of competition under which the
3 Brazilian producers have operated and continue to operate.

4 Number two, the industry, the U.S. industry is
5 healthy and no longer in need of protection. It is mind
6 boggling that 30 years later the U.S. industry is here
7 claiming that the negligible imports from Brazil still pose
8 a threat or could harm them. The U.S. industry wants
9 perpetual protection when in fact we all know that trade
10 relief is supposed to be a temporary measure.

11 Again, the record in this investigation is
12 crystal clear and it speaks for itself when it comes to the
13 condition of U.S. industry. I don't need to repeat this
14 here. The positive numbers simply don't reconcile with the
15 negative lawyer's narrative. This is not an industry in
16 need of protection period.

17 Number three, pricing data. The pricing data
18 gathered by the Commission in this investigation is also
19 very clear. The Brazilian industry exports a high end more
20 expensive product at much higher prices. You will hear
21 today technical testimony about the features and the
22 benefits of the Brazilian product. There is zero evidence
23 of underselling and this will not change should the orders
24 against Brazil be revoked.

25 Simply put, Brazilian imports do not cause any

1 price depression or suppressing effect in the market. There
2 is no indication that this will change should the orders
3 against Brazil be revoked.

4 Number four and last, there is an elephant in
5 the room and the name is India. Brazilian imports are
6 dwarfed by non-subject imports from India. This has been
7 the case for the past several years. The Indian non-subject
8 imports have accounted for the vast majority of total
9 imports of iron construction castings into the U.S. We
10 respectfully request that the Commission take this into
11 account and make a finding that such imports are a relevant
12 economic factor in this investigation.

13 There is no denying that the Indian imports
14 have captured a significant share of the market. This
15 displacement makes it unlikely that the removal of the
16 orders against Brazil will lead to recurrence or of material
17 injury to the U.S. domestic industry as a result of subject
18 imports from Brazil. There is no causation link between the
19 Brazilian subject imports and the alleged injury caused by
20 the Petitioners. Thank you very much for your time.

21 MR. BISHOP: Would the panel in support of
22 continuation of the anti-dumping and countervailing duty
23 orders please come forward and be seated?

24 (Pause.)

25 CHAIRMAN WILLIAMSON: Mr. Rosenthal, you may

1 begin when you're ready.

2 STATEMENT OF PAUL ROSENTHAL

3

4 MR. ROSENTHAL: Thank you. Again for the
5 record, I'm Paul Rosenthal of Kelley, Drye and Warren on
6 behalf of the domestic producers. I do want to emphasize at
7 the outset the agreement we have with the Brazilian
8 respondents. One involves the threat posed by the imports
9 from Chinese and Canadian imports if the orders are
10 revoked. The second one happens to do with like product.
11 We are in agreement with them on the definition of the like
12 product in this case.

13 I want to start this morning with for me a
14 nightmarish picture. This is a manhole cover that is
15 installed right in front of my house in my development. I
16 moved in there October 31st of 1986. That's almost 30 years
17 ago, Halloween. This scared me. Actually, I knew what I
18 was getting into because we had already begun the
19 anti-dumping investigation on imports from the subject
20 countries.

21 But this is a very telling little slide. This
22 is a standard manhole cover. The technology hasn't changed
23 since the imports surged 30 years ago. The Brazilian
24 producers still make this product, still export it and are
25 still capable of exporting it. I'm reminded of this every

1 day, but I want you to know that the Brazilian producers are
2 producing this product in great quantities and can ship it
3 here tomorrow, if you revoke the order. We'll talk more
4 about that in a minute.

5 This next slide is a reprint of an article
6 from the late 80's in the New York Times, and it is an
7 interesting article because it pictures a Chinese manhole
8 cover which says "Made in China." It happened to be in the
9 East Village in New York City. The author of the article
10 talked about the decline in U.S. manufacturing and this
11 symbolic picture of this manhole cover was an example of the
12 manufacturing decline, as the author saw it.

13 The last quote in the article, which you can't
14 read very well on this slide but is in our brief says
15 "America's manhole covers are made in China as our
16 industries go down the drain." While the authors write in
17 general about the decline in manufacturing in many respects,
18 but he did not know one thing, and that is that shortly
19 before he wrote this the Commission imposed anti-dumping and
20 countervailing duty orders with respect to the Chinese
21 imports and imports with respect to Brazil and Canada and
22 India as well.

23 Those orders are the only thing that have
24 prevented the decline and ultimate demise of the domestic
25 producers of these products. Here's what happened in the

1 original investigation. This Slide No. 4 shows the 145
2 percent increase in subject imports during that original
3 Period of Investigation.

4 The next slide focuses specifically on
5 so-called heavy castings from Brazil, which surged even
6 more, growing at an increase of 942 percent over a very
7 short period of time. It's a rapid increase by any measure.
8 Similarly, the imports from Canada increased rapidly at an
9 143 percent rate.

10 If you look at the light castings imports
11 during that original investigation period, they jumped up by
12 245, sorry 254 percent, and imports from Brazil specifically
13 of light castings went from zero to 1600, well a million-six
14 pounds. I can't do the percentage there. The imports
15 declined dramatically after the imposition of the orders as
16 you can see. So this import relief was very, very helpful
17 to the domestic industry.

18 You know that it took a little longer for the
19 Chinese imports to go down. That's because in the original
20 investigation the margins weren't very high. It wasn't
21 until subsequent administrative reviews that the Chinese
22 were affected and declined quite dramatically. But the
23 orders have been very, very helpful and they stabilized the
24 weakened domestic industry.

25 Despite that, however, the industry has seen a

1 decline in the number of companies, quite a few of the
2 foundries that were in existence at the beginning of the
3 Period of Investigation, the original investigation, went
4 out of business. Many, many workers have lost their jobs
5 over the years.

6 But the orders have been necessary to allow
7 companies to have fair conditions, and the survivors, and
8 they're represented here in this room, the survivors still
9 face significant cost and price issues. To show you how
10 effective trade relief has been and can for this industry, I
11 point you to Slide No. 11.

12 After the anti-dumping order on India was
13 revoked, imports from India jumped up quite dramatically,
14 and they remain in the marketplace today. We'll talk about
15 that Indian elephant referred to by Respondents' counsel
16 more in a minute, and we happen to agree that it's very
17 relevant, although not for the reasons cited by opposing
18 counsel.

19 While the industry has survived and generally
20 improved from the time of the original investigation, it has
21 not been thriving, certainly not since the first sunset
22 review in 1998. Many of the key indicators are down, and
23 you've got some slides there that are confidential, where
24 you'll see exactly what's happened with respect to the heavy
25 castings industry and production shipments, workers and

1 operating income.

2 You've got a similar slide for the light
3 castings industry too, and you can see the substantial
4 declines on a number of -- by a number of measures. If you
5 turn to Slide No. 15, you'll see like a headline, which
6 basically says we're here today because the Brazilian
7 respondents promised to provide data for the Commission to
8 conduct this analysis. I emphasized this in my opening
9 statement.

10 But I also indicated in my opening statement
11 they have failed to provide questionnaire responses for the
12 vast majority of the Brazilian producers. There are at
13 least 14 identified companies from Brazil who produce the
14 subject merchandise, and who have not submitted
15 questionnaire responses to you.

16 This Slide 17, which is confidential, notes
17 that certain Brazilian producers exported castings to the
18 U.S. in the current Period of Review, but they're not
19 mentioned by Respondents' counsel and they have not
20 submitted any questionnaire responses. The Commission
21 should issue questionnaires to them and with any luck get
22 responses before you make your conclusions in this case.

23 The next slide involves capacity, and it shows
24 the excess capacity in the Brazilian foundry industry
25 overall, and the Slide 19 shows that as much over-capacity

1 that exists already, the Brazilian foundry industry is still
2 planning to increase its capacity over the next few years.

3 MR. ROSENTHAL: Slide 20 is confidential but it
4 deals particularly with a specific producer and shows that
5 this particular producer's share of Brazilian Industry
6 capacity for heavy and light castings and Slide 21 provides
7 in more detail about the excess capacity reported by the
8 Brazilian Industry. You can take a look here that, in this
9 slide, that there is so much excess capacity. It's not the
10 small and shrinking industry as portrayed by the Brazilian
11 Respondents.

12 As you will learn further and you must know, the
13 Brazilian Economy is not doing particularly well. They want
14 to have a place to go with their capacity and that place is
15 the United States. Slide 22 does in fact show the export
16 orientation of the Brazilian Producers contrary to the
17 Respondents' claims and slide 23 focuses once again on this
18 particular Brazilian Producers and shows that the company is
19 not just export oriented but has focused a high share of its
20 exports on the United States.

21 Let's turn briefly to Canada which is discussed
22 in the confidential Slide 24. As I mentioned, the
23 Brazilian's brief talked about the threat posed by the
24 Canadian Industry and they are correct in that instance.
25 Confidential Slide 24 shows the excess capacity of just one

1 of the Canadian Producers. That excess capacity alone
2 exceeded exports to the United States in the original period
3 of investigation. Slide 25 is confidential too and confirms
4 that the U.S. Market is very attractive to Canadian
5 Producers.

6 Turning to Slide 26 confidential which deals with
7 the Chinese, you can see, again we agree with the Brazilians
8 here that the Chinese threat is very real and very imminent
9 if the orders would be revoked. It shows that the Chinese
10 production capacity dwarfs U.S. consumption, I should say
11 excess capacity. Slide 27 is public and the slide indicates
12 that the Chinese Foundry Industry is the largest in the
13 world and that the Chinese castings producers sell the
14 largest of their sales in export markets. Not a big
15 surprise to all of you, I'm sure.

16 The next three slides are confidential and I'm
17 going to take a little time to allow you to look at them in
18 your handouts. They are quotes from purchasers and
19 importers, talking about what the likely effect would be of
20 revocation. Virtually everyone that is involved in this
21 market will tell you that if you revoke these orders the
22 imports from the Subject Countries, Brazil, China, even
23 Canada will have an adverse impact on the Domestic Industry.

24 After you look at Slide 31 shows that even
25 Foreign Producers who participate in this market are anxious

1 about the effect of revocation and point to Brazil and China
2 in particular as threats to the Domestic Industry and to the
3 market overall. Slide 32, again confidential shows that
4 this is a very attractive market for all of the Subject
5 Exporters as the U.S. prices are higher than those of the
6 Subject Producers' own home markets.

7 Slide 3, which is public, just summarizes some of
8 the points made in our brief that third countries have
9 barriers to exports from Subject Countries. They have
10 tariffs and taxes that make those markets less attractive
11 than the United States. I want to spend a minute or two on
12 an important topic to this industry and should be an
13 important topic to all of us as American Citizens and that
14 has to do with manufacturing in the U.S. given our very
15 proper concern about the environment and workplace safety
16 and health.

17 In our brief and in our testimonies you have read
18 and will hear more about the expenses incurred by Domestic
19 Producers in complying with health and safety regulations.
20 There is no, we're not looking for a trade remedy on that
21 and differential in between what the U.S. Producers have to
22 spend on health and safety regulations, environmental
23 regulations, that's the way it is -- but it's certainly a
24 condition of competition and when you look at what is a
25 reasonable return for a U.S. Producer having to comply with

1 these regulations you have to note that the Foreign
2 Producers aren't having these burdens put upon them.

3 So when you look at net operating income, you
4 look at income overall, you have to recognize that in order
5 to stay producing in the United States American Producers
6 have to earn a certain amount of money to comply with
7 regulations. They are happy to do it, it's the right thing
8 to do but when you look at, or you hear Respondents say
9 "well, gee they're making plenty of money, they're not
10 threatened" -- recognize every year they're putting in money
11 and required to put in money on environmental health and
12 safety regulations that the Foreign Producers don't.

13 If you want to look a little more at this, take a
14 look at pages 40 and 41 of our brief and the exhibits
15 appended there too. By the way, every pound of manhole
16 covers produced in China or Brazil or India pollutes more
17 than every pound of manhole cover produced in the United
18 States. If you care about the environment, you want to buy
19 American for that reason alone. That's not a reason to
20 support or impose revocation, but it does indicate to you
21 that if you want to produce in the United States, you have
22 to deal with the cost of business here; you need to have a
23 reasonable return on your investment.

24 Slide 35 just rebuts some of the, what I regard
25 as the far-fetched arguments of the Respondents concerning

1 imports by the Domestic Industry. You are going to hear
2 some testimony here that is so contrary to this notion that
3 the Respondents have proposed about gaming the system. As I
4 said you'll hear more about it in a minute. Then Slides 36
5 and 37 go directly to the claim you heard again by
6 Respondents' Counsel that the Brazilian Producers are
7 producing some kind of specialized product that isn't made
8 in the U.S.

9 It's true that the Brazilians produce a high-end
10 product, but so do all of the Domestic Producers. I'll tell
11 you about that, but every one of the companies represented
12 in the hearing room today produce the same products that the
13 Brazilians produce. There is nothing that the U.S. Industry
14 can't make that is produced by other Subject Producers.
15 With that, I will conclude my opening statement and will
16 turn to the presentation and turn to our first industry
17 witness Tom Teske from EJ.

18 STATEMENT OF THOMAS M. TESKE

19 MR. TESKE: Thank you, Paul. Good morning, I'm
20 Tom Teske Vice President and General Manager of EJ USA --
21 the company formerly known as East Jordan Ironworks. I've
22 been with EJ since 1976 and I was involved in the original
23 investigations on these products. My company has been in
24 business since 1883 and is in 4th and 5th generations of
25 Malpass family ownership. I'm pleased to appear today

1 before the Commission to discuss the importance of the
2 countervailing duty and antidumping orders to my company and
3 our industry.

4 EJ produces both heavy and light castings at our
5 facilities in East Jordan, Michigan and Ardmore, Oklahoma.
6 We also have distribution facilities in regions throughout
7 the country and serve the entire United States. We have
8 grown through acquisition and internal growth. We acquired
9 Vulcan Foundry, an original participant in this case in
10 1995. Vulcan was the number three importer of heavy
11 castings but we converted them to Domestic Production and
12 this led to construction of our Ardmore, Oklahoma Foundry.

13 We are very proud of the Ardmore facility which
14 was opened in 2001 and is one of the most efficient and
15 environmentally sound foundries in the United States. We
16 have an outstanding record of employee involvement and
17 safety at both of our production facilities. We would not
18 have been able to make the investment in our Ardmore
19 facility without the continued effectiveness of these
20 orders. The orders have helped to reduce the flow of unfair
21 imports that threatened our existence at the time of the
22 original investigations.

23 If the orders on the three Subject Countries were
24 to be revoked through this Sunset Review, we anticipate
25 significantly more devastating impact than at the time of

1 the original investigations because the industries in China
2 and Brazil are far larger now and the industry in Canada
3 continues to be focused on the U.S. Market.

4 An indicator of what could happen in the U.S.
5 Market in the event of revocation is the history of imports
6 of heavy and light castings from India. Since the time of
7 the revocation of those orders, imports from India have
8 reentered the U.S. Market for heavy and light castings in a
9 big way. Imports of heavy castings from India have taken a
10 significant part of the U.S. Market and Indian imports now
11 dominate the market for light castings.

12 As your Staff Report shows, Indian Imports have
13 gained their share of the U.S. Market strictly on the basis
14 of price as we are constantly undersold by importers of
15 Indian Product. If imports from the Subject Countries are
16 allowed to reenter the United States at dumped and
17 subsidized prices, they will trigger a downward price spiral
18 in competition with the Indian Imports. The Chinese will
19 certainly be even more aggressive on price than the
20 Indians.

21 As an article I read just last week from the
22 Hindu Business Line stated that "imports of castings from
23 China are now being dumped in India and have a substantial
24 impact on the Indian Foundry Industry." To quote from the
25 article, "the situation has further worsened due to a

1 slowdown in the Chinese Manufacturing sector where the
2 government is now subsidizing 12.5% on Foundry products
3 which in turn have started affecting the Indian Companies.

4 Given that the combined capacity of the
5 industries in the three Subject Countries greatly exceeds
6 that in India, the volume and price effect of imports from
7 the Subject Countries in the event of revocation would be
8 catastrophic. Because of the nature of our product and
9 markets, the Subject Imports would not have a hard time
10 getting reestablished. The Commission found in the original
11 cases and previous Sunset Reviews that U.S. and foreign
12 castings are substitutable and that is still true today.

13 Constructions castings are manufactured to
14 specifications for weight, dimensions and the chemistry of
15 the iron used in them so any supplier foreign or domestic
16 that can meet the specifications can compete for a sale.
17 Because one producer's product can easily substitute for
18 another's, price is the most important variable in a
19 purchasing decision. The fact that most sales of
20 construction castings are made on a spot basis also makes
21 it easier for Subject Imports to gain back market share.

22 The Brazilians' argument that Buy American
23 policies will strictly limit Subject Imports' ability to
24 penetrate the U.S. Market for construction castings is
25 off-base. While Buy American Rules are important to

1 Domestic Producers, they cover a relatively small element of
2 the U.S. Market for construction castings and while some
3 purchasers may say that they prefer to buy domestically made
4 castings, those preferences would quickly fall by the
5 wayside if imports from the three Subject Countries were
6 allowed back in the U.S. Market to sell at whatever price
7 they choose.

8 The characterization of the health of the U.S.
9 Industry as robust by the Brazilian Respondents also came as
10 a surprise to me. The fact is that even with the orders in
11 place; many Domestic Producers of construction castings have
12 been unable to make a go of it and ceased operations. My
13 company has purchased some of the sales, assets and patterns
14 of the shuttered foundries so that we could continue to
15 serve the customers from EJ's production facilities.

16 The bottom line is that the Domestic Industry
17 continues to contract and consolidate and this is not an
18 indication of strength but of the difficult nature of the
19 construction casting business. While demand for
20 construction castings have shown some incremental
21 improvement over the last several years, this has been a
22 slow crawl back up from the extremely depressed conditions
23 of the recessionary period that began in 2007. In fact,
24 housing starts, which are an important indicator of demand
25 for both heavy and light castings, have still not returned

1 to the levels that we saw throughout most of the decade
2 before the recession. Any claims that demand is robust are
3 just not true.

4 I would also like to address the claim made by
5 the Brazilians that they are producing some kind of superior
6 product not made in the United States. I'm very familiar
7 with the heavy castings products from Brazil currently being
8 sold in the U.S. Market and I can confirm that EJ not only
9 make a similar, alternate, equal product but that we already
10 face price competition from Brazilian Imports on hinged,
11 tamper resistant manhole covers. And of course if the order
12 on Brazil is revoked, the Brazilian Industry will not limit
13 itself to exporting specialized construction castings. They
14 did not do that at the time of the original investigations
15 and they will not now.

16 I would like to close by reiterating the
17 importance of the Antidumping and countervailing duties to
18 my company. While EJ has had its ups and downs since the
19 time the orders were imposed, they have helped us to
20 maintain a reasonable level of profitability and allowed us
21 to reinvest in our operations. We currently are considering
22 a major investment in a new foundry that will maintain a
23 number of much-needed manufacturing jobs in Northern
24 Michigan. Revocation of those orders however may cause us
25 to reconsider that investment. In fact, revocation will

1 give us major concern for our continued viability of our
2 operations as a whole.

3 Thank you for the opportunity to speak before you
4 this morning. I would be happy to answer any questions you
5 may have. Thanks.

6 STATEMENT OF SCOTT A. HOFFMAN

7 MR. HOFFMAN: Good morning, Mr. Chairman and
8 members of the Commission. My name is Scott Hoffman and I'm
9 the Vice President of the Municipal Products Group for
10 Neenah Foundry Company. I've been with Neenah since 2012
11 and have been involved in the Foundry for more than 30
12 years. In my current position I oversee all sales marketing
13 and distribution of municipal castings and as a result I am
14 very familiar with the competition between our domestic and
15 foreign competitors.

16 I appreciate the opportunity to testify before
17 you today. Neenah is one of the largest independent foundry
18 companies in the United States and a major producer of
19 castings for the Municipal and Construction Centers,
20 including the so-called heavy castings. Our company has
21 been in business since 1872 and we produced our first
22 manhole cover in 1904.

23 We consider ourselves one of the survivors of the
24 industry. Our heavy castings are made at our production
25 facilities in Neenah, Wisconsin and Lincoln, Nebraska and

1 are sold nationwide. We employ more than 400 union and
2 nonunion employees directly engaged in the production and
3 distribution of heavy castings. Revocation of the orders
4 would have a swift and significant impact on the communities
5 in which we operate.

6 As to the product that we offer, we offer heavy
7 castings in a variety of sizes, shapes and designs. In
8 fact, we have tooling in place for 20,000 unique part
9 numbers which represent the full need for the country. In
10 2015 our company expanded our product offering after
11 acquiring the assets of Swiveloc. With that acquisition we
12 procured the intellectual property for the design and
13 manufacture of explosion mitigating manhole covers.

14 In addition to that, for years we have
15 manufactured hinged water infiltration mitigating manholes
16 under our LiftMate Brand that you saw in the slide
17 presentation that are very similar in design and quality to
18 those produced by Saint-Gobain. Thus as a producer of the
19 full line of heavy castings we compete directly with all
20 Foreign Producers including those that are subject to the
21 Sunset Review. However, we are not immune to injury caused
22 by large quantities of dumped and subsidized imports of
23 construction castings, although those components tend to be
24 the highest volume products in the offering.

25 I strongly believe that for our company, as well

1 as for our industry to remain in business it is crucial that
2 the orders remain in effect. There are a number of reasons
3 why the order should be continued and I will address some of
4 them this morning. First, increased imports from
5 non-Subject sources such as India continue to enter the U.S.
6 Market at extremely low prices. I have every reason to
7 believe that if the orders are revoked Subject Imports from
8 Brazil, Canada and China will return to the market in
9 greater quantities and at prices that undersell us just as
10 we have seen since the orders against India have been
11 revoked. This will result in lower market prices and reduce
12 domestic sales.

13 Second, we know that the producers in each of the
14 Subject Countries have remained significant exporters of
15 castings worldwide, whether or not they are currently
16 exporting to the United States and third, given the large
17 capacity to produce iron castings that exist in Subject
18 Countries it is reasonable to expect increased exports from
19 these countries if the orders are revoked.

20 In fact, the higher pricing in the United States
21 compared to those in third country markets makes the U.S.
22 much more attractive to Subject Producers. Any claims by
23 these Respondents that they would not return to the U.S.
24 Market or would only sell a limited volume are simply
25 unrealistic. If the orders are revoked, there would be

1 nothing to prevent the unrestrained imports from increasing
2 in the U.S. Market.

3 In our capital-intensive industry our foundries
4 must maximize utilization of our casting and tooling
5 equipment to spread fixed costs over as wide a base as
6 possible. For our company, this is particularly important
7 because our equipment and machinery are used only to produce
8 heavy castings. In contrast to the Subject Producers, we
9 are unable to shift production between products because our
10 powders and core box tooling are specifically used in the
11 making of heavy construction castings. By extending
12 reduction and production volume of heavy castings would have
13 an immediate and devastating impact on our company.

14 Next I would like to touch on the impact these
15 orders have had on my company. Before these orders went
16 into effect in the mid 80's, we, like the other industry
17 members were in serious trouble. Fortunately we have been
18 able because of the orders to recover. The orders have
19 helped our company to keep up sales and production volumes
20 and maintain reasonable prices. This has helped us in term
21 to maintain employment and reinvest in our facilities.

22 Since the orders were imposed, we've undertaken
23 ambitious capital improvement programs to build state of the
24 art facilities that address both safety and environmental
25 concerns. We have also been able to add to our production

1 capacity through acquisition of other U.S. Foundries such as
2 Dieter Foundry in 1998. Other Domestic Industry members
3 have made similar investments. During the current review
4 period we have invested in additional tooling to produce
5 heavy castings and made other investments to allow
6 increased production to become even more efficient thus the
7 antidumping and countervailing duty orders have been
8 important to the success of Neenah Foundry over the years.

9 This was possible because the imports from the
10 Subject Countries had to be sold at fair market prices or be
11 subject to the duties that would bring them back to fair
12 market prices. But as I just stated this does not mean that
13 they will not return in large volumes if the orders are
14 revoked. The pricing discipline that these orders impose on
15 the Subject Imports is extremely important to the U.S.
16 Market.

17 Construction castings are commodity products that
18 are highly interchangeable. As a result they are sold
19 primarily on the basis of price. The vast majority of sales
20 are made on a spot basis which means that purchasers can and
21 do seek out the best prices in the market and change
22 suppliers based on those prices. If the orders are revoked,
23 I have no doubt that imports from the Subject Countries
24 would take a large part of the U.S. Market for construction
25 castings and would do so by selling at unrealistically low

1 prices as they did before the orders were put in place. The
2 dumped and subsidized imports will once again undercut our
3 prices making it impossible for our products to compete and
4 for Neenah to be profitable. The likely effect would be
5 layoffs, financial losses and a reduced ability to make
6 capital investments which would risk our long-term
7 viability.

8 In conclusion, Neenah Foundry like the other
9 Domestic Producers here today strongly depends on these
10 orders to compete in the highly competitive and
11 price-sensitive construction castings market. The
12 continuation of these orders is critical to the future of
13 our industry and I urge you to continue these orders. Thank
14 you.

15 STATEMENT OF ADAM W. SAN SOLO

16 MR. SAN SOLO: Good morning, Mr. Chairman, Members
17 of the Commission. My name is Adam San Solo and I'm the
18 Director of Sales and Engineering for U.S. Foundry, located
19 in Medley, Florida. I've been with U.S. Foundry for 26
20 years. Prior to that, for five years I designed ships for
21 the U.S. Navy.

22 Humorist Tom Lehrer once said, "Life is like a
23 sewer. What you get out of it depends on what you put into
24 it." For the company seated at this table, I can say that
25 our lives depend on the manhole cover used on top of that

1 sewer.

2 U.S. Foundry is a family-owned business,
3 celebrating its 100th anniversary this year. Starting as
4 the 7th Street Bicycle Repair and Welding Company, U.S.
5 Foundry has become a leading producer of municipal castings.

6 We produce manhole covers, rings, and frames, the
7 so-called "heavy castings." Although we have sought to
8 produce light castings in the past, the primary reason why
9 we do not is our inability to compete with market prices of
10 import castings.

11 The patriarch of our company, the late Alex
12 DeBogory, Jr., testified before the Commission during the
13 original investigation, and his son and grandsons now run
14 our business, which is an important one for our community.

15 We are inland about 15 miles from the ocean, and
16 light years from the tourism that one thinks of when
17 contemplating visions of Miami. While warehousing and
18 airport maintenance are significant employers in our area,
19 we are one of very few manufacturers.

20 We have about 240 employees in well-paying jobs.
21 We are proud of our employees and our company's role in the
22 local economy. We have a diverse workforce, including many
23 people with Hispanic and Haitian backgrounds. Many of our
24 employees started at the Foundry without significant skills
25 or training, so we train them on the job and turnover is

1 very low.

2 U.S. Foundry has their own sales and distribution
3 yards throughout the Southeast, including Florida, Georgia,
4 Alabama, South Carolina, and North Carolina. We ship as far
5 West as Texas, and sell into the Midwest, the Mid-Atlantic,
6 and the Northeast.

7 In the 1990s, we built a new Foundry facility in
8 Medley, and in 2006 we made a multi-million dollar
9 investment in a new molding line for larger municipal
10 castings. Every year we spend millions in capital to
11 maintain our equipment, improve our tooling, and comply with
12 our regulatory obligations.

13 We take our commitment to the environment and the
14 health of our workers very seriously. Annually about one
15 million dollars is spent for safety and environmental
16 compliance alone. We have a commitment to keeping the plant
17 modern so we can provide value to our customers, safe so our
18 employees' welfare is protected, and environmentally
19 responsible so our community benefits.

20 When Mr. DeBogory joined the Petitioners in the
21 original investigation, U.S. Foundry was a significant
22 importer. Indeed, three of the petitioning foundries who
23 were located near Coastal areas were large importers.

24 It was on the Coast where imports first took
25 their toll. As those importing producer companies

1 explained, they had to provide their customers a certain
2 amount of imports in order to be competitive. Those
3 foundries, along with U.S. Foundry, could not match the
4 import prices using domestically produced product entirely.
5 It was a defensive measure.

6 The Commission understood and granted relief.
7 Guess what happened after that? U.S. Foundry and the other
8 petitioning importers paid the antidumping and
9 countervailing duties that we owed. Lots of companies talk
10 about a level playing field; we mean it.

11 We talked the talk, and we paid the duties.
12 Ultimately, with fairer conditions prevailing in the market,
13 U.S. Foundry stopped importing altogether.

14 When I read the assertion by the Brazilian
15 foundries that somehow the domestic producers, in their
16 words, "were gaming the system," I have to wonder if they
17 know anything about the U.S. producers in the case. And by
18 the way, our companies may be small but we're not
19 provincial. We're not against trade, and we're not against
20 imports.

21 What we have fought against is unfair trade.
22 Saint-Gobain argues that the product that it's exporting
23 from Brazil is a premium product that doesn't compete
24 against castings made by domestic producers.

25 I question why, if the company isn't dumping its

1 products into the U.S., it simply didn't seek an annual
2 review of the dumping margins to demonstrate that to the
3 Commerce Department.

4 More directly of concern to this Commission, I
5 understand is that the U.S. Foundry competes directly
6 against imports from Brazil. In my view, we sell a better
7 product. We have had to lower our prices to compete with
8 the Brazilian offerings. The Brazilian product is high
9 quality, but make no mistake, their products compete by
10 selling at low prices.

11 We were very concerned when the Antidumping and
12 Countervailing Duty Orders against imports of iron castings
13 from India were revoked. As I mentioned, we have modernized
14 and we are doing our best competing against those imports.
15 While we're not doing as well as we would like, we are still
16 doing better than the producers of so-called "light
17 castings" who have lost most of the market to imports.

18 But the fact remains, we are competing against
19 the Indians on more standard manhole covers and, for now,
20 against the Brazilians on the hinged covers. I say "for
21 now" because if the Orders against Brazil are revoked, we
22 can easily see bread-and-butter Brazilian product rushing
23 into the U.S. market as it did before the Orders were in
24 place.

25 I would like to briefly address the claim that

1 the domestic industry is somehow insulated from import
2 competition due to the existence of Buy American provisions.

3 While a small percentage of the castings we sell
4 are provided for jobs with Federal funding and thus qualify
5 for Buy American preference, the vast majority of our sales
6 are for private development, or municipal construction where
7 no such preference exists. We compete with imports every
8 day.

9 Finally, let me say a few words about the threat
10 from China. As Mr. Rosenthal pointed out, China has
11 demonstrated capability to sell massive amounts of
12 construction castings in the U.S.

13 We saw what they did before the Order was in
14 place. What is even more worrisome is that, despite the
15 existence of the Antidumping Order, the Chinese have a
16 well-established distribution chain in this country. You
17 see many of the importers of Indian castings already import
18 Chinese foundry products. They aren't importing the subject
19 castings from China, but if the Orders are revoked they
20 certainly will be able to do so.

21 The worst thing imaginable for our business is to
22 have a price feeding-frenzy between Chinese, Indian, and
23 Brazilian imports. Our business will quickly be devoured.

24 In closing, then, I thank the Commission for your
25 attention and urge you to maintain the Antidumping and

1 Countervailing Duty Orders currently in place.

2 Thank you.

3 STATEMENT OF JASON MCGOWAN

4 MR. MCGOWAN: Good morning. My name is Jason
5 McGowan. I am President and General Manager of D&L Foundry
6 located in Moses Lake, Washington.

