UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:  
ALUMINUM EXTRUSIONS FROM CHINA 

) Investigation Nos.:  
) 701-TA-475 AND 731-TA-1177 (REVIEW)

REVISED AND CORRECTED

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BEFORE THE

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF: ) Investigation Nos.:
ALUMINUM EXTRUSIONS FROM CHINA ) 701-TA-475 AND 731-TA-1177

) (REVIEW)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, January 26, 2017

The meeting commenced pursuant to notice at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable David S. Johanson, Vice Chairman, presiding.
APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

Vice Chairman David S. Johanson (Presiding)
Commissioner Irving A. Williamson
Commissioner Meredith M. Broadbent
Commissioner F. Scott Kieff

Staff:

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Sharon Bellamy, Records Management Specialist
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David Boyland, Accountant/Auditor
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Douglas Corkran, Supervisory Investigator
Opening Remarks:
In Support of Continuation of Orders (Alan H. Price, Wiley Rein LLP)
In Opposition of Continuation of Orders (Alexander H. Schaefer, Crowell & Moring, LLP; and Richard P. Ferrin, Drinker Biddle & Reath LLP)

In Support of the Continuation of Antidumping and Countervailing Duty Orders:
Wiley Rein LLP
Washington, DC
on behalf of
Aluminum Extrusions Fair Trade Committee ("AEFTC")
Jeff Henderson, President, AEFTC and Aluminum Extruders Council
Jason Weber, Director of International Market Intelligence and e-Business, Sapa Extrusions North America, U.S. Aluminum Extruder and Member of the AEFTC
Susan Johnson, President, Futura Industries Corporation, U.S. Aluminum Extruder and Member of the AEFTC
W. Brook Hamilton, President, The William L. Bonnell Company, U.S. Aluminum Extruder and Member of the AEFTC
Bennett McEvoy, Vice President of Sales & Marketing, Western Extrusions Corporation, U.S. Aluminum Extruder and Member of the AEFTC
Rick Merluzzi, President and Chief Operating Officer, Metal Exchange Corp. ("MEC"), Parent Company of Pennex Aluminum Company, LLC

Stephanie Hickman Boyse, President and Chief Executive Officer, Brazeway, Inc.

Michael B. Adams, Senior Vice President – Market and Product Development, Brazeway, Inc.

Donald R. Dinan, Partner, Goetz Fitzpatrick LLP, Counsel to Brazeway, Inc.

Jesse E. Gary, Executive Vice President, General Counsel and Secretary, Century Aluminum

Holly Hart, Assistant to the President, Legislative Director, United Steelworkers (USW)

Alan H. Price and Robert E. DeFrancesco – Of Counsel
In Opposition to the Continuation
of Antidumping and Countervailing Duty Orders:
Crowell & Moring, LLP
Washington, DC
on behalf of
Electrolux Home Products, Inc.
Electrolux Home Care Products, Inc.
(collectively "Electrolux")
Jeremiah Dorris, Senior Manager, Trade Compliance North America, Electrolux
Hernando Hicks, Commodity Manager, Stainless Steel, Electrolux
Erik Mata, Commodity Manager, Compressors & Cooling Systems Electrolux
Alexander H. Schaefer and Benjamin Caryl - Of Counsel
Drinker Biddle & Reath LLP
Washington, DC
on behalf of
Adams Thermal Systems, Inc.
Rick Johnson, Senior International Trade Analyst,
Drinker Biddle & Reath LLP
Douglas J. Heffner and Richard P. Ferrin - Of Counsel
Rebuttal/Closing Remarks:

In Support of Continuation of Orders (Alan H. Price, Wiley Rein LLP)

In Opposition of Continuation of Orders (Alexander H. Schaefer, Crowell & Moring, LLP; and Richard P. Ferrin, Drinker Biddle & Reath LLP)
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The purpose of these investigations is to determine whether revocation of the countervailing duty and anti-dumping duty orders on aluminum extrusions from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. Schedules setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary. Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information.

Please speak clearly into the microphone and state your name for the record for the benefit of the court.
reporter. If you will be submitting documents that contain
information you wish classified as Business Confidential,
your request should comply with Commission Rule 201.6. Mr.
Secretary, are there any preliminary matters?

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

VICE CHAIRMAN JOHANSON: Very well. Let's begin
with the opening remarks.

MR. BISHOP: Opening remarks on behalf of those
in support of continuation of the orders will be given by
Alan H. Price of Wiley Rein.

OPENING STATEMENT OF ALAN H. PRICE

MR. PRICE: Good morning Chairman Schmidtlein,
Vice Chairman Johanson and members of the Commission. I am
Alan Price, counsel for Petitioner the Aluminum Extrusion
Fair Trade Committee. The domestic aluminum extrusion
industry is here today to ask you to maintain the critical
anti-dumping and countervailing duty orders on aluminum
extrusions from China.

In the original investigation, the Commission
found that there were sharp increases in subject imports and
subject import market share. The subject imports’ undersold
the domestic industry in nearly three-quarters of the
comparisons, and as a result the domestic industry's
performance indicators demonstrated material injury.

The Commission made affirmative determinations and the orders were imposed. Since the orders were put in place in 2011, the U.S. industry has been recovering from the material injury inflicted upon it by Chinese aluminum extrusions. The industry has recaptured the market share it lost to unfairly traded Chinese imports. It has been able to reinvest and expand production and employment to meet demand, and has been able to earn a better rate of return on its investments.

This is exactly how trade remedy relief is supposed to work. But if the orders are lifted, this fragile recovery will rapidly disappear. A renewed surge of unfairly traded Chinese aluminum extrusions will quickly re-enter the U.S. market, once again underselling U.S. producers by substantial margins, collapsing U.S. prices and taking significant market share from the U.S. industry.

In fact, the situation would likely be even more severe than it was during the original investigation. Over the last five years, the Chinese government has pumped subsidies into its domestic industry, allowing both Chinese primary aluminum and aluminum extrusion producers to expand exponentially.

Earlier this month, the United States Trade Representative filed a complaint with the World Trade
Organization, alleging that China's subsidies to its aluminum industry are causing serious prejudice to U.S. aluminum producers. The massive excess Chinese aluminum supply is funneled into a variety of products including the extrusion industry, which continued to expand and keep pace with the primary aluminum production as it is the offtake for that, and that expansion is far beyond what is needed in its home market.

The world market is now awash in Chinese extrusions. As a result, U.S. producers are threatened by a Chinese aluminum extrusion industry that is even larger and more disruptive than it was in the original investigation. China now has 3.8 million tons of excess aluminum extrusion production, which is nearly 2.5 times larger than total U.S. demand.

Clearly, China has significant excess extrusion capacity, and it is targeted at export markets. If the orders were lifted, there is no doubt that the U.S. would once again be one of those primary targets. Massive volumes of unfairly priced Chinese aluminum extrusions would surge right back into the United States. This would cause the U.S. producers' financial performance to quickly deteriorate, just as it did during the original investigation.

Production facilities would likely be shuttered,
workers would lose their jobs and the continued viability of
the aluminum extrusion industry would be in jeopardy.
Recognizing these facts, the Chinese industry did not show
up here today, and did not even participate in the
initiation. What the Commission is left with in the final
phase is effectively two like product issues.

This is nothing more than an attempt to
relitigate scope proceedings on engine fittings and fin
evaporator coils that the Department of Commerce has already
decided. Commerce properly found that both of these
products are within the scope of the orders, and the
Commission should continue to define one like product
coeextensive with the scope.

The Commission concluded in the original
investigation that the semi-finished analysis did not apply,
that all extrusions exist on a broad continuum under its
traditional six part like product test. Some are more
fabricated, some are less fabricated. Some have more parts,
some have fewer parts. Some are basic, some are assembled.

In the original investigation, the Commission
correctly recognized that the product in these
investigations appears to be one where the models of
different alloys and finishes in many different shapes and
sizes constitute a continuum without a clear breaking point.
Nothing has changed since this finding.
Accepting the unduly narrow application of the like product factors argued by the Respondents could result in frankly separate like product findings for thousands of aluminum extrusion products produced by the domestic industry. This is inappropriate and should be rejected. Continuing to carve up the scope in the domestic like product only serves to weaken the relief provided by the orders. Both engine fittings and fin evaporator coils are produced by the domestic industry.

And if the orders are lifted on engine fittings and fin evaporator coils, there is little question that production of these products will shift from U.S. producers to China. In conclusion, the Commission should render an affirmative determination for a single like product encompassing all in scope aluminum extrusions in this review. Thank you.