7 I have worked for D&L for 25 years, and have
8 served in my present capacity for the last 4 years. Moses
9 Lake is in the eastern part of Washington State. And with
10 our 150 team members makes it one of the largest employers
11 in our town of about 20,000.

12 D&L Foundry has a unique history. Our previous
13 owner, Mr. Jack Leftwich, was an importer of municipal
14 castings located in Provo, Utah. Over time, almost all of
15 the domestic producers on the West Coast went out of
16 business. It was only because of the success of the
17 antidumping and countervailing duty cases that Mr. Leftwich
18 saw an opportunity to begin construction of a new foundry to
19 produce on the West Coast again.

20 He hired me in 1991 to help construct and operate
21 the new Greenfield facility in Moses Lake. D&L Foundry now
22 produces both heavy and light castings. We used to be known
23 as D&L Foundry and Supply Company. In 2014, our
24 distribution operation was separated and now operates
25 independently as D&L Supply Company, which has operations in

1 Moses Lake, Provo, Utah, and American Canyon, California,
2 and serves the Western United States.

3 We also sell our products to the East Coast, as
4 well, using a distributor based in Philadelphia. So we have
5 nationwide distribution.

6 After Mr. Leftwich passed away, D&L Foundry was
7 purchased by Gooding Holdings, which owns or controls
8 operations in several countries, including Canada, Mexico,
9 and China, although not all of the foundries produce the
10 types of products that are the focus of this case.

11 When Gooding Holdings bought D&L in 2011, it made
12 a commitment to manufacture in the United States. In 2012,
13 we invested \$12 million in D&L Foundry, a significant amount
14 of our business. The investment was planned originally for
15 the 2007-2008 time period, but the previous owners could not
16 justify going forward, given the economic downturn. The new
17 investment has allowed us to be more efficient and better
18 serve our customers.

19 The major investment is in addition to the
20 millions of dollars expended annually in order to keep the
21 foundry running safely and efficiently.

22 I mentioned that D&L's parent company has
23 operations in Canada. Some of these operations have foundry
24 names but no longer produce subject merchandise. They have
25 simply become sellers of castings, mostly imported ones.

1 Another sister company that is still operating as
2 a foundry, Penticton, used to produce manhole covers and
3 frames and was one of the respondents to the U.S.
4 Antidumping Investigation of imports of iron construction
5 castings.

6 While the U.S. industry was successful in that
7 case, the Canadian industry never sought trade protection
8 for its own home market. As a result, the Canadian market
9 is overrun with imports. Penticton Foundry no longer makes
10 municipal castings. It is shrunken in size and has become a
11 small, boutique foundry that simply cannot compete with
12 imported iron construction castings.

13 Interestingly, the market in Canada where there
14 is no antidumping or countervailing duty orders in place on
15 municipal castings is dominated by imports from China south
16 of the Canadian Border.

17 Here in the United States, thanks to the
18 Antidumping Orders, the Chinese imports currently are not a
19 major problem. Imports from India are the biggest problem
20 today. Revoking the Antidumping Orders currently in place
21 in the U.S. would be terrible for D&L Foundry.

22 Low-priced imports from China would battle those
23 from India and drive prices down even further in the U.S.
24 market. Moreover, if the Order against Canada is revoked
25 the Canadian producers, whose home market is dominated by

1 imports, would again have an opportunity to sell at
2 aggressively low prices in this market.

3 We have watched what has happened to our sister
4 company in Canada and we don't want that to happen to us.
5 We make castings for the municipal market. We don't have a
6 niche to shrink back to. And even if we did, most of our
7 team members would lose their jobs.

8 So on behalf of the 150 team members of D&L
9 Foundry and the small town of Moses Lake, Washington, where
10 we live and raise our children, I urge the Commission to
11 maintain the Antidumping and Countervailing Duty Orders on
12 imports of iron construction castings.

13 Thank you.

14 STATEMENT OF GRACE W. KIM

15 MS. KIM: Good morning. My name is Grace Kim of
16 Kelley, Drye & Warren. I would like to conclude our panel's
17 testimony this morning by addressing the issue of
18 cumulation.

19 The Commission has cumulated subject imports from
20 all countries in each of the prior sunset reviews and should
21 exercise its discretion to do the same in this review.

22 As was detailed in our prehearing brief, all of
23 the statutory factors are again satisfied here. And nothing
24 has changed with respect to the conditions of competition or
25 the likely overlap of imports from each subject country to

1 justify decumulating any of the subject countries.

2 In addition, the record does not support a
3 finding that imports from any of the subject countries will
4 have no discernible adverse impact on the domestic industry
5 if revocation occurs.

6 Rather, the available information continues to
7 demonstrate that each of the countries has maintained
8 sizeable capacity and has significant excess capacity to
9 export both heavy and light castings to the U.S. market.

10 In addition, all subject countries are
11 export-oriented and have continued to export to the U.S.
12 market throughout the current review period.

13 The Brazilian Respondent's argument that there is
14 no overlapping competition between imports from Brazil and
15 other subject countries are not supported by the facts of
16 record.

17 The Commission has consistently recognized the
18 fungible nature of construction castings in prior segments
19 of this proceeding, and this remains true today. In fact,
20 all U.S. producers, and a majority of importers, reported in
21 this review that the products are always or frequently
22 interchangeable from all subject countries.

23 U.S. purchasers also reported that the Brazilian
24 products are always or frequently interchangeable with those
25 from Canada and China. Thus, the prehearing work concluded

1 that there is a moderate to high degree of substitutability
2 between domestically produced castings and castings imported
3 from subject countries.

4 Despite the strong record evidence of fungibility
5 between subject imports and the domestic like product, the
6 Brazilian Respondents contend that imports from Brazil are
7 not fungible and should not be cumulated with those of other
8 subject countries because the Brazilian products are
9 allegedly different, or of a higher end specialty product.

10 This argument, however, is unpersuasive and
11 should be rejected. As the Commission found in other cases,
12 the current composition of subject imports is affected by
13 the discipline of the Orders and therefore does not indicate
14 their likely post-revocation behavior.

15 In addition, as you have heard from the industry
16 witnesses this morning, each of the four domestic producers
17 here today produce castings that compete directly with the
18 Brazilian product.

19 Next, the Respondents also argue a lack of
20 overlap, claiming a difference in geographic markets and a
21 lack of simultaneous presence in the U.S. market by subject
22 imports.

23 As the record shows, however, both domestically
24 produced and imported castings are sold nationwide, with
25 imports from subject countries overlapping in ports of

1 entries as well.

2 Imports from each country were also
3 simultaneously present, albeit on a reduced basis, during
4 the current review period and likely would all resume
5 simultaneous sales in the U.S. market if revocation occurs.

6 Importantly, Respondents fail to recognize that
7 the relevant inquiry in a sunset review is not whether there
8 is a reasonable overlap in competition today, but whether
9 there would likely be a reasonable overlap in competition in
10 the event of revocation.

11 Although the Respondents did not address common
12 channels of distribution, the record shows that both heavy
13 and light castings are sold mainly to distributors, whether
14 by domestic producers or importers, and they compete for the
15 same customer accounts.

16 Other arguments advanced by the Brazilian
17 Respondents are equally unavailing. They claim that imports
18 from Brazil would have no discernible adverse impact on the
19 domestic industry, and that imports from Brazil would face
20 different conditions of competition from other subject
21 producers in the U.S. market if the Orders are revoked.

22 In support of their claim, they focus largely on
23 the low import volumes or higher prices after the Orders
24 were issued, but ignore the pre-Order prices and volumes
25 that led to the Orders' imposition.

1 In addition, the Respondents claim that, unlike
2 the other subject producers, Brazilian producers have no
3 incentives or excess capacity to increase its exports to the
4 United States and that they are not export oriented.

5 As detailed in our prehearing brief, and as you
6 saw from our slides this morning, the Brazilian Respondents
7 maintain significant excess capacity, and they have a strong
8 incentive to resume shipping large volumes if the Orders are
9 revoked. And this is particularly likely given the
10 attractiveness of the U.S. market.

11 Finally, the attempt to further differentiate
12 Brazil from other subject countries based on their size of
13 the industry is also unconvincing. The number of producers
14 in Brazil and the Brazilian production capacity are actually
15 larger compared to Canada. Although the Chinese industry
16 may be larger than Brazil, this factor is not a basis for
17 decumulation.

18 The Commission often cumulates imports despite
19 the disparity in the sizes of the industries in the subject
20 countries. Indeed, the statute directs the Commission to
21 cumulate imports from countries that each account
22 individually for a very small percentage of total market
23 penetration, but when combined may cause material injury.

24 The very purpose of cumulation is to capture the
25 hammering effect of subject imports. Thus, contrary to the

1 Brazilian Respondents' arguments, there is no record
2 evidence to suggest any change that would make their imports
3 any less injurious to the U.S. industry than they were
4 pre-Order, and no justification exists to exclude Brazil
5 from cumulation in this review.

6 Thank you. That concludes our affirmative
7 testimony.

8 MR. ROSENTHAL: Our panel is ready to answer
9 questions. I just want to introduce Michael Kerwin, the
10 Director of Georgetown Economics Services, who will also be
11 available to answer your questions. Thank you.

12 CHAIRMAN WILLIAMSON: Thank you. I want to thank
13 all of the witnesses for coming today and taking time from
14 their businesses to present testimony.

15 This morning we will begin questioning with
16 Commissioner Pinkert.

17 COMMISSIONER PINKERT: Thank you, Mr. Chairman.
18 And I thank all of you for being here today.

19 I would also like to thank EJ for a very
20 information tour in Ardmore, Oklahoma. And I appreciated
21 your willingness to give us answers to the various questions
22 that we had during that tour.

23 I want to begin with a question for Mr.
24 Rosenthal. And it concerns your argument about the age of
25 Orders, and whether it's relevant to the continuation of

1 Orders in sunset reviews. And I take your point that
2 there's no term limit. There's no age limit. But should we
3 pay less attention to pre-Order behavior in making a sunset
4 review determination when the Order is as old as the Order
5 in this case?

6 MR. ROSENTHAL: Again, Paul Rosenthal for the
7 record. It all depends on your comparison of the industry's
8 per-Order versus today. And so even though the original
9 investigation was more remote in time, if you look at the
10 industry and you see, let's take China for example, there's
11 even more capacity and unused capacity in China than there
12 is today.

13 So you have to say, well, gee, if they could
14 surge in then, they can surge in now. So it doesn't matter
15 if it's 10 years ago, or 5 years ago, or 30 years ago. You
16 look at the Brazilian industry and say, well, they had less
17 capacity and less excess capacity then than they do now. If
18 they were able to surge in then, then they are likely to be
19 able to surge in now.

20 So my point is that you don't disregard the
21 industry or what happened in the original investigation just
22 because it happened longer ago. You have to look at what
23 the industry looked like then versus what it looks like now.
24 And the same thing goes for the domestic industry.

25 So you have to look at the passage of time, in

1 other words, by itself is not relevant. It is looking at
2 the industries as they exist today, and gaining what
3 knowledge you can about their abilities to do what they did
4 before.

5 COMMISSIONER PINKERT: Thank you.

6 Now one of the things that flashed into my mind
7 while I was listening to the testimony this morning is the
8 notion of survivor bias. And there was a statement that,
9 well, if you look at the current profitability of the
10 industry, that may or may not be a sign of strength because
11 of the consolidation contraction of the industry in the
12 United States.

13 What I'm wondering is whether you have a way of
14 quantifying or getting our hands around what that survivor
15 bias might amount to?

16 MR. ROSENTHAL: The words "survivor bias" have
17 been going through my head for the last several days as we
18 prepared for this hearing. And my short answer to your
19 question is: No, I don't have a way to do that.

20 But what I would like you, though, to think about
21 is, as you look at let's say the profitability number, is
22 putting that in context. When you're looking at injury to
23 the industry as a whole--and I recognize you only have data
24 from a few companies that are remaining in the industry--you
25 have to look at what it took for them to get to that point.

1 You're looking at their net operating profits. Well,
2 they've shrunk. They've consolidated. Companies have gone
3 out of business. Does that mean the industry is healthy
4 when all those people have--companies have gone out of
5 business?

6 Look at the employees. One of the biggest
7 problems you have when you look at net operating profits, at
8 the sales ratio as an indicator of health, is that you can
9 shrink and shrink and shrink as a company. You can serve
10 smaller and smaller niches, until you shrink yourself out of
11 existence.

12 You may have good profits until the day you turn
13 off the lights. And what's happened? The employees are the
14 ones who have been suffering. They are the ones who have
15 been injured. And so you can't look at net operating
16 profits to sales ratio as the sine qui non of industry
17 health.

18 That is why you have to look at all these
19 factors. So it says, oh, they're doing great, they're
20 making, you know, a single digit operating income. They're
21 not losing money, so they must be doing great?

22 That's not how you look, in my view, at what is
23 injury overall to the industry.

24 So there's no formula. And as far as I can tell,
25 this Commission has never adopted a formula for analyzing

1 injury, but you have to look at all the factors. And if you
2 look at just net operating profits for the survivors, and
3 you ignore all the employees who have gone out of business,
4 all the companies who haven't been able to survive, you are
5 missing what's truly the condition of the industry.

6 COMMISSIONER PINKERT: Thank you for that
7 answer. I'd like to ask the industry witnesses to address
8 this next question, and it's prompted by your statement that
9 we shouldn't ignore what it took for the industry to get to
10 whatever the current level of profitability is.

11 Can the industry witnesses talk about the
12 adjustments that you've made in order achieve current levels
13 of profitability?

14 MR. HOFFMAN: Thank you. And this is Scott
15 Hoffman, for the record.

16 All of our testimonies can touch on this, but
17 we've put significant capital into our foundries to do as
18 much as we can to take out the safety risks and to become
19 more efficient. So far from sitting back and operating
20 under these orders, we've been doing everything we can to
21 become a better foundry, both from the environmental point
22 of view and from the employee safety point of view.

23 We have purchased other foundries to utilize the
24 capacity that we do have. Our foundries at Neenah are
25 heavily capital intensive and when they're not running

1 you're not absorbing the costs of those operations, so as a
2 result we have bought other foundries, such as Deter
3 (phonetic) Foundry in Lincoln, Nebraska. And in addition to
4 putting in approximately \$20 million of annual capital
5 improvements for maintenance repair and improvements, it's
6 taken that amount of investment to become what we are today.

7 MR. TASKE: Tom Taske, for the record, EJ.

8 We've modernized, reinvested, improved the
9 efficiency of our operations, as you would see in the
10 Ardmore Foundry and we thank those Commissioners and their
11 staff that visited. We greatly appreciate the opportunity
12 to show you what we try and do.

13 We are focused on improving all of our business
14 systems. We've implemented this year a new ERP system.
15 We're driven to serve our customers and provide their needs
16 and do it as efficiently as possible, but we also have a
17 tremendous amount of manufacturing jobs. Both of the
18 foundries employ slightly under 400 people, so we have about
19 400 employees -- direct production employees. We have 1300
20 total employees in the U.S. focused on infrastructure
21 products and most of the main focus is the heavy and light
22 casting business.

23 We're kind of on a continuous in improvement,
24 whether it's Lean initiatives or whatever it takes. We want
25 to provide the safest workplace. We have a people-based

1 safety program from the bottom up and starts with everyone
2 out on the manufacturing floor. We have environmental
3 compliance and we continue to improve and look forward to
4 try and meet and exceed any of the environmental
5 regulations that are coming down. And at the end of the
6 day, foundries, as you can see, are very capital intensive.

7 Now we also have been probably the leading
8 industry consolidator, so there are a number of foundries
9 that are not here today for various reasons. One of which
10 would be LeBaron, which is based in Brockton, Massachusetts,
11 started in around 1855 and in the mid-eighties, Frances
12 LeBaron, the last family member, sold the foundry to his
13 employee, to an Eastop of the leadership.

14 In October 31, 2008, after knowing the
15 leadership and they participated in our group here in the
16 original hearings and for many years were a major supplier,
17 we did acquire them October 31. Prior to our having the
18 opportunity to acquire them, we acquired their patterns and
19 their sales group. They let all their production people go.

20 They did give their employees an opportunity to
21 purchase that business, but they couldn't see where it could
22 be viable going forward and they actually tried to operate
23 it as specialty foundry for a period and helped us in the
24 transition in moving the patterns and everything, but at the
25 end of the day there has been job loss. There has been

1 significant change in the industry.

2 At one time, way back in history, every town had
3 a foundry. That foundry made the standards for that town.
4 What you see today is what's left of the foundries in the
5 U.S. that provide that need.

6 And I think really what we ask you is we hope
7 that we're here to come here again, but I mean this is it
8 when it comes down to it. And the foundries in China it's
9 phenomenal over there. And it's phenomenal, if you've been
10 to China, how big the building in China and how many vacant
11 buildings there are, but we're faced with a tremendous
12 amount of global capacity that prior to the eighties or
13 prior to the late seventies we weren't faced with. So the
14 last 30 and 40 years those of us that have survived have
15 really focused on our customers and on our manufacturing
16 facilities and our business systems to be the best that we
17 can to stay competitive.

18 MR. ROSENTHAL: Commissioner Pinkert, I know
19 your red light is up, but I just want to mention, as the
20 consolidator, that EJ has described themselves as, there
21 were several mentioned. LeBaron, Allegheny, Vulcan Foundry,
22 all of them were producers and all those folks who were
23 producers are no longer with jobs and so they acquired the
24 patterns. They acquired the customers, if you will, but all
25 those employees are no longer working in this industry and

1 that's really the context that you need to have and they're
2 facing larger capacity from the subject producers today.

3 COMMISSIONER PINKERT: Thank you.

4 CHAIRMAN WILLIAMSON: Thank you. Commissioner
5 Broadbent.

6 COMMISSIONER BROADBENT: Thank you, Mr.
7 Chairman. And we had a great time out in Ardmore, Oklahoma.
8 That was a great experience. I really enjoyed it. Your
9 team was a good host to all of us.

10 I guess, Mr. Taske, the one question I had was
11 in terms of your kind of competitive improvements that
12 you're able to do in your production process you mentioned
13 business processes and so forth, do the patterns go digital
14 at all at any time? I know they're kind of -- and I don't
15 know the right vocabulary word for it, but a dye that you
16 keep on a rack there, which was very impressive in terms of
17 how it was all organized and I just wondered do you envision
18 a time in the future where you're go from that physical dye
19 to something that's more digital in terms how it
20 communicates with the manufacturing machine?

21 MR. TASKE: That possibility may exist in the
22 future. We have actually been experimenting with additive
23 manufacturing actually printing on demand the special
24 lettering for our cover, but at this point we're not there.
25 And as you saw, we have invested, though, an excellent

1 computer-based data to store all of that.

2 COMMISSIONER BROADBENT: Right, you could get to
3 any dye within a second.

4 MR. TASKE: We can excess them quickly and
5 efficiently and that's a recent capital expenditure that we
6 put in last year. It was about a half million dollars and a
7 very automated system.

8 COMMISSIONER BROADBENT: Is the additive
9 manufacturing something that your competitors might be
10 exploring in Brazil or in China?

11 MR. TASKE: Well, I would think anyone in
12 manufacturing would keep attuned of it and as the printers
13 and things come down in price then you'll look at it more.
14 Actually, the automotive industry is one of industries
15 that's at the forefront of that and it's especially used for
16 prototyping right now.

17 COMMISSIONER BROADBENT: Right.

18 MR. TASKE: But a sand printer for an
19 automotive-type cast can cost about a million and a half
20 dollars now just for the basic machine, but it's good for
21 prototyping and at some point it'll probably revolutionize a
22 lot of manufacturing.

23 COMMISSIONER BROADBENT: Okay. And as I
24 remember from the staff report, a lot of the demand where
25 you're seeing growth is in the automotive sector; is that

1 right?

2 MR. TASKE: No.

3 COMMISSIONER BROADBENT: No?

4 MR. TASKE: No, we're focused on this business
5 excess frame covers. That's our number one goal.

6 COMMISSIONER BROADBENT: Okay, so the more
7 municipal?

8 MR. TASKE: All municipal work.

9 COMMISSIONER BROADBENT: Okay, so you don't get
10 into the automotive -- supplying the automotive industry?

11 MR. TASKE: Our foundry in East Jordan, part of
12 our capacity in the winter, due to the construction season
13 falling off in the northern climates, does make after-market
14 brake drums for the truck and trailer business, but it's
15 actually a secondary way to keep our production capacity
16 business.

17 Also, as you would see in our inventory reports,
18 we also build a lot of inventory in the winter because when
19 the construction season comes it's busy everywhere.

20 COMMISSIONER BROADBENT: Got it.

21 MR. ROSENTHAL: Commissioner Broadbent, there is
22 an automotive foundry industry, but the subject merchandise
23 here doesn't really supply that.

24 COMMISSIONER BROADBENT: Yeah, that makes sense.
25 Okay, thank you for clarifying.

1 MR. SOLO: If I may just add a brief comment.

2 COMMISSIONER BROADBENT: Sure. Mr. Solo?

3 MR. SOLO: Sam Solo.

4 COMMISSIONER BROADBENT: Sam Solo.

5 MR. SOLO: Our industry, as a whole, is
6 constantly seeking to be low-cost producers in order to be
7 competitive in the domestic market and particularly against
8 other foreign sources. That drives us every day.

9 Sand mold technology is ancient and one of the
10 simplest and lowest-cost methods for producing casting. Our
11 casting are much simpler than high-intricate castings used
12 in other industries and so we would probably see very little
13 change in these more interesting technologies until such
14 time as the cost would be able to be competitive. So where
15 we're cost-drive industry as a whole and trying to
16 constantly drive those costs down would be the only thing I
17 think that would move us towards additive manufacturing,
18 3-D manufacturing or something like that.

19 COMMISSIONER BROADBENT: How decorative are
20 manhole covers these days?

21 MR. SOLO: So we produce a number of so-called
22 logo covers. Some municipalities like to feature their
23 crest or their symbol of their city. Once the tool is
24 produced, we like the sand doesn't know the difference and
25 so there's really no difference in manufacturing that

1 produce once you create that tool.

2 I would say those logos represent, in our case,
3 probably 200 to 250 out of the 12,000 products that we
4 produce, so it's a minority of the castings that we produce,
5 I would think.

6 COMMISSIONER BROADBENT: Okay. I just saw the
7 reference in this 1988 article you provided, Mr. Rosenthal,
8 about the foliated designs in the art nouveau style.

9 MR. ROSENTHAL: We've submitted that to the Ways
10 and Means Committee in connection with the hearings on
11 Country of Origin Marketing and that's why the print is so
12 terrible.

13 COMMISSIONER BROADBENT: And this is country of
14 origin recently?

15 MR. ROSENTHAL: No, this hearing was held in
16 connection with the 1988 Trade Act and proposal to revoke or
17 eliminate the country-of-origin marking requirement on the
18 top surface of manhole covers. The City of New York was
19 embarrassed that they were ousted that they were buying
20 Chinese manhole covers.

21 COMMISSIONER BROADBENT: Okay, but we did have
22 another marking requirement that was just recently added in
23 the new trade bill?

24 MR. ROSENTHAL: Yes. Again, every product is
25 required to have country-of-origin marking. The problem in

1 municipal castings has been that a lot of the importers or
2 foreign producers were trying to bury the markings so that
3 they couldn't be seen and so all this special provision
4 requires is that the markings be visible and on the top
5 surface of the products as opposed to being hidden under
6 lids or places where they can't be legible and easy to see.

7 COMMISSIONER BROADBENT: Okay. What impact do
8 you think that will have in the in market over the next
9 couple years?

10 MR. ROSETHAL: Hard to know. One of the -- by
11 the way, most of these marking requirements were extended to
12 products that are not subject merchandise. One of the
13 primary producers of wanting this legislation was a lamp
14 post producer who makes a product, obviously, that's not
15 subject merchandise here, but if you look at this Bolliards,
16 Lamp Post and others were and now are not part of this case.

17 Not sure what the impact will be, but the hope
18 is that customers will look at this and say do I want to buy
19 this product or not. I'm not sure it's ever been measured
20 how much marking makes a difference to customers.
21 Similarly, it's not clear how much ingredient labeling makes
22 a difference on consumer products, but it's more of people
23 have a right to know what they're buying. In the case of
24 casting the feeling is taxpayers ought to have a right to
25 know where their tax dollars are going, but I don't think

1 there's been ever any measure of the impact of the marking.

2 COMMISSIONER BROADBENT: So if I'm looking for
3 my keys under the lamp post, at least I'll know where the
4 lamp post comes from, right?

5 MR. ROSENTHAL: Indeed. While I'm thinking of
6 that -- I don't want to waste your time here, but one of the
7 interesting things if you go down to the Capitol or you go
8 down the street, one of the producers of the aluminum lamp
9 post in Spring City, Pennsylvania has designed them for the
10 government to be able to have surveillance cameras in the
11 top of the lamp post. So while you're looking for your
12 keys, somebody's looking at you.

13 COMMISSIONER BROADBENT: Yes. Well, I
14 appreciate, Mr. Rosenthal, for kind of taking on the age of
15 these orders head on with your inspiring quote about "Better
16 to burn out than to rust." Actually, I think these orders
17 have spanned the life of my Trade career really, so I
18 remember looking at this issue and thinking, yes, Trade
19 really is a concrete business. You know it's very
20 tangible.

21 Can someone tell me kind of what's going on with
22 the Indian imports? Who's importing those and how they are
23 serving the market in terms of product mix and so forth?

24 MR. TASKE: Well, I'll start. The Indian
25 imports have two ways to market. They are imported by, I

1 would think, major importers that would've responded would
2 be Sigma, Star. They are companies that import from India
3 to the U.S. and sell through distribution and there are some
4 Indian imports who are actually located, both in India and
5 in the U.S., who would be RBR, Galwald, Serempar. Some of
6 them wear both hats there. An Indian exporters from the
7 Indian Producers Council, Export Council, and then they're
8 imports of record here in the U.S.

9 COMMISSIONER BROADBENT: Okay.

10 MR. TASKE: And they have distribution
11 facilities throughout the country also.

12 COMMISSIONER BROADBENT: And then has
13 consideration been given to filing a case against India?

14 MR. ROSENTHAL: You know I can't tell you that.
15 We look at that periodically. Yes, consideration has been
16 given, but won't tell you what we're considering.

17 COMMISSIONER BROADBENT: Just curious. Thank
18 you very much.

19 CHAIRMAN WILLIAMSON: Okay, thank you.
20 Commissioner Kieff.

21 COMMISSIONER KIEFF: I join my colleagues in
22 thanking you for coming and presenting. And as a former
23 student of Technology and Metallurgy, it is a special
24 pleasure to have a case that I can at least relate to from
25 my education. Although, I will confess Mr. Taske's

1 testimony about the Vulcan brand and U.S. foundries
2 testimony from Mr. Sam Solo, I thought maybe we had a shot
3 at a Star Wars -- Star Trek battle as well, but I'll leave
4 that to my geek days.

5 I just, if I could, would like to pick up on
6 some of the broader themes, so I certainly get the legal --
7 I think I have no difficulty with the legal concept that an
8 order can be long, even exceptionally long, even potentially
9 forever. What I'm struggling with is not the legal
10 question, but the economic question, which is how does one
11 economically dump forever without hurting one's self?

12 MR. ROSENTHAL: Paul Rosenthal.

13 I'm going to try to answer this broadly and then
14 specifically. The specific one is you don't have to dump
15 forever without hurting yourself in this case because if
16 you're the Chinese, for example, you just stop shipping and
17 you know you dump some place else or you did something else,
18 but you don't have to dump for 30 years because you've kind
19 of abandoned this market and you're decided you're not going
20 to be able to sell here without dumping. And that's,
21 ultimately, what a lot of companies decide. We're not going
22 to be able to dump here or we can't sell here without
23 dumping and so we're not going to sell the product here.

24 What's happened in a lot of industries here --
25 you heard Mr. Taske talk about these Indian importers. They

1 also import other Chinese products and some by the same
2 producers of the subject merchandise, but they're not
3 selling those dumped manhole covers here. They're selling
4 something else to fill up their foundry and so they're not
5 forced to dump here forever, if you will.

6 The other thing about this is that broadly, more
7 broadly, if you are a Brazilian producers or a Chinese
8 producers and let's say you have a protected home market and
9 you're making good returns on your home market sales and all
10 you want to do is cover your variable costs to sell in other
11 markets so you keep your employees employed. You spread
12 your costs. You can dump forever under that scenario.

13 COMMISSIONER KIEFF: So in effect, you're -- and
14 I recognize this line of questioning could be interpreted as
15 suggesting that if you can't answer it you haven't met some
16 burden. I'm not suggesting that. I recognize that this is
17 perhaps just an abstract discussion, but nonetheless, it
18 helps me in my thinking about the case because for me when I
19 think about cases, generally, I have two concerns about
20 cases of this type. I just like to be transparent. One is
21 when the data's old I just have less confidence in data of
22 any type, then I want new data. Both sides are presenting
23 current data, so that assuages that concern.

24 The second concern I have is you know economies
25 and markets are complicated systems. Complicated systems

1 are hard to understand and so I have -- data solves my
2 precision anxiety, but it doesn't solve my accuracy anxiety.
3 The accuracy anxiety increases with the complexity of the
4 problem of the system. So with large systems like let's say
5 China and India I take it that our trade laws in the U.S.
6 tell us that we really don't have to understand what's
7 happening outside of the U.S. We just have to understand if
8 Commerce has found a margin. We then just have to assess is
9 there material injury and that can be a pretty
10 straightforward analysis as long as your data is relatively
11 current.

12 With economies that are closer to ours in style
13 like Canada and Brazil, at least for me, I have a harder
14 time understanding what is over a many year, a couple decade
15 time period allowing an industry in a country like Canada or
16 Brazil to sustain pricing models that are low enough to your
17 industry to be harming you, but allowing them to still
18 sustain themselves. And your last answer, I take it,
19 answers this question a little bit. And again, I don't mean
20 to saddle you with the burden of answering it, but I think
21 you may have given me an answer, which is they are not doing
22 the predatory pricing version of dumping. They're doing a
23 strategic price discrimination version of dumping where the
24 strategic price discrimination that they're engaging in is
25 facilitated by market protection mechanisms in their

1 domestic economies.

2 Is that, in effect, what makes this -- is that
3 the theory of the sustained presence of that?

4 MR. ROSENTHAL: It can be. But I just -- of
5 course I want to relieve any anti-dumping calculation
6 anxiety you might have. You are correct. You don't have to
7 worry about that. You have to assume, for these purposes,
8 that the Commerce Department has found that if the orders
9 are revoked, these folks will either continue or resume
10 dumping.

11 And that's the other part of this thing. You
12 should assume that with the orders in place -- or you can
13 assume with the orders in place -- they haven't had been
14 able to dump here. So they haven't been doing this for all
15 this time. It's only after the orders are revoked that they
16 would resume dumping, because if you were a smart exporter,
17 why are you going to have your importer pay anti-dumping
18 duties? Why don't you just raise your prices and capture
19 the returns for yourself?

20 That's the way the law is supposed to work. So
21 you don't have to trouble yourself, if you will, about
22 dumping for thirty years and why we've been able to sustain
23 it. They'd be total idiots to do that on a daily basis.
24 And the law doesn't assume that they are going to behave
25 that way.

1 The other part about this is, and this is one of
2 the things that troubles me when I consider how the WTO, for
3 example, looks at targeted dumping or zeroing, if you will
4 -- I don't want to complicate this too much -- but most
5 foreign producers who dump don't dump every sale. They're
6 much more strategic. They want to get a particular sale, or
7 they need to get a certain amount of volume. And they'll
8 dump only that much. So that's why averaging doesn't really
9 capture the damage that dumping does, because it's much more
10 transactional and sporadic than for every single sale.

11 COMMISSIONER KIEFF: Let me ask -- what -- I
12 know you can't answer the specific question, why not India?
13 But can you tell us generally, what are the factors a
14 domestic industry should be considering when thinking about,
15 for example, going back to an India case?

16 MR. ROSENTHAL: Well, I will tell you what my
17 clients have told me, which is, Paul, we know you need to
18 move into a new house since you've been in here developing
19 for thirty years, but we're not sure that we want to spend
20 the money on that right now.

21 COMMISSIONER KIEFF: No, I mean I get that. But
22 there's money on this. I mean, in other words, let me put
23 it this way. Again, I'm just trying to be as transparent as
24 possible. It seems to me that, if I understand the
25 magnitudes at play here, there are -- and in fact Mr.

1 Teske's spent significant time discussing this in his
2 testimony -- that the reality of the picture is, in the
3 world market, China and India are really impactful for you.
4 Canada and Brazil sound like they're impactful for you as
5 well, but to a lesser degree. It's all about relative
6 pricing, including lawyers, but it still -- size is size.

7 MR. KERWIN: Commissioner Kieff --

8 COMMISSIONER KIEFF: Go ahead.

9 MR. KERWIN: -- could I add one point to what
10 Mr. Rosenthal has said in this general discussion. And I
11 think it's very important to realize the United States
12 maintains zero tariffs, normal tariffs, on this product.
13 And almost the rest of the world -- we provided a list in
14 our pre-hearing brief of the number of countries that
15 maintain substantial tariffs on this product, one of which
16 is Brazil, which maintains a highly significant tariff on
17 this product, which allows the Brazilian producers to
18 command a premium price in their own home market and
19 inherently sell at a lower price in the United States
20 market, which has a zero tariff.

21 So that allows this kind of behavior to go on
22 for decades, and as far as I know, I've not heard any
23 mention of Brazil lowering its tariffs at all, certainly not
24 to the zero level that we have in the United States.

25 MR. ROSENTHAL: I know your red light's on. I

1 just want to add one or two things really quickly. First
2 is, I'll tell you a little bit more -- or we will -- in our
3 post-hearing brief about some of the considerations that you
4 have in making these decisions.

5 Secondly, I did want to go back to Brazil
6 because I don't want you to think that they're so much more
7 benign than the Chinese or the Indians in this context.
8 I've been a great admirer of the Brazilian industries
9 generally, and the government at how productionist they've
10 been over the years, while accusing others of being
11 productionist.

12 If you look at the Brazil tariffs and their use
13 of trade laws, they do a fantastic job historically of
14 keeping out imports. And now, they're still doing that and
15 have even more incentive to do that, and their economy has
16 been imploding which gives their producers even more of a
17 reason to be exporting. So I'm going to look at the
18 Brazilians as having the same economy or the same factors
19 driving them as the U.S. or the Canadians even.

20 COMMISSIONER KIEFF: Thank you very much. And I
21 apologize for going over.

22 CHAIRMAN WILLIAMSON: Commissioner Schmidtlein?

23 COMMISSIONER SCHMIDTLEIN: Thank you. Good
24 morning. I want to thank the witnesses for being here
25 today. I'm going to start with a question for Mr.

1 Rosenthal. Mr. Rosenthal, you all cite to, in the
2 confidential slides, the Brazilian Respondents' Exhibit 1,
3 which is actually not APO, their Exhibit 1, and so my
4 question is, do you -- do the petitioners disagree or
5 dispute the information presented in Exhibit 1?

6 MR. ROSENTHAL: Which slide are you referring
7 to? I'm sorry.

8 COMMISSIONER SCHMIDTLEIN: Your slide. You talk
9 about it on Page 21.

10 MR. ROSENTHAL: Oh, thank you. That's what I'm
11 looking for.

12 COMMISSIONER SCHMIDTLEIN: And there you're
13 talking about capacity.

14 MR. KERMIN: Commissioner Schmidtlein, I think
15 our perspective on that is that the respondent counsel
16 represents an entire association of manufacturers, only one
17 of which has put a questionnaire response on the record. So
18 we have a limited amount of information that they've chosen
19 to place on the record, which is not comparable to the
20 information that is requested in a foreign producers'
21 questionnaire response.

22 COMMISSIONER SCHMIDTLEIN: I understand. But
23 have you looked at the actual information? In other words,
24 do you disagree with the numbers in Exhibit 1?

25 MR. KERMIN: We have no way of knowing whether

1 those numbers are accurate. There've been no certifications
2 signed by the individuals.

3 COMMISSIONER SCHMIDTLEIN: Well, they were
4 submitted by a lawyer.

5 MR. KERMIN: That's not typically how the
6 Commission gathers data in a --

7 COMMISSIONER SCHMIDTLEIN: I know. But I'm
8 asking, have you all looked at those numbers?

9 MR. KERMIN: We have no means of getting behind
10 those numbers, because we don't know the individual
11 operations of those companies, so we have to take them at
12 face value for what they are, but we don't know whether, for
13 example, if some of those companies could have the
14 capability to produce other foundry products on the same
15 equipment and perhaps shift from the production of those
16 products to municipal castings in the event of revocation.

17 We also don't know from those data which of
18 those companies produced light castings and which produced
19 heavy castings. We have no information on the record on
20 like castings from the Brazilian industry, nothing. So from
21 my perspective, the data that are in that exhibit are --

22 COMMISSIONER SCHMIDTLEIN: So when you all come
23 to a hearing, you generally just rely on questionnaire data?
24 Only data that's been submitted to the ITC staff, and of
25 course of the investigation?

1 MR. KERWIN: Well, we also submitted information
2 in our pre-hearing brief that went to the websites of
3 individual Brazilian producers and we placed those data on
4 the record as an estimation of what the capacity of these
5 companies is. So we did put forward our own information.
6 That information does not completely jive with what's been
7 placed on the record. We can into that in our post-hearing
8 brief as to how those individual numbers compare.

9 COMMISSIONER SCHMIDTLEIN: Okay.

10 MR. KERWIN: But we did make an attempt to put
11 that information on the record to the best of our
12 capability.

13 MR. ROSENTHAL: Commissioner Schmidtlein, so
14 yes, they haven't complied -- they haven't submitted what
15 they promised to submit when they first asked for this
16 review. That's one of our points. And our point on Slide
17 21 was that, even if you accept what they have submitted, we
18 still believe it shows that there's tremendous amount of
19 excess capacity that can be used to export to the United
20 States, so even assuming the accuracy of what has been
21 submitted in their Exhibit 1, we believe that supports our
22 argument.

23 COMMISSIONER SCHMIDTLEIN: And in terms of
24 whether or not they're export-oriented? Should we accept
25 what they're saying in Exhibit 1 on that?

1 MR. ROSENTHAL: We've given you other data that
2 suggests otherwise elsewhere. So I would --

3 COMMISSIONER SCHMIDTLEIN: Based on the
4 questionnaire responses?

5 MR. ROSENTHAL: Well, we've given you -- because
6 we don't have complete record from them, we've given you
7 information with respect to what we were able to get
8 elsewhere and we've given you information with respect to --
9 if you look at Slide 22, information that came from your
10 staff report with respect to one particular --

11 COMMISSIONER SCHMIDTLEIN: Well, that's the
12 questionnaire response?

13 MR. ROSENTHAL: Yes.

14 COMMISSIONER SCHMIDTLEIN: Right. So that's
15 fine.

16 MR. ROSENTHAL: We're giving you what we have to
17 work with, in analyzing this, based on what they've
18 submitted. But we're --

19 COMMISSIONER SCHMIDTLEIN: Right. Okay. So my
20 question really was like, do you have anything to refute --
21 they're talking about -- this is the Brazilian Foundry
22 Association. They've submitted information, supposedly
23 covering the entire industry down there, which is a larger
24 sample than what we received in the questionnaire responses.

25 And so my question is, before you came here

1 today, did you all look at that and determine whether or not
2 you thought that was accurate?

3 MR. ROSENTHAL: And Mr. Kerwin said, what we've
4 given you is information from the websites --

5 COMMISSIONER SCHMIDTLEIN: On their capacity?

6 MR. ROSENTHAL: -- on their capacity, and we
7 don't have anything directly to refute the information on
8 Exhibit -- sorry, on Slide --

9 COMMISSIONER SCHMIDTLEIN: Exhibit 1.

10 MR. ROSENTHAL: -- Exhibit 1.

11 COMMISSIONER SCHMIDTLEIN: Yes, their exhibit.

12 MR. ROSENTHAL: But we've given you what we've
13 got that is from a different database that is inconsistent
14 with this. It doesn't say that what they've given you is
15 complete. And we don't know what is missing, what isn't.
16 We do note, if you go to Slide -- hold on second here. We
17 point out in Slide -- I'll get to that in one second, but
18 there's another slide that has the several producers that
19 have reported exports to the United States that are not
20 included in the information -- I'm sorry. Go to Slide 17.

21 MR. KERWIN: Commissioner Schmidtlein, if I
22 might add. Exhibit 1 to the Brazilians' brief does not
23 contain any information about exports by individual
24 Brazilian companies and they have not put any information on
25 the record to date showing exports by those individual

1 Brazilian producers of this product.

2 MR. ROSENTHAL: And if you go to 17, you see
3 that there's record evidence of exports by certain Brazilian
4 producers that apparently are not accounted for by what's
5 been included in -- we're not sure, but we don't think it's
6 been accounted for in what's included in Exhibit 1.

7 COMMISSIONER SCHMIDTLEIN: Okay.

8 MR. ROSENTHAL: So that's we have.

9 COMMISSIONER SCHMIDTLEIN: All right. Thank
10 you. I want to shift gears a little bit and move to the
11 industry witnesses. When I look at the performance results
12 for light casting and heavy casting, it looks like there is
13 a difference between these two industries, at least in
14 what's reflected in the performance results. And I wonder
15 if one of you could talk about, is that due to some
16 difference in competitive factors or what is the difference
17 in dynamics of those markets that's resulting in different
18 trends? Without getting into the confidential numbers.

19 MR. HOFFMAN: Okay, thank you. The significant
20 difference between the light and heavy castings is that the
21 cost of a mold, a sand mold in both those cases is somewhat
22 consistent. However, the amount of sellable product that
23 comes out of that is significantly less in a light casting.
24 So when molding a casting, a big block of sand, sometimes
25 with a core in it, sometimes without, the cost of a light

1 casting should be significantly higher. So when we made the
2 decision at Neenah Foundry to focus on heavy castings
3 because the sellable pounds per mold is significantly higher
4 and then our automated process that allows us to focus where
5 we can still compete.

6 COMMISSIONER SCHMIDTLEIN: Mr. Teske? Did you
7 want to add?

8 MR. TESKE: Sure. I'd like to answer that. The
9 light castings are more highly core at the valve box section
10 which is how you access a valve. For us, they have a little
11 bit higher cost because of that core. Some of the people
12 that toured the foundry saw how that was made. We do make
13 some light iron. We've tried to fill some of the void as
14 other U.S. producers exited the light iron business.

15 And we have configured our molds so that we can
16 make maybe heavy in one part of the mold and light in
17 another part. And we have a shake-out system which then
18 allows the two to both shake out and not hit each other and
19 break. Normally a heavy could hit a light casting and break
20 it.

21 Our decision to do that is really based on
22 capacity with the kind of the great recession and also it
23 was based on customer need. And our main competitor, NLight
24 Iron, is the Indian producers, and they sell these at very
25 low prices. Their pricing is based on a price per pound

1 basis, and it's the price is set by the Indian export
2 council, to come to the U.S. market.

3 So how do they compete with each other. They
4 compete with each other by taking weight out. And what's
5 happened is, they've taken significant weight out and making
6 the price cheaper, but also, in some cases, leading to
7 breakage, so we've had customers who said, you know, really,
8 we'll pay for your quality. But it's a rare case, but
9 that's the real challenge. And the Indian importers tend to
10 use the light iron, which is more generic in nature, as a
11 for weight item when they ship containers to the U.S.

12 MR. ROSENTHAL: You do know what he's talking
13 about is a weight item? So you'll have a truckload full of
14 manhole covers, but you don't have a total load, and they'll
15 say, well, we'll fill up that truckload by adding these
16 light castings, and we'll do it really cheaply so it'll be
17 even more affordable for you to do that shipment. And
18 that's one of the ways that the Indians compete in the
19 market place and sell their light castings at a very low
20 price.

21 COMMISSIONER SCHMIDTLEIN: All right. Thank
22 you. My time is up. Thank you for those answers.

23 CHAIRMAN WILLIAMSON: Thank you. Mr. Rosenthal,
24 I know many of the founders that you talked about earlier,
25 but I wasn't around for the 2000 case when the orders on

1 India were revoked. Could you just briefly explain, what
2 was the Commission's rationale or reason for doing that?

3 MR. ROSENTHAL: I'll be as straightforward as I
4 can here. And to be fair to the Commission, what happened
5 after the original investigations in the '86 period was that
6 the Indians kept challenging the anti-dumping finding by the
7 Commerce Department.

8 And ultimately, after a series of appeals, one,
9 and the anti-dumping duties went to zero and effectively the
10 Commerce Department revoked the anti-dumping duty in 1991.
11 At the time also, though, there were significant
12 countervailing duties on the Indian imports and that
13 continued through most of the '90s, but by the time, towards
14 the end of the '90s the Indians had finally decided to get
15 rid of most of their subsidies.

16 And so what was left were relatively low
17 subsidization levels, margins in the 1 or 2% range and the
18 Commission said, well, there are no dumping duties here,
19 we've got margins of maybe 1%. Is that really helping the
20 domestic industry? And you had testimony by the Indian
21 producers saying, we're not going to hurt you with a 1%
22 subsidy margin, and these subsidies are going down. So the
23 Commission said, the CVD order is not providing much relief.
24 That was the rationale.

25 CHAIRMAN WILLIAMSON: Okay. Thank you. That's

1 helpful. Brazilian respondents have asserted that the
2 quality of the Brazilian product is generally higher than
3 that of the U.S. product, especially when compared to
4 castings that features specific security features, such as
5 casting with lock hinges. And I was wondering if you might
6 want to comment on that -- you shaking your head as if you
7 don't agree, so maybe explain why.

8 MR. SAN SOLO: If I may. If that was what was
9 perceived by the Commission, I want to clarify. The quality
10 of the Brazilian castings is not higher than those made in
11 the U.S. The particular casting that Saint-Cobain exports
12 from Brazil into the U.S., particularly markets that we
13 service, is of a different nature. It has more features to
14 it than, say, a standard manhole cover, rather than just a
15 drop-in cover that you might be familiar with on any street.
16 These are hinged covers that have certain security devices,
17 gasketing in order to minimize infiltration.

18 So they're feature-rich. And so of a higher
19 quality -- I guess quality probably wasn't the right term.
20 It's really just a higher feature level. And then all of
21 the foundries represented here make comparable castings and
22 those same feature-rich. And so those castings are not
23 unique in the U.S. market, they don't represent a niche
24 that's not being filled by the foundries that are
25 represented here today.

1 CHAIRMAN WILLIAMSON: How significant is the
2 market for the feature-rich castings? Any idea, roughly or
3 something --

4 MR. SAN SOLO: NO, I mean I couldn't put a
5 dollar value to it. In our estimation, if the orders are
6 revoked, it's a vehicle that would bring with it, a lot of
7 other, more generic product behind it. And so just kind of
8 establishing a market and establishing a distribution chain
9 through a niche product and then once orders are revoked, we
10 would see that as an open door for more sales to bring in.
11 But still, the significance of that particular product as I
12 understand the orders, they wouldn't be limited to one
13 product or --

14 CHAIRMAN WILLIAMSON: No, I understand that
15 dynamic, but how significant is this market now? Is it a
16 growing share of the industry? Of demand or anything like
17 that?

18 MR. SAN SOLO: I will say that what it
19 introduced is a more ergonomic, the hinged covers. You're
20 not lifting the full weight of a cover if you have to open
21 it. And so as municipalities are looking at safety and the
22 importance of workplace ergonomics, it is definitely a
23 growing product trend in terms of that. Again, I couldn't
24 put a percentage on it.

25 CHAIRMAN WILLIAMSON: Okay.

1 MR. HOFFMAN: May I add -- it is a small, but
2 growing section. Mr. San Solo talked to the ergonomics,
3 particular with utilities addressing workers' compensation
4 issues with their work crews in the field. We all produce a
5 product that competes and meets or exceeds all the design
6 features that the Saint-Cobain process has.

7 In my testimony, I spoke about several other
8 products that we've expanded upon that, as have some of my
9 colleagues here, or in terms of security features that latch
10 down lids so that compounds can't be infiltrated, as well as
11 flood products that keep lids in place and finally
12 explosions in electric manhole vaults. These are all high
13 value-added products that we offer as American competitors
14 that meet or exceed what they talked about in their brief.

15 CHAIRMAN WILLIAMSON: Okay. Did they invent
16 this technology first? Or anything like that? Or do they
17 have any reputation?

18 MR. TESKE: You can probably ask them, but the
19 original designs do come from their French parent and their
20 French designs. We also have a sister company in France and
21 hold similar intellectual property that is tied around these
22 designs in improved ergonomics and these features. It is
23 more of a traditional offering in the French market. But
24 there is some more intellectual property tied to it than you
25 would have with a traditional manhole frame and cover. I

1 think we all have our own versions of those features and
2 offer them.

3 MR. KERWIN: Chairman Williamson, I just wanted
4 to add one point in relation to your line of inquiry. I
5 think your questions are very relevant also in assessing the
6 pricing information that's placed on the record and
7 reflected in the staff report, in that the Brazilian
8 respondents are claiming that the product that they bring in
9 is almost exclusively this high-end feature, many-featured
10 manhole cover product.

11 And presumably that would be reflected in the
12 pricing information that's on the record. In contrast, the
13 domestic industry reported what was requested in the
14 questionnaire which was the entire product line by weight of
15 manhole covers and frames, which would include both this
16 small element of higher-end hinged and tamper-resistant,
17 blast-resistant product, which as I just said, reflects a
18 much higher unit value per pound than would a standard
19 manhole cover.

20 So their pricing information that's been placed
21 on the record runs the whole gamut of manhole covers, in
22 contrast to what's there for the Brazilian products. And
23 I'm sure if the pricing data were available for this
24 high-end product for the domestic industry, you'd see quite
25 a different picture than what we're currently seeing in the

1 underselling analysis in the staff report.

2 CHAIRMAN WILLIAMSON: I don't know whether you
3 want to go into that post-hearing. You know, we're
4 comparing -- Respondent comes in saying, you know, we'll
5 produce a special product that's different, you know, and
6 we're not really competing in the general market and then
7 you look at the data and it's not there. So I'm trying to
8 get a picture of how important this is, how significant it
9 is in terms of, you know, what we do in this case?

10 MR. ROSENTHAL: Well Commissioner Williamson,
11 in a lot of these cases they're claiming well we, the
12 foreign producer, can make it and the other domestic
13 industry can't make it, and so we're not going to hurt them
14 if we bring this product in. Our niche product sales are
15 not injuring the domestic industry. What you're hearing
16 today is that every one of these producers make a competing
17 product and they're competing against them today.

18 Mr. San Solo testified that he's seeing the
19 Brazilian products where he's shipping in the Southeast, and
20 they are competing head to head and Brazilian prices are
21 lower than the prices of the U.S. foundry prices. So that
22 argument you're hearing elsewhere really, to the extent you
23 ever buy it elsewhere, doesn't apply here, or at least has
24 no validity in this particular case.

25 CHAIRMAN WILLIAMSON: Yeah, because also I

1 guess it is sort of like the future of where the industry's
2 heading and being undercut in that market. That is of
3 significance too. So if there's anything on the evidence,
4 on the record to --

5 (Simultaneous speaking.)

6 CHAIRMAN WILLIAMSON: That would
7 be helpful.

8 MR. ROSENTHAL: We'll get you more in our
9 post-hearing brief. But it is a growing market. How fast
10 it grows I'm not sure, but every one of these companies
11 needs to be in that market because it's -- it's growing and
12 it's a higher value product, and they want to be in that.
13 They are in it.

14 CHAIRMAN WILLIAMSON: And I guess the point is
15 they're in it, okay. Okay. Thank you for and my time is up
16 too. Thank you. Let's see, Vice Chairman Johanson.

17 VICE CHAIRMAN JOHANSON: Thank you Chairman
18 Williamson. I would like to thank all of the witnesses for
19 being here today, and I also was able to visit the Ardmore
20 foundry about two or so weeks ago and I found it very
21 interesting. It helped me to better understand the
22 industry.

23 Mr. Rosenthal, it's too bad that the manhole
24 cover in front of your house doesn't have a fancier design.
25 It looked very plain.

1 MR. ROSENTHAL: It's not too bad for me
2 because it's prominent enough as it is. But the important
3 point I want to make there, and this goes to the question of
4 specialty products or the logo product, etcetera, the vast
5 majority of manhole covers produced by the U.S. industry,
6 the Brazilians, the Chinese, the Canadians are of that plain
7 vanilla type. You know, they may have a little icing here
8 with some names on it, but they're basically plain vanilla
9 and I say this. I think ever since I started working in
10 this industry a long, long time ago, I've always kind of
11 looked at the production process as the same as making
12 cookies.

13 You have the mold, you pour in the batter, you
14 bake it and out comes the cookie. In this instance, most of
15 the cookies look like those round, plain manhole covers that
16 are outside of my house, and as I said, you can add some
17 icing, you can do some decorations but it's basically the
18 same.

19 This is one of the reasons why, when I ask
20 well what's different today than 30 years ago, is that not
21 much. The technology has evolved a little bit. We're not
22 quite at the, you know, 2000 BC technology in most
23 instances, where molds are being in the floor. But there
24 are some being poured in the floor, and there are some
25 Indian producers doing that.

1 But for the most part, the production
2 processes are pretty much the same. The product is pretty
3 much the same. There hasn't been a rapid evolution in what
4 we're talking about. We're talking about these hinged
5 manhole covers. That's a very small part of the market.
6 Maybe it's growing. But most of them are in communities
7 like the ones outside my house.

8 VICE CHAIRMAN JOHANSON: Okay, thank you for
9 that, and you've been working on this for a long time and I
10 want to go back in time a bit. At page 43 of your brief,
11 Petitioner's right. In the original investigations
12 cumulated subject imports of heavy castings from Brazil,
13 Canada and China surged from 9.5 million pounds in 1982 to
14 nearly 60 million pounds in 1985, a dramatic sixfold
15 increase.

16 This was indeed a very large growth of imports
17 in just three years. Can you all please take us back into
18 time and tell us what was happening in 1982 to '85?

19 MR. ROSENTHAL: I can begin something, but I
20 will -- lucky I was semi-conscious during that period, and
21 you'll recall that we had in the late 70's and early 80's
22 high interest rates. When the Reagan administration came in
23 in early 80's, there was an effort to stop inflation and we
24 ended up with a recession in the early 80's.

25 Then as the economy began to improve from '82

1 to '84, there was a lot of economic activity that went on
2 and an expansion of manufacturing and consumption generally
3 as the economy improved. There were some more things that
4 are happening in this particular industry that I'd like to
5 have Mr. Teske, who was around then, to tell you about and
6 others.

7 MR. TESKE: Well, I would just say that -- Tom
8 Teske. During that period, as you know the late 70's were
9 high inflation and in the early 80's interest rates were up
10 to 20 percent for home mortgages. The Midwest basically
11 slowed to stop when we were first called the Rust Belt, and
12 business slowed down significantly. That was for the upper
13 Midwest and the manufacturing sector of the economy, the
14 early 80's were pretty devastating.

15 But then as things turned around, home
16 building started all over and actually went -- we were in a
17 pretty good growth spurt through that period, and it was a
18 time still when subdivision development was fairly
19 substantial in the number of lots that were developed,
20 unlike how it's done today, better managed probably
21 financially today.

22 But we were in a big growth spurt. The
23 suburbs of Chicago, of Detroit, of -- Columbus, Ohio was
24 ranked one of the only really high growth rates in that time
25 in the Midwest. We opened our Columbus branch in '84, and

1 generally things were in a really nice growth period. So I
2 think the U.S. economy, ourselves as manufacturers were
3 growing, coming out of the early 80's.

4 The early 80's was quite bad for us. At that
5 time, we were down to about 200 employees, and we ran our
6 foundry three days a week in the early 1980's, and we ramped
7 out of that to real significant growth during that period.
8 At the same time too, it's the first time actually when
9 imports started to surge in our business, when Indian
10 imports came, all imports came in the business. And it was
11 -- they were more prevalent in the coast and in Sun Belt.

12 MR. ROSENTHAL: One more point to complete the
13 picture. You recall too there were plenty of domestic
14 foundries at that time, and they were hoping for the
15 opportunity to supply that growing market, and what happened
16 as a result of the surge of the subject imports was that
17 they weren't able to do that or a number of them weren't
18 able.

19 Some were, but a lot of them missed that
20 opportunity and as a result did not stay in business.

21 VICE CHAIRMAN JOHANSON: The one -- I'm sorry
22 Mr. Teske.

23 MR. TESKE: Sorry, or a number of them, as Mr.
24 San Solo and I both reported, Vulcan Foundry in Louisiana,
25 U.S. Foundry, also imported, you know, to meet the surge in

1 business.

2 VICE CHAIRMAN JOHANSON: It just seems like a
3 very large increase in imports in three years. I've seen
4 very few investigations like that, if any. Okay. I'd like
5 to move on to something else. On both page 3 and 40 of your
6 prehearing brief, you make comparisons between working
7 conditions in the United States and India, which is not a
8 subject country. You don't, however, make the same
9 comparisons with Canada, which is a subject country.

10 Can I take it from you all that are satisfied
11 that working conditions in Canada and environmental
12 conditions in Canada are similar to those in the United
13 States, and that Canada does not have the same benefits in
14 not having to comply with such regulations vis-a-vis Brazil
15 and India?

16 MR. ROSENTHAL: Yes, yes. You can assume that
17 that is our understanding.

18 VICE CHAIRMAN JOHANSON: Why then is Canada so
19 able to compete along the same lines as does Brazil and
20 China?

21 MR. ROSENTHAL: The Canadians actually are
22 putting, as you heard from Mr. McGowan, the Canadian market
23 has been pretty much decimated by the Chinese imports, and
24 there's no trade relief there. So they can't compete as
25 well as the Chinese or the Indians, but can still compete.

1 They because their home market is in such bad shape, they
2 have only one place to go, and that's the United States.

3 If you look at the comparison of the prices in
4 the U.S. market versus the Canadian market, you see why they
5 have incentive to ship there because we're a more attractive
6 market and they can't compete in their home market.

7 So I'm not telling you they are going to
8 compete at the -- with the same low costs because they don't
9 have the environmental or labor costs, etcetera. I'm not
10 saying that. But it doesn't mean that they are not still
11 competing very aggressively to make sales in the United
12 States. They have to.

13 I just want to say because this may be, or you
14 may be thinking this goes to the question of cumulation, you
15 know. The fact that not all of the foreign producers have
16 the same amount of capacity or they don't have the same cost
17 structure is not an argument against cumulation. All the
18 arguments that the Brazilian producers have in their brief
19 about trying to find some way to differentiate doesn't mean
20 that their products don't compete aggressively in the United
21 States market with other imports and with the domestic
22 industry.

23 I just want to, since we're taking some trips
24 down memory lane here, this is the case or these are the
25 cases that brought you the Bingham and Taylor decision.

1 That's at the Court of Appeals for the Federal Circuit, a
2 case involving a cross-cumulation. The most important part
3 about that is not the issue of subsidized versus dumped
4 imports and cross-cumulation, it is what is the whole
5 purpose of cumulation? It's to look at the collective
6 hammering effect of imports, and they may have been big
7 volumes by one or small by another. You may have big
8 capacity by one or small by another.

9 The fact that they're all coming into the
10 United States simultaneously and providing low prices is the
11 focus of cumulation. So I wanted to make that point,
12 because no one's asked about that yet and I know the
13 Brazilians have made a big argument about that and I don't
14 see any basis for it. Sorry to use your time Commissioner.

15 VICE CHAIRMAN JOHANSON: Oh no, no, certainly.
16 I appreciate your responses. Thank you.

17 CHAIRMAN WILLIAMSON: Good. Commissioner
18 Pinkert.

19 COMMISSIONER PINKERT: Thank you. Now I want
20 to give you an opportunity either here or in the
21 post-hearing to respond specifically to the argument about
22 gaming the system to benefit certain imports. I can't go
23 into any detail about that allegation, but if you can answer
24 it here or in the post-hearing, I think that would be
25 helpful.

1 MR. ROSENTHAL: Thank you Commissioner
2 Pinkert. I'm glad they called it gaming and not rigging the
3 system. We've addressed this --

4 COMMISSIONER PINKERT: But you'll accept any
5 result that we achieve in this case, right?

6 MR. ROSENTHAL: I'll think about it.

7 (Laughter.)

8 MR. ROSENTHAL: There are remedies if you
9 don't reach a right result here. I don't know about the
10 other situation you might be alluding to. There's so much
11 to say, but I will try to stick to your question.

12 Actually, some of the testimony you heard
13 earlier goes directly to this so-called gaming notion, and
14 that is I will say it's ludicrous from my point of view.
15 You have companies here, Mr. San Solo's company, who are
16 major importers who got out of the importing business
17 because they finally had trade relief there.

18 You have Mr. Teske's company who acquired
19 Vulcan, who was a major importer. They got out of imports
20 and built facilities so they didn't import. So the idea of
21 gaming is totally ridiculous. But if you look at what has
22 actually been imported at all by subject producers, it is
23 minuscule and it is for, you know, for particular reasons
24 that have absolutely no impact on the analysis in this case,
25 and we'll tell you about those little volumes that were

1 imported. But the notion that there's any gaming going on
2 has no basis in reality.

3 These are folk who imported, as you heard,
4 that paid the anti-dumping duties because they felt that was
5 the right thing to do. They didn't try to evade and you see
6 all sorts of instances in other cases where well, we're not
7 going to file against this company or this country because
8 we don't want to have to pay duties.

9 These folks are as straightforward as you can
10 imagine, and the last folks you can ever imagine gaming.

11 COMMISSIONER PINKERT: Thank you. I look
12 forward to any additional information you have about that
13 that you include in the post-hearing. I wanted to get at a
14 methodology question in regard to no discernible adverse
15 impact, and what I'm hoping you can tell me is whether we
16 should be basing that determination simply on production
17 capacity.

18 You, in your prehearing brief, you talked
19 about some of the legal doctrines surrounding no discernible
20 adverse impact, and I wasn't sure whether you were saying if
21 there's capacity that's the end of the story.

22 MR. ROSENTHAL: We're not saying that's it.
23 We're not saying if there's capacity that's the end of the
24 story. Capacity is an important part of the story, but
25 there are other factors too and we go into those in our

1 brief. So I want to be clear, that's not enough. And if I
2 were a Commissioner, I would deem it to be enough, and we've
3 given you more than capacity.