MR. BISHOP: Opening remarks on those in opposition to continuation of the orders will be given by Alexander H. Schaefer of Crowell and Moring, and Richard P. Ferrin of Drinker, Biddle and Reath.

OPENING STATEMENT OF ALEXANDER H. SCHAEFER

MR. SCHAEFER: There we go. Good morning Madam Chairman, Mr. Vice Chair and Commissioners. My name is Alex Schaefer from Crowell and Moring on behalf of Electrolux. When the Commission investigated aluminum extrusion from
China six or so years ago, the scope contained or covered 15 HTS classifications and two HTS chapters. After only five years in this first sunset review of these orders, the scope now covers over 100 HTS classifications from ten different tariff chapters, as a result of an unprecedented number of scope requests and rulings.

There are already more scope rulings in proceedings in aluminum extrusions than there were in the wax candles and bearings cases combined. There's a whole separate web page just to index them. I'd add that in the first several administrative reviews of Commerce, the largest exporters from China were companies that hadn't been listed in the petitions in producers and hadn't received ITC questionnaires during the investigation.

How can that be? Were the Petitioners who presumably spent months assembling and refining their petition unaware of the identities of their Chinese competitors? Surely not. So it had to be one of two things. Either the scope language inadvertently covered more products than Petitioners had in fact intended, or the Petitioners intentionally allowed the Commission to investigate only a fraction of the relevant industry, and to be clear I believe it was inadvertence as opposed to nefariousness.

Retracting awning mechanisms, geodesic
structures, boat and dock ladders, fittings for engine
cooling systems, kitchen appliance door handles and fin
evaporator coil systems. These products by and large are
not domestically produced, and thus couldn't have been the
causes of injury.

So here we find ourselves millions of dollars in
duties later arguing about products that for the most part
the domestic industry doesn't make and never did, and with
the Commerce Department hopelessly entangled in this Gordian
Knot of scope language and irreconcilable rulings. It's
time for the Commission to exercise some adult supervision
here.

The Commission has to accept the Commerce
Department's scope, even when as broad as that in this case.
But the Commission is able and in fact obliged to identify
discrete like products and analyze the extent to which
revocation of orders with respect to those products would be
likely to cause injury.

Doing so here is the only way to rationalize the
orders and align them with the industry for which the
petition sought protection, and that the Commission actually
examined. Thank you.

STATEMENT OF RICHARD P. FERRIN

MR. FERRIN: Thank you Vice Chairman Johanson.

My name is Richard Ferrin and we represent Adams Thermal
Systems, which supports several types of aluminum fittings to manufacture engine cooling systems. Today, we are here to explain why aluminum fittings for engine cooling systems are a separate like product distinct from aluminum extrusions.

Petitioners argue that the scope of the orders include every product that was born of an aluminum extrusion, unless the product fits within the finished merchandiser or finished good kit exceptions. The task before the Commission here is not to question whether the scope of the orders is as broad as Petitioners claim. Instead, the task for you is to determine whether this vast array of products constitutes a single like product produced by a single domestic industry.

Adams Thermal believes that ordinary aluminum extrusion profiles and fittings for engine cooling systems have distinctly different physical characteristics and uses, have different manufacturing facilities and production employees, are not interchangeable, are perceived differently by customers and producers, and have distinctly different prices. Rick Johnson will discuss this in some detail.

Petitioners argue that fabrication into a downstream part does not remove fittings for engine cooling systems from the domestic like product because all
extrusions become parts of a downstream product. But
Petitioners' argument proves too much. A steel slab always
becomes a part for a downstream product, but the Commission
has always recognized that a steel slab is a separate like
product from a hot-rolled coil, which is a separate like
product from a cold-rolled coil, which is a separate like
product from a galvanized coil.

All of these products are used to make a myriad
of downstream products and applications. Moreover, many of
these processing steps for steel, from slab casting to
galvanizing, are produced in the same steel mills. But
nevertheless, the Commission considers the products to be
distinct like products produced by different industries.

The same is true for aluminum extrusions. Adams
Thermal takes no position on other parts that are fabricated
from aluminum extrusions. Nevertheless, the dividing line
between an aluminum extrusion and a fitting for an engine
cooling system is clear based on the Commission's six
factored test.

After Mr. Johnson addresses the like product
issue, Doug Heffner will discuss likely volume pricing
impact of subject imports of fittings, to demonstrate that
revocation of the orders with respect to the fittings will
not be likely to lead to continuation or recurrence of
injury to the domestic industry. Thank you.
MR. BISHOP: Would the panel in support of the continuation of the anti-dumping and countervailing duty orders please come forward and be seated?

(Pause.)

MR. DeFRANCESCO: Commissioners, thank you. Robert DeFrancesco on behalf of Petitioners AEFTC. Our first witness today will be Mr. Jeff Henderson, president of the AEFTC and president of AEC.

STATEMENT OF JEFF HENDERSON

MR. HENDERSON: Staff, it is -- thank you. It is good to be with you again today. My name is Jeff Henderson, and I am the president of the Aluminum Extruders Fair Trade Commission or the AEFTC, and the Aluminum Extruders Council. Several of our members are also here to speak with you today regarding the likely effects on the domestic industry if the anti-dumping and countervailing duty orders on aluminum extrusions from China were revoked.

Before I turn it over to them, I would like to briefly share with you how critical the orders have been for the U.S. industry, and why it is absolutely necessary that these orders remain in place. The U.S. aluminum extrusion industry is composed of more than 100 individual producers. These producers are of varying sizes and are spread throughout the country in communities large and small.

Prior to the imposition of duties, all of these
producers were suffering from unfairly traded imports from China. Many producers simply could not compete with the unfairly low Chinese prices and were forced to shut down. Over 20 facilities had closed. Others lost significant sales and production to the unfair competition. Truly, the industry was on the brink.

Thanks to the orders, Chinese producers have for the most part been forced to fairly price their products and market pricing has stabilized. This has allowed the U.S. industry to begin to recover from the effects of China's unfair trade. Without the unfairly priced Chinese extrusions in the market, U.S. producers have been able to take part in the recovery in demand over this period of time. U.S. producers have been able to increase sales and production, and invest in equipment, facilities and most importantly employees to meet the recovery in demand.

While the orders have been effective, there is a global overcapacity crisis in aluminum. As you are aware, the U.S. Trade Representative has recently filed a request for consultations at the WTO to address the global overcapacity in primary aluminum. The overcapacity, however, is not only related to primary aluminum. The policies that irrationally expanded primary aluminum capacity are also at work in the Chinese extrusion industry.

Chinese extrusion capacity over this time
increased right along with primary capacity, to offtake the excess primary aluminum. This excess aluminum is exported from China in the form of semi-fabricated products such as extrusions. As a result, Chinese extrusions are flooding the global market. The orders in this case are the only thing standing between the U.S. industry, a renewed surge in unfairly priced Chinese extrusions, and a continuation and recurrence of material injury.

Notwithstanding the effectiveness of the orders, U.S. producers in certain product segments continue to face efforts to carve particular products out of these orders, either through a scope proceeding or here as a separate like product. As president of the AEC, we monitor the entire U.S. industry and their capabilities, and in every scope exclusion request at the Department of Commerce that the AEFTC has opposed, there are U.S. producers of that product.

That includes the products at issue here, as well as appliance trim kits and appliance handles. All of these products are simply fabricated extrusions that can be produced by any number of U.S. producers and are expressly covered by the scope of this case. Chinese producers are able, ready and eager to enter the U.S. market and there is no doubt that if the orders are revoked, unfairly priced Chinese imports will again flood the U.S. market.

Our domestic producers will quickly see these
gains erased if unfairly traded Chinese extrusions return to the market. In just one year, the Chinese producers went from just six percent of the market to nearly 20 percent of the market. Since then, the Chinese industry has continued to expand rapidly, and has been flooding the globe with its excess capacity.

As was evident before the orders, we simply cannot compete with Chinese extrusions that are dumped and subsidized. Revocation of the orders will threaten the many investments domestic producers have made in equipment, facilities and employees, and many producers will unfortunately have to grapple with the possibility of having to shut down operations again.

As such, the orders are critical to preventing a continuation or a recurrence of material injury. I will now turn it over to Jason Weber from SAPA.

STATEMENT OF JASON WEBER

MR. WEBER: Good morning. I'm Jason Weber, Director of Business Development of Emerging Markets for SAPA Extrusions. As Jeff said, I'm happy to be with you here today. On behalf of SAPA and its 5,800 unionized American workers, I'd like to thank the Commission and its staff for the opportunity to be here today, and to explain why the orders on aluminum extrusions from China are critical to U.S. industry.
I'd like to start with some background information on SAPA and the aluminum extrusions that we produce. SAPA is the largest aluminum extruder in North America, with 18 facilities throughout the United States. We perform extensive fabrication and service a wide variety of markets and offer a full line of products to our customers.