4 We've given you capacity. We've given you
5 incentive. We've given you what's going in their own home
6 markets, higher prices in the U.S. compared to home markets.
7 There are a number of other factors and, I mean given their
8 past behavior, you may want to discount that because the
9 behavior was so far in the past. But we've given you many
10 other factors other than excess capacity and excess capacity
11 in this case.

12 COMMISSIONER PINKERT: Thank you. Now let me
13 just ask a rather pointed follow-up to that question. If
14 we're convinced that a particular country doesn't have an
15 intention to increase its exports to the United States in
16 the event of revocation, does that matter if you see an
17 incentive, if you see capacity to do something, but you have
18 evidence on the record that there's not an intention to do
19 it. Does that trump the other information?

20 MR. ROSENTHAL: Well, this goes back to -- it
21 may go back to Commissioner Kieff's question which is, you
22 know, why do you continue to dump? I don't know how you
23 discern their intention, you know. If you're looking at
24 their subjective mind set, how do you know this? You have
25 to look at the objective evidence here and say we've got a

1 lot of capacity. We have a home market that doesn't support
2 that capacity. We can't sell that capacity here.

3 We export to other countries or we are capable
4 of doing that. We see a market with higher prices in it.
5 How do you discern that a country or a company decides hmm,
6 I don't feel a desire today in 2016 to export? Or you have
7 -- so you can't divine some intention there. You have no
8 basis for doing so. All you can do is look at the facts and
9 say what are the likelihoods of them deciding to take
10 advantage of that opportunity.

11 I recognize some of you may not want to say
12 we're going to go back to the Period of Investigation and
13 divine their behavior from before and say they're definitely
14 going to do it again. But you have to be able to say they
15 know how to do it collectively. They've done it before. Do
16 we know for certain they're going to do it again? Maybe
17 not, because they haven't signed affidavits and in the case
18 of the Brazilians, only one company has actually given you
19 information directly, and that information is from a company
20 that does a lot of exporting historically globally.

21 And so you've got to say what are the
22 likelihoods here given all these facts on the record and
23 having not heard from these companies, I don't think any one
24 of them has actually talked about intentions except for one.

25 One last point on that topic. Before the

1 sunset laws were in place, back in the early 1980's the only
2 way to get revocation at the ITC was through a so-called
3 Section 751(b) proceeding, showing changed circumstances.
4 In that -- the very first case, which happened to be a case
5 that my law firm handled, involved Japanese televisions.

6 All the Japanese producers sought revocation
7 on the case, and there was a hearing and none of the
8 Japanese producers showed up. The ITC made an adverse
9 inference there and said you know what? They could have
10 come here and told us their intentions. They could have
11 provided information about their intentions, and they didn't
12 do it.

13 That case went up to the courts, and the court
14 upheld the decision by the ITC to draw an adverse inference
15 that if someone says -- claims they're not going to ship to
16 the United States and they don't show up and testify under
17 oath about that, we at the ITC are within our rights to make
18 an adverse inference. That's still good law.

19 So if you want intentions, you want -- you
20 ought to have witnesses here telling you what their
21 intentions are.

22 MR. KERWIN: Commissioner Pinkert, if I could
23 add -- Mike Kerwin. One of the things I think is relevant
24 certainly in analyzing the announced intentions of the
25 Brazilians is the fact that they claim they want to serve

1 their domestic market, but the domestic market in Brazil is
2 in the tank. The Brazilian economy is doing terribly. So
3 the fact of the matter is that to the extent that that's a
4 significant market for them, that provides them a huge
5 incentive to export that product.

6 Manufacturing production in Brazil in 2015
7 declined by about eight and a half percent. The economy, I
8 just looked at some statistics yesterday. The Brazilian
9 economy this year is expected to contract by three and a
10 half percent. That's a huge incentive and the Chinese
11 economy is not doing well either.

12 So even if you announce your intention that
13 you want to serve the domestic market, okay fair enough.
14 But if your domestic market is in decline, then you
15 certainly have every incentive to export that excess
16 capacity to the United States if this order, these orders
17 are revoked.

18 COMMISSIONER PINKERT: Thank you. Ms. Kim?

19 MS. KIM: Yes. I just want to add a couple of
20 points. The Brazilians claim that they're going to only
21 send in limited volumes of their premium product, you know,
22 and they're going to continue to do that after the orders
23 are revoked. But you know, we really doubt that once the
24 orders are lifted, that if their customers, their existing
25 customers place an order on the standard manhole covers, I

1 really doubt that they're going to decline those orders,
2 because they produce the full line of castings, not just the
3 premium product.

4 Then the other comment I wanted to make is on
5 the no discernible adverse impact factor. In the few cases
6 or the cases that the Commission has found that imports
7 would have no discernible adverse impact, it's been limited
8 to cases with unique fact patterns, where a foreign producer
9 maybe has an affiliate here in the U.S. and they no longer
10 need to serve the United States. They shut down
11 facilities, etcetera.

12 But here you've got the Brazilian and all of
13 the subject countries actually have excess capacity and
14 substantial capacity to produce the subject merchandise, and
15 in some of the cases that Brazilian respondents cited to on
16 this no discernible adverse impact issue, you know, it's
17 really distinguishable from this case.

18 I went back and I looked at those cases and
19 the countries that were decumulated were quite small during
20 the original investigation. They were almost negligible.
21 They accounted for a very small percentage of total imports.
22 They accounted for a very small percentage of the U.S.
23 market share.

24 When I went back and looked at the data of all
25 three subject countries, they all had very similar import

1 penetration, very similar percentage of the U.S. market.
2 So, you know, their claim that they're different from the
3 other countries I don't think holds water so --

4 COMMISSIONER PINKERT: Thank you very much.

5 CHAIRMAN WILLIAMSON: Thank you. Commissioner
6 Broadbent.

7 COMMISSIONER BROADBENT: Okay. I was looking
8 at the margins that Commerce came up with and Canada's
9 dumping margin is "above de minimis." Is that usual for
10 Commerce to do that?

11 MS. KIM: I'll comment on that. It's been
12 more of a recent trend. The Commerce Department with the
13 whole zeroing issue and not relying on margins that have
14 been calculated using the zeroing methodology, in cases
15 where they don't have all of the record, the old data from
16 the original investigation, they rely on the dumping
17 behavior, the level of imports that factor alone, if the
18 imports declined after the orders were imposed.

19 And then they just conclude that the margins
20 are likely to be above de minimis. They can't calculate
21 what the margin would likely be. They have done so, where
22 they have access to the data and have adjusted those margins
23 and not necessarily relied on the original investigation
24 margins. But here, you know, they've said that it clearly
25 would be above de minimis.

1 COMMISSIONER BROADBENT: Huh, okay. Can one
2 of the industry witnesses kind of describe to me what we
3 know about the industry in Canada?

4 MR. MCGOWAN: Our--the owner of D&L also has
5 interests in Canada. And as part of the American Foundry
6 Society that I'm a member of, we also have some exposure to
7 our Canadian participants there.

8 Right now it's difficult. The foundries in
9 general, regardless of capacity or their product line,
10 whether it's automotive or industrial or municipal, are
11 struggling because of their economy, with the decrease in
12 the oil price.

13 The imports have more or less decimated any of
14 the municipal market that I'm aware of. Our owner had owned
15 and operated several municipal casting foundries, and has
16 since chose over the years, mostly in the '80s, to import.
17 Or because of I guess to join in the import and stay viable
18 at least in the marketplace.

19 The Penticton Foundry was the last--was the last
20 stronghold in his ownership, and they just could no longer
21 keep up with the price pressure from imports. And so again
22 they have reduced their force and have, like I mentioned
23 earlier in my testimony, have become more or less a boutique
24 foundry.

25 MR. TESKE: Tom Teske. We have a presence in

1 Canada with a branch office and distribution facility in
2 Ontario and one in Quebec. In the Ontario market, we
3 license the name McCoy, which was a former construction
4 casting producer near where our branch is located, and our
5 branch is run by a former foundryman from McCoy.

6 That market, because they have no marking laws,
7 they have a number of things--in fact, we import about
8 two-thirds of our sales into the Ontario market are imported
9 castings from India.

10 We do produce about a third at our U.S.
11 facilities for that market. And a year ago last December,
12 we acquired the patterns and--just the patterns, really, of
13 Mueller Foundry in Quebec. Mueller has since closed and
14 eliminated the Foundry, bulldozed it.

15 We are producing those castings in Ardmore
16 Foundry and shipping them to Quebec. Our sales are
17 significantly less than Mueller's were due to both import
18 pricing and Quebec, Quebec law favoring of the producers.

19 The last Canadian producers of municipal
20 castings, viable manufacturers, are basically one and about
21 a third. They're both in Quebec, and they both receive kind
22 of local preference. But when they--the larger one, which
23 is owned by a U.S. company, when they have capacity their
24 preference is to ship into the New England states. So we
25 compete with them there.

1 COMMISSIONER BROADBENT: Okay.

2 MR. TESKE: And as our records would show, we
3 acquired in 2012 Syracuse Castings, Syracuse, New York.
4 They actually purchase some from that company, Bibi Saint
5 Quoi .

6 COMMISSIONER BROADBENT: Okay

7 MR. SAN SOLO: If I may just add to something that
8 Mr. Teske touched on--Adam San Solo, U.S. Foundry. Because
9 Canada doesn't have marking laws, there's also the
10 possibility for transshipment of other exporters, world
11 exporters, to bring product in through Canada that would
12 then infiltrate all markets as so-called "Canadian
13 castings."

14 `So that represents yet another dimension where
15 Canada would, already an importer of castings for their home
16 market, some of those companies would have the opportunity
17 then to transship to the U.S. as Canadian product, if there
18 was protection revoked.

19 COMMISSIONER BROADBENT: Okay. I guess there was
20 testimony to the effect that other markets maintain high
21 tariffs on iron construction castings. Yet in Table C-1 we
22 see that U.S. export shipments are increasing significantly,
23 particularly between 2014 and 2015.

24 Where are the exports going? And what's
25 accounting for the increase?

1 MR. TESKE: I'm not sure we have, because of the
2 purchase of Mueller, increased our exports to Canada. And
3 in some specialized products and of some global initiatives
4 we have increased product of specialized airport castings
5 that have gone to Europe and Middle East, specialized
6 products, higher value products.

7 So that's also probably why the value could in
8 fact be higher.

9 COMMISSIONER BROADBENT: Okay.

10 MR. HOFFMAN: Scott Hoffman from Neenah Foundry.
11 Really, the same thing. Very specialized airport-rated
12 trench castings to the Middle East, and to some Pacific
13 Islands during that time period.

14 COMMISSIONER BROADBENT: Okay. Given the
15 dominance of Indian imports in the light-castings market,
16 what factors should the Commission consider in assessing
17 whether the domestic industry has effectively conceded this
18 market?

19 MR. ROSENTHAL: With respect, Commissioner
20 Broadent, I don't think that conceding the market is
21 something that is a factor for you to consider, not
22 statutorily or frankly just the right way to approach it.

23 When you're forced into a small niche because of
24 imports, it's not meaning you're conceding the market. It
25 means that you have no choice. And it is an indication, as

1 far as I'm concerned, of vulnerability.

2 If the industry wants to concede, they would say
3 we were fine with the revocation. What you have heard here
4 is that a couple of domestic producers don't want to
5 concede. They're here for that. EJ has been producing this
6 light castings product and so has D&L, and they want to stay
7 in business.

8 And so from their point of view, they would like
9 to have a greater share of the market. And the problem in
10 this context is that if you let unrestrained imports from
11 the subject countries come in, that small share of the
12 market could go to zero because of the even greater price
13 competition that will ensue.

14 COMMISSIONER BROADBENT: But I mean the Indians
15 are just so dominant here. And if you look at kind of the
16 volumes coming in from Brazil, and I think that they're
17 falling at this point, they are really dwarfed by the size
18 of the Indian imports.

19 MR. ROSENTHAL: They are, but again your exercise,
20 your analysis has to be what's going to happen if the Orders
21 are revoked. And if the Orders are revoked, things are not
22 going to get better. I think we can pretty much all agree
23 on that. They're only going to get worse.

24 And so the Indians who are so dominant in light
25 castings are going to have more competition, particularly

1 from the Chinese on light castings, and you heard Mr.
2 McGowan's statement about what has happened--excuse me, in
3 the Canadian market.

4 The Canadian market has been decimated, and
5 Chinese are dominating there. They've actually been able to
6 undercut the Indians. And our concern is if the Chinese
7 come into this market and undercut the Indians in light
8 castings, there won't be any U.S. production of light
9 castings.

10 I don't believe that in the Northwest that the
11 Brazilians might be as aggressive as they are in the
12 Southeast, but the Chinese can certainly be there. And this
13 is why you have to look at, by the way, this as a cumulative
14 exercise. Because you'll have the Chinese focusing more on
15 areas where the Indians are, and the undercutting and
16 spiraling down will be really leading to the deathnell of
17 certainly the light castings business, and will lead to the
18 worsening of the situation in heavy castings.

19 COMMISSIONER BROADBENT: Okay. Thank you, Mr.
20 Chairman.

21 CHAIRMAN WILLIAMSON: Thank you.

22 Commissioner Kieff?

23 COMMISSIONER KIEFF: Thanks. And just to follow
24 up on some of these discussions, first to make sure I'm
25 understanding what you are saying about Canada, because it

1 came across, maybe inaccurately, that you are saying that
2 the Canada domestic production market within Canada has
3 largely atrophied except a small amount of French Canadian
4 production.

5 Is that correct?

6 MR. TESKE: Yes, sir, I think that's a fair
7 characterization. Tom Teske.

8 COMMISSIONER KIEFF: Okay. And I'm just then
9 trying to understand,. If the Canadian production volume is
10 then so low, how is Canada likely going to be a threat to
11 us? Is it because of the transshipment point that Mr. San
12 Solo was making? Or is it that--some other mechanism?

13 MR. TESKE: I think there are two ways. One for
14 us in the Northeast they are a direct competitor because
15 it's really close proximity to Montreal where their
16 production facilities are. So there it's a direct
17 competitor into the Northeast.

18 The other thing is, we do have concerns because
19 many of the imports that come into Canada are marked
20 "Canada." They cast "Canada" on the manhole frame. And
21 because Canada has no country-of-origin marking laws, to our
22 way of thinking it's very misleading.

23 COMMISSIONER KIEFF: Okay--

24 MR. TESKE: Okay? And we are--there were a couple
25 of cases in the past of transshipments of Canadian castings

1 to the U.S. And of course whenever we're familiar with
2 them, we try to identify them.

3 COMMISSIONER KIEFF: So in the posthearing, can
4 you please provide as much evidence of the magnitude of that
5 effect as you're able to? That then helps us have a--helps
6 me, at least, feel that we would have a basis for anchoring
7 a decision that that is a threat, a harm.

8 MR. ROSENTHAL: Certainly.

9 MS. KIM: Commissioner Kieff, can I just add?

10 COMMISSIONER KIEFF: Yes.

11 MS. KIM: Although the Canadian production may
12 have declined, it is still significant. And as you've heard
13 this morning, they pretty much do not have a home market.
14 So they export almost all of their production. And most of
15 it goes to the U.S. So they are a significant threat.

16 COMMISSIONER KIEFF: Okay. And so, yes, just in
17 the posthearing if you could concisely document that, that
18 would be great.

19 Let me ask, switch gears from Canada back to
20 India and make sure I understand the arc or the story about
21 the Order coming off on India. It sounds like beginning in
22 the early '90s, or maybe a little bit earlier, there was a
23 meaningful decrease in the margins that Commerce was
24 finding.

25 First, the dumping margin went to zero. And then

1 by the end of the '90s the subsidy margin was down--or I may
2 have that reversed. One margin went low, and then the other
3 margin went low, and then in the presence of low or no
4 margin the Commission ultimately decided no injury.

5 Is that the rough mechanism?

6 MR. ROSENTHAL: No likelihood of a continuation of
7 injury, or a resumption of injury in 2000 and beyond. That
8 was the Commission's determination in the first sunset
9 review.

10 COMMISSIONER KIEFF: Great. So then recognizing
11 that everybody makes mistakes, that it's a feature not a
12 flaw of a well-functioning system to learn about mistakes,
13 that it's not inappropriate to criticize past decisions it's
14 helpful to criticize past decisions, can you help me
15 understand are there mistakes in those past decisions? Or
16 are the times different enough, and that's what's different?

17 Put differently, I guess what I'm asking is: Did
18 the Indian dumping and subsidy behavior in fact decrease in
19 a way that would support a lower margin?

20 So that's the first question. And then the
21 second question is:

22 Were the predictions by the Commission of no
23 likely adverse impact proven right, wrong, or irrelevant?

24 MR. ROSENTHAL: First of all, I blame myself for
25 not doing a better job of getting dumping margins against

1 the Indians in the first instance. And whatever the finding
2 was of the Commerce Department then, I believe they're
3 dumping now.

4 And so--and maybe they stopped--and, by the way,
5 maybe they did stop dumping. And I believe if they did ever
6 stop, they've resumed.

7 They clearly changed their subsidy programs. We
8 spent a lot of time on administrative reviews and in
9 litigation about this so-called "international price
10 reimbursement scheme subsidy," and they changed that. And
11 that clearly did diminish.

12 I believe there are other subsidy schemes in
13 place now that would be countervailing, if a countervailing
14 duty case were brought. As I said, we'll talk to you more
15 about that in confidence, but that is something that I
16 believe now, you know, has taken place.

17 I disagreed, and we appealed the Commission's
18 decision back in 2000 or so, but I can't tell you that it
19 was an outrage, or unreasonable--

20 COMMISSIONER KIEFF: No, no, I'm not suggesting it
21 had to be, but it could still be wrong.

22 MR. ROSENTHAL: I disagreed. We disagreed. We
23 think you made a mistake. But it wasn't--and subsequently,
24 you know, it turns out that the Indian imports did come back
25 into the market and have caused, in my view, injury to the

1 domestic industry.

2 COMMISSIONER KIEFF: So I recognize that India is
3 not in this case, and I recognize that questions asked at
4 hearings can sometimes sound a bit like a frolic and a
5 detour. I don't mean this to be. But to the extent you
6 have the ability in the posthearing to document some of the
7 effects that India coming back into the market did have,
8 that might help us think about what effects these particular
9 countries might have, especially if you can relate--provide
10 logical links for inferences of similar behavior.

11 And of course my question to your counterparts
12 this afternoon, who are in the room so I can invite them to
13 comment on this as well, I would ask them just the flip
14 side:

15 What is it about the Brazilian market in
16 particular, today, that should make us confident in their
17 view that it won't come back into the U.S. economy in a way
18 that you think India did come back into the U.S. economy?

19 It may be that, you know, despite the many ways
20 in which India and Brazil are sometimes linked in various
21 economic discussions about world economy, they're just
22 actually materially different. I don't know. So I am
23 inviting both sides to highlight that similarity or
24 difference, if you think that can inform our thinking about
25 this particular pending case.

1 MR. ROSENTHAL: We will certainly do that,
2 Commissioner Kieff. And I just want to--you raised what I
3 regard as a companion question to the questions that were
4 raised by Commissioner Pinkert about, you know, likely
5 behavior, intentions, et cetera, what's different?

6 And I mentioned the Matsuka case, the 751(b)
7 case, where people didn't show up and the Commission made
8 adverse inferences. There have been cases where people have
9 shown up, like the Japanese in the hot-rolled sunset case
10 awhile ago and said, oh, we have no reason to ship here. We
11 have all these other export markets.

12 And of course a couple of years later you see the
13 imports skyrocket. So I'm not suggesting to you that anyone
14 who shows up is going to necessarily tell you what the--it
15 may be their intentions that day, but those may change.

16 And so that's why I think you need to focus on
17 the conditions that you're describing of what's happening in
18 the home market? What are the incentives, objectively, as
19 opposed to what are their subjective statements? What are
20 their subjective intentions?

21 COMMISSIONER KIEFF: Perfect. Thank you very
22 much. I see that I'm out of time, and I also have no
23 further questions. I just invite your counterparts this
24 afternoon, or in the posthearing, to join these discussions
25 as well.

1 So, thank you.

2 CHAIRMAN WILLIAMSON: Thank you.

3 Commissioner Schmidtlein?

4 COMMISSIONER SCHMIDTLEIN: Thank you.

5 Mr. Teske, during your testimony you made the
6 statement that the consolidation of the U.S. industry
7 reflects the difficult nature of this business. And I just
8 wondered if you could expand on that a little more? What
9 makes the casting business so difficult?

10 MR. TESKE: Well part of what we've consolidated
11 for us in the U.S., the patterns in the different states,
12 there are different state standards. And we have made
13 acquisitions to have a presence in those areas.

14 And the cost of patterns is high. And at the
15 same time, we have in all of the markets now import
16 competition from India. And also in terms of running
17 manufacturing facilities, we have, you know, a lot of
18 environmental processes. The permitting process, you know,
19 air, dust, right now we have new silica rules coming out
20 from the EPA on the amount of particles of dust that can
21 exist in a facility.

22 So, and it's a large, complicated industrial
23 enterprise.; So we have all the challenges. The regulatory
24 challenges on the one hand, and we have import pressures on
25 the other. And we employ a lot of people, and we provide

1 good health care and benefits to all of our employees.

2 We're very safety conscious. We do a lot of
3 training, as was indicated earlier. A lot of people are
4 promoted from within, but at the same time, as noted, we
5 have a lot of metallurgists and electrical engineers, and
6 mechanical engineers, and people to run, you know, complex
7 machinery. COMMISSIONER SCHMIDTLEIN: I assume
8 you have inter-industry competition?

9 MR. TESKE: Yes, with everyone that's here.

10 COMMISSIONER SCHMIDTLEIN: Right. Okay.

11 MR. TESKE: I mean the people that have survived,
12 as I think everyone's testifying, have reinvested, are
13 trying to run the best equipment, trying to run the most
14 efficient processes, and we're all fairly competitive.

15 MR. HOFFMAN: May I add to that?

16 COMMISSIONER SCHMIDTLEIN: Mr. Hoffman.

17 MR. HOFFMAN: Thank you. Scott Hoffman from
18 Neenah Foundry. The nature of the standard manholes that
19 we're talking about here is there's very low barrier to
20 entry. And if you have a foundry, most people can make a
21 manhole, a frame and a lid. There's significant barrier to
22 entry in this country to start a new foundry. So when my
23 colleagues have talked about, from all the companies,
24 investment here in new foundries, it's a big deal to go
25 through the environmental hoops to start up a new foundry.

1 Globally, foundries in other countries can start
2 up and go into this business almost immediately. If they
3 can come with an attractive price, specifically on the
4 highest volume components, which is an element that I don't
5 think came up yet today--

6 COMMISSIONER SCHMIDTLEIN: Yeah, what are the
7 highest volume components?

8 MR. HOFFMAN: Mr. San Solo and I have talked about
9 12 to 20,000 components that each of us make in a 3 or 4
10 year period. In a given year, we might sell 12,000 unique
11 components to the industry.

12 The importers, in order to maximize their
13 tooling, they can focus on the highest runners in an area
14 where there's a port of entry, for starters. Once they tool
15 up those parts, our customers can see far more lower prices
16 from those competitors, specifically as starters around
17 those ports of entry, while we're left making the
18 lower-running quantities for the customers.

19 There's nothing that prevents our customers from
20 buying all from us, or none from us. So the industry term,
21 in terms of being cherry-picked, the importers can
22 cherry-pick the highest volume quantities, enjoy long
23 production runs on units that are sure to sell because they
24 have such a high annual usage; whereas we're left with the
25 left-over business in some cases.

1 MR. HOFFMAN: That I would say makes a very
2 tough business.

3 COMMISSIONER SCHMIDTLEIN: Mr. San Solo, would
4 you like to add something?

5 MR. SAN SOLO: Just, you know, that the
6 commodity nature of the product that we make. We've talked
7 about some of the more unique features and these hinged
8 covers or logo covers. But day in and day out we make two
9 quick diameter covers that say "sewer." That's what we're
10 talking about, the product in front of Mr. Rosenthal's home.

11 That's what we make, and every product that's
12 on your street or at your grocery store parking lot, every
13 drainage grate that you pass at a Home Depot, those are the
14 products and they're much more of a commodity than a
15 specialized product. And so as Mr. Hoffman said, any
16 foundry that has the right sized equipment can make that
17 product. It's not an exotic alloy of iron. It's not, you
18 know, particularly difficult.

19 So those types of products, high volume, when
20 you look at a new subdivision that goes up, you know.
21 Hundreds of covers that are identical get made. You could
22 see a very easy path for -- and that's what that difficulty
23 that caused all that consolidation was, all these local
24 foundries that were getting pushed out, particularly we're
25 coastal.

1 On the coast, where every port of entry was
2 bringing in import castings and they were the same castings
3 that we were producing at home.

4 COMMISSIONER SCHMIDTLEIN: Are there supplier
5 certification requirements that impact you or you would
6 believe would impact the imports?

7 MR. SAN SOLO: Thank you for that question.
8 Interestingly enough, the vast majority of the product we
9 sell is sold on the private level. So private developers,
10 an engineer would simply record what size of product we
11 wanted, maybe a little bit more detail than that, and then
12 it's up to the manufacturer to self certify that product.

13 So while on state DOT jobs or federal jobs
14 there may be some additional requirements, some of the
15 larger municipalities may require manufacturers to register
16 with them or certify with them, or the huge, you know,
17 majority of the castings we produce, they're sold privately
18 and there is no certification required.

19 COMMISSIONER SCHMIDTLEIN: Okay. Anybody
20 else? I would assume that's been your experience as well?

21 MR. TESKE: The only thing I would say is to
22 reference the picture from India, where the people make the
23 product, you know, barefoot and in a loincloth in the sand.
24 They make the mold in the sand and they carry what they're
25 physically able to carry, a weight of iron, to pour that

1 mold. That, there was very similar production of that style
2 in China.

3 So China still has that technique, but then
4 they've invested more in automated equipment, similar to
5 what we run to be competitive. Everyone that's here now
6 runs fairly automated equipment to keep ourselves on a
7 somewhat competitive basis.

8 COMMISSIONER SCHMIDTLEIN: Okay. All right,
9 thank you. I don't have any further questions.

10 CHAIRMAN WILLIAMSON: Okay, thank you. We
11 talked some about changes in production technology, and I
12 wonder if there are changes that have had an effect on
13 employment in the industry in recent years.

14 MR. TESKE: Have there been recent changes in
15 technology?

16 CHAIRMAN WILLIAMSON: Yeah, and have they had
17 an effect on employment?

18 MR. SAN SOLO: If I may, we actually have a
19 fairly strict company policy that no technology will ever
20 replace a human job. In fact, for many years I was
21 responsible for bringing in new equipment and advancing the
22 technology of the plant, and I had to show improvements to
23 the process, but never a reduction of head count. We're
24 committed to the people that work for us.

25 We didn't want to automate our people out of

1 the process. What we do is we try to bring in those things
2 that make the jobs safer. So maybe remove the man from
3 direct contact and at the same time create a more precise
4 casting or a better product. But certainly U.S. Foundry's
5 position, we're not trying to automate our people out of the
6 process. We believe in complete employment, if that answers
7 your question.

8 CHAIRMAN WILLIAMSON: Yeah, uh-huh.

9 MR. TESKE: I think that foundry automation
10 has improved processes and has made foundries much safer
11 places to work. We have a new design for a new plant, and
12 we have proposed to maintain all of the current jobs that we
13 have, if everything falls into place for that, to move them
14 to the new facility. Will everyone be doing exactly the
15 same thing? It could be a little different, but they'll be
16 doing it in a much better environment also so --

17 CHAIRMAN WILLIAMSON: Okay.

18 MR. TESKE: We've been committed, and I have a
19 long history of testifying on U.S. manufacturing jobs.

20 CHAIRMAN WILLIAMSON: Okay. So you're saying
21 that you can make technological improvement without having
22 adverse, big adverse impacts on employment?

23 MR. TESKE: Well obviously there is occasion
24 where you get a job change. But at the same time, as you
25 run these more modern foundries, you don't have people

1 working in the sand, but you have a much larger maintenance
2 department. Your maintenance department has more skill
3 sets. But as Adam would have said earlier, we've actually
4 -- our biggest issue today and that we focus on is taking
5 people and training them, and working with our local
6 community colleges to train them to increase their skill
7 set, so that they can stay with the technology and we have a
8 workforce capable of running this new modern equipment.

9 CHAIRMAN WILLIAMSON: Okay. Is that also
10 improving productivity too?

11 MR. TESKE: Yes sir.

12 CHAIRMAN WILLIAMSON: Okay, good.

13 MR. HOFFMAN: May I add to that? Scott
14 Hoffman from Neenah. With the increased health care costs
15 and the workers compensation claims, that is also a business
16 cost to us, in many ways as important as labor costs. The
17 automation that can go in cannot only make a safer work
18 environment for our people, who don't ever to come to work
19 on any day expecting to get hurt.

20 That's our number one priority, is that they
21 go home the way they came to work that day. It's a bad deal
22 for everyone if people get hurt. But if automation can go
23 in and give them a safer work environment, in addition to
24 the altruistic goal of a safer work environment, it does
25 have real bottom line impact based on the worker's comp

1 claims and the insurance costs for our businesses. So it's
2 half altruistic and maybe half in terms of workers comp
3 costs.

4 CHAIRMAN WILLIAMSON: Okay. So you have
5 business reasons.

6 MR. HOFFMAN: Yes sir.

7 CHAIRMAN WILLIAMSON: Good, okay. Thank you.
8 For each of the producers, do you produce castings other
9 than subject castings in the same facility as you produce
10 the subject castings? If so, what are the other products
11 and how difficult is it to switch from production of the
12 subject casting to a non-subject product? Or is it
13 something more than just switching out molds?

14 MR. SAN SOLO: I'll answer first, because ours
15 is the simplest answer. We only produce subject castings in
16 our foundry.

17 MR. HOFFMAN: The Neenah foundry has other
18 production lines that do similar products, I'm sorry,
19 dissimilar products. We make some components for farm
20 equipment and heavy truck businesses. But those are all on
21 separate lines that run at different rates and have
22 different size mold capability. So the lines that we have
23 set up to make heavy castings are dedicated to heavy
24 casting.

25 CHAIRMAN WILLIAMSON: I guess you wouldn't be

1 switching those to other products?

2 MR. HOFFMAN: We would not be switching those
3 to other products.

4 CHAIRMAN WILLIAMSON: Yeah, uh-huh.

5 MR. TESKE: Tom Teske, EJ. In the Ardmore
6 facility, we make strictly subject castings. We make a few,
7 just a very few watered castings for production of assembly
8 of water valves in East Jordan.

9 But primarily all subject castings in Ardmore,
10 and in the East Jordan foundry we have made some industrial
11 brake drums for aftermarket for non-season, counter-cyclical
12 to the construction products. Our goal and intent is to
13 focus strictly on the subject castings going forward.

14 CHAIRMAN WILLIAMSON: Okay. Anyone else?

15 MR. MC GOWAN: 90 percent of our business is
16 subject castings, but ten percent of our business, give or
17 take, can be industrial counterweights utilized in various
18 industrial equipment manufactured throughout. That gives us
19 -- we're in a geographic spot to take advantage of some
20 local markets. But very difficult competitive, because
21 there are no --

22 CHAIRMAN WILLIAMSON: How easy is the switch
23 to those other products? If you want to do post-hearing,
24 that's fine.