In fact, SAPA has hundreds of thousands of SKUs. Each of these SKUs are specific to a profile shape, alloy, temper, length, fabrication, surface treatment, quality specification, color treatment and even a packing specification. We use tens of thousands of dies to meet our customers' needs, and virtually all of those extrusions are dedicated specifically for a particular end customer.

We often work with the customer in designing all aspects of a product, including the dies, shapes, tolerances, chemistry and tensile strengths of the profiles. The speed of the extrusion process, heating and cooldown, are all relevant to meeting the customers' specification and tolerances. In other words, we cannot just use a standard die and machine that extrusion into any type of part.

If we cannot meet the right metal tolerances, shape and tensile strengths, the product will not perform as intended, and no amount of machining can fix it. Among many other products, we produce engine fittings for our
customers. The engine fittings we produce are not somehow separate or distinct from any other types of extrusions we produce.

They are part of a continuum that includes many different types of extruded products. All of these products are produced in the same facilities, on the same equipment and by the same workers. Also like other extrusions we produce, our engine fittings are part of a broad product line we offer to our customers.

Many of our customers purchase a package of products, and the engine fittings are just a component of the overall package. Some of our engine fittings are machined in our Portland, Oregon facility on the same equipment used to machine many other types of extrusions. Providing complete parts and full product line for the end customer is critical to our overall business.

This is how the industry adds value and provides just-in-time supply chain continuity to our customers. As such, SAPA has nearly 100 CNC machining centers throughout North America to fabricate its various extrusions. These fabricated extrusions are not priced any differently than other extrusions. The base metal price and negotiated conversion costs are built into the all-in final price.

The engine fittings we produce are no different. All of our production is currently threatened by Chinese
aluminum extruders. As I testified to the Commission last fall during the 332 investigation, the global aluminum industry is in the midst of a crisis driven by Chinese overcapacity.

Chinese primary aluminum capacity skyrocketed in recent years. China needed some way to use its primary aluminum, so it greatly expanded its capacity to produce aluminum extrusions as well. Construction is by far the single largest market for aluminum extrusions in China. With that sector consuming one-third of Chinese extrusions in 2015, demand in China for extrusions for use in construction has peaked and is declining.

Unfortunately, we do not expect the Chinese aluminum extrusion industry to contract with this declining domestic demand. Given the huge and increasing quantities of primary aluminum available in China, and the relative ease with which new extruders can establish themselves, the Chinese industry will only continue to grow.

In fact, we have heard that the largest aluminum extruder in China, Zhongwang, has started adding nearly 100 new extrusion presses. This is an enormous expansion. It is over 79 percent more presses than all of the presses we have in the United States, and there is no Chinese outlet for that capacity.

With smaller quantities of extrusions being
consumed within China, Chinese extrusion producers will rely on exports to offload their excess production. Already over the last three years, Chinese exports of extrusions into the global market have exploded. If the orders on aluminum extrusions from China were to be removed, I have no doubt that these exports would flood into the U.S. market.

This would be disastrous for not only the U.S. extrusion industry, but the U.S. aluminum industry as a whole, which is already suffering from increasing imports and declining prices for extrusion. To prevent further injury and closures in the U.S. industry, the orders on Chinese aluminum extrusions must remain intact. The orders are critical to preventing unfairly-priced Chinese extrusions from once again swamping the U.S. market and causing material injury.

On behalf of SAPA and our workers, I urge the Commission to leave the orders on aluminum extrusion from China in place. Thank you very much for your time.

STATEMENT OF HOLLY HART

MS. HART: Good morning. I'm Holly Hart, Legislative Director and Assistant to the President of the United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Service Workers International Union. The USW is the largest industrial union in North America and represents about 1.2 million active and now laid
off and retired workers.

I'm happy to be here today, to emphasize the importance to our members of the strong and competitive U.S. aluminum industry, which requires the continuation of the anti-dumping and countervailing duty orders on aluminum extrusions from China. The USW not only supports nearly all of the primary aluminum facilities in the United States, but also a large number of U.S. aluminum extruders.

This includes the largest extruder, SAPA, who you just heard from. Steelworker members in the aluminum extrusion industries work at SAPA facilities in Michigan, Oregon and Pennsylvania. In addition to about 1,000 workers in both petitioning and non-petitioning members of the Aluminum Extruders Council, we also have about 975 members who work for non-petitioning extruders around the country.

Our brethren unions including UAW, Teamsters, Sheet Metal Workers and the International Union of Operating Engineers are represented at other U.S. aluminum extrusion facilities, and together we represent a large portion of overall employment in this industry.

The orders are particularly critical now, as the U.S. aluminum industry is facing a major crisis. Chinese overcapacity, oversupply and exports are severely injuring the global market for aluminum. The U.S. primary aluminum industry has been already devastated. The United States has
gone from having 14 operating smelters to only five smelters operating today. That means thousands of workers have already lost their jobs, most of them Steelworker members.

Aluminum extruders and other downstream industries are also facing the effects of Chinese overcapacity. U.S. demand has increased, and as a result of the orders on aluminum extrusions from China, the aluminum extrusions industry has been able to retain jobs and even begin hiring again to meet demand.

The trade laws are working as they should work for the industry. But if the orders are lifted, the U.S. aluminum extrusions industry will suffer the same fate as the primary aluminum industry or worse. The massive expansion of China's aluminum extrusions industry far surpasses any demand growth in the United States or indeed worldwide. Without the orders, Chinese aluminum extrusions will flood into the United States and displace U.S. production. The jobs of thousands of American workers employed by these U.S. aluminum extruders are threatened, and they depend on the continuation of these orders.

So on behalf of our union's members, who make aluminum extrusions and the retirees and communities that depend on them, I urge the Commission to maintain the anti-dumping and countervailing duty orders on aluminum extrusions from China. Thank you very much.
STATEMENT OF SUSAN JOHNSON

MS. JOHNSON: Good morning. My name is Susan Mooney Johnson and I am the recently retired former President of Futura Industries Corporation and Aluminum Extruder in Clearfield, Utah. This was a position I held for 22 years. I am again testifying before the Commission today on this very important subject as I did in 2010 and 2011 because continuation of the orders is critically important to Futura and the Domestic Industry.

We have been in operation for over 70 years and employ about 350 people in our location in Utah. As you have heard today, the 2011 orders provided much needed relief to the Domestic Industry. Since the imposition of the orders, the volume of unfairly priced Chinese Imports has been reduced significantly. This demonstrates that the Chinese Producers cannot sell extrusions in our market without dumping or receiving subsidies.

The lack of unfairly priced Chinese extrusions disrupting the U.S. Market has allowed Futura Industries, like the rest of the industry to invest in its facilities, machinery and people. In 2013 we acquired a 220,000 square foot manufacturing facility and purchased a new 9-inch 3500 ton press to better serve our customers and expand our product range. Total installed cost of a new press of this
size is about 18 to 20 million dollars. Through these investments we were able to hire approximately 30 additional employees.

These investments were only possible because of the orders. Futura, like many other domestic extruders produces a wide range of aluminum extrusions for many different industries including parts for shower enclosures, fitness equipment, components for trucks, cars and boats just to name a few. These extrusions range from standard profiles to custom machine parts including fittings for engine cooling systems.

There is nothing special or unique about an engine fitting that warrants the Commission to consider them separately from other aluminum extrusions. Engine fittings are no different from any other extrusions we produce in the Clearfield facility. Engine fittings simply exist on a continuum of further fabricated aluminum extrusions.

Indeed engine fittings represent a few of the aluminum extruded products we produce on our CNC machines, one of which has robot technology. The production processes to manufacture aluminum extrusions and engine fittings are exactly the same especially in comparison to machined extrusions that are within the scope. We produce fittings and aluminum extrusions on the same presses in the same facilities using the same employees. We use the same CNC
cells to further fabricate fittings and other machined
extrusions.

From Futura's standpoint and that of our
customers, engine fittings like other extruder parts are
just that: Aluminum extruded parts. Obviously the shapes
and tolerances will vary based on the type and design of the
die which ultimately dictates the end use of a product but
they are all extrusions. The end use is not a meaningful
distinction. What our customers expect and what we provide
are completed aluminum extrusions tailored to our customers
desired end use whether it's a standard profile, custom
shape, engine fitting, or any other extruded and machined
part.