25 MR. MC GOWAN: Sure. If we could wait for

1 that, it would be great. Thank you.

2 CHAIRMAN WILLIAMSON: Okay, good. Thank you.
3 Capacity utilization especially for light casting has been
4 very low during the period. Why is this and when was the
5 last time the production approached full capacity? I don't
6 know if you want to do it post-hearing.

7 MR. ROSENTHAL: We'll certainly do that in the
8 post. But I will say the most obvious reason for light
9 casting's capacity utilization being what it is is because
10 of the high presence of the non-subject imports in the
11 marketplace. I would -- I'd say you'd have to go back a
12 fair amount of time, probably to the first sunset review
13 since there was a decent level of capacity utilization, and
14 that was before the Indians started coming back into the
15 market again. But we'll get you more specifics in our
16 post-hearing.

17 CHAIRMAN WILLIAMSON: And also post-hearing,
18 if you can address what would be -- what would you consider
19 a reasonable profit on heavy casting? What level of
20 capacity utilization is typically required to achieve what
21 you would consider a reasonable profit on heavy casting and
22 light casting?

23 MR. ROSENTHAL: We will do our best to answer
24 those. I know you've asked that question in other contexts,
25 and it's so difficult to answer for each industry. But we

1 will do our best.

2 CHAIRMAN WILLIAMSON: Okay, thank you. What
3 accounts for the steady increase on apparent consumption of
4 heavy castings during the Period of Review?

5 MR. ROSENTHAL: I'm sorry. Could you repeat
6 that question?

7 CHAIRMAN WILLIAMSON: I'm sorry. What
8 accounts for the steady increase in apparent consumption of
9 heavy castings during the Period of Review?

10 MR. TESKE: Well, Tom Teske, EJ. I would say
11 in ^^^^ first of all in August of 2006, we experienced a 50
12 percent decline in the Detroit market in our business, and
13 that culminated with the collapse of the markets in 2008,
14 which basically stopped all development of single family
15 home lots in the whole U.S. country. A big portion of our
16 business is utility development, storm, sewer, sanitary
17 sewer, water for the development of single family home
18 lots.

19 That basically has been dormant for almost ten
20 years, and has just most recently in the last couple of
21 years started to pick up, where those lots that were built
22 prior to the crash have been consumed, and so single family
23 homes and multi-family homes have started more buildings
24 taking place.

25 So what we've seen from this period, '10 to

1 '15, is incremental improvement. We also, we did benefit
2 from ARRA spending. That was a certain portion of it,
3 targeted towards infrastructure improvements, and that
4 helped us coming out of the downturn.

5 We were probably at our lowest point in the
6 downturn in mid-year of 2009, and since then we've had
7 incremental improvements and seen most of the economy grow
8 up until the recent, you know, oil and gas crash, which has
9 affected just specific states, like North Dakota, Oklahoma,
10 you know, and different markets. Texas has certainly shown
11 some resiliency, having a more diversified economy now.

12 But basically our growth first was helped by
13 ARRA and increased federal spending, and then we've slowly
14 seen the return and I think someone like Adam could
15 certainly report like the Florida market now. That's turned
16 around.

17 MR. SAN SOLO: Adam San Solo of U.S. Foundry.
18 What's important to note is that our production levels are
19 still 50 percent below what they were before the recession
20 in 2007-2008-2009. So while we've -- the subject period
21 looked at a snapshot in time of apparent recovery, we're
22 miles and miles away from the levels that we were producing
23 at before the economy crisis and the housing bubble burst.

24 CHAIRMAN WILLIAMSON: Thank you, good. Vice
25 Chairman Johanson.

1 VICE CHAIRMAN JOHANSON: Thank you Chairman
2 Williamson. Since the original reviews, a number of
3 domestic producers have closed operations and exited the
4 business. The prehearing briefs note that despite industry
5 consolidation, U.S. producers have sufficient capacity to
6 serve total demand for iron construction castings. How has
7 industry consolidation impacted the domestic industry and
8 domestic supply?

9 MR. ROSENTHAL: Just to clarify Commissioner
10 Johanson when you say how, are you talking about the
11 domestic capacity, how has the consolidation affected
12 capacity and supply, or are there other factors?

13 VICE CHAIRMAN JOHANSON: Those would be the
14 two ones I'd be most interested in.

15 MR. TESKE: Tom Teske, EJ. We have gone
16 through acquisition in a number of the markets. Many of the
17 producers that we bought were regional and smaller. I could
18 actually kind of go through the list. But how it culminated
19 for us or really what led to our building the new and one of
20 the most modern foundries in the U.S. in Ardmore, Oklahoma
21 on a former U.S. airbase was the fact that we had grown. We
22 had grown in other parts of the country, and we had made
23 investments.

24 We had made a decision not to try and buy
25 existing manufacturing facilities. Instead, the only one we

1 bought was Vulcan and they used older technology for their
2 molding process. So we made a decision to build greenfield
3 foundry, at a time when not many were being built in the
4 U.S., and that plant is much more productive than all of the
5 acquisitions that we made, and also was better in every
6 aspect whether environmental, safety, you name it.

7 We would hope to continue on that course and
8 build another greenfield foundry in Michigan, to replace our
9 aging facility that was originally built in 1883, was
10 remodeled after a fire in 1920, that we put some of the
11 first automated molding line in 1965, but the framework of
12 that line is still running, and we'd like to -- our hope is
13 to build a new facility and move all the existing jobs to
14 that facility. But these are high capacity and can meet,
15 you know, demand for the product.

16 VICE CHAIRMAN JOHANSON: Has the -- I assume
17 that the consolidation has helped in the long run the
18 financial performance of the domestic industry, and also
19 made the industry more competitive?

20 MR. SAN SOLO: I'd like to -- I think just the
21 opposite. If you look at the compelling market reasons why
22 those foundries went out, the foundries that remain, that
23 sit here today, have been forced to compete at lower price
24 levels, lower profitability levels and so no, it doesn't
25 speak to, you know, kind of a consolidation into big, strong

1 companies.

2 Rather companies that maybe were large enough
3 to withstand lower profit margins and still service those
4 areas. I would like to think that it's quite the opposite.
5 That's certainly been U.S. Foundry's experience over the
6 last couple of decades of seeing that consolidation.

7 MR. TESKE: And I would add that most of the
8 companies that we purchased were under severe margin
9 pressure, and sold at basically assets at a reasonable
10 price, because they weren't making, you know, large
11 profitability. It wasn't a business that private equity
12 would be looking at. I mean, you know, it was driven by us
13 with our passion to have a brand and to provide a quality
14 product for the customers.

15 But almost every one we bought was under
16 pressure, whether it was Western Iron Works at San Angelo,
17 Texas or Sather Manufacturing north of Seattle. Inland
18 Foundry took a while for us to purchase and the only way
19 they improved their profitability was to import. So that
20 helped their bottom line and helped them get the price they
21 thought the company was worth.

22 But it's been an industry that's remained
23 under pressure, but you know, we're kind of committed to it.
24 It's what we know.

25 VICE CHAIRMAN JOHANSON: And I'd like to just

1 stick on the issue of consolidation. Given the length of
2 time that these orders have been in place and your
3 description of them as having been generally effective, I
4 was surprised to see the on the whole low capacity
5 utilization a few years for both the heavy and light
6 casting industries.

7 There's been talk of consolidation that has
8 occurred in the domestic industry. Is there more
9 consolidation that will likely occur, given the high -- the
10 low capacity utilization? Actually, I think I'd like to
11 rephrase it. Is there more capacity consolidation that
12 needs to occur?

13 MR. ROSENTHAL: I'm not sure that for
14 antitrust reasons we ought to be talking about that. But I
15 will tell you that there will in all likelihood be
16 consolidation that may be unwanted if these orders are
17 revoked. That's point number one. Point number two is that
18 as you heard, the industry is still not back to the level of
19 production and shipments that it was at prior to the
20 recession, and a lot of the modernization that has been done
21 that you heard about was in anticipation of continued growth.

22 Some of this started in the case of D&L
23 Foundry, thinking that the investment would begin in the
24 2007-2008 period. That didn't make sense, but they did make
25 but they did make an investment in 2011-2012 in anticipation

1 of being able to supply further growth in the marketplace.
2 One of the problems that this industry faces is that if they
3 don't modernize, they're not going to be able to compete
4 against imports.

5 But if they modernize, invariably they get
6 more efficient and sometimes have that capacity waiting for
7 the demand to greet it, if you will.

8 MR. TESKE: And also some of what we've done
9 over the years is in response to trends and building trends.
10 I mean when we built Ardmore in the late 90's, there was a
11 lot of growth of the Internet. There was a lot of
12 fiberoptic cable going all, laid out throughout the country.
13 It all needed an access point, and we got Ardmore built and
14 guess what? The whole thing crashed. All the Internet
15 companies consolidated, then you know, the Baby Bells had
16 all been broken up and are now all back to one almost
17 headquartered in Texas, which now was Southwestern Bell and
18 it's AT&T.

19 So we followed trends, and one of the biggest
20 trends though for all of us is housing starts, and if
21 housing starts are ever to return to a little better level,
22 which recently they seemed like they would, then we -- we'll
23 be busy. But that's where we do see more import competition
24 too, in that marketplace.

25 VICE CHAIRMAN JOHANSON: I'd now like to turn

1 to the issue of raw material costs. Do raw material inputs
2 different substantially between the domestic producers, and
3 what is going on with scrap? Is there enough scrap in the
4 U.S. market, in comparison to subject countries?

5 MR. HOFFMAN: I'll take a stab at those. This
6 is Scott from Neenah Foundry. There has been a reduction in
7 overall steel scrap pricing in the U.S., as China markets
8 have slowed down and they've taken less scrap offshore. I'm
9 sure we all have a variation between us in terms of our raw
10 material costs. But overall, there has been a reduction in
11 steel scrap pricing in the last two years in our market.

12 Our customers tend to ride with that up and
13 down. We are not able to pass on giant price increases when
14 steel scrap rises. But just recently there has been some
15 relief in terms of lower steel scrap.

16 MR. TESKE: And in terms -- Tom from East
17 Jordan, EJ. In terms of supply, there is certainly adequate
18 scrap supply. There's probably more in the U.S. right now
19 as the stronger U.S. dollar, which has a lot to do with the
20 scrap pricing.

21 There's very little scrap flows in export. So
22 probably lower scrap prices on the coast right now because
23 there's no export market for scrap. But scrap flows remain
24 quite good throughout the country.

25 VICE CHAIRMAN JOHANSON: All right, I have

1 just one more question. Are there quantity discounts in
2 this industry? I can imagine that a large city has more
3 frequent and larger purchases than would a small
4 municipality? Is a large city more likely to operate on the
5 basis of a long-term contract?

6 MR. SAN SOLO: No, that's not -- that's not
7 typically the model. Most of the cases, there's very little
8 direct work with the cities themselves with the producers.
9 Most of our product in I think all of our companies, but
10 certainly U.S. Foundry is sold through distribution and it's
11 a spot buy. So it's really seen more on each individual
12 basis, product basis.

13 So we don't see any kind of volume discounts
14 across larger cities and maybe smaller communities pay more
15 for their product, nor do we have long term contracts in
16 place with any municipalities.

17 MR. TESKE: Tom from EJ. We do have some
18 major contracts in place with some major cities. The City
19 of Boston bids an annual bid requirement. The City of New
20 York is bid, and it's bid by most of the Indian importers on
21 a direct basis. They don't go through distribution when
22 they bid that. So that's a big import contract which is
23 super-competitive for New York City.

24 But we do bid requirements for Detroit,
25 Cleveland, Chicago that are annual requirements. It's

1 probably more prevalent in the older cities than in the
2 newer cities, where a lot of work is outsourced or done by
3 private contractors.

4 MR. HOFFMAN: Scott from Neenah. Neenah would
5 concur with that as well. Often annual usage requirements
6 are put out for bid that we compete for. However, the
7 actual shipments can be anecdotal. So where a city might
8 ask us to quote on 500 or 1,000 pieces of a component, they
9 may take them 10, 20 or 30 at a time as specific projects
10 come up throughout the year.

11 VICE CHAIRMAN JOHANSON: But aren't many of
12 the projects -- the products sold are produced to order?
13 For example, if you have the City of Seattle has a certain
14 design on the product, wouldn't they stick with the same
15 supplier?

16 MR. TESKE: They might have an approved list.
17 They will have multiple suppliers, and they will have their
18 specific patterns and each of us who want to compete in
19 those markets will have that tooling. But they will use a
20 competitive bidding process to award that.

21 Most of our business and we're talking spot,
22 but it's really all project-driven, you know. Are they
23 going to improve this road? Are they going to, you know, a
24 new park or and so a lot of it's project driven on a
25 city-by-city basis.

1 MR. ROSENTHAL: And to supply a pattern for
2 the City of Houston, which any one of these cities, all the
3 importers can do that. They are quite capable of putting
4 the name of the city on a pattern and they all -- that sort
5 of tooling is expected and quite common. That's how they're
6 able to compete.

7 VICE CHAIRMAN JOHANSON: All right. Well
8 thank you. That concludes my questions.

9 CHAIRMAN WILLIAMSON: Okay, thank you.
10 Commissioner Broadbent.

11 COMMISSIONER BROADBENT: Yeah. I just have
12 one for the post-hearing. The final determination for
13 Brazil, the original final determination for light castings
14 was based on threat of material injury in 1986. The
15 Commission did not cumulate Brazil and China then. For
16 post-hearing, please discuss why Brazil remains a threat,
17 notwithstanding its total volume and market share for light
18 castings during the original investigation and in
19 subsequent reviews.

20 MR. ROSENTHAL: We'll do that. Thank you.

21 COMMISSIONER BROADBENT: That's all I had, Mr.
22 Chairman. Thank you.

23 CHAIRMAN WILLIAMSON: Commissioner
24 Schmidtlein.

25 COMMISSIONER SCHMIDTLEIN: I have just one

1 quick follow-up. You've been talking about demand
2 essentially, and I just wondered, I'm not sure if this has
3 already been asked, what are your projections for demand?
4 Is it at least stable? Do you think -- and I know this is
5 like asking can you read a crystal ball but --

6 MR. TESKE: It's that time of year where we're
7 involved in that process. I would say right now we see
8 continued stability, possibly up a little bit in areas where
9 housing has picked up or, you know, interest rates have
10 stayed low so --

11 COMMISSIONER SCHMIDTLEIN: Okay. Mr. Hoffman.

12 MR. HOFFMAN: And to Mr. Teske's point, I may
13 tell my boss a different number but --

14 (Laughter.)

15 MR. HOFFMAN: We have several different ways
16 to go about with housing starts and other leading
17 indicators. We actually look at a low single digit growth
18 for each of the next five years. Across the country, which
19 much higher bias towards the Sun Belt states, where there's
20 more population and more housing starts. So low single
21 digit.

22 COMMISSIONER SCHMIDTLEIN: Uh-huh, okay. Mr.
23 San Solo?

24 MR. SAN SOLO: Interestingly, our foundry's in
25 the Sun Belt and we don't show the same optimism that Neenah

1 Foundry does. We see single digit growth for maybe a year
2 or two more, and then depending on what the Fed may do with
3 rates, instability in world markets, we see things trailing
4 off. We've had a pretty good run for a few years, so we
5 think things may cool.

6 COMMISSIONER SCHMIDTLEIN: Okay, all right.
7 Thank you, and thank you all again for being here.

8 CHAIRMAN WILLIAMSON: Just quickly, I was
9 thinking about what I understand is a replacement market,
10 and I guess if a city decides to rebuild the road or
11 something like that, that's a project and that's where you
12 might get business from that. There's nothing about people
13 just routinely replacing manhole covers and those people, I
14 guess, upgrading.

15 MR. SAN SOLO: One of the great regrets of our
16 industry is there's no planned obsolescence. Our products
17 last a very long time.

18 CHAIRMAN WILLIAMSON: Okay, thank you.
19 Commissioners?

20 MR. ROSENTHAL: I was hoping to replace that
21 manhole in front of my house though.

22 (Laughter.)

23 CHAIRMAN WILLIAMSON: You may have them take
24 it out.

25 MR. ROSENTHAL: Yeah, a private project.

1 CHAIRMAN WILLIAMSON: Okay, good. Do you have
2 any other questions? No further questions from
3 Commissioners. Does staff have any questions for this
4 panel?

5 MS. HAINES: Elizabeth Haines. Staff has no
6 questions.

7 CHAIRMAN WILLIAMSON: Do Respondents have any
8 questions for this panel?

9 MR. BERER: We don't have any questions.

10 CHAIRMAN WILLIAMSON: Okay, thank you. It's
11 time for a lunch break then. I want to thank the panel very
12 much for their testimony. We appreciate very much you
13 coming from so far. We will take a lunch break and resume
14 at 1:50. I want to remind everybody that this room is not
15 secure, so please take any business proprietary business
16 confidential information you have, and we will recess until
17 1:50. Thank you.

18 (Whereupon, 12:48 p.m., a luncheon recess was
19 taken.)

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1 AFTERNOON SESSION

2 (1:53 p.m.)

3 MR. BISHOP: Will the room please come to order.

4 CHAIRMAN WILLIAMSON: Before we begin, I
5 understand that the two industry witnesses have to leave at
6 3:00, and therefore you're going to do a shorter form of
7 your presentation and we can get the Commission questions of
8 particularly the industry witnesses first.

9 Is that correct?

10 MR. BERER: That's correct. This is Felipe Berer.
11 They will speak for only 10 minutes each, and then we can
12 start the Q&A session.

13 CHAIRMAN WILLIAMSON: Okay. I wanted the
14 Commissioners to know so that we can try to focus our
15 initial questions on the questions for the industry
16 witnesses.

17 Very good. Okay, you may begin. Thank you.

18 STATEMENT OF JAMES COX

19 MR. COX: Good afternoon. My name is James Cox,
20 and I'm the Vice President of Jim Cox Sales. I want to
21 thank the International Trade Commission for allowing me to
22 speak today.

23 On behalf of Jim Cox Sales, I appreciate the
24 opportunity to be here in Washington, D.C. Jim Cox Sales is
25 an independent, family-owned business founded in 1980. Our

1 office and warehouse facility is located in Haslet, Texas,
2 just outside of the Ft. Worth-Dallas area.

3 A portion of our business is involved with the
4 purchasing, importing, and distributing of heavy iron
5 municipal castings for the municipal water and sewer
6 industry.

7 Our promotional efforts cover most of the Midwest
8 and the Southeast Regions of the United States as far as
9 iron municipal castings are concerned.

10 In additino, we represent several other companies
11 that manufacture municipal water and sewer products that are
12 not related to this investigation. All of the iron
13 municipal castings that we promote are manufactured by
14 Saint-Gobain. Most of the products we purchase from
15 Saint-Gobain are manufactured at their foundry located in
16 Brazil.

17 We have been doing business with Saint-Gobain for
18 over 15 years, and we chose to promote their products
19 because they were the first to introduce a hinged, fully
20 ductile iron municipal casting that is lighter weight, more
21 ergonomically correct, and more user friendly than any other
22 manhole cover that is produced domestically within the
23 United States.

24 To this day, there are no domestic foundries that
25 manufacture iron municipal castings that offer the same

1 quality or features and benefits as those which are made by
2 Saint-Gobain. Saint-Gobain manufactures highly engineered
3 products that are designed to meet the specific needs of
4 municipalities rather than just simply cover an open hole.

5 Historically, domestic manufacturers in the iron
6 municipal castings industry have promoted products that meet
7 two minimum standards.

8 One, the cover has to be the correct size to
9 cover the open hole. And two, the cover has to be able to
10 withstand the industry's traffic loading of H-20, or a load
11 test of 32,000 pounds.

12 It is time to end the promotion of iron municipal
13 castings in the United states that are only designed to meet
14 a minimum standard, and to begin to expect that iron
15 municipal castings sold domestically meet a performance
16 standard that satisfies the needs of water and wastewater
17 professionals across the Nation.

18 Over the last 15 years, I have spent a lot of
19 time investigating the needs of the industry's end users
20 when it comes to iron municipal castings by asking a simple
21 question: If you could have the perfect manhole cover and
22 frame, what types of features and benefits would you expect?

23 Saint-Gobain has developed and manufactures
24 products that not only meet but exceed industry
25 expectations. For example, one of our products named Pamrex

1 is a hinged ductile iron manhole cover and frame that
2 exceeds the H-20 load traffic-bearing requirement by a
3 factor of four times. Yet, it is less than half the weight
4 of comparably sized cast-iron products manufactured
5 domestically.

6 Without question, the number one request of the
7 municipal water and sewer worker in the United States is to
8 have a lighter weight iron municipal casting. However, just
9 making a lighter manhole cover does not solve the risk of
10 injury, or the ergonomic requirement to ensure a safe
11 working environment.

12 Manhole covers, at the very least, should be
13 hinged to avoid bending and twisting at the lower back,
14 which is the cause of most work-related accidents when it
15 comes to iron municipal castings.

16 Furthermore, there are other significant needs in
17 the water and sewer collection industry that need to be
18 addressed, things such as standard surface water
19 infiltration resistance; back pressure and surcharge;
20 vandalism; proper bedding and installation procedures;
21 traffic shock absorption; noise reduction; and most
22 importantly, the occurrence of traditional cast-iron,
23 non-hinged manholes becoming dislodged from the frame during
24 routine vehicular traffic, which can cause serious injury or
25 death.

1 The latest tragedy occurred in February of this
2 year when a 35-year-old school teacher named Caitlin
3 Clavette was killed when an airborne manhole cover hit her
4 car on Interstate 93 in Boston, Massachusetts.

5 That is not to say the domestically manufactured
6 iron municipal castings industry is not vastly different
7 than it was in the 1980s when the Orders were put in place
8 and then reinforced at the last full sunset review 17 years
9 ago. The industry has changed dramatically with new and
10 innovative products? No. But, rather, with extensive
11 consolidation in the market, with most of the consolidation
12 benefitting the corporations testifying against me today.

13 In fact, the market has undergone such
14 significant changes that today it bears absolutely no
15 resemblance to the industry that existed just a decade ago.
16 There is no doubt that these changes have been good for the
17 domestic manufacturers of iron municipal castings.

18 Today, as far as I know, the industry is doing
19 quite well. They are profitable, and their capacity,
20 production, and sales numbers have continued to rise.

21 The domestic manufacturers of iron municipal
22 castings is not an industry in need of protection. To be
23 more specific, this is not an industry that needs protection
24 from iron municipal castings imported from Brazil. And that
25 is why I wanted to be here today.

1 The Orders against Brazil have been in place for
2 30 years. And based on the current state of the U.S.
3 industry it is logical for the Commission to continue these
4 Orders for another five years. Brazilian imports are
5 microscopic compared to the total sales in the U.S. market,
6 and they pose no harm to the U.S. industry.

7 Based on current numbers, Brazilian imports
8 account for less than one-half of one percent of total
9 imports into the United States.

10 Even though we offer a much-superior product, we
11 still face a number of obstacles to be qualified as a
12 supplier to municipalities on new construction projects.
13 Not only do the municipalities have a natural preference for
14 U.S.-made products, but also an increasing number of
15 purchasers require their suppliers to become certified, or
16 qualified to sell them castings.

17 The time to qualify a new supplier can range up
18 to 180 days, and in some circumstances even longer. Another
19 obstacle that importers face in the United States is the
20 ever increasing Buy American measures that have been both
21 passed by federal and state governments.

22 These regulatory barriers have never been more
23 prevalent. They prevent the sale of iron imported municipal
24 castings for most if not all publicly funded projects. This
25 means that an ever-increasing portion of the U.S. market is

1 insulated from import competition.

2 Most of the time, we find ourselves unable to
3 sell iron municipal castings that are manufactured in
4 Brazil to publicly funded projects. Despite obstacles, Jim
5 Cox Sales continues to do business with Saint-Gobain.

6 The imported iron municipal castings manufactured
7 by Saint-Gobain in Brazil is simply a different and much
8 superior product than anything manufactured domestically.
9 For these reasons, there is very limited competition, if
10 any, between the high-end iron municipal castings that we
11 import from Brazil and the iron municipal castings imported
12 from China, India, or Canada. And also the ones
13 manufactured by the United States industry.

14 They are sold in different segments of the U.S.
15 market at generally higher prices. Our customers are the
16 ones who value quality over price and are concerned about
17 the health and safety of their employees.

18 Therefore, because such products are not
19 interchangeable, our clients prefer to buy the most
20 expensive Brazilian product rather than acquire cheaper iron
21 construction castings manufactured by the U.S. producers, or
22 those that are produced in China, Canada, or India.

23 Again, there is no need for the Commission to
24 continue the Orders against Brazil because the Brazilian
25 products do not compete with or pose a threat to the U.S.

1 products.

2 The only change I foresee after revocation of the
3 Orders against Brazil is the reduction of the bureaucracy
4 that we now face with having to post a bond, and having our
5 import entries not liquidated for several months.

6 Considering the premium nature of the products we
7 deal in, I do not believe there will be any significant
8 increase in the volume of products imported from Brazil
9 after the revocation of the Orders.

10 The volumes will remain at the same levels which
11 currently are much lower than compared to other sources like
12 India and China.

13 In sum, I believe it is important for the
14 Commission to look into these questions and make sure that
15 it does not extend the life of a trade relief that has
16 become an unnecessary and unfair import assessment.

17 I would be happy to respond to your questions and
18 provide further information in the Q&A session. Thank you
19 for your attention.

20 STATEMENT OF GUSTAVO LUIZ DE JESUS SIQUEIRA

21 MR. SIQUEIRA: Good afternoon. My name is Gustavo
22 Siqueira, and I am the General Director of Saint-Gobain
23 Canalizacao Ltda., a Brazilian producer of heavy iron
24 construction castings.

25 We also manufacture pipes, fittings, and valves,

1 not only manhole covers. These products, which are outside
2 the scope of this investigation, account for 95 percent of
3 our total production.

4 Thank you for taking the time today to hear my
5 testimony. I am honored to be here.

6 I have been working at Saint-Gobain for the past
7 16 years. During this time, I have held many different
8 positions with the company, from in-house counsel, to
9 finance manager, and I am currently serving as the general
10 director.

11 Sixteen years is a long time, I admit, but it's
12 reasonable and appreciated when someone works for such a
13 long time at the same organization. What is not reasonable,
14 and indeed astonishing, is to have a trade relief measure
15 kept in place for more than 30 years.

16 Saint-Gobain is the only manufacturer of iron
17 castings pipes in Latin America. Pipes alone account for
18 more than 80 percent of our company's revenue. We also
19 manufacture fittings, valves, and iron construction
20 castings. The municipal castings account for less than 5
21 percent of our company's total production revenue. It's a
22 niche market even for Saint-Gobain even in Brazil and all
23 over the world.

24 Saint-Gobain has two plants in Brazil. These
25 plants are located in the city of Itauna in the State of

1 Minas Gerais, and in the City of Barra Mansa in the State of
2 Rio de Janeiro.

3 The new plant of Itauna was opened in 2003 and
4 designed, the plant of Itauna where we produce the municipal
5 castings, designed to be a platform to produce and export
6 fittings to the European market where our parent company is
7 located.

8 So the factory of the plant of Itauna is designed
9 to produce fittings, not municipal castings. The plant in
10 Barra Mansa is where we produce molten iron which is the raw
11 material for the production of all end products. All molten
12 iron produced at this facility is of the Bet-2 type, and I
13 need to highlight this because of the technical
14 specifications. We only have the capacity to produce molten
15 ductile iron. It is technically impossible for us to
16 produce molten grade iron, the kind of metal for the most
17 part for the municipal castings market.

18 A key reason for this is that most of my molten
19 iron is designed to be used in the production of pipes,
20 which are exclusively made of ductile iron. So for us it's
21 impossible to think about change to ductile iron to grade
22 iron.

23 The molten ductile iron is then shipped to our
24 Itauna facility where we have the equipment to produce iron
25 construction castings. The Itauna plant has three molding

1 machines. The largest molding machine, the Kunkel Wagner
2 machine, is the one where we produce only fittings and
3 valves.

4 Fittings and valves account for 70 percent of the
5 total output of the Itona plant. The other two machines
6 include a Gazzola machine, where the iron construction
7 castings are produced, and a JR machine where we produce the
8 smaller fittings, valves, and components.

9 Let me be clear about this point. Only the
10 Gazzola machine can be used for the production of iron
11 construction castings. The other two machines are not
12 treatable and do not have the wider dimensions required for
13 the production of iron construction castings.

14 Even in the best case scenario when I would
15 increase the work shift by 40 percent, and would operate at
16 the upper limit of the Gazzola machine's capacity, our
17 output of heavy iron construction castings will not exceed
18 3,000 metric tons per year, and that would still require
19 some adaptations to the machinery.

20 In other words, I had a physical limitation to
21 increase my production of heavy iron construction castings
22 that cannot be overcome. It would only be possible to
23 increase the production of heavy iron construction castings
24 by acquiring additional equipment and training a new labor
25 force, which would take at least a couple of years to be

1 accomplished. We have no plans to do that.

2 Saint-Gobain cannot shift its production capacity
3 from pipes, valves, and fittings to iron construction
4 castings. It's less than 5 percent of our production.

5 Besides the technical limitations, I have
6 absolutely no reason or price incentive to abandon my pipes,
7 valves, and fittings clients which today buy 95 percent of
8 everything that I produce, to dedicate all my attention to
9 iron construction castings.

10 Again, Saint-Gobain is the only manufacturer of
11 iron construction casting pipes in Latin America.
12 Governments in Brazil and other countries in Latin America
13 depend on us for the supply of iron castings pipe.

14 The U.S. industry resorts to science fiction when
15 they allege that Saint-Gobain would shift all of its
16 production capacity to the production of iron construction
17 castings if the Orders against Brazil were to be revoked.

18 Thus, the limitations on production shifting
19 exists for both economical and technical reasons, and I
20 would be happy to discuss this in detail in the question and
21 answer session.

22 However, I must agree with the Petitioners on one
23 point. Saint-Gobain is a small producer, especially if
24 compared to the large producers of iron construction
25 castings in the United States, China, and India.

1 Let's think about that for a moment. Isn't it
2 interesting that Brazil's leading export of heavy iron
3 construction castings is considered a small company? In my
4 view, the only conclusion that you can draw from this is
5 that Brazil exports of iron construction castings no longer
6 have the capacity to cause any injury to the U.S. industry.
7 And we don't need to look too far to substantiate this
8 claim.

9 The U.S. import statistics provide a clear
10 picture. Brazil exports are negligible, and there is no
11 indication that they will change in the near future--we're
12 talking about Brazil.

13 And I speak today on behalf of Saint-Gobain, but
14 let me speak a little bit about my Brazilian competitors'
15 brand based on my general knowledge of the Brazilian market.

16 In the past several years, many foundries in
17 Brazil closed down or ceased the production of iron
18 construction castings. We have now a total of 8 foundries
19 in Brazil that still manufacture the products subject to
20 this investigation. Many of them are small, unsophisticated,
21 and unable to meet general quality standards that would
22 normally be required for them to be able to export their
23 products out of Brazil. This is for the Brazilian market.

24 It is not surprising that most of them don't
25 export. They simply can't do it. It's impossible. They

1 don't have technology or capacity to produce this kind of
2 product.

3 Most of these foundries have in the past several
4 years shifted their focus to higher value added product to
5 satisfy the needs of the automotive segments in Brazil. If
6 the orders are revoked, these companies will have no price
7 incentive to shift back your attention to iron construction
8 castings.

9 In addition to that, most of them will continue
10 to be unable to export their products out of Brazil because
11 they don't have the ability to match the highly technical
12 specifications, and the quality standards required by the
13 U.S. consumers.

14 As discussed before, Saint-Gobain manufactures
15 niche, high-end ductile iron castings which contain advanced
16 technical features such as light weight, hinged ergonomic
17 opening, security lock system, anti-theft system, and a
18 noise-blocking system.

19 Also, in U.S., the--the same level of quality
20 that export to Europe is the best product that Saint-Gobain
21 produces all over the world.

22 Our products do not compete on price if the U.S.
23 manufactures iron construction castings, and those sources
24 for China, India, and Canada. Even in an absurd scenario
25 where imports from Brazil would increase significantly,

1 which I assure you will not happen, our higher priced
2 products would cause no harm to the U.S. domestic industry.

3 Another aspect I would like to comment on is the
4 fact that Saint-Gobain cannot divert the iron construction
5 castings sold within the Brazilian domestic market, or
6 exported to Europe and Latin America to the United States.
7 Saint-Gobain estimates the Brazil annual demand for new
8 municipal castings will continue to rise in the few years.

9 Indeed, the growth potential of Brazilian water
10 and waste management is remarkable. More than 100 million
11 people in Brazil still don't have access to waste
12 management. In addition to that, more than 40 million
13 people in Brazil still don't have access to clean water.
14 Even in the prices, the investments in water and sewage in
15 Brazil continues to increase. But even if the increase to
16 have water and sewage for the population.

17 That' the reason why we continue to see growing
18 demand for the state water management companies in Brazil.
19 If we only take the two largest ones, Sabesp and Copasa, for
20 the State of San Paolo is the biggest state in Brazil with
21 40 million in habitants, and Copaza has 15 million
22 inhabitants, each of them alone buys 30,000 metric tons of
23 iron construction castings annually. And Saint-Gobain has
24 over the two years won bids to supply many of these
25 companies all over Brazil.

1 This is why we cannot abandon the domestic market
2 in Brazil to go to the United States.

3 Contrary to what the Petitioners have implied, we
4 also have no reason or price incentive to shift sales from
5 Europe and Latin America to the United States. We have
6 long-standing relationships and long-term contacts with
7 clients in these regions. We export a lot to Europe.

8 Moreover, U.S. prices are not high enough to
9 provide an incentive to shift sales from Latin America and
10 the Caribbean to the U.S. market.

11 For example, Saint-Gobain exports to Latin
12 America and the Caribbean rather the U.S. were the highest
13 ones for January to June 2016.

14 Let me finish by reiterating the obvious here.
15 We, Brazilians, cannot harm the U.S. industry by selling
16 high-quality products that generally do not compete on price
17 and in quantities that are negligible. We present our
18 products to our clients, our clients, the American clients,
19 and if they decide to choose our product because it's
20 better, higher quality, high-end products. It's not a
21 question of price. We present some features that they
22 don't see in the products they have now.

23 Saint-Gobain does not have plans to increase its
24 shipments or change its operations should the Orders against
25 Brazil be revoked. We just want a fair playing field to

1 work with on this special product.

2 I would be happy to respond to your questions and
3 provide further information in the Q&A session. Thanks for
4 your attention.

5 CHAIRMAN WILLIAMSON: Okay. Okay, we can now go
6 ahead with questions from Commissioners for the two industry
7 witnesses. They have to leave at 3:00.

8 This afternoon we will begin with Commissioner
9 Broadbent.

10 COMMISSIONER BROADBENT: Good. Thank you for
11 coming all this way to appear at our hearing. We really
12 appreciate your presence.

13 Let's see. What are the primary factors behind
14 the shrinking of the iron construction castings industry in
15 Brazil? I know you mentioned a couple of things, but if you
16 could summarize that, why is the industry shrinking in
17 Brazil?

18 MR. SIQUEIRA: The industry in Brazil, the
19 foundries in Brazil and the alternative companies in Brazil
20 and the alternative sector in Brazil they created more than
21 25 percent in the last two years. The biggest question that
22 they have in Brazil is the automotive sector and the
23 foundries that you have in Brazil they have to focus onn the
24 automotive industry. Because 10 years ago all the companies
25 -- because in Brazil how it works in the past it's not

1 possible to have the international companies in Brazil.

2 In the last 10 or 15 years, we have all auto
3 companies -- Hyundai, Honda, all the international companies
4 produce it there and this market increased a lot. We have a
5 lot them are selling cars in the last five or six years --
6 five or six years ago.

7 In the last two years, the industry of vehicles
8 in Brazil stopped completely and at these foundries have a
9 lot of problems because they try to increase in this market
10 to an alternative and you can prove in the post-hearing to
11 show the numbers.

12 COMMISSIONER BROADBENT: Okay. Do you U.S.,
13 Canadian, and Chinese producers make the kind of high-end
14 product that you produce?

15 MR. SIQUEIRA: The technology that we have, no.
16 The Chinese sure not. I don't know the Canadian products as
17 well, but the Chinese I'm sure, no. The Chinese in the
18 engine products, no. That's the same way as usually you
19 have a lot of Chinese products and Indian products in
20 Brazil. The exports because the products you have to know
21 the quality that you have. I don't know the Canadian
22 products.

23 COMMISSIONER BROADBENT: Okay. In looking at
24 the data that Saint-Gobain provided on 423 of the staff
25 report, 2014 seems to be a peak year during the period of

1 review. What was occurring between 2013 and 2014 to account
2 for this increase in capacity and production and what
3 occurred between 2014 and 2015, for it to decline?

4 MR. SEQUEIRA: Well, we have so many
5 distributors in Brazil and when you're talking about the
6 increase, even included a big hike. I'm talking about 100
7 metric tons. It's almost nothing. It's really almost
8 nothing. When you have 500 metric tons to 700 metric tons,
9 it's quite nothing when you talk about the size of the
10 market. So the numbers -- and also the crisis that you had
11 in 2014/2015. The volume that you have to the American
12 market is really, really low when I talk to Brazilian
13 companies, talk about Saint-Gobain because we are there.
14 The only company that exports to the United States and when
15 you talk about the total it's really, really nothing. It's
16 a special product.

17 COMMISSIONER BROADBENT: Okay.

18 In your pre-hearing briefs, you argued that
19 Brazilian producers are more focused and will continue to be
20 more focused on the Brazilian home market and on the
21 European Union as opposed to the U.S. Market; yet, at
22 looking at Saint-Gobain's reported shipments over the period
23 of review, if we look at chapter 4-23, page 24 of the staff
24 report, commercial home shipments declined while exports
25 increased. Also, exports to the U.S. increased more than

1 exports to the EU. Can you explain how we should reconcile
2 this?

3 MR. SIQUEIRA: I'm talking about something in
4 the United States. I'll talk about metric tons because
5 that's the number that's for me. It's now 500 tons and the
6 best year that I have in the history for the United States
7 is 500 tons. And we're talking about 200 metric tons. We
8 have some increase, but we're talking about one container.
9 We're talking about the container. One container is 25
10 tons. When I talk about increasing 200 tons, I'm talking
11 about eight containers of products. It's really, really
12 nothing. And we're talking about 300 pieces of the manhole
13 covers. Well, one container has 400 pieces.

14 Imagine, if you walk in the street you can count
15 very, very easily 400 products. It's really, really low,
16 the volumes. When I compare the graph that you presented in
17 the pre-hearing, you can see the participation of Brazil and
18 the participation of India, China, and Canada, and even if I
19 increase 50 percent, imagine, I'll increase 10, 12
20 containers, not more than a thousand to two thousands piece
21 of castings.

22 COMMISSIONER BROADBENT: Okay.

23 In your pre-hearing brief, you assert that the
24 U.S. domestic industry has shifted a portion of its
25 production overseas and is advocating for the continuation

1 of orders to shield its import operations from other import
2 competition. Could you clarify which specific U.S.
3 companies have shifted a portion of their production
4 overseas?

5 MR. BERER: This is Felipe Berer, for the
6 record.

7 Was that a question directed to anybody
8 specifically or may I answer it?

9 COMMISSIONER BROADBENT: You may answer it.

10 MR. BERER: This was based on what we've seen in
11 the questionnaire responses. Some of the market players
12 reported that information specifically saying they buy from
13 India because there are U.S.-owned companies in India. And
14 the increase in the importation from India kind of raises
15 the question of whether that would actually be of interest
16 to some of the U.S. players or not.

17 We have questionnaire data providing that
18 information. We will dig a little bit more, and most of it
19 is not public information, but some of the questionnaire
20 responses simply go in that direction and tell us that some
21 of the players are importing parts of the products or
22 components from India and then assembling them in the U.S.
23 to have the final and to lower the cost of the entire
24 product. And we have someone who was -- I don't know by
25 heart right now -- who was saying specifically that the

1 imports from India are rising because there is some sort of
2 U.S. ownership of the Indian producers.

3 COMMISSIONER BROADBENT: Okay.

4 In your pre-hearing brief, you argue that
5 imports from Brazil are not fungible because they are of a
6 specialty and niche nature; however, the domestic producers
7 in their pre-hearing submissions observed all responding
8 purchasers reported that heavy and light casting domestic
9 made and from Brazil and Canada are interchangeable. How do
10 you respond?

11 MR. COX: As far as interchangeability goes,
12 that's absolutely not true. You cannot put a hinged ductile
13 iron cover in a non-hinged cast iron frame. It doesn't
14 work. That's why, for example, in two cities right off the
15 top of my head, the City of Austin, Texas they will not
16 allow the Pamrex, which is the product that I talked about
17 in my statement, they will not allow the Pamrex in the City
18 of Austin because it is not interchangeable with existing
19 cast iron frames that they have in their systems. And
20 that's also true why we are not certified or specified by
21 the City of Dallas, so just to say that a hinged cover and
22 frame can be interchanged with a non-hinged cover and frame
23 simply is not true.

24 And I would just also like to go on the record
25 as saying all of the companies of the domestic manufacturers

1 that testified earlier today said they have a me-too product
2 for the special -- they called it the specialized products
3 that I am importing. I want the Committee to know that Jim
4 Cox Sales has never purchased, imported, or sold a cast iron
5 manhole cover and frame in the United States from a foreign
6 manufacturer. The only products that we bring in are made
7 completely of ductile iron. I think I heard one of the
8 Committee members mention that he's a metallurgist or had
9 experience with metallurgist --

10 COMMISSIONER BROADBENT: Yeah, he likes to brag
11 about that.

12 MR. COX: Yeah, it's fun. Well, here we are
13 talking about municipal casting. How many of you guys
14 counted the number of manhole covers and frames when you
15 went out to lunch today in the street? But I said all that
16 to say this, something that struck my attention during the
17 testimony of Mr. Rosenthal he wants to talk about the fact
18 that we have specialized products, but then he says for 30
19 years nothing's really changed of this industry as far as
20 domestic manufacturing goes.

21 In fact, if I recall -- I don't want to say
22 verbatim, but he said you can put the same ingredients in an
23 oven and you can get the same ingredients out. Well, if
24 that's true then it also has to be true if you put different
25 ingredients in an oven, then a different product has to come

1 out on the other side. And indeed, it is different. Cast
2 iron is not the same as ductile iron.

3 And one more thing before I'll relinquish what
4 time I don't have left, all of the specialized products that
5 the domestic manufacturers claim that they have that was
6 equal to mine were not existence in the United States in
7 2002 when I personally made the first presentation on a
8 hinged ductile iron manhole cover and frame. For several
9 years they denied the capability of a hinged product and it
10 was only after I began to get a little bit of market share
11 that they said, well, we've got one just like that too.
12 And even to this day they are still not equal because their
13 products are not completely made of ductile iron and do not
14 have the same features and benefits that our products do.

15 COMMISSIONER BROADBENT: Okay, thank you.

16 CHAIRMAN WILLIAMSON: Commissioner Kieff.

17 COMMISSIONER KIEFF: No, I'm delighted to join
18 the discussion of ductile iron. So thank you for coming and
19 presenting and please tell us some more about what you see
20 as the key difference between how ductile iron is made and
21 how cast iron is made, at least as important to the case.

22 MR. SIQUEIRA: I'm not a technical man to
23 explain about the difference, but when we're talking about
24 ductile iron to produce, it's more resistance than to have
25 the ductile iron to magnesium and we have some products in

1 ductile iron. To have an example, for the pipelines for the
2 pipes with just only a little in the United States, which
3 was ductile iron pipes. We can't use gray cast iron.

4 When talking about Europe, but the French
5 market. The French market is allowed to use the cast iron
6 manhole covers, so not allowed to choose this. In Brazil
7 you can use the gray case iron and so on.

8 COMMISSIONER KIEFF: So just to better
9 understand the economic and trade significance of this, so
10 please help us better understand why those differences
11 matter to production or to consumption or use?

12 MR. SIQUEIRA: In the case and having the
13 decision I'm talking about is number one factor in Brazil.
14 Our decision is to produce only ductile iron products. We
15 have a company and ductile iron pipes, iron pipes and
16 fittings and casting and manhole covers. So we decided a
17 long time ago, 20 years, because we produced gray cast iron
18 until -- no, '94, '95 and we finished with this company and
19 it began to produce only ductile iron products. That's our
20 decision. And we adapt all our factory to produce this kind
21 of product and that's what we have now. It's our decision.
22 And it can't -- technically, for us we can't change to come
23 back to gray cast iron. That's our point.

24 And imagine, if I manage to increase our
25 participation in U.S. market, I need to have the gray cast

1 iron to be less expensive.

2 COMMISSIONER KIEFF: So let me make sure then --
3 I'm trying to understand the significance of this to the
4 argument. Are you saying that either because of the
5 metallurgy or because of the geometry, which I take it is
6 your point about the hinge, your products, number one, are
7 different than what the domestic producers can produce. And
8 number two, there was a path dependency to the choices that
9 have been made in your businesses and you can no longer
10 return quickly to compete in the market that they are in,
11 even if you wanted to.

12 MR. SIQUEIRA: That's my point. The first part
13 was my point. We are talking about a ductile pipe company,
14 a pipe company. We are the only producer of pipes. And to
15 have the complete solution for water and sewage we need to
16 produce also fittings, valves, and castings. So we have two
17 factors, a big factory in where we produce the molten iron
18 and the pipes and the big fittings. And a small factory in
19 producing valves and municipal castings, so it's kind of a
20 niche that you have. So we have two kinds of limitations to
21 increase our participation. I can't talk to it first. We
22 decided to produce only high-end products.

23 If you see our catalog, we don't have single
24 products in municipal castings. When I talk about municipal
25 castings, we decided because our whole material is

1 expensive. Our product is expensive too because we have a
2 lot of things. We have a lot of things and we could
3 demonstrate at the post-hearing to show this is more
4 expensive.

5 We have the limitation of the ductile iron
6 because to be less expensive, I need to produce the gray
7 cast iron. The cast iron is less expense with them, so it's
8 impossible for me. And the other the machine that you have
9 now that they use in the factory and is not so wider, our
10 main machine, to produce the kind products that we sell in
11 United States because it's no so wider. So only have one
12 machine that called the Gazal and JR that I can adapt some
13 thing to increase to allow for 15 percent of this
14 production of municipal casting. So for us, technically,
15 and we can confirm this talking about Saint-Gobain, it's
16 important for us to increase our participation.

17 I have one point. It's a matter of high-end
18 products, no other companies, and James could say this, will
19 use these high-end products in the volume.

20 COMMISSIONER KIEFF: I think I'm understanding.
21 Just let me try to push to make sure I understand the
22 significance to the case. What if everything that you are
23 saying here today the other side writes immediately we agree
24 100 percent in fact, but it doesn't matter to their
25 argument? What if they say we understand you make very

1 special product because of your metallurgy and your
2 geometry, maybe you were the first and maybe this is the
3 effort of great effort or genius or combination, maybe they
4 say too bad, so sad. Thank you very much for teaching the
5 world this technology. They now can do it. Are you saying
6 that they cannot copy you effectively in the United States?

7 MR. COX: I would think that if they have the
8 desire to copy us in the United States they would've already
9 done so, but they have not. Their primary interest is the
10 interest of selling gray iron or cast iron. It is not to
11 make products out of ductile iron. To this day, there is no
12 other hinged municipal casting domestically manufactured in
13 the United States that both the cover and the frame are made
14 out of ductile iron.

15 COMMISSIONER KIEFF: I see.

16 MR. COX: In Neenah's case, either one is true.
17 Both are manufactured out of cast iron.

18 COMMISSIONER KIEFF: Okay, so are there other
19 Brazilian manufacturers, other than yourselves, other than
20 Saint-Gobain?

21 MR. BERER: This is Felipe Berer, for the
22 record.

23 You mean in ductile iron or in general?

24 COMMISSIONER KIEFF: That would be subject --
25 that are currently subject to the order.

1 MR. BERER: Yes, absolutely. We provided
2 evidence of at least eight producers based on the data that
3 was provided by ABIFA, the Foundry Association of Brazil.

4 COMMISSIONER KIEFF: You get what I'm trying to
5 understand. I'm trying to understand -- look, it's very
6 common in commercial disputes for people to have a different
7 view. I get that. You want one thing. They want something
8 else. What I'm trying to understand is what is the nature
9 of your disagreement? Do you agree on some of the facts or
10 you disagree on the facts? Do you agree on the significance
11 of the facts or do you disagree on the significance? What
12 if they agree that you have a wonderful product? They may
13 not think the way you think about your future ability to
14 compete with them with the product that you're not now
15 explaining and then it's an empirical question. Nobody is
16 suggesting anybody is lying. It's just a question of
17 whether there is the practical, technological and economic
18 capacity for companies in Brazil that are currently subject
19 to the order to be entering the economy in the United States
20 in a way that would materially injure them. That's all that
21 they have to prove, so the more you keep explaining about
22 how special you are I get that. I think that's wonderful.
23 I don't get why that's relevant to the decision.

24 MR. BERER: This is Felipe Berer, again, for the
25 record.

1 Then let me try to address that. There are two
2 points, I think. One is you have here the leading exporter
3 from Brazil of heavy iron construction casting and the
4 leading exporter is still considered by Petitioners to be a
5 small company and we now, based on the testimony, you know
6 that they produce a specialty product. So we're saying that
7 the portion of the exports from Brazil from the leading
8 producer and exporter of Brazil will be insulated from
9 competition based on price. So this is one point. I think
10 that's the point that they were trying come across.

11 COMMISSIONER KIEFF: I see.

12 MR. BERER: The second point is, if you look at
13 the data that we provided from the Brazilian Foundry
14 Association, there is a very important point of contention
15 here. Based on the expedited reviews data that you've seen
16 over the years for the past God knows how many years and
17 based on the data that was provided in the presentation to
18 day, what the Petitioners are doing is they go on the
19 websites and they see what is the total capacity of the
20 foundries in Brazil? Oh, it's "X." Okay, that's the total
21 capacity of production iron construction castings in Brazil.

22 That's very misleading. I mean you have people
23 there who are producing pins, castings for tractors, casting
24 for the automotive sector and they are there together as if
25 that was the capacity that the day after you revoke the

1 order would be shifted to the production of iron
2 construction castings.

3 In contrast to that, when we were unable to
4 reach out to every single of those eight producers simply
5 because they have absolutely no interest in the U.S. market,
6 they don't speak any English. They're unsophisticated, et
7 cetera. So what we did have the representation of ABIFA,
8 the Association, their members. They have to report their
9 information to ABIFA. ABIFA has presented a sworn affidavit
10 saying this is their capacity. These are the hundreds of
11 members that we have, right? We've provided the names of
12 everybody -- names, information, et cetera. These are the
13 ones who are still producing iron construction castings,
14 eight. Okay, among those this is the total production.
15 This is what we provided in our pre-hearing brief.

16 And more recently, last week we provided,
17 company-by-company, production, capacity, and the number of
18 employees. The number of employees is very important
19 because you can see how small they are.

20 CHAIRMAN WILLIAMSON: I'm sorry. I have four
21 more Commissioners and there are only 20 minutes to get to
22 them. We'll have plenty of time for you to come --

23 MR. BERER: I'll stop right here, but I think I
24 answered your question.

25 COMMISSIONER KIEFF: Thank you.

1 CHAIRMAN WILLIAMSON: I'm sorry, if we could
2 just focus on these two individuals and then we'll get the
3 others. Commissioner Schmidtlein.

4 COMMISSIONER SCHMIDTLEIN: Thank you. Okay,
5 yes, I'll focus my questions on the fact witnesses right
6 now.

7 Mr. Siqueira, I know you were answering some
8 questions about your domestic sales versus your export
9 sales. So is your company right now would say focused or
10 concentrated in domestic or export sales?

11 MR. SIQUEIRA: Talking about internal markets.

12 COMMISSIONER SCHMIDTLEIN: Let's keep it to the
13 scope of this investigation.

14 MR. SIQUEIRA: The Brazilian market.

15 COMMISSIONER SCHMIDTLEIN: The Brazilian market?
16 Okay.

17 MR. SIQUERIA: In Brazilian market unfortunately.
18 We don't have the existence of quality in some companies.
19 Have some companies in Brazil that are the highlight of
20 quality. But you can --

21 COMMISSIONER SCHMIDTLEIN: Okay. I'm talking
22 about your company and the percentage that you ship. And we
23 don't need to get into the numbers. But the proportion you
24 ship to your domestic market versus what you're exporting.
25 And you're saying that your concentration is in your

1 domestic market.

2 MR. SIQUERIA: Yeah, in domestic market. And I
3 sell some product to Europe, too.

4 COMMISSIONER SCHMIDTLEIN: Right.

5 MR. SIQUERIA: So don't talking about domestic
6 market.

7 COMMISSIONER SCHMIDTLEIN: I'm talking about
8 domestic versus exports.

9 MR. SIQUERIA: 56% for the domestic market. 30%
10 for the export, both export for our parent company
11 Saint-Gobain exports in the products in Brazil to
12 Saint-Gobain France to selling the European market. So they
13 export, they don't like exportation for us. These products
14 are France because we produce with the international mark
15 and sent to our company in France.

16 COMMISSIONER SCHMIDTLEIN: And those are
17 exports?

18 MR. SIQUERIA: It's kind of an export, but it's
19 not an export for the client. I produce this product for
20 Saint-Gobain to sell into the French and Germany market
21 because I have a very modern foundry and to produce high-end
22 product as I explained for the American market.

23 COMMISSIONER SCHMIDTLEIN: So do you see demand
24 in Brazil for the end-scope product here increasing in the
25 future?

1 MR. SIQUERIA: Yeah, because --

2 COMMISSIONER SCHMIDTLEIN: Has it been
3 increasing over the last three years, do you think?

4 MR. SIQUERIA: Yeah, because that happened in
5 Brazil. I have a lot of economic problems in Brazil as our
6 friend said. Last 3% this year of GDP in Brazil. But water
7 and sewage in Brazil, it's a very serious problem. And the
8 companies of water and sewer in Brazil increase their
9 investment in the last years because -- imagine you have a
10 country like Brazil of 200 million inhabitants with 40
11 million inhabitants without water. And 100 million without
12 sewage. So even with the problems, the investments in water
13 and sewer market continuous increase -- and talk about
14 other problems, because we don't sell only municipal
15 castings as complete solutions to water and sewage.

16 COMMISSIONER SCHMIDTLEIN: I understand. So if
17 that's true, then why is your company's home shipments
18 decreasing between '14 and '15? Saint-Cobain, yeah.

19 MR. SIQUERIA: The home?

20 COMMISSIONER SCHMIDTLEIN: According to the
21 data, yes. Why are your home shipments and the percentage
22 for exports are increasing?

23 MR. SIQUERIA: What happened in Brazil in '14 to
24 '15, we lost our President. We have a lot of economic
25 problems. In doing six months --

1 COMMISSIONER SCHMIDTLEIN: I thought you just
2 said demand was growing because of all of the --

3 MR. SIQUERIA: Yeah, it's growing, but during
4 six months whatever the totally increase, but six months
5 have a lot of economic and political problems in Brazil.
6 Continuous increase, but imagine having an impeachment for
7 our president.

8 So it's very difficult not to sell but the
9 clients have problems to pay to us, so the market increase,
10 but it's very difficult to sell the product to these
11 companies, because of political problems, they do not have
12 budget to pay us. That's really we are six months. If I
13 compare '16 against '15, and I have the forecast for the end
14 of this year, we increase 15-16% our turnover, if I compare
15 '16 between '15 because what? Brazil continues in a crisis,
16 but the level of investments come back to the level that
17 they want.

18 COMMISSIONER SCHMIDTLEIN: But the interim data
19 isn't consistent with that though. I mean the data that we
20 have here, I mean the first six months is running less.

21 MR. SIQUERIA: The forecast as they show, talk
22 about the numbers. The decision of the forecast is if the
23 factory in 2016, our company, our manufacturer in Itauna we
24 decided to work only with three days a week.

25 COMMISSIONER SCHMIDTLEIN: Three days?

1 MR. SIQUERIA: Three days per week in 2015 and
2 reduce all of our production, Saint-Gobain. Saint-Gobain
3 decided because Saint-Gobain plant, the Saint-Gobain plant,
4 80% of Saint-Gobain's plant is fittings and valves, not
5 municipal castings. And we decided to reduce. So we
6 reduced our participation because we reduce our volume of
7 production in Itauna Foundry. And the decreases to a very
8 stronger the number.

9 In 2016 we have working five days continuous
10 come back to work the five days. The market was involved
11 come back. We won an important bid of 1,000 metric tons to
12 a Brazilian client Capaza. So if I see the number of the
13 end of 2016, our numbers will increase.

14 We're not talking about the decrease between '14
15 and '15. It's a special moment of Brazil. We change our
16 process for January of '15. We change everybody. Six
17 months ago we lost our president, the vice-president assumes
18 in Brazil. And if things come back to continuous
19 investment.

20 What's does that prove, then I confirm to you
21 that the investments in Washington and Brazil will increase,
22 we have six months of stock, and we have a lot of changes in
23 2015 so that our company to support this market, this
24 political crisis in Brazil, but if you see, all the over the
25 years, the five, four, six years, the volume of investments

1 in Brazil in water and sewage increased a lot. All the
2 market.

3 COMMISSIONER SCHMIDTLEIN: So do you see -- I
4 mean it looks like your exports to the U.S. are also
5 increasing. Do you -- well, running higher. Yeah.

6 MR. SIQUERIA: Hasn't explained. We increased
7 from a hundred to a thousand, the products. But with the
8 volume, it's very, very low. We're talking about two or
9 three containers more. When is enough? 200 tons. One
10 container is 300 pieces, when increase 200 tons, I'm talking
11 about seven or eight containers, not more than that. It's
12 really, really low, the volume that we sell in the United
13 States.

14 Talking about it, you know? Only increased 200,
15 is nothing. It's less than 1% of the total market of the
16 United States. If I take two times, higher, 0.5 to 0.7, not
17 1%. Because even this market of high-end product, it's not
18 a market of volume, it's a market of specialties. In Brazil
19 it's common --

20 COMMISSIONER SCHMIDTLEIN: Well, let me ask a
21 question about that. So, and Mr. Cox, I guess you had
22 spoken about this more specifically in terms of whether or
23 not this product is interchangeable with the domestic
24 product, and you gave the example of, you can't replace a
25 hinged manhole on a frame that's built for a hinge with one

1 that's not. I assume that the installation, the initial
2 installation, when a new manhole is being installed, are
3 you not then competing with product made by other producers?

4 MR. COX: Yes.

5 COMMISSIONER SCHMIDTLEIN: In other words, isn't
6 it interchangeable in terms of the end use.

7 MR. COX: Generally, yes. It is.

8 COMMISSIONER SCHMIDTLEIN: So who are your
9 competitors? When you're trying to make a sale?

10 MR. COX: I don't really consider any of the
11 companies here today my competitors because they don't make
12 the same products that I do.

13 COMMISSIONER SCHMIDTLEIN: Well, are you saying
14 when you -- and I don't recall exactly how all of these
15 sales are made, if you're putting in a bid or what have you,
16 that you're the only one?

17 MR. COX: Going out and promoting a hinged
18 manhole cover?

19 COMMISSIONER SCHMIDTLEIN: No, only one trying
20 to obtain a sale from a particular customer. When you're
21 trying to obtain -- are you saying you don't ever compete
22 against another producer for that sale?

23 MR. COX: My goal is to educate the municipal
24 water and sewer industry on the technology that is available
25 with municipal castings. And there are a lot of features

1 and benefits that we can talk about that the domestic
2 manufacturers cannot.

3 COMMISSIONER SCHMIDTLEIN: Will you use that to
4 your advantage in competing for the business, I assume?

5 MR. COX: Well, you can call it my advantage or
6 not, but --

7 COMMISSIONER SCHMIDTLEIN: Well, you attempt to
8 use it to your advantage --

9 MR. COX: -- if the end-user prefers to have a
10 lighter weight casting so he doesn't throw his back out
11 after he removes a 300 or 400 pound cover out of a frame,
12 then so be it.

13 COMMISSIONER SCHMIDTLEIN: No, but you
14 understand my point here. When you're competing for that
15 business, you are competing against domestic manufacturers?

16 MR. COX: Sure.

17 COMMISSIONER SCHMIDTLEIN: Okay. I mean that's
18 -- so at that level they are interchangeable, even the later
19 you can't switch out the hinged --

20 MR. COX: Correct.

21 COMMISSIONER SCHMIDTLEIN: -- the hinged manhole
22 for the non-hinged manhole?

23 MR. COX: That's right.

24 COMMISSIONER: Okay. All right. I won't take
25 -- since I know you all have to leave, I'll let my

1 colleagues --

2 CHAIRMAN WILLIAMSON: Thank you. Yeah. Just
3 continuing on that line, Mr. Cox, are there specific
4 applications where customers require ductile iron castings?

5 MR. COX: Where customers required ductile iron
6 castings?

7 CHAIRMAN WILLIAMSON: Are any of the -- yeah.
8 Is there any, of the body of customers, potential customers
9 out there, are there any that are saying, "we want this
10 kind"? And are that we're only going to bid on, we only
11 want bids on this, for this kind? Man, I know you got an
12 education job, and I don't know how well you're doing it,
13 but I'm trying to get an idea. What impact does this have
14 --

15 MR. COX: Mr. Williamson. This makes me smile
16 in one aspect. There have been no significant changes in
17 the cast iron municipal casting industry for such a long
18 time in the United States, it is almost comical to call a
19 guy up on the phone that's the wastewater collection
20 supervisor for the City of X and say, "I've got something
21 really new and innovative to show you when it comes to
22 manhole covers in France," because in their minds,
23 nothing's changed. For years and years and years and so
24 they can't even grasp in their mind -- a wastewater
25 professional that's done this all of his life --

1 CHAIRMAN WILLIAMSON: Now, I only have four
2 minutes. So you're saying, basically, you can't really
3 identify a market that says, this is what we have to have?

4 MR. COX: No.

5 CHAIRMAN WILLIAMSON: Okay. So I guess,
6 post-hearing, maybe you could tell us who your largest U.S.
7 customers are for these high-end castings that you're
8 talking about.