To further illustrate that engine fittings and
aluminum extrusions exist on a continuum, customers that
purchase engine fittings from us also purchase other
aluminum extrusions and fully fabricated products from us.
In fact, engine fittings may be one of several extruded
products that we produce for a particular Class 8 truck
manufacturer such as this engine manifold part that I
brought with me today that accompanies the fittings.

Just like our other extrusions, the all-in price
for engine fittings is derived from the base price of
aluminum and the negotiated product conversion margin. The
fact that there may be more value added to a particular
product does not make it unique to the other extrusions we produce. For instance, the fully fabricated commercial aircraft cockpit locking mechanism that we produce and this manifold have significantly more value added than an engine fitting. There are no clear dividing lines.

What the amount of value added does illustrate is the importance of the product to our company's overall health and profitability. We cannot afford to lose any segment of our production to unfairly dumped imports. While the orders put the industry on the road to recovery the Domestic Industry remains vulnerable to a renewed flood of unfairly priced Chinese aluminum extrusions should the orders be lifted.

Unfairly traded imports tend to hit the smaller, one-location companies first and hardest. There is no doubt that if the Commission were to revoke the orders, unfairly priced Chinese extrusions would surge into the U.S. Market quickly and completely overwhelm the U.S. Industry putting local operations such as ours at imminent risk of closure. The Commission must not allow unfairly traded Chinese Imports to reenter the U.S. Market, crash Domestic prices and take sales from U.S. Producers.

We urge you to continue the orders on aluminum extrusions from China in order to protect our companies and workers like ours. Thank you very much for your time.
STATEMENT OF RICK MERLUZZI

MR. MERLUZZI: Good morning. My name is Rick Merluzzi. I am the President and Chief Operating Officer of Metal Exchange Corporation. We are the parent company of Pennex Aluminum Company. I'm here to address the effects unfairly traded Chinese aluminum extrusions have had on Pennex and how critical the orders have been to the improvement of the Pennex’s operations.

Prior to the orders, the industry was under siege. Like other U.S. Producers we saw our prices, production and shipments erode due to unfair competition from China. Many producers were forced to shut down and enter bankruptcy. After duties were in place, we were able to purchase the distressed Leetonia facility of which some of you were able to visit.

As the market began to recover the negative effects of the Chinese we were able to reinvest in our facility and in those assets. In 2014, we began our capital investment project to add a second press and expand the overall floor space to accommodate more fabrication operations. On average, a press line can cost over 20 million dollars while on the other hand the CNC cells are generally under 400,000 dollars.

We started production on our new press line in 2015 and on your tour of our facility the Commission Staff
saw the results of this investment. This simply would not have been possible without the relief provided by the orders. We now produce and fabricate in that facility many of the more complex parts that we supply to the automotive and other industries.

I'd like to thank the Commission again for visiting the Leetonia facility and as you can tell we are very proud of this investment. On the tour you saw firsthand the metallurgical and technical expertise that begins at the press to meet the customer's particular tolerances and specifications. You also saw the extensive machining operations for many fabricated parts that flow from the extrusion process. Depending on the customer and the particular item, some of the products are extensively fabricated and others are less so. Regardless of the amount of fabrication, these products are produced in the same facility by the same employees on the same equipment. They all exist in a continuum. While the fabrication that takes place is not necessarily unique or specialized, basically the entire industry adds value for its customers in this same way. Our customers simply want one-stop solutions.

On the tour you saw that we have a number of CNC and robotic cells dedicated to fabricating parts for automotive applications. These cells are located in the
recently added portion of the factory. The CNC machines and robotic work cells can fabricate many in many different parts. The fact that certain Chinese Producers choose to have third parties finish the extrusions into fittings does not say anything about the fabrication practices of the Domestic Industry.

In fact, on your tour you saw one of our employees refurbishing the die that is dedicated to producing the extrusions for engine fittings. Like other extrusions, the die, the alloy and even the press speed are closely monitored to meet customer specifications. The extrusions we produce from the die are sold to one of our customers to fabricate further the extrusion into the engine fitting. We do not sell extrusions from this die to any other customer to fabricate anything else other than the engine fitting.

Like other producers our dies are customer and tolerance specific and we often work with the customer to design the dies. The vast majority of the extrusions we produce are intended to meet a specific customer need. To achieve that the aluminum must be pushed through the dies at the proper temperature and speed and cooled correctly to ensure the part meets the customer's tolerances and specifications.

Otherwise the part will not function as intended.
Once extrusions are uniquely produced in this manner, they can only be used for the intended use. On the tour, the Commission saw this first hand while we were impact testing one of our fabricated parts. The investments we have made in our Leetonia facility have allowed us to provide value to our customers in the manner which is very typical for most in our industry.

At the same time, these investments have allowed us to hire more employees to meet the increased demand of our customers. I am sure that those who were on the tour saw how dedicated our workers were and if the orders are revoked we risk losing all of this. Given the demonstrated ability and the drive by the Chinese Producers to enter the U.S. Market.

As you will hear from our colleagues I have absolutely no doubt that the Chinese Imports will surge into the U.S. Market if the orders are revoked and it is absolutely critical that the orders remain in place so the investments of Pennex and others that are made in the market are not undone. I thank you very much for your time.

STATEMENT OF W. BROOK HAMILTON

MR. HAMILTON: Good morning. It's good to be back before the Commission again. My name is Brook Hamilton and I am the President of Bonnell Aluminum, a member of AEFTC. Since 1955, Bonnell has manufactured aluminum
extrusions in the United States. We currently have manufacturing operations located in Tennessee, Michigan, Indiana and Georgia employing more than 1400 employees.

As the Commission is aware, aluminum extrusions are produced from aluminum billets. Extruders either cast billets themselves or purchase them. The billets are then heated and forced through a die to make various products, regardless of whether extruders purchase or produce their own billets, they price extrusions similarly. The all-in price for extrusions is based on the base price for the metal and a conversion cost to turn the metal into extruded product.

In a market without dumped and subsidized Chinese extrusions, the aluminum base cost is generally passed through to the customer and a conversion cost is negotiated. This conversion margin is essentially the spread between the all-in aluminum price and the price the extrusion is sold to the customer.

Inherent in the conversion margin are costs for overhead, labor and a reasonable profit. As such, the all-in U.S. price for all aluminum extrusions being sold today are derived the same way. Chinese Producers however offer U.S. Customers extrusions at a single all-in price, often without regard to the cost to extrude the billet or further fabricate the extrusion.
During the original investigation when Chinese extrusions flooded the U.S. Market, the Chinese all-in prices for extrusions were significantly lower than U.S. prices. The downward pricing pressure from Chinese extrusions ruined the traditional pricing mechanism used by Domestic Producers. Indeed, some Chinese all-in price offerings were as low as the cost for U.S. Producers just to obtain their raw material.

At that time, many U.S. Producers were simply forced to give up the business because they could not match the Chinese prices. As a result, Subject Imports quickly took twenty percent of the market in just one year. Those producers which attempted to maintain volume by cutting prices saw their conversion margins swiftly collapse.

As a result, the Domestic Industry's financial performance quickly deteriorated. If the orders are revoked and Chinese Producers are allowed to reenter the market this pattern will repeat itself and the gains the industry has made over the last 5 years will be quickly erased. One of the companies directly affected by the negative impact of Chinese Imports was AACOA which had manufacturing facilities in Niles, Michigan and Elkhart, Indiana.

AACOA's owners were confronted with a dilemma. The market was deteriorating. Many of their competitors had gone out of business. Their billet suppliers were cutting
back production because of market deterioration as well as
having incurred a lot of bad debt resulting from customer
bankruptcies causing raw material supply constraints for
AACOA. All of this was driven by low-priced Chinese Imports.

The risk factors were mounting to the point it
was increasingly difficult to fathom taking on more debt to
grow their business be it to add capacity or to produce
their own billets. The landscape had changed and the
long-term market prospects were bleak. Several factors
combined which led them to sell their business but only once
the orders were imposed and it was apparent the Chinese
Producers could not compete at fairly-traded prices did it
make sense for another entity to acquire AACOA.

Bonnell finalized the purchase of the AACOA
plants in 2012. This investment by Bonnell has allowed us
to increase our capacity, our employment levels and expand
our product range to meet the recovery in U.S. Demand. For
example, the Niles, Michigan facility had two extrusion
presses, several CNC centers and the capability to provide
fabrication processes such as machining, cutting, punching
and so forth. The Elkhart, Indiana facility provided
anodizing operations.