9 MR. COX: I'm sorry. Repeat that one more time.

10 CHAIRMAN WILLIAMSON: Post-hearing, maybe you
11 could tell us who --

12 MR. COX: Sure. Yeah, I'd be happy to --

13 CHAIRMAN WILLIAMSON: -- are the largest U.S.
14 customers for the high-end castings. Now, do you all sell
15 other castings?

16 MR. COX: No, sir.

17 CHAIRMAN WILLIAMSON: So your business is solely
18 dependent on this particular product?

19 MR. COX: No, sir. It represents to this point
20 about 45% of our annual volume in sales.

21 CHAIRMAN WILLIAMSON: Now, do you -- of your
22 sales of the subject product? The ones who are subject of
23 this hearing?

24 MR. COX: Of total sales.

25 CHAIRMAN WILLIAMSON: What about --

1 MR. COX: It's related to this investigation and
2 products that are not related to --

3 CHAIRMAN WILLIAMSON: Just products that are
4 covered by this investigation. Do you sell any others than
5 these?

6 MR. COX: No, sir.

7 CHAIRMAN WILLIAMSON: Okay. Are there other
8 distributors in the U.S. that do sell both?

9 MR. COX: Yes, yes.

10 CHAIRMAN WILLIAMSON: I don't know whether
11 post-hearing you can give -- it's hard to assess what this
12 uniqueness of this product, what impact it has on this
13 investigation when we don't have any idea what the market,
14 what the demand is for, as opposed to others. Since you say
15 they're not interchangeable, yeah?

16 MR. BERER: I think we heard petitioners saying
17 this morning, and the members of the U.S. industry saying
18 this morning, that they will address that as well. We'll
19 try to address that in our post-hearing brief as well to see
20 how small is the share of the -- I mean I think we have two
21 questions here. One is what is the market share for ductile
22 compared to gray? That number was asked this morning, I
23 think as well. And the other is hinged against non-hinged
24 products as well. How relevant we have of a market. I
25 think that's your question, right?

1 CHAIRMAN WILLIAMSON: Correct. Yeah. So
2 post-hearing, I would appreciate that.

3 MR. BERER: Absolutely.

4 CHAIRMAN WILLIAMSON: Are there other
5 distinctions? Because you've talked about a number of
6 distinctions. Are there others that we also need to cover?

7 MR. BERER: Okay, we'll take care of that.

8 CHAIRMAN WILLIAMSON: Okay. In the Brazilian
9 market, I know you talk about the demand and all. How much
10 of that demand is going to be for this specialty product
11 that Saint-Cobain is selling, as opposed to other standard
12 hinges?

13 MR. SIQUERIA: I talk about the market for
14 municipal castings. I was talking metric tons and the
15 conversion, but in the market in between 20- and 30,000
16 metric tons, Brazilian market.

17 CHAIRMAN WILLIAMSON: So there are other
18 companies out there that are gonna be supplying that market?

19 MR. SIQUERIA: Yeah, that's a permanent market,
20 because we have a lot of states in Brazil. And in Brazil we
21 have the production of metal and we have a lot of -- there's
22 more foundries in these regions to attempt this market --

23 CHAIRMAN WILLIAMSON: But are there major
24 companies that also are capable of exporting?

25 MR. SIQUERIA: No. No. The Brazilian market,

1 the foundry, for have an idea. The biggest foundry of
2 Brazil, it's our foundry. The biggest foundry in Brazil for
3 this kind of product and it's our foundry. We are the
4 biggest. And after us, the order of companies, we have a
5 lot of small companies.

6 CHAIRMAN WILLIAMSON: Okay. I'll just be real
7 quick. I was in Brazil Justice State Department in '83, '85
8 when we had the debt crisis and Brazil was focused on
9 exporting, exporting. It seems to me that we're getting
10 that situation now, but that's my comment. Let me just stop
11 there so Commissioner Johanson can get his questions in.

12 MR. BERER: If I may just add one point. That
13 we have an issue when we had that back in the '80s as well.
14 We have a currency issue and if you look at the --

15 CHAIRMAN WILLIAMSON: We'll come back to that.
16 That's fair. Go ahead.

17 VICE-CHAIRMAN JOHANSON: Thank you, Chairman
18 Williamson. And thanks to both of you for appearing here
19 today. I realize you both came a long way, and we
20 appreciate you being here.

21 Mr. Cox, you are an iron castings importer. I
22 assume that you're familiar with your reputations of Chinese
23 and Canadian iron castings. If that's the case, could you
24 discuss differences between iron castings produced in the
25 United States, Brazil, China and Canada? Are there quality

1 differences?

2 MR. COX: Are you speaking of cast iron products
3 or ductile iron products?

4 VICE-CHAIRMAN JOHANSON: Iron construction
5 casting. It's the products at issue today at this hearing.

6 MR. COX: Well, that is one contention that I
7 wanted to make the Committee aware of. And I'll answer your
8 question in just a minute, but as a small business owner, we
9 talked about paying duties this morning. I pay 8.49% duty
10 on every container that I bring in from Brazil and then
11 also, I have to put up surety bonds for the amount of
12 unliquidated entries that are drawn on against product that
13 I import that are not released for six months after my
14 entries have been liquidated. And for a small business,
15 that is a lot of money that I have to put up front to be
16 involved in this type of business. Now, you're asking my
17 opinion, is there a difference between cast iron that's made
18 in the United States and cast iron that's made in India or
19 China, is that what you're asking me?

20 VICE-CHAIRMAN JOHANSON: Well, since you're
21 familiar with these products. You're the one person in this
22 room that I think is probably most familiar with the
23 different iron construction castings at issue in today's
24 hearing from the four different countries that are being
25 discussed today, the U.S., China, Brazil and Canada? Do you

1 see quality differences between these products?

2 MR. COX: The cast iron products that I've seen
3 that are imported, not --

4 VICE-CHAIRMAN JOHANSON: Well, not necessarily
5 cast iron, but any of the products at issue today?

6 MR. COX: Not with cast iron, no, sir.

7 VICE-CHAIRMAN JOHANSON: Okay. Thanks. In
8 addition, I wanted to ask you all about the different
9 substitute products made from plastic composites and steel,
10 how have substitute products affected the market for iron
11 construction castings?

12 MR. SIQUEIRA: The cast iron, ductile and
13 composites, plastic and the cast iron. Not only plastic,
14 but we have a composite, the part of that I know, that I see
15 there's three kinds of products and to small castings.
16 Today I believe it's almost nothing, the composites, it's
17 very, very low, no? Talking about --

18 MR. COX: Composites, I would say, are a very
19 small percentage, as it stands now. But I do know that East
20 Jordan Ironworks has invested heavily in a composite manhole
21 cover manufacturer named GMI Composites out of Muskegon,
22 Michigan, so you may want to ask them if they think it's on
23 the rise. I would think if they've invested a lot of money
24 in production of that product, they must suspect something
25 is around the corner as far as composites go.

1 VICE-CHAIRMAN JOHANSON: OK, but at this point
2 in time, you don't see major substitutes?

3 MR. COX: No.

4 VICE-CHAIRMAN JOHNSON: It's 3:00. Don't know
5 if you wanted to wrap this --

6 CHAIRMAN WILLIAMSON: No. Mr. Pinkert has some
7 questions.

8 COMMISSIONER PINKERT: I just have a couple of
9 questions, very quickly. Mr. Cox, is it your understanding
10 that the domestic industry can also produce a ductile
11 construction casting? In other words, maybe not the hinged
12 part that you're talking about, but a ductile iron
13 construction casting?

14 MR. COX: Ductile iron covers are being made
15 today that actually retrofit into existing cast iron manhole
16 frames, and they're being done that, for one reason, because
17 it's a strength to weight ratio. Cast iron versus ductile
18 iron. Cast iron is a relatively rigid, brittle material,
19 which is why you have to have 3- to 400 pounds' worth of
20 material to withstand the H-20 load-bearing test. When you
21 go to ductile iron, you don't need as much material to
22 withstand the load-bearing test because you've got a
23 stronger product. So that, by nature, makes it lighter
24 weight. But yes, East Jordan Iron Works, I would imagine,
25 I'm not sure for Neenah because they're a little bit outside

1 of my market area, and I'm not sure about the other one, but
2 I would assume that they offer a ductile iron cover to be
3 retrofitted into that cast iron frame.

4 COMMISSIONER PINKERT: Okay. And then, what are
5 the disadvantages of the ductile product? As I understand,
6 there's a different resonance? Audial resonance quality to
7 the ductile product than to the normal heavy product?

8 MR. COX: You said audio resonance?

9 COMMISSIONER PINKERT: Audio resonance.

10 MR. COX: I have no information about that
11 whatsoever.

12 COMMISSIONER PINKERT: No? In other words, the
13 effect that's produced by vibration on the ductile product.
14 This is not a problem?

15 MR. COX: I can't speak to that. I know nothing
16 about a different audio resonance. But I do know all of the
17 ductile iron hinged manhole covers and frames that we sell
18 in the United States incorporate some type of a gasket
19 system that's installed on the frame, and the chief purpose
20 of that gasket system, among other things, is to absorb the
21 traffic shock that you're talking about.

22 COMMISSIONER PINKERT: Okay. Thank you. And
23 then, to Mr. Siqueira, how many producers of heavy iron
24 construction castings are there in Brazil?

25 MR. SIQUEIRA: Eight, nine, not more than ten.

1 COMMISSIONER PINKERT: Of the heavy?

2 MR. SIQUEIRA: The heavy, I think is the last
3 four or five companies, maximum.

4 COMMISSIONER PINKERT: Okay. And then how many
5 of the light in Brazil?

6 MR. SIQUEIRA: The light, that we know -- eight
7 or ten companies, the farthest.

8 COMMISSIONER PINKERT: Okay. For the
9 post-hearing, if you could supply a list of the heavy
10 separate from the light producers in Brazil, I think that
11 would be helpful.

12 MR. BERER: ABIFA was provided but it was not
13 segregated between heavy and light.

14 MR. SIQUEIRA: The association of farmers in
15 Brazil. It was the only association in Brazil. So we have
16 created this division between the have and the like, because
17 that have division in Brazil we have the heavy and in Itauna
18 it is light.

19 COMMISSIONER PINKERT: Well, if you could make
20 that distinction for the post-hearing, I think that would be
21 helpful.

22 MR. BERER: Just for the record. When Gustavo
23 is talking about the products, he's not necessarily talking
24 about subject versus nonsubject, so I just wanted to make
25 that clear. The list of heavy and light that we know of,

1 and our client ABIFA is a producer. That's the total number
2 of producers. We'll provide in the post-hearing brief the
3 number segregated between the producers of heavy and the
4 producers of light and possibly that some of them produce
5 both. But when Gustavo is talking about the numbers of -- I
6 mean we have a number of others that produce light, but
7 these are not subject. They're not for the municipal
8 castings. They're not for the infrastructure segment of the
9 market.

10 MR. SIQUEIRA: And what's more important is in
11 Brazil that produce kind of another and the not too many
12 small castings and other kind of product. Very, very small
13 companies.

14 COMMISSIONER PINKERT: Thank you.

15 CHAIRMAN WILLIAMSON: Thank you. Since it's
16 after 3:00, I'll say if the Commissioners have additional
17 questions for these witness, maybe we can get them
18 post-hearing. Does staff have any questions for these --

19 MS. HAINES: Staff has no questions.

20 CHAIRMAN WILLIAMSON: And do petitioners have
21 any questions? Mr. Rosenthal?

22 MR. ROSENTHAL: We do have one quick question.
23 Thank you. Mr. Cox, quick follow up on your exchange with
24 the Commissioner Schmidtlein. Is it correct then, if you
25 are unsuccessful in your efforts to convince a purchasing

1 manager to buy your product, if they don't buy your product,
2 they'll buy a product made by domestic producer instead?
3 It's basically either your product or the domestic
4 producers, so if they don't pick yours, they'll buy a
5 domestic, is that correct?

6 MR. COX: If they don't buy my product, they
7 would buy either a domestic product or an imported product
8 from most likely India that has the same size,
9 specifications, weight, logo, lettering, you name it.

10 MR. ROSENTHAL: Thank you very much.

11 CHAIRMAN WILLIAMSON: Mr. Cox, Mr. Siqueira, I
12 want to thank you very much for traveling so far and for
13 giving your testimony. And we will let you leave. And I
14 guess we will go back to Commissioner Broadbent for her
15 questions for Mr. Berer. Okay. Commissioner Kieff?

16 COMMISSIONER KIEFF: No, I just invite in the
17 post-hearing any help you can give to the questions that I
18 was asking your counterparts in the morning, so that you
19 have the same opportunity and of course, if you want to use
20 a minute or two now to either ask for clarification or to
21 start, that's fine, but I don't mean to put you on the spot.
22 I mean to give you the opportunity, not the obligation.

23 MR. BERER: Absolutely. We'll take care of it,
24 then we'll provide as much information as we can gather in
25 the post-hearing brief.

1 COMMISSIONER KIEFF: That's great. Thank you
2 very much. I have no further questions.

3 CHAIRMAN WILLIAMSON: I must confess. Mr. Berer
4 did you want to make a statement before? Everything got
5 jumbled up, I'm confused.

6 MR. BERER: Yeah, and I apologize for that. We
7 miscalculated. They had their flights and they had to go
8 earlier than we -- but I have a few points that I wanted to
9 come across. I was saving them for the final statement
10 right after Mr. Rosenthal. If you have any questions, we
11 will be happy to address those. I couldn't make some of
12 those comments right now if you would prefer, so that you
13 have an opportunity to ask more questions if that's your
14 point. But I'm open to either --

15 CHAIRMAN WILLIAMSON: I think that would be
16 helpful.

17 MR. BERER: These are just a few comments that I
18 made as I was listening to the petitioners and the U.S.
19 industry this morning.

20 MR. BERER: We have provided questionnaire
21 responses by Saint-Gobain only and think I touched on this
22 point already, the others have no interest in this
23 proceeding. We are talking about small, unsophisticated.
24 The owners don't speak any English and they have not shipped
25 to the U.S. That's a very important point. They have no

1 interest. When we spoke to Staff and we made every effort
2 to have them provide questionnaire response.

3 The first question that was asked to me was "can
4 you translate the questionnaire to Portuguese?" And I'm
5 like "well, we don't have enough time and we're talking
6 about a thirty page document. How about you provide your
7 information to ABIFA the best possible way that you can and
8 ABIFA will provide that information to the ITC". So that's
9 essentially what we ended up doing and that was through a
10 sworn affidavit so we were talking this morning about
11 whether the Petitioners refute that information.

12 I don't know how you can refute a sworn
13 affidavit. Maybe because it's coming from Brazil people
14 have the idea that the Brazilians are not worthy of your
15 trust. I'm a Brazilian here so I would say otherwise but I
16 would understand that unless you have any other indication
17 that that information is not truthful that's the best
18 information I've provided. I have my attorney certification
19 as well as in the prehearing brief so I think that was a
20 very good question this morning as well.

21 Let me comment on the PowerPoint presentation
22 because I found it quite interesting that many of the slides
23 if you go through them they are presented as if we are still
24 living in the eighties, we're talking about 1982 data, 1983
25 data, 1984 data and this question was asked this morning as

1 well. Our contention here is that the preorder data in this
2 investigation is totally irrelevant. We're talking about an
3 industry in Brazil that is gone.

4 Just to put that into context, back then in
5 Brazil the country was ruled by a military regime. We
6 didn't have free elections. It just, I mean how can you
7 compare the data and some of the absurd percentages of
8 growth between '81, '82. Who cares? I mean this is a
9 different world. To put that in context we are talking
10 about the time when Reagan was the President here. The
11 reality today bares absolutely no resemblance and I wanted
12 to make that point very clear because we are talking about,
13 I mean is a trade remedy supposed to be temporary or we can
14 be perpetual.

15 I mean, unlike Mr. Rosenthal I didn't have an
16 opportunity to meet with the founding fathers of the WTO but
17 I have read their books and the minutes of the meetings when
18 I was a fellow of the lay professor Jackson at Georgetown.
19 I was, and this is a little off but the, and by the way by
20 reading the books and by reading the transcripts that we
21 still have at Georgetown from the GAT, we know that that was
22 not the intent.

23 I mean, it's potentially possible, it is. We are
24 looking at it right now. It's been in place for 30 years.
25 It's absurd. Was that the desire of those who were crafting

1 the antidumping agreement? Absolutely not and we have
2 evidence of that. It's possible; yes we are witnessing this
3 right now. I mean, but for the first time the Brazilians
4 are showing up and asking for an opportunity for this to be
5 considered so I would just like you to be fair.

6 We have, let me touch upon a few other points
7 that I was going to touch upon in my closing remarks. On
8 Slide 17 of today's presentation, and I think I touched on
9 that already, opposing counsel points to other Brazilian
10 companies that may have shipped subject merchandise during
11 the POR. We will look into that and address this is in the
12 post-hearing brief but I suspect and I think that was a
13 footnote provided in the affidavit provided by ABIFA last
14 week, that some of these shipments were residual inventory.

15 We know for a fact that the company Fudomine, is
16 no longer producing and if they have shipped - I have three
17 possibilities. One is residual inventory, the other is the
18 resale of third party material and what you may see in the
19 other categories is some very small batch of made-to-order
20 shipments so we will look into that and provide as much
21 information as I said as we can. Sometimes it's very hard
22 to track that information but other than the information
23 that we have on the imports that's --

24 (Someone else talking)

25 MR. BERER: And some of it may be misclassified

1 products and we're talking about non-subject products
2 erroneously classified in the same HTS number.

3 We talked today about the survival bias and
4 consolidation, I think that was a very good question as
5 well. The fact of the matter is that all that happened
6 during the life of the orders and this is just further
7 demonstrates that the condition of the U.S. Industry has no
8 connection with the Subject Imports during that period,
9 especially those from Brazil.

10 I mean if you take a cursory view of the imports'
11 states, it shows that the Brazilian imports are miniscule.
12 They have the burden to provide to you and to show to you
13 that if there is any indication that will change in the
14 foreseeable future if you revoke the orders. I think that
15 burden was not met. I have not seen any indication other
16 than the presumption that the information we are providing
17 you is not correct or not accurate or not complete that
18 this information cannot be relied upon.

19 I think the import stats in this case speaks
20 volumes, I mean, it's exactly the opposite. There are no
21 volumes there. You look at the figures it's just, Brazil
22 was invisible. You look at the black and white copy of the
23 Staff Report and you can almost not see Brazil. It's like
24 nothing. It's invisible. There is a reason for that and
25 you look at the volumes. There is nothing there.

1 The reason for that I think they were trying to
2 make that point is we have the largest producer who simply
3 produces something different. Is it still subject
4 merchandise? Yes it is. We admit it's not outside the
5 scope of investigation but it's not your plain vanilla iron
6 construction casting that you see that dominates the market
7 and then you have a number of other small players who are
8 not interested in the U.S. Market, have not exported to the
9 U.S. Market in years and there is absolutely no indication
10 that they even know that this is happening and the day after
11 you invoke the order they will not be reading the Federal
12 Register to say "huh, now I will export to the U.S." It's
13 just not going to happen.

14 I think I took much of your time. If you have
15 any other questions I would be more than happy to entertain.

16 CHAIRMAN WILLIAMSON: Thank you. Commissioner
17 Broadbent do you have any -- Commissioner Keiff?

18 COMMISSIONER SCHMIDTLEIN: I do.

19 CHAIRMAN WILLIAMSON: Good, fine. Go ahead.

20 COMMISSIONER SCHMIDTLEIN: Thank you Mr. Berer
21 for being here. So one question I wanted to try to get some
22 clarification on is if you look in the Staff Report at Page
23 IV -- 26 and this is un-bracketed and it's got a typo. The
24 source of this information is Official Import Statistics.
25 So there in 2000 -- and let's just look in 2015, you can see

1 the quantity of Brazil exports to the United States and if
2 you compare that number to the number reported on the
3 questionnaires which we know was reported to one company for
4 2015, you can see it's larger.

5 So obviously somebody else is exporting scope
6 product to the United States. Do you know because I feel
7 like I'm hearing different things here? I want to -- like
8 this is the only company who exports, they have a specialty
9 product, but then when I look at the numbers there's
10 obviously somebody else exporting because they filled out
11 the questionnaire but the official imports statistic say
12 otherwise. So can you explain or reconcile that for me?

13 MR. BERER: We believe that the second largest
14 importer or maybe the third largest has exported back in
15 2015. We have to look into that. We don't have the
16 specific information on a per company basis. We were
17 looking at the export stats issued by the Brazilian
18 Government and we saw that there was a little discrepancy.

19 COMMISSIONER SCHMIDTLEIN: That's not a little
20 discrepancy. I mean that's as much as a Saint-Gobain.

21 MR. BERER: Yes, just another --

22 COMMISSIONER SCHMIDTLEIN: Exports to the U.S.

23 MR. BERER: Right, just another minute. Yes, I
24 see your point.

25 COMMISSIONER SCHMIDTLEIN: Okay.

1 MR. BERER: There is someone else in the market
2 who has exported. We don't know for a fact who they are.

3 COMMISSIONER SCHMIDTLEIN: You don't know who
4 they are?

5 MR. BERER: No. We suspect that some of it may
6 be other products outside the scope of investigation which
7 are falling into the same HTS category by mistake.

8 COMMISSIONER SCHMIDTLEIN: What kind of product
9 would that be?

10 MR. BERER: Other type of casting. We know for
11 sure that one company for instance is exporting castings for
12 agricultural construction companies, agricultural tractors
13 like excavators, etc. So that product may fall into the
14 same HTS categories. We're still talking about
15 percentage-wise it may be relevant, volume-wise it's still
16 very, very, much small.

17 COMMISSIONER SCHMIDTLEIN: Well, they're under
18 order, right?

19 MR. BERER: Yes.

20 COMMISSIONER SCHMIDTLEIN: Okay, thank you. If
21 you could look into that, that would be helpful.

22 MR. BERER: We will.

23 COMMISSIONER SCHMIDTLEIN: So I guess the
24 affidavit you're talking about is the one that was submitted
25 last week on October 14th --

1 MR. BERER: That's correct.

2 COMMISSIONER SCHMIDTLEIN: In connection with the
3 capacity and I guess, and you know I haven't added it up at
4 those numbers. Do they square with page 4 of your exhibit
5 1?

6 MR. BERER: Yes, they do. I think what the Staff
7 really wanted to see is exhibit 1 page 4 of the prehearing
8 brief provided the general numbers, total numbers for the
9 whole Brazilian Industry. They wanted to see on a per
10 company basis which was provided in this affidavit last
11 week.

12 COMMISSIONER SCHMIDTLEIN: Okay, now in terms of
13 the export numbers in this and I should point out that
14 Exhibit 1 was not submitted with any affidavit.

15 MR. BERER: No. That's correct. I was talking
16 about last week's affidavit.

17 COMMISSIONER SCHMIDTLEIN: Right. So we have it
18 for essentially page 4 but the rest of the exhibit is note
19 under oath?

20 MR. BERER: Right, that's correct.

21 COMMISSIONER SCHMIDTLEIN: Okay. So where did
22 you get the information for page 6?

23 MR. BERER: You mean page 6 of exhibit 1?

24 COMMISSIONER SCHMIDTLEIN: Exhibit 1. Yes. Is
25 this a survey that the association did of its members or --

1 MR. BERER: Yes, this is based on information
2 that ABIFA has so it's a combination of both information
3 that is reported by the members and the import and export
4 statistics available. Anna is just telling me that this
5 information is available on the public system, the export
6 stat system in Brazil. That's all.

7 COMMISSIONER SCHMIDTLEIN: Okay. Could you
8 compile that? That sort of backup information and put that
9 on the record?

10 MR. BERER: Yes, we will do that in the
11 post-hearing.

 COMMISSIONER SCHMIDTLEIN: Okay.
12 Alright, I don't think I have any more questions for the
13 moment. I don't have any more questions at the moment.
14 Thank you very much.

15 CHAIRMAN WILLIAMSON: Mr. Berer, was Saint-Gobain
16 a major exporter back in the original case, do you know? Or
17 the other companies?

18 MR. BERER: They acquired one of the original
19 targets of the investigation. The name of that company was
20 Altabera. So they were not exactly investigated them but
21 they were acquired one of the --

22 CHAIRMAN WILLIAMSON: It was Altabera? I assume
23 it was a standard -- it wasn't doing a specialty type
24 product at that time.

25 MR. BERER: To be honest I don't have that

1 information but I assume you're right. I assume there was
2 no distinction then.

3 CHAIRMAN WILLIAMSON: The exports were sizable
4 then, weren't they?

5 MR. BERER: They were.

6 CHAIRMAN WILLIAMSON: You're right about the
7 currency, it was a financial crisis, this would be a trade.
8 Not necessarily the same crisis we have now but since the
9 heavy bid on the gas I realize that Brazil was globally
10 competitive then and it has been globally competitive.

11 MR. BERER: Right.

12 CHAIRMAN WILLIAMSON: So that does raise the question really
13 about the capability. If the capacity is there and you have
14 industries that know how to trade, isn't there the potential
15 to export?

16 MR. BERER: I think you would need the
17 combination of a number of different conditions for the
18 Brazilian industry of iron construction casting specifically
19 to be able to go back to those numbers. First the currency
20 would have to be at the level that again makes the Brazilian
21 product competitive. We don't have that anymore. I think
22 that's the number one.

23 The subsidies that exist of them, they're gone
24 those programs and I think we addressed them in the
25 pre-hearing brief. They're gone. We now have a 1 percent

1 CBD rate mainly because no one has taken the time to show up
2 and tell them that that thing was gone. You have an
3 industry that is no longer export-oriented and the Brazilian
4 economy has grown so much in the past ten years that
5 especially water treatment and sewage in small places and
6 different regions, especially in the northern region of
7 Brazil, the demand is so high these days that there is
8 absolutely no incentive for them to essentially go back to
9 being an exporter into the industry.

10 So I see your point, but in reality you would
11 need to change so many different conditions that simply
12 don't exist today to go back to that reality in the 80's.
13 On top of everything I think the same trend you saw in the
14 West that was thirty-year period of time, it happened in
15 Brazil as well. We're talking about a shrinking industry.
16 When they compare India and China to Brazil, Brazil is very
17 similar to the West. You had a lot of consolidation, you
18 have very few players, the products are getting more and
19 more expensive.

20 When you talk about, for instance Saint-Gobain,
21 this is a multinational company. They have quality
22 standards. They have several ISO certifications. They meet
23 the same standards that their French parent company meets so
24 they're not able to produce and we're talking about the
25 barefoot people in India, that has no resemblance. You

1 cannot compare that to Saint-Gobain for instance. So I see
2 your point but I see when we're talking about the statutory
3 language here, is it likely? My answer is no. It's not.
4 It's not likely that we will see again the same conditions
5 that were seen back in the 80's in the foreseeable future.

6 It may happen down the road in twenty years, who
7 knows? I mean we were talking about the Brazilian
8 President being impeached and so Brazil is Brazil as you
9 know very well.

10 CHAIRMAN WILLIAMSON: Chango Neves days before he
11 passed --

12 MR. BERER: So things can change but is it
13 likely? Do we have any indication that the conditions that
14 the 80's will come back? No. Much to the contrary,
15 everything points to the opposite direction.

16 CHAIRMAN WILLIAMSON: Although I would, maybe in
17 the post-hearing address, you know the numbers we look at
18 Table 4-11 I guess with the heavy casting I think it's
19 comparable number about the percentage of production, the
20 percentage that is exported, the percentage that is compared
21 at home would make it -- you know you haven't totally lost
22 export orientation. You may want to address that
23 post-hearing.

24 MR. BERER: We will do that.

25 CHAIRMAN WILLIAMSON: Okay. Let's see. I was

1 just checking to see if I have, I may come back but here's
2 Vice Chairman Johanson.

3 VICE CHAIRMAN JOHANSON: Thank you, Chairman
4 Williamson. In other cases before the Commission that we
5 have handled involving imports from Brazil and this was a
6 little while back but for years leading up to the 2014 World
7 Cup and the 2016 Olympics, we were told that home market
8 demand was strong in Brazil. Can you comment on how these
9 events contributed to demand for your products in Brazil and
10 now that these events are over how demand for your products
11 might have changed.

12 MR. BERER: Filipe Berer for the record. I was
13 actually just speaking with Mr. Sequiera about this point
14 because they were telling me the Olympic Committee and we
15 had the Olympic Games in Rio this summer, this past summer,
16 they were saying the Olympic Committee has demanded that
17 they have the high, superior quality castings for the
18 Olympic arenas and everything. So there was specific demand
19 but you are talking about an area that it doesn't make much
20 of a difference when you talk about the whole market. You
21 are talking about one event that happens throughout like
22 three months. It's just one job, just another job, but they
23 won a bid to supply the Olympic Committees with all the iron
24 construction castings when I say they I'm talking about
25 Saint-Gobain.

1 At the World Cup back in 2014 we are essentially
2 talking about I don't know how many stations were built but
3 it's not really relevant in terms of numbers. Maybe for a
4 different product it was relevant. If you're talking about
5 the construction of the stadiums and the construction of the
6 facilities but for the supply of iron construction castings
7 I would say it was not relevant but even though they won the
8 bid to provide the castings to the Olympic Arenas.

9 VICE CHAIRMAN JOHANSON: Thank you, Mr. Berer.
10 Yes that is something we heard quite a bit on back a few
11 years ago but I guess not anymore. Now let me get back to
12 the whole issue of export orientation. On both pages 2 and
13 11 you all state that the Brazilian Industry is not export
14 oriented. Perhaps when the Brazilian economy was growing at
15 a healthy pace there was less need for export markets, but
16 what about recently? Haven't pressures to increase, to
17 export, have they not increased?

18 MR. BERER: When you look at, and I'm going back
19 to Mr. Williamson's questions just to touch upon a little
20 bit I think you're asking pretty much the same with the
21 numbers showing an industry that looks like it's
22 export-oriented but we're saying it's not. If you look at
23 Saint-Gobain and I'm trying to be very careful here because
24 we are talking about APL numbers, you may draw one
25 conclusion.

1 When you look at the total industry and for that
2 you need to look at the affidavit and you need to look at
3 Exhibit 1 of the pre-hearing brief, when you look at the
4 whole industry, the number is different. So some of the
5 information that was relied upon in the staff report was
6 specific to that one company Saint-Gobain that answered the
7 questionnaire but if you look in general, the whole
8 industry is definitely not export oriented. I think that's
9 our point.

10 VICE CHAIRMAN JOHANSON: But once again, getting
11 back to the states of the Brazilian economy, I know you all
12 have talked about different water projects, Brazil trying to
13 focus more on developing sewage lines, etc., but if the
14 economy has contracted pretty significantly would it not
15 make sense to send your product to the United States whose
16 market is relatively doing better?

17 MR. BERER: In theory I think you could say that
18 in reality what Saint-Gobain tells us is that the demand for
19 this kind of product in the municipalities continues to
20 grow. What you have seen is the economy in Brazil is really
21 in bad shape. Last year a contraction of 3.5% -- this year
22 the forecast is that it will contract again by another 3.5%
23 or something like that.

24 But you see in the questionnaire responses from
25 Saint-Gobain that the impact specifically. What we are

1 seeing right now in the Brazilian economy is that it is
2 starting to bounce back and the effects of the crisis are
3 diminishing so some of the projects and the jobs of the
4 municipalities and the bids -- most of the materials that
5 are sold domestically in Brazil are through annual bids.