Providing fabricated aluminum extrusions and
adding value is critical for the Domestic Industry. Today,
most U.S. Producers have some type of fabrication capability
including precision machining. It is becoming increasingly rare that a U.S. extruder would not offer some type of fabrication service in addition to supplying raw extrusions. In keeping with customer demands, the orders have allowed us to invest in expending our facilities to accommodate more fabrication processes and equipment in Niles and adding anodizing capacity in Elkhart.

Both facilities are now operating at near-capacity and full employment. As such, we were also able to add a third extrusion line in our Niles, MI facility which will begin production later this spring. This nearly 20 million dollar investment was only made possible because of the orders. If the orders are revoked, investments such as ours and others made throughout the U.S. Industry to satisfy U.S. demand would be in jeopardy and layoffs would ensue.

On behalf of Bonnell and our employees, I urge the Commission to continue the orders on aluminum extrusions from China. Thank you very much for your time.

STATEMENT OF BENNETT MCEVOY

MR. MCEVOY: Good morning. My name is Bennett McEvoy and I am the Vice President of Sales and Marketing at Western Extrusions. I appreciate the opportunity to speak with the Commission today and I also urge the Commission to find that aluminum extrusion imports from China will
continue to materially injure the Domestic Industry if the
orders are revoked.

At our only aluminum extrusion facility in
Carrolton, Texas we employ over 800 people and produce
eXtrusions in a broad range of sizes which include extruded
profiles as well as precision machined aluminum extrusions.
We also provide an array of in-house custom fabrication and
finishing services which allows us to meet a wide range of
our customers' specifications.

Western is a leading U.S. Producer of aluminum
eXtrusions for the building and construction,
transportation, consumer durables, electrical and
distribution markets. Since the orders have been in place,
Western, like the rest of the industry, has benefitted from
the relief that they have provided. However, many Chinese
Producers have consistently shown a willingness to try to
gain access to the U.S. Market by any means necessary.

Circumvented shower enclosures are just one of
those extruded product lines where Chinese Producers have
attempted to access the market. Before Chinese Producers
flooded the U.S. Market with unfairly-priced extrusions in
2009 and 2010, Western maintained a significant share of the
U.S. shower enclosures market. However, as Chinese Imports
rushed into the Domestic Market at rock-bottom prices we
quickly lost sales, revenue, and share in the shower
Like other U.S. Producers experiencing the effects of the Chinese surge, our financial performance began to rapidly deteriorate. When the orders were imposed in 2011, imports of Chinese extrusions declined significantly. At the same time, U.S. demand, including the shower enclosure segment showed signs of recovery. In anticipation of participating in the recovery of U.S. demand we added a new 14-inch press as well as investing in increasing our anodizing, mechanical finishing, and fabrication capacity.

Without dumped and subsidized Chinese extrusions disrupting the market, Western was able to recapture most of the volume that we lost to Chinese Producers, both in the shower enclosures market and the other markets we serviced. Not more than two years after the orders were imposed, Chinese Producers tried to pry their way back into the market. Desperate to reenter the U.S. Market, Chinese Producers began manipulating 5050 grade aluminum alloy to take advantage of the overlap in alloy content in the scope and started exporting these extrusions into the United States.

The Aluminum Association does not recognize the 5050 alloy as an acceptable grade for extrusion applications. The vast majority of Chinese Imports of 5050
grade extrusions were initially concentrated in the shower enclosures market. Despite the significant duties in place we quickly saw prices for these products collapse and we began losing significant sales volumes to the so-called 5050 Chinese extrusions.

One by one the customers switched to unfairly priced circumventing Chinese 5050 extrusions and our sales volumes of extrusions for shower enclosures plummeted. By the end of 2015, our sales for extrusions for shower enclosures were at levels not experienced since the original investigation. The AEFTC petitioned the Department of Commerce to investigate these 5050 extrusions. In November 2016 Commerce issued a preliminary affirmative determination finding that such 5050 Chinese extrusions are later developed merchandise and are circumventing orders.

Nearly immediately following the Department's preliminary decision, nearly all of the customers that we had lost to the circumvented material began placing orders with us again. This shows the great lengths the Chinese Providers will go to gain access to the U.S. Market to unload their massive and growing excess production and capacity. It also shows what will happen to the industry as a whole if the orders were revoked entirely. The orders are critical to our survival.

On behalf of Western and our employees I urge the
Commission to continue the orders on aluminum extrusions from China. Thank you.

STATEMENT OF MICHAEL B. ADAMS

MR. ADAMS: Good morning. I am Mike Adams from Brazeway, Senior Vice President. With me are Stephanie Hickman Boyse our President and CEO and Donald Dinan our Counsel. I would like to thank the Commission for your interest in the Sunset Review. We appreciate the opportunity to be here again and participate in the process. Brazeway is a family-owned company who has been in business for over 70 years. We are a manufacturer of extruded aluminum tube fabricated components. Our products are used in the air-conditioning, automobile, home appliance and commercial refrigeration industries.

We are here today to highlight the critical importance of renewing the orders and to respond to specific allegations from Electrolux that FECs, one of several fabricated extrusions we produce, are outside the scope of the orders and that the elimination of the orders would pose no material injury or likelihood of material injury to the Domestic Industry. This is simply not true. While we respect and sincerely appreciate Electrolux as a customer, the livelihood of our business is at stake and we simply have no choice but to take firm exception with their position.
In addition to many others, Brazeway's business would be decimated if the orders were revoked. Additionally, elimination of FECs from the scope would impact all of our products and would cause irreversible material damage. Brazeway's FECs are part of the domestic like product. We would like to thank the ITC Investigative Staff for their visit to our Hopkinsville, Kentucky plant.

During their visit, they viewed our processes and we subsequently submitted a flow chart clearly showing that Brazeway produces extruded aluminum round tube and microchannel tubes, coated and uncoated and fabricates cut-to-length tubes, hair pins and FECs, all within the same facility with the same employees and produced from the same equipment.

FECs like other extruded fabrications are part of a continuum of products produced by the Domestic Industry. FECs have the same physical characteristics and uses as other aluminum extrusions. They are made from the same alloy aluminum series designations commencing with one, three and six. The manufacturing process is identical to our other extruded aluminum products, namely a billet is heated in an extrusion press and pushed through a die creating extruded tube.

This tube is then cooled and coiled, bent and fabricated into a serpentine shape. These are standard
manufacturing processes for aluminum extrusions. The fins
are then added to the tube to create the FEC. FECs are
interchangeable with each other. They are substantially
identical to the base configuration and are manufactured by
the same process.

The FECs that were exported by the Chinese
Producers to Brazeway's customers were also substantially
identical regardless of customer and were fully
interchangeable. Customers and producers clearly identify
FECs as aluminum extruded products. It should be noted that
all U.S. Producers responding to the Commissioner's
questionnaire reported that FECs are fully or mostly
comparable to other aluminum extrusions.

FECs are sold through the same channels of
distribution as other aluminum extrusions. The Chinese
Producers of FECs that were exporting to the United States
are extruders of aluminum and producers of FECs. The
catalogs show that what they sell to Electrolux is
substantially similar to what they would supply to other
major appliance OEMs, who are customers of ours and would
compete directly with Brazeway for sales of FECs.

All of our fabricated extrusions including FECs
are priced in the same manner although FECs are sold by the
piece they are priced on a floating LME metal base which
passes directly through to the customer and a per unit
conversion or fabrication charge. This is documented in Brazeway's customer agreements including the price appendix with Electrolux. Prior to the orders, Electrolux was shifting its purchases to two Chinese Producers, solely we believe on the basis of price.

Chinese prices which the Department of Commerce found to be illegally subsidized and constitute dumping were so low that Brazeway could not compete. Our other main customer advised us that when its supply agreement expired it would shift purchases to Chinese Producers as well based on the China price. The loss of these customers would have forced us out of the FEC market. The United States FEC Industry would have been destroyed and Brazeway's existence would have been threatened.

When the orders were issued we were able to execute long-term supply agreements for the duration of the period of the orders with our largest customers including Electrolux. These agreements allow Brazeway to regain or retain significant portion of our FEC business. The result of this recovery in sales allowed us to expand our plants and employment, increase production, buy new equipment and increase investments in research and development in the United States, resulting in the introduction of innovative new products but these agreements have now expired and we fully expect that with the renewed availability of
subsidized and dumped China price product customers would again shift their FEC business.

As a consequence of this threat, we have not been able to renew the long-term supply agreements with our largest customers who are presumably awaiting the outcome of this case. Revocation of the orders would lead to significant adverse volume and price effects which would cause renewed material injury to the Domestic Industry, if not eliminate its existence.

Electrolux claims that there will be no harm to Brazeway because FECs are produced in Mexico. That claim is not accurate. Prior to 2008, both Electrolux and another major appliance OEM moved production to Mexico. Brazeway moved a portion of our fabrication to support them but we continued to make FECs in our Kentucky facility along with other fabricated extrusions and all our extrusion assets are in the United States and our facilities in Kentucky and Indiana.

For the parts assembled in Mexico only 15 to 20 percent of the total value added is represented by that process. If the orders are removed, the harm would extend far beyond Brazeway’s FEC business which would be lost. We would also lose the upstream U.S. Aluminum tube extrusion business which supports the U.S. and Mexican fabrication plants. This significant loss of business would cause
material injury at Brazeway and possibly put us out of business.

The continuation of these orders is vital, not just for Brazeway's U.S. aluminum extrusion manufacturing, but if removed would jeopardize our major billet suppliers such as Century Aluminum in Sebree, Kentucky and the aluminum fin supply from Mt. Holly, South Carolina and Russellville, Arkansas. We cannot overstate the importance of extending these orders and the impact it has on Brazeway U.S. Employees and extended supply base. Thank you very much for your time.

STATEMENT OF JESSE E. GARY

MR. GARY: Good morning. I am Jesse Gary, Executive Vice President, General Counsel, and Secretary of Century Aluminum Company, and on behalf of my 1,800 colleagues at Century I would like to thank the Commission and its staff for the opportunity to speak with you today.

As you know, Century is the largest remaining producer of primary aluminum in the United States, with smelters in Hawesville and Sebree, Kentucky, and Mt. Holly, South Carolina.

We understand that the Commission is assessing the antidumping and countervailing duty orders on aluminum extrusions from China. These orders are vital not just for the U.S. aluminum extrusions industry, including many of our
major customers here today, but also for the primary aluminum industry in the U.S. in which we compete.

If our major extruder customers are again injured by unfairly traded imports from China, the remaining primary aluminum producers in the United States will also be in jeopardy.

As we discussed a few months ago during the Commission's Section 332 hearing, the aluminum industry is suffering from the effects of a massive over-capacity and over-supply crisis.

This unfortunate situation is largely the result of rapid, unnecessary, and government-driven capacity expansions by aluminum producers in China. Chinese primary aluminum production capacity has skyrocketed, growing by more than 1200 percent between the years 2000 and 2015.

Chinese producers are now responsible for by far the largest share of aluminum production in the world, and their share has grown each year. This unprecedented growth is particularly shocking, given that it has occurred in a country with no natural comparative advantage.

Based purely on commercial considerations, the aluminum industry in China simply would not exist to the size and extent that it does now. This is a supply-side problem driven by China. Demand for aluminum has been healthy in recent years, but China's massive capacity
expansion has robbed primary aluminum producers of the
benefits.

Unlike the primary industry, the antidumping and
countervailing duty orders have allowed the U.S. extrusion
industry to benefit from the improvement in demand. The
orders are critical to the industry's continued recovery.

If they are lifted, aluminum extruders our
customers will again suffer severe material injury. This
will have drastic negative effects on primary producers like
Century, as well, because primary aluminum demand is driven
by the production and consumption of semi-finished aluminum
products like extrusions.

For example, Brazeway is one of Century's largest
customers. Brazeway produces aluminum extrusions for use in
fin evaporator systems, as well as other types of
extrusions. If fin evaporator systems are found to be a
separate like-product and the Orders on them are lifted, I
have no doubt that importers like Electrolux who are here
today seeking revocation of the Orders will substitute
Chinese extrusions for Brazeway's at unfairly traded
prices.

If end-users like Electrolux face their own
unfair competition, they should be seeking relief as the
extrusions industry did rather than trying to pull apart the
domestic supply chain.
Revocation will of course reduce Brazeway's overall sales and, by extension, the need for primary aluminum from producers like us in the United States.

Each ton of unfairly traded semi-finished aluminum exported here by China is a ton that is not produced in the United States, and thus is also one less ton of primary aluminum that is not purchased in the U.S. to service downstream producers like Sapa and Brazeway.

In this way, Chinese over-capacity and unfairly trade effects the entire value chain for aluminum products. This is confirmed by the WTO Dispute Settlement Proceedings that the U.S. Government is currently pursuing.

It is crucial that antidumping and countervailing duty orders remain in place to discipline Chinese imports of aluminum extrusions. Thanks very much for your time. I would be happy to answer any questions you may have.

MR. DeFRANCESCO: Commissioners, Robert DeFrancesco. That concludes our affirmative presentation and we would be happy to answer any questions that you have.

MR. PRICE: Alan Price. We reserve our remaining time for rebuttal.

VICE CHAIRMAN JOHANSON: Alright, we will begin Commissioner questions. And we will start with Commissioner Broadbent.

COMMISSIONER BROADBENT: Okay. Let's see. Mr.
Gary, can you, just to kind of give us some context. I know aluminum is a busy trade issue right now, just kind of how do you see the landscape of what you're trying to accomplish?

MR. GARY: Sure. So today obviously we're here talking about aluminum extrusions, but reference has also been made to the situation that the primary aluminum industry faces, as well. And I think the Commission is probably well aware of the WTO case that was brought a couple of weeks ago now specific to primary aluminum, and specifically targeted at the unfair subsidies that the domestic Chinese primary aluminum industry has been giving to itself.

While that case—and I guess it's important to understand, that case is specifically targeted at primary aluminum capacity, and obviously we all know that a WTO case like that takes some time to be completed. And so—but I think overall what we're seeing, and the reason why both us and the extruders are here today, is that whether it be in primary capacity or in extrusions, the over-capacity that's in China that's been created by these subsidies and what we consider to be unfair and illegal subsidies, has created this over-capacity situation which is damaging the U.S. industry, whether you're starting at the beginning in primary, or the downstream in extrusions.

So in the end, we're seeing the same root cause. There are different solutions for each part of the industry,
but no matter which part you're looking at the Chinese are operating unfairly, and the various parts of the industry need the help and protection that they're seeking today.

COMMISSIONER BROADBENT: Okay. Did anyone else want to comment on that question?

(No response.)

COMMISSIONER BROADBENT: Then there was a 201 that was filed and then withdrawn. Were you all involved in that?

MR. GARY: The 201 was brought by the United Steelworkers?

COMMISSIONER BROADBENT: Right. Okay. But in that--and I'm sorry, I didn't have a chance to look at what products were covered that would kind of indicate a sensitivity out there--

MS. HART: Holly Hart, Steelworkers. I believe it was purely primary aluminum.

MR. DeFRANCESCO: That's correct. Robert DeFrancesco. That petition covered both primary and-- primary aluminum both unalloyed and alloyed form.

COMMISSIONER BROADBENT: Okay, that's good to know. I should know that and I just didn't. I've got to say, it's nice to have some women with some color on the panel here. It's helpful.

Alright, so those are sort of primaries. Now
we're down to the extrusion, a much more manufactured
product here, and it seems to me like the major looming
issue here is we don't really have any information on what's
going on in China.

There are 700 firms there and no one is talking
to us? Is that right?

MR. DeFRANCESCO: Commissioner--Robert
DeFrancesco--yes. You sent out questionnaires. You
received no responses from foreign producers other than the
few U.S. producers who also happen to have operations in
China. And that pattern was true in the original
investigation.

You got no responses from the Chinese in the
original investigation, and you really didn't get much of a
response this time around, either. In fact, no response.

COMMISSIONER BROADBENT: Okay. I have a question
for you that involves speculation of other people's motives.
Why do you think the Chinese aren't participating? Do they
think that they might have a better chance of winning if
they don't participate? Or they don't have time or money to
spend on it? What would you think is going on there?

MR. DeFRANCESCO: Sure. So I'll start and maybe
Jeff might want to jump in. I think in the original
investigation they didn't participate, I would be
speculating, but I would think they realize that this was an
affirmative case then and it's an affirmative case now, and
why necessarily waste their time, you know, fighting it.

And they have been taking those extrusions and
that capacity and shipping it all over the world to other
markets and damaging those other markets, and that capacity
has grown since the original investigation until now. It's
twice as large, if not larger, than it was then, and they
still have plenty of capacity to damage the U.S. market.

COMMISSIONER BROADBENT: Okay.

MR. HENDERSON: Jeff Henderson with the AEC. I
would add that both when I was in the extrusion industry
working for SAPA and now as president of the AEC, I noticed
a bit of a change in Chinese direction. In the last couple
or three years, trade enforcement issues have really come
front and center.