6 So you have the state company of one particular
7 state they issue a bidding process and they have the
8 companies bid for that job and these are very big sizable
9 projects. When you win a few of them it essentially makes
10 your year for a company like Saint-Gobain. So when those
11 bidding processes were suspended because essentially the
12 whole country was on a stand-still mode waiting to see if
13 the President was going to be impeached or not -- it
14 affected the numbers of everybody that was across the board.

15 What we are seeing right now is the numbers are
16 bouncing back, the investments are coming back and this will
17 -- if you look at the second half of 2016 essentially the
18 economy stopped going down and it is time -- it is starting
19 to lift.

20 So annually speaking from the June 2016 to June
21 2017 you will actually see the GDP growing again, that's
22 what the economists are saying. So going back to your
23 question that has not had the big impact on the demand for
24 this product in Brazil -- I think that's my point.

25 VICE CHAIRMAN JOHANSON: Alright and if the

1 economy rebounds you stated in your opening statement that
2 Brazilian foundries have laid-off a large number of workers.
3 If the economy rebounds can't they hire them back and ramp
4 up production which could thus be directly to the U.S.
5 market?

6 MR. BERER: I mean they can certainly do that and
7 they can go back to the 2013 numbers but if you look at the
8 2013 numbers they were -- the parts were still negligible
9 when Brazil was still a small market compared to the other
10 markets like India, China or the U.S. -- so yes I mean this
11 will eventually happen as the recovery takes place, slowly
12 the companies will start to re-hire some of those employees
13 that were laid-off and the production levels will tend to go
14 back to the pre-crisis levels.

15 But still we are talking about the very small
16 number of companies with a very small capacity and not in
17 general oriented towards exportation.

18 VICE CHAIRMAN JOHANSON: Okay. The domestic
19 industry at page 48 of their pre-hearing brief points to a
20 presentation of the Brazilian Foundry Association, BFA where
21 it states that there are 521 companies involved in iron
22 casting, 95% of which are small or medium size enterprises.
23 I know that you have stated there are a large number of
24 smaller producers in Brazil who for example don't know about
25 the U.S. market -- are not familiar with the English

1 language -- but do you know what percentage of small
2 producers in Brazil have the potential to export to the
3 U.S.?

4 MR. BERER: I would say at this point zero. I
5 mean we -- even the BFA information is the most accurate
6 information that we can provide. They speak with every
7 single owner of every single foundry that is a member and
8 they have hundreds of members -- foundries and it pretty
9 much -- I mean we are trying to guess what is going to
10 happen in the future.

11 My contention is that we don't have any
12 indication that these companies will export the subject
13 merchandise. When you are talking about companies that have
14 not done so in the past 30 years -- it is just not going to
15 happen. And when you look at the BFA information -- I think
16 I said that before, that was provided by the Petitioners it
17 is very misleading because we are talking about you are
18 comparing apples or oranges.

19 You are talking about foundries in general
20 against iron construction castings and the first one is
21 much, much larger than the second one and I think
22 Saint-Gobain spoke today about the difficulties of product
23 shifting. So I mean I think it is very hard when the
24 Petitioners say, "Well that company that today produces pans
25 and pots tomorrow they will start producing iron

1 construction castings", they will get that qualified, they
2 will hire people, they will increase their capacity.

3 They will increase their production and all of a
4 sudden they will start shipping to the U.S. I don't see any
5 evidence of that this is purely -- I mean as he said very
6 well-done science fiction. I don't see how that can have
7 any basis to reality.

8 VICE CHAIRMAN JOHANSON: Alright thank you for
9 your responses my time is about to expire so I will stop
10 there.

11 CHAIRMAN WILLIAMSON: Okay Commissioner Pinkert,
12 excuse me.

13 COMMISSIONER PINKERT: Thank you. I have a few
14 questions for you about industry consolidation in Brazil.
15 You mentioned it in your testimony and my first question is
16 -- as the industry consolidates wouldn't we expect that
17 there would be more excess capacity going forward than there
18 is today in Brazil?

19 MR. BERER: I think we had two things happening
20 at the same time. One you are right the industry
21 consolidated and that was substantial. You just need to
22 look at the number of producers that existed back in the
23 '80's compared to the number of producers that we know of
24 and that exist today. I mean it is a big difference.

25 But you have to take into account as well that

1 most of these foundries in Brazil have shifted their focus
2 to the automotive sector so they no longer produce iron
3 construction casting. So if you have both things happening
4 at the same time you may have an industry that in theory has
5 more capacity than it is used to have back in the '80's.

6 But if 80% of it goes to the automotive sector
7 then the capacity for the production of subject merchandise
8 went down. So you are comparing the total capacity of the
9 foundry industry in Brazil against the total capacity of the
10 iron construction casting industry in Brazil and the trends
11 were in the opposite direction in the past 30 years.

12 COMMISSIONER PINKERT: Thank you and now how easy
13 is it to switch from casting a part that goes into the
14 automotive sector versus casting a construction-type
15 casting?

16 MR. BERER: There's a bigger question here. I'll
17 answer your question but there is a bigger question here and
18 I was talking to my clients about this as well. The biggest
19 incentive for them to shift and that's exactly what happened
20 in the past several years is those castings and those
21 products to the automotive sector are much more expensive
22 than iron construction castings when you are talking about
23 grade higher.

24 So what they did was okay today I produce 2,000
25 units of iron construction castings. If I can make the same

1 revenue by producing 200 units of these other castings and I
2 use the same -- I have to make small little adjustments to
3 the equipment or use the same equipment why not -- right?

4 So essentially when you talk to these people --
5 and we called last week when we were trying to get a
6 questionnaire from one of the companies and through BFA, BFA
7 called them -- the Executive Director of BFA called them.
8 He said, "Look 80% of what I do goes to the automotive
9 sector I have absolutely no interest in this investigation,
10 I'm sorry. Here are my numbers if you want to report that's
11 fine. I am not going to take the time to answer a
12 questionnaire."

13 So I think the bigger question here is why do
14 they produce these other products? It's a price incentive
15 -- and the prices are very different. We can provide in the
16 post-hearing brief some information about that. How much
17 casting for the automotive sector costs -- is priced at and
18 how much an iron construction casting when you talk about
19 the vanilla-type is priced at and you see the difference.

20 They have absolutely no incentive. Based on the
21 testimony of Saint-Gobain I mean as far as I know in terms
22 of the technical information and the molding machines et
23 cetera, it says that the biggest problem is both molten,
24 depending upon what kind of molten your furnace is
25 calibrated to receive.

1 And the second is the dimension of the machine.
2 These iron construction castings are pretty large and wide
3 so if you have a smaller one that is designed to produce
4 smaller castings for the automotive sector or for any other
5 end use it is practically impossible, that machine will
6 simply not do the job. You don't have the right dimensions
7 so that is the number one obstacle to product shifting and
8 we know based on the testimony of Mr. Cicada that
9 Saint-Gobain simply can't do it.

10 They have one machine that they can use to
11 produce the subject merchandise and the other machines --
12 first they have no incentive to shift from products that
13 make -- generate more revenue than iron construction
14 castings.

15 Second -- technically speaking, those machines
16 simply don't have the capability to produce iron
17 construction castings, depending on the dimension and the
18 other specifications.

19 COMMISSIONER PINKERT: If you could clarify that
20 in the post-hearing. It seems to me that there are elements
21 of these machines that are adjustable and that you can
22 produce different size castings on a particular machine so
23 if you can clarify exactly why it would be impossible to
24 move from shipping or producing for the automotive sector to
25 producing subject merchandise I think that would be helpful.

1 MR. BERER: We will do that.

2 COMMISSIONER PINKERT: Thank you. Now finally I
3 want to ask you a question or two about your point that you
4 feel the Petitioners are relying very much on pre-order
5 behavior as an indicator of what would happen if the orders
6 were revoked today. And you point out that this -- the
7 world was different back in the pre-order period and I think
8 we can accept that for the purposes of the discussion.

9 But the problem that the Petitioners have it
10 seems to me, is that they want to show what would happen if
11 the orders were revoked. And you keep pointing out that
12 under the discipline of the orders the Brazilian imports are
13 small in an absolute sense. So how do you move from what's
14 happening under the discipline of the orders to what would
15 happen if the orders were revoked?

16 Now there are certainly issues of incentive we
17 can talk about and I think the Petitioners have done that.
18 But they also relied on pre-order behavior to try to tease
19 out what would happen. What's wrong with that in your view?

20 MR. BERER: I think we simply cannot rely on
21 pre-order -- on information back in the '80's simply because
22 and I think the number one issue here is can you compare the
23 conditions of competition that were prevalent at the time
24 with the conditions of competition that are prevalent today?

25 Absolutely not -- the industry in Brazil is

1 totally different. The industry in the west is a different
2 industry as well. The products are different as Mr. Cox has
3 explained. We have a different product that didn't exist at
4 the time. The superior high-end product and maybe that's
5 only one company but again we are talking about the leading
6 exporter -- the only company that is really interested and
7 came here today from Brazil.

8 So I just think in general and I think it is
9 common sense. You are not going to find that in the statute
10 that -- okay 10 years back yes you can go back and look at
11 the behavior, 20 years maybe not -- 30 years hell no. I
12 mean I just think it is common sense. You look at how the
13 industry looked like then and the conditions of competition
14 and all the factors that you typically look at and it is
15 just not a fair comparison.

16 I mean who cares that the imports increased from
17 1983 to 1984? It bears no resemblance to what the industry
18 looks like today. I just think it is not fair. I just think
19 it is illogical to go in that direction and I think it goes
20 back to one of the first things that I have been hammering
21 on which is this is not supposed to happen. We are dealing
22 with a 30 year old anti-dumping order and we are asking this
23 question because this is something that it is not supposed
24 to happen and so now we are looking at an order that has
25 been in place for so long that everything that you have on

1 record is not an indication of whether the injury will be
2 likely to recur or continue.

3 I think that's our point. So what can we look at
4 and I think that's one of your questions. I think we have
5 to look at the behavior right now. I think we have to look
6 at prices. I think we have to look at the number of players
7 and I think we have to look at what is presented on record
8 in this investigation.

9 And if you want to look at what happened back in
10 the '80's I think that's totally relevant to this
11 investigation. It is just too old of information.

12 COMMISSIONER PINKERT: Okay but you would accept
13 that the behavior under the discipline under the orders is
14 not necessarily indicative of what would happen if the
15 orders were revoked?

16 MR. BERER: In a normal scenario I would say yes
17 I would agree. In this scenario I think the discipline of
18 the order had very little effect on what's happening right
19 now, right now. Take a snap shot of what is happening right
20 now. I don't think what Saint-Gobain is doing or the others
21 are doing -- and if you look at the pricing data I don't
22 think it's based on the discipline of the order.

23 COMMISSIONER PINKERT: Okay well if you want to
24 say more about why the orders are not having any effect for
25 purposes of the post-hearing that's one. But one more

1 follow-up on this -- you would accept that whatever
2 incentives there are to change behavior if the orders are
3 revoked would be relevant to our consideration?

4 MR. BERER: Absolutely.

5 COMMISSIONER PINKERT: Okay.

6 MR. BERER: And I see incentives both ways, they
7 see incentives for the export. Of course they see
8 incentives for shipments to increase. We see incentives for
9 shipments to remain steady or not increase so we can talk
10 about those, and how you weight those comparing one side to
11 the other of course that's the Commission's job but I think
12 we have a very unique case here.

13 COMMISSIONER PINKERT: Thank you I'm not saying
14 it's easy. I'm just trying to get at the -- what the
15 analytical structure would have to be.

16 MR. BERER: Right.

17 COMMISSIONER PINKERT: Thank you.

18 MR. BERER: Thank you.

19 CHAIRMAN WILLIAMSON: Commissioner Johanson? I'm
20 sorry, I keep doing that don't I -- Commissioner
21 Schmidtlein?

22 COMMISSIONER SCHMIDTLEIN: Okay thank you. I
23 just have a couple questions and forgive me if this has
24 already been asked and answered or if it was obvious from
25 the staff report. But was Saint-Gobain exporting to the

1 United States in the original case?

2 MR. BERER: They acquired one of the companies
3 that were investigated back then, the name was Aldebera.
4 This is the name of the company that was investigated then.
5 It is in the staff report that name.

6 COMMISSIONER SCHMIDTLEIN: Okay.

7 MR. BERER: Back in the '80's. That one company
8 at some point in time was acquired by Saint-Gobain.

9 COMMISSIONER SCHMIDTLEIN: Okay and so since that
10 time have they been consistently exporting to the U.S.?

11 MR. BERER: We have data for the last few years.
12 I don't know -- I wouldn't be able to answer that question
13 for the past 30 years since the original investigation but
14 as far as I know for the past several years yes they have
15 been exporting to the U.S.

16 COMMISSIONER SCHMIDTLEIN: Yeah I can see that in
17 the staff report. Yeah, I meant before that but you don't
18 know.

19 MR. BERER: No I don't know how far back that
20 goes.

21 COMMISSIONER SCHMIDTLEIN: Okay and then my other
22 question is can you respond -- I guess you could do it in
23 the post-hearing if you want it's bracketed but Saint-Gobain
24 made an adjustment to its -- in calculating it's 2015
25 capacity.

1 MR. BERER: Right.

2 COMMISSIONER SCHMIDTLEIN: And so I don't know if
3 you could respond to it now, you want to respond to it in
4 the post-hearing but the Petitioners say -- you know this is
5 incorrect. And it does seem a bit strange to me that they
6 adjusted their capacity in this way and if it is -- if
7 that's not the way to calculate it then it would definitely
8 change their capacity utilization numbers.

9 MR. BERER: I believe the questionnaire was -- I
10 mean I think staff had a few questions about the
11 questionnaire that was originally produced and they revised
12 that questionnaire and provided different data. We will
13 look into that to be more specific. I don't remember
14 specifically what was wrong.

15 COMMISSIONER SCHMIDTLEIN: Okay alright. And it
16 is page 12 of the Petitioner's brief where this argument is
17 made so. And with that I don't have any other questions
18 thank you very much.

19 MR. BERER: Thank you.

20 CHAIRMAN WILLIAMSON: Commissioner Johanson?

21 VICE CHAIRMAN JOHANSON: Thank you Chairman
22 Williamson. On page 50 the domestic industry's pre-hearing
23 brief they state that the broader foundry sector in Brazil
24 is slated to continue growing in 2018. Would those growth
25 figures apply to your specific segment of the foundry

1 industry in Brazil?

2 MR. BERER: We don't have that information
3 available. I don't think we provided the projections for
4 the future for specific to the iron construction segment.
5 We can provide that in the post-hearing. I don't have that
6 information available.

7 One point that I make is that the foundry
8 industry doesn't reflect necessarily the larger foundry
9 industry doesn't necessarily reflect the smaller, much
10 smaller iron construction castings industry so we will
11 provide that information in the post-hearing brief.

12 VICE CHAIRMAN JOHANSON: Okay thank you I look
13 forward to seeing that. And my apology this has been asked
14 before -- I know we have been here a long time. We have
15 been going back and forth but what is your response to the
16 domestic industry's statement at page 11 of its pre-hearing
17 brief that Saint-Gobain is not representative of the
18 Brazilian industry as a whole?

19 MR. BERER: I would say it is. It's one of those
20 unfortunate comments that want to disqualify a company that
21 has responded to a questionnaire as the leading producer and
22 exporter in Brazil and sent their highest ranking director
23 to be here today. I don't know how you could possibly
24 disqualify that company has an unimportant member of the
25 Brazilian industry.

1 VICE CHAIRMAN JOHANSON: Okay thank you Mr.
2 Berer. I have just one more question. I don't know how
3 relevant it is to our outcome but I am just wondering. Is
4 Brazilian product entering -- I'm sorry is India product
5 entering the Brazilian market?

6 MR. BERER: Yes it is. We have information that
7 there is some penetration of Indian product in the Brazilian
8 market yes, both Indian and Chinese product. Mostly Indian
9 I think exactly -- I don't know we haven't looked at the
10 import stats in Brazil specifically but I think it pretty
11 much reflects what we see in the import stats. India is
12 pretty important in terms of total imports into Brazil.

13 VICE CHAIRMAN JOHANSON: Because we see a lot of
14 it here and I just read here today -- but just from my
15 walking around town looking at manhole covers the past few
16 weeks there's quite a bit and not just here. I have been to
17 some other states as well recently and it seems to be all
18 over the place.

19 And I guess that is somewhat relevant to what's
20 going on here because if I could see potentially Indian
21 product displacing Brazilian product in Brazil -- I don't
22 know. I'm just getting back to this whole issue what I see
23 when I walk down the road. Anyway that concludes my
24 questions I appreciate you all being here today thank you.

25 CHAIRMAN WILLIAMSON: Do Commissioners have any

1 more questions for this panel? Does staff have any
2 questions for the panel?

3 MS. HAINES: Elizabeth Haines, staff has no
4 questions.

5 CHAIRMAN WILLIAMSON: Do Respondents have any
6 questions for the panel?

7 MR. ROSENTHAN: Petitioners have no questions.

8 CHAIRMAN WILLIAMSON: Okay thank you. Well I
9 want to thank you very much for your testimony. It is now
10 time for closing statements and those in support of the
11 continuation of orders have 11 minutes from direct and 5
12 minutes for closing for a total of -- actually it is 15
13 minutes because we used one minute for questions so a total
14 of 15 minutes.

15 And those in opposition have 31 minutes from
16 direct, 5 from closing for a total of 36 minutes and of
17 course we will combine those times and of course you don't
18 have to use all of your time. So thank you and again we
19 will have closing statements.

20 CLOSING REMARKS OF PAUL C. ROSENTHAL

21 MR. ROSENTHAL: I'm happy to have them give their
22 closing statements first.

23 Thank you. In the few minutes I have remaining I
24 guess I will start with one attempt at levity since it's
25 been a long day already. But I notice once again that the

1 Brazilian witness referred to our assertions as being
2 science fiction and I harken back to Commissioner Kieff's
3 observations about Vulcan Foundry and Hans San Solo back
4 there and it makes me think of the Rodney Dangerfield line
5 about how he decided when he dies he is going to donate his
6 body to science fiction.

7 Commissioner Johanson welcome to my world of
8 walking around and looking down. I have spent the last 30
9 years roaming the world looking down. I have no idea of
10 what's up in the sky and all I did is look at manhole
11 covers. But I want to make a couple of brief comments
12 responding to some of the assertions made by the Respondents
13 and then turn to some larger things.

14 Respondent's counsel said that the Brazilian
15 economy is turning around. In fact a report issued just two
16 weeks ago states that the industrial production in August of
17 2016 fell by 3.8% of the previous month, the worst result
18 since January 2012 so we will get you that citation for the
19 post-hearing brief.

20 I'm glad that the Commissioners focused on --
21 well I really do think the heart of this case is I
22 appreciate all of your good questioning, both of the
23 Petitioners and the Respondents. And Saint-Gobain claims to
24 be the leading exporter now and the big question is what
25 happens after revocation and how do you measure what will

1 be?

2 They may or may not be the most representative
3 company of the domestic industry, we didn't say that they
4 didn't matter we just said that there are a lot of other
5 folks behind them that are not exactly configured the same
6 way and may not be focused on the so-called specialty
7 casting who produce many of those products right there.

8 So whether they are constrained by the order or
9 not -- don't look at me, look at the testimony of Mr. Cox
10 who said he is constrained by the order. He has to pay an
11 8% duty. So his imports are small but he was complaining
12 about having that duty and be liable for dumping duties if
13 there is an administrative review.

14 Just as a small matter -- we will supply you all
15 sorts of information about the domestic producer products
16 that compete directly with the hinge product made by
17 Saint-Gobain. I do appreciate the exchange that
18 Commissioner Schmidtlein had with Mr. Cox and I was happy to
19 hear what I think was a very candid answer.

20 He is a good salesman. He told you exactly what
21 happens. If he doesn't get the sale the sale will go to a
22 domestic producer or to an Indian producer. He was very,
23 very clear about that. If that is not an example of direct
24 competition between the Brazilian producers, the U.S.
25 producers and the Indian producers I don't know what is.

1 He followed up in response to that question by
2 saying, "Oh and by the way Indian producers' iron --
3 domestic producers' iron -- all gray iron is the same." He
4 didn't distinguish between Canadian, Chinese, Brazilian or
5 Indian product -- I hope you heard that you will see it
6 again in our post-hearing brief by the way.

7 There was a lot of discussion by Saint-Gobain
8 about well gee you know we are not going to stop producing
9 to our other customers, to our home market, to our other
10 export customers just simply to ship more product to the
11 United States. Well if you look at the information in their
12 Exhibit 1 and we will take that for purposes of argument at
13 face value that the Association provided -- they still have
14 a tremendous amount of excess capacity that they are able to
15 ship to the United States.

16 They don't have to divert one pound of product
17 from their current applications in order to ship more to the
18 United States, they have plenty of excess capacity to do
19 that. And that was Slide 21 that Commissioner Schmidtlein
20 and I discussed earlier. They have a 71% capacity
21 utilization rate, plenty of capacity available to ship to
22 the United States.

23 Just note on the side when it comes to the intent
24 of the founders of the WTO -- we understand that a lot of
25 people wanted to see anti-dumping orders go away after 5

1 years, they lost. That was implemented when the negotiators
2 got done. So we understand there might be some negotiating
3 history there but you have to actually look at what the
4 negotiators finally concluded.

5 By the way I am sure everyone is familiar with
6 the old expression of people having relationships you know
7 -- if you want to break up, "It's not you, it's me." Well
8 when you are looking at in a Sunset review and looking at
9 vulnerability you need to maybe turn that around.

10 We have talked about what the domestic industry
11 has done to stay competitive and all the consolidation et
12 cetera and when you ask me how do we look at when is the
13 proper time for an order to be revoked you have to say, "You
14 know what -- it's not me, it's you." And "You" being the
15 foreign producers and the subject producers in the foreign
16 countries.

17 You have to look at issues like when is the
18 Brazilian economy going to decline? The domestic industry
19 -- or stop declining I should say. The domestic industry
20 has no control over that no matter how competitive it thinks
21 it is, no matter how much is invested. If the economy is in
22 the sewer and they have got export we have to deal with
23 that.

24 When is the Brazilian capacity going to be
25 aligned with their shipments? When are the Chinese not

1 going to have a tremendous amount of excess capacity? When
2 are the prices in Canada going to be higher so that they
3 ship more to their home market and the U.S. prices not be so
4 attractive?

5 So there are a couple -- all of these questions
6 have to do with the foreign markets compared to the U.S.
7 markets and we can only control a certain amount in the U.S.
8 in making ourselves more efficient and being competitive.
9 When you are looking at revocation you have to look at these
10 other factors that we talked about and I know you are.

11 So we talked earlier about the consolidation and
12 survivor bias, we are looking at the domestic inducia and I
13 hope that discussion was helpful it certainly was
14 illuminating from my point of view having this exchange.

15 As the witnesses testified the foundry industry
16 in particularly, the segment of the industry producing iron
17 construction castings contain a very challenging
18 environment. They have to comply with rigorous
19 environmental rules and regulations, vigorous workplace
20 safety regulations and they have to compete against imports
21 that don't necessarily have those sorts of burdens if you
22 will.

23 And the products at issue here are not with all
24 due respect to my clients, the most sophisticated in the
25 world. They are not exactly semi-conductors and they are

1 easy to make. People make them pouring molds on the floor
2 and there may be some technology that is involved in these
3 specialty castings but by and large this is pretty simple
4 stuff to make -- virtually every country can make it, every
5 county can make it and they are subject -- the domestic
6 producers -- are subject to a lot of competition from these
7 subject countries for a very, very basic product that is not
8 hard to produce.

9 So that's the condition that they find themselves
10 in and in order to stay in business the domestic producers
11 need to earn a reasonable return on investment. You have
12 asked well what's a reasonable return -- it's hard to say an
13 absolute number. They have to pay their obligations to the
14 government not just on taxes, but on regulatory requirements
15 et cetera and they also have to -- these are technologies or
16 operations that have essentially wasting assets.

17 They have to replace these assets because they
18 wear out -- because of their use on an annual basis so there
19 is a lot of money involved in keeping up with the foundry.
20 I am going to try to give you some numbers in our
21 post-hearing brief as Commissioner Williamson asked for
22 earlier. But what is a reasonable return in order to stay
23 in business here.

24 But even when you are looking at that as we
25 discussed earlier and looking at what the profitability is

1 today I want you to remind yourselves that when you are
2 looking at that number that is only part of the issue of
3 whether the industry is vulnerable and what the condition of
4 the industry is.

5 Even to get to that number if you have to lay off
6 thousands of workers or hundreds of workers, if you have to
7 reduce your market share, if you have to begin to retreat
8 into niches that suggests to me a vulnerable industry. And
9 I want to again keep that in context. This is for me one of
10 the greatest issues that has concerned me over time looking
11 at the Commission historically which is the focus on net
12 operating profits to sales ratio.

13 Because it masks a lot of other things that are
14 going on -- give me one more minute here to find my other
15 notes. Okay -- so what we've talked about and I think you
16 have heard the foreign producers admit that there is an
17 interchangeability between all of the Brazilian, Canadian
18 and Indian products -- they are all iron.

19 And you have heard them say that they compete for
20 sales in the United States even today even under order. The
21 question of course is what is going to happen afterwards and
22 we have given you all this information and will follow-up on
23 foreign capacity and a need to be in this market.

24 One of the things that we will take away from all
25 of this is that this industry has shrunk so much and you

1 know the question is will they consolidate more, will they
2 be more competitive if there are fewer producers? Perhaps
3 -- that's not a decision that these folks can make clearly.
4 What they are hoping for is that the -- sorry the demand
5 will expand and that they will be able to use more of their
6 capacity to supply the market.

7 The worst thing that could happen though is that
8 the door gets opened to more competition in the U.S. market
9 or more competition from foreign producers who are desperate
10 to earn more revenue even though they have to dump -- as
11 long as they can cover their valuable cost to get their
12 sales in here.

13 So I am hoping as you consider the vulnerability
14 of this industry and what the future might be the very, very
15 urgent need for these companies to stay in business and keep
16 their employees and their communities in as healthy a state
17 as they can be. So with that I am going to close with a
18 couple of thoughts.

19 One is these are the companies that make
20 America's grates and these are the companies that make
21 America great. We urge you to find affirmatively with
22 respect to all of the orders and to maintain the discipline
23 of the dumping order so that they can continue to produce
24 these products as the last remaining producers in the United
25 States, thank you.

1 CHAIRMAN WILLIAMSON: Thank you. Okay Mr. Berer
2 you may begin when you are ready.

3 CLOSING STATEMENT OF FELIPE BERER

4 MR. BERER: I was going to say can we take this
5 down because as I go walk around the streets I was walking
6 in Chinatown where my office is yesterday and I saw every
7 single casting say made in U.S.A. in gigantic letters. I
8 could have taken a thousand pictures and they would be here
9 all day for you to watch and look at and draw a conclusion
10 from that and it doesn't mean anything.

11 This one must be very, very old -- as old as
12 these anti-dumping orders by the way. So let me answer a
13 few points here -- I mean most of my remarks I made already
14 so I just wanted to rebut some of those things that Mr.
15 Rosenthal has just said.

16 If Mr. Cox doesn't get the sale it is because the
17 municipality doesn't care -- cares more about the price than
18 quality. I think that is the point that he was trying to
19 make. So it is interchangeable yes they can both function.
20 I mean I think that's the point but you are comparing a VW
21 and a BMW they both take you from point A to B but one will
22 last more, one has different features and one is a lot more
23 expensive.

24 So I think he made that point and if the
25 municipality feels more -- I mean some of the municipalities

1 don't care about the quality they will go for the lowest
2 price and that's fine. And that's typically I mean dumping
3 backwards I mean we are talking about an imported product
4 that is more expensive than the domestic product and the
5 domestic product is winning on price and not quality.

6 That's typically exactly the opposite of what we
7 see in dumping cases. Mr. Rosenthal said that look at the
8 exhibit and the capacity of the Brazilian iron construction
9 casting industry -- what if all of it would get diverted to
10 the U.S.?

11 I would invite all of you to make that
12 calculation it would still be very, very small. If all of a
13 sudden the next day every single thing comes to the U.S. it
14 would still be very small, much, much, much smaller than
15 what we see today coming from India. So if that is the case
16 I think we still will see no injury and of course it is for
17 all the reasons that we stated today it is virtually
18 impossible for the industry to divert and stop producing.

19 I mean we are talking about no more production of
20 castings for the automotive sector, no more pipes, no more
21 valves that are outside the scope of the investigation -- it
22 is simply again science fiction it is not going to happen it
23 is based on thin air.

24 I told you today and there are reports and we
25 will attach those to our post-hearing brief that the

1 Brazilian economy is bottoming out and the decline has
2 stopped. Mr. Rosenthal has said the Brazilian industry is
3 in the sewer. I would say that Brazil is into sewer and
4 water treatment so that is what they do. It was supposed to
5 be a joke by the way.

6 Let me finish by saying two things and I think
7 these are important. One is very personal. I think both
8 our personal because I consider myself a Brazilian American.
9 I am here today and I had a lot of training and I think what
10 makes American great is that it is the land of opportunity
11 and it is a fair playing field.

12 If you come here like I did 16 years ago and if
13 you work hard there is no limit to what you can achieve.
14 And the same applies to the quality to the products that we
15 offer to the U.S. consumer. So all we are having -- all we
16 are asking for is a plain level field where the Brazilian
17 product can come -- if it has more quality why not compete
18 and not be subject to a very old anti-dumping duty that had
19 absolutely nothing to do with the situation of the market
20 right now.

21 And the other thing that I wanted to say just to
22 close and this is very personal. I was playing with my son
23 -- I have a 7 year old boy the other day and it just dawned
24 on me that I was 7 years old when this order was imposed and
25 I am 37 today. So I was playing lego's when the Commission

1 was imposing the order and here I am as leading counsel for
2 the Brazilian industry so if that doesn't call your
3 attention like it called mine, I think it should.

4 It is just I mean again normal. I agree with Mr.
5 Rosenthal that at the end of negotiations the anti-dumping
6 orders were not supposed to last 5 years, that's a taken.
7 Were they supposed to be perpetual? I don't think so and
8 there is a distinction between those.

9 One thing is to have Sunset reviews. The other
10 thing is to have Sunset reviews forever and I think you have
11 a chance in this investigation to get the record straight
12 when it comes to Brazil, thank you very much for your time.

13 CHAIRMAN WILLIAMSON: Thank you. I want to thank
14 everybody for participating in today's hearing. It is now
15 time for closing statements -- sorry. Post-hearing briefs,
16 statements responsive to questions and requests of the
17 Commission and corrections to the transcript must be filed
18 by October 31, 2016.

19 Closing of the record and final release of data
20 to parties in November 18, 2016. Final comments are due
21 November 28, 2016 and with that this hearing is adjourned.

22 (Whereupon, at 4:23 p.m., the meeting was
23 adjourned.)

24
25

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Iron Construction Castings from Brazil, Canada, and China

INVESTIGATION NOS.: 701-TA-249 and 731-TA-262, 263, and 265

HEARING DATE: 10-20-16

LOCATION: Washington, D.C.

NATURE OF HEARING: Fourth Review

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: 10-20-16

SIGNED: Mark A. Jagan

Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

SIGNED: Gregory Johnson
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings 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 proceedings.

SIGNED: Larry Flowers
Signature of Court Reporter

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