And it just appears that they believe that they
can cheat their way to the market, as opposed to doing it in
another way. And they've invested a lot of money, and put a
lot of metal into North America as a result of that.

The 5050 example that we talked about in our
earlier testimony is a good example of that.

MR. PRICE: Alan Price, Wiley Rein. So this is,
like many cases, there's a lot of documentary evidence
showing China has massive capacity. When Mr. Weber
tested about the massive expansion going on at just one
extruder, that expansion is almost equal to the size of the entire U.S. industry. That one expansion. And that doesn't happen without massive government support going on.

Approaches, when you have these cases, unfortunately there's two ways of fighting a case. And one way is sort of coming into the ITC, laying your cards out on the table, but then you're giving over all of your information and cooperating, and then it's transparent and very easy for us to trace, and track, and assure compliance.

The other way is to hide, cheat, try to enter things under tariff numbers that don't have a suspension in the Customs module, and try to get away with it as long as possible, and try to do things like modify the product, and not tell anyone for awhile to see if you can get away with that, until you get caught. That has been a real issue in this case.

And so to the extent someone tries to make an issue that the modules have expanded in the number of tariff numbers, it's a function of the way the Chinese have actually approached trying to essentially cheat their way around the system rather than come into this agency and lay out and provide you all the information, and then provide a much more traceable set of paths for us to follow up on.

MR. DeFRANCESCO: Just to follow up on that, I would also note that their participation at the Department
of Commerce has been significantly greater than at this
agency.

COMMISSIONER BROADBENT: Let's see. I think the
prehearing report notes that there were, what, 97 scope
exclusions since the imposition of the AD/CVD Orders. How
many of these ended up excluding products from the scope?

MR. DeFRANCESCO: Commissioner--Robert
DeFrancesco--I would have to go back and tabulate that, and
we can do that in the posthearing brief. Those were
requests. Obviously not all were granted. And the AEFTC,
when those scope clarifications come in, judiciously
examines whether to participate and oppose those, and there
are times where we have not opposed certain exclusions or
clarifications, and there were times where we have.

COMMISSIONER BROADBENT: But you do participate?

MR. DeFRANCESCO: We do. We do.

COMMISSIONER BROADBENT: And then who is
initiating all these scope rulings?

MR. DeFRANCESCO: Most of the time they are U.S.
importers who are importing from China, importing
extrusions. Occasionally there are U.S. producers who have
asked for scope clarifications when they felt there was a
product that should be--that Customs should have been
collecting duties on that it wasn't. But most of the time
it's a Chinese producer.
COMMISSIONER BROADBENT: Okay. And then--and this is the product where we have this kind of ghost stockpile of extrusions that have been going around the world to different ports. Who can tell me what's happening there at this point?

MR. HENDERSON: Jeff Henderson with the AEC. This has become a bit of a specialty for me, I guess you would say.

(Laughter.)

MR. HENDERSON: Yeah--

COMMISSIONER BROADBENT: Where in the world is the stockpile of extrusions?

MR. HENDERSON: Exactly. In fact, just today I got an email from somebody saying here's all this data of what's going on. What appears to be happening at an aggregate level is that the Chinese are bringing a lot of aluminum into Vietnam. That seems to be the end point to this.

Some of it has made a pit stop in Malaysia. Some of that that's in Vietnam now actually came out of either Mexico or the United States.

Zhongwang Vietnam has built a huge remelt facility. There are rumors and speculation as to how many presses they may actually have in Vietnam working.

I think it is an interesting set of announcements
that came out in the last few months where we saw China—or we saw Zhongwang announce the expansion with 99 extrusion press lines. They borrowed half a billion dollars in order to do that, but yet with capacity utilization so low in China where is that going to go?

And you see what's going on in Vietnam, and you wonder if those two are going to connect in some way. And we are getting multiple reports from members that are being solicited through email to buy Chinese extrusions with creative trade solutions which, when we decode that, means--

COMMISSIONER BROADBENT: It says that in the email, in the solicitation?

MR. HENDERSON: In some cases they have, yeah. And it just seems to become more and more brazen. So I believe that's basically what they're doing. And what's driving all of that is this unnecessary aluminum that's being produced, and the Chinese are trying to find a way to push it downstream. And their own market can't consume it, so they're looking for markets outside of China, and the U.S. market is a real prize for them if they could get here.

So if the Orders are revoked, we have no doubt at all that they are locked and loaded and ready to fire, and will do so faster and more effectively than they did the first time.
COMMISSIONER BROADBENT: Okay, thank you.

MR. DeFRANCESCO: Commissioner Broadbent, just to follow up quickly on the solicitations, we put a few of those on the record in our prehearing brief, and some of them are very explicit and say they'll certainly take the extrusion out of one container and put it in another and label it as Vietnamese and send it to the U.S.

MS. JOHNSON: Commissioner Broadbent, Susan Johnson, Futura Industries. So obviously I'm not a part of the Chinese extrusion industry, but I have a couple of data points that I think are interesting.

I think that the Chinese take a much different long view than we do. Somewhere around 1980, '82, I think the aluminum industry was declared an industry of interest. And coincidentally somewhere around 1983 is when most, if not all, extrusion plants in China came to be.

It can't be coincidental that they all opened about the same time with the same types of equipment. Members of our industry that have toured there have observed and commented on how inefficient their presses are compared to the U.S. presses.

And then the Zhongwang has a distribution company that they have established in the United States called Punching, and they sent some inquiries to us if we'd be interested in buying extrusions from them.
So we traveled to the Los Angeles area, Whittier, to tour, meet with them and tour one of these facilities. The amount of square footage, the amount of investment, was staggering. And in one particular conversation I asked how long--I asked a very silly question, I guess, from their perspective--I said, this is a massive investment. How long do you think it's going to be before you break even? And they looked at me like, "break even?" We're not interested in making a profit. We're interested in market share.

And the vice president of sales and I went out and got in our rental car and thought, oh boy, this could be really, really tough for a few years. That was before the Orders were put in place in 2011.

VICE CHAIRMAN JOHANSON: Alright, next up is Commissioner Kieff.

COMMISSIONER KIEFF: Thank you. I join my colleagues in welcoming both panels, and appreciate the opportunity to explore these issues with you.

For me, what I'm especially interested in focusing on, if we could, is admittedly I think some analytical and legal topics, and by that I don't mean to suggest that the witnesses coming and presenting isn't extremely important and helpful; it is.

I just am trying to think through the basic decision making process. And as I understand it, this is
one of these--this is an interesting case for me, because
it's--let's assume for purposes of this discussion some
pretty significant degree of things we're all troubled by
with respect to the Chinese actors. That assumption sounds
reasonable in part because you have each explained some
facts why it's probably true, and they haven't offered
countervailing explanations. So I am left as a
decision-maker saying okay, I can buy the cogent arguments,
and I have no reason not to.

But it seems to me the cogent arguments that I am
struggling with that are pushing back against this panel are
not from China but from the other panel, who are domestics
asking us to think about the very practical problem
presented by a separate like-product analysis.

In effect, as I understand it, they're saying
almost everything you're saying might be absolutely true and
legally compelling with respect to most of the products on
the table, except the few they're discussing. And with
respect to the few they're discussing, as I understand it,
they are in effect saying--and since we're thinking about
extrusion, this is a nice metaphor--no matter how hard there
is a push through the many, many pours in the U.S. border
for many, many, many different products, the two particular
streams they're interested in are coming into the market in
a way that's not harming those separate market segments.
And so what I'm trying to ask is: How do we conduct our analysis if we do a separate like-product analysis? And so I guess the first question is: What is the test, the legal test, or the legal framework we should apply for a separate like-product analysis?

MR. DeFRANCESCO: Commissioner Kieff--Robert DeFrancesco--I think as we've laid out in our prehearing brief, we believe the Commission's Standard Six factor like-product analysis is appropriate here. So far as the semi-finished analysis goes that was advocated in the Respondent's briefs, that is something the Commission considered in its original investigation. It was fully briefed and the Commission chose the six-factor test above the semi-finished analysis, frankly for good reason given the broad product spectrum and continuum here that the six-factor test lends itself better to this analysis.

COMMISSIONER KIEFF: Now that makes sense, and of course the question for the other panel will be, regardless of which of those two legal tests, you know, why are they right and you're wrong, and that's the same question I'll ask you.

The concern I have about a six-factor test is the old sleight-of-hand problem, which is, you know, if you watch closely his fingers never leave his hand. And if that's true with five fingers, it's even more complicated
with six. It's just really hard to figure out net/net why a
decision goes one way or another when there are that many
factors on the table.

And as I understand it, with a statutory
framework like ours where we are often asked to apply many,
many factors, one of the things that seems to be driving a
lot of our overall patterns is do we have a cogent argument
on one side? Do we have a cogent argument on the other
side?

And in this case, thanks to the great briefing by
both sides, we have two domestic cogent arguments. And
again, even if we were to decide their way, it would only be
with respect to those particular products. So what I'm
trying to figure out is, is each prong of the six-factor
test so clearly tipping in your favor that there's just no
way to pause on the slippery slope?

Or is this just really a little bit more
complicated? And in this case, what big-picture frame
should cause us to tip one way or the other?

MR. DeFRANCESCO: Sure. Robert DeFrancesco again,
on behalf of Petitioners.

So--and we will brief this in our post-hearing
brief--we believe even if you looked at the semi-finished
analysis, it is still one like-product. And as you heard
from the testimonies here, one of the major items in that
semi-finished analysis is the degree to which the semi-finished product and the more processed product are dedicated to one another.

And I think you heard from all the witnesses here today about the degree to which the particular die, when that blank is pushed, is dedicated to becoming that downstream product.

COMMISSIONER KIEFF: No, I get that, but let me just ask on that question, like are you really saying that if we lift—if the Order were to be lifted with respect to these two particular like-products, the engine fittings and the fin evaporator coil, that all the extruded aluminum in China is now going to zip through those two pores in our border and totally destroy the domestic industry with respect to those two products?

MR. DeFRANCESCO: So with respect to the coil—not the coil, the engine fitting, I mean that is a machined part that is not unlike any of these other machined parts that are sitting on this table.

COMMISSIONER KIEFF: No, look, I love playing with aluminum. I used to do it in shop. I went to a technical school. I get all of that stuff, and I would love to, you know, play with it more, and I know that they like to play with it. That's great. I'm just trying to figure out why we think it's that likely that that much will get directed
to just those two particular product streams in a way that will harm the domestic industry, especially when we have a domestic industry in the U.S. coming back and saying to us, my gosh, we really think there are some cogent reasons why that may not happen.

MR. DeFRANCESCO: Well if you were to evaluate on the six-factor test and you found that those two products were separate like-products, the domestic industry are those products.

COMMISSIONER KIEFF: Yes.

MR. DeFRANCESCO: And at that point the effect on those industries would be similar to the effect on the overall domestic industry.

COMMISSIONER KIEFF: Well that is exactly the question I'll be asking this afternoon, is why the bad stories you've told with respect to many examples are not likely going to happen with respect to these two examples.

MS. JOHNSON: Commissioner Kieff, Susan Johnson for Futura Industries. There are six extrusion companies here that would, could, will produce those parts. We suggest that the other side give a request for quote on those products to all six distributors here.

This is--I liken this to a bakery. Our products are processes, technical, our products are technical. However, a bakery can produce everything from sour dough,
rye, wheat, anything you want. To say that those particular
kind of rolls can only be produced at a bakery that's
halfway around the world is nonsensical. And I think that
all the extruders at this hearing today would be glad to
offer quotes.

Now the products that they're obtaining from
China are probably priced at a different methodology where
capital equipment and many of the insurance, the loans don't
exist on the other side.

And in fact, when the Orders were put into place
in 2011 and the Chinese had 22 percent market share, most of
the products that were being sold in this country were below
the price of the raw material. Now tell me how you're able
to sell products below the price of the raw material.

COMMISSIONER KIEFF: So that's very helpful, and
maybe let me just make sure I'm hearing what you're saying.
You're saying that even if we were to believe many of the
facts argued by the other side about where they buy their
stuff today, you think that there's still plenty in the
record for us to conclude that tomorrow you could be
providing those products. And that is the threat of injury
or the actual harm?

MS. JOHNSON: As could any of the extruders at
this meeting today, absolutely could produce them.

COMMISSIONER KIEFF: Well my time is up, and I
really appreciate very much the exchange and thank you very much, Mr. Chair—or Vice Chair.

VICE CHAIRMAN JOHANSON: Thank you, Commissioner Kieff. And I would also like to thank all the witnesses and their counsel for being here today.

This Order was imposed in 2011, the same year that I came to the Commission. However, it was voted on prior to my being sworn in. And it's something I've followed quite closely over the years.

Ms. Johnson, I was working at the time of the original investigation for Senator Hatch of Utah. And so I am actually somewhat familiar with your facilities at that point.

And, Mr. Henderson, I have followed quite closely, because I read the newspaper every day, what's going on with aluminum extrusions around the world. It is quite interesting how there's so much being generated in the press involving this investigation. It's hard not to follow it, if you follow the general news.

My first question is this: The Aluminum Extrusions Fair Trade Council at Exhibit 8, at page 6, reports that Commerce considered whether fin evaporator coil systems were within the scope of the original investigations, and in a subsequent scope inquiry.

Is this accurate? Moreover, did Commerce
consider whether fittings for engine cooling systems were
within the scope during the original investigation, as well,
or only in subsequent scope inquiry?

VICE CHAIRMAN JOHANSON: Does the timing of
Commerce's scope determinations on these issues make any
difference to the Commission's analysis.

MR. DINAN: Commissioner, Donald Dinan from
Brazeway.

What is accurate is that in the Department of
Commerce initial investigation whether fin evaporated coils
were included in the scope, was decided as part and parcel
of the original investigation. Indeed, if one reads the
Department of Commerce determination, they actually have, in
defining the scope and discussion the scope; they actually
discuss FECs in particular.

To the second part of your question, I would
submit that it's irrelevant if something's determined to be
in the scope originally or if it's done through a subsequent
process. You're either in or you're out, but what is
correct as far as FECs go is that it was part of the
original scope.

MR. DEFRANCESCO: And Commissioner Johanson,
this is Robert DeFrancesco.

As Mr. Dinan just explained, it was part of the
original determination. It was found to be in the scope and
determined in the original investigation. Brazeway participated in the original investigation. That data was on the record the first time when the Commission evaluated this issue in the original investigation, so that the degree to which they were producing FECs then it was on the record and they're producing FECs now and so there wasn't anything that was missing from the record at that time.

MR. DINAN: If I could just amplify on my colleague's comments. And yes, when the case came over to the ITC for the final injury, Brazeway filled out a full questionnaire and all the information, including the like product that was all in front of the Commission at that time and Brazeway was ruled to be part of the like product the Commission found.


As you've heard, first of all, there are a number of domestic producers of engine fittings here. It's not a particular -- you know this is a product line and it sort of goes back to, I think, the thrust of Commissioner Kieff's question.

This is a product line where if you start looking at every individual nut, bolt, widget -- I'm using that very generically, not specific to an aluminum extrusion. They look like a billion different things, but that is the nature of this product line and that's not a
particularly unique product in this product line.

In fact, you know that engine manifold that Sue Johnson held up before you know it is -- you know goes with one of those fitting and we can bring one of those up there. It's far more sophisticated, for example, and they make fittings. SAPA makes fittings.

Again, it's all part of the original investigation. All the questionnaires were there. There's nothing unusual about it. The timing of when someone said, oh, hold it, I didn't -- you know I got caught by Customs. I'm going to put a scope ruling request trying to sneak this in which is often what was going on in many of these things you know and Commerce said, hey, this is clearly in the scope. So there's no question about it was in the scope. There were questionnaires from domestic producers and so timing is a red herring in terms of what the Respondents are arguing here.

Domestic production is a red herring; whether it is fin evaporator coils, whether it was engine fittings, whether it is appliance handles, which is sort of out there also in some of the discussions. All these things are produced or producible in the United States. And I will say, going back to one of the other questions, you know where the U.S. industry really doesn't produce it and has no interest in it we've actually not responded in some of these
scope proceedings because we're trying to be practical and realistic to get relief for the industry. It is what it is.

MS. JOHNSON: I don't know if you want to see this part. It's very cool.

VICE CHAIRMAN JOHANSON: Actually, I would.

MS. JOHNSON: It's got the date produced and the serial number. We make a thousand of these a day for the largest truck builder in the world and we made a sizable investment to produce it robotically on the CNC machine because -- you know to reduce the labor costs. So on an even playing field, I would say that our labor costs involved in the production of that are probably less than if that was going to be produced elsewhere, but we made a sizable investment in that robotic, in the CNC, in the training, and a sizable commitment to the customer that those will be delivered on time and perfect, a thousand a day every day.

MR. DEFRANCESCO: And just to follow up on that point, that engine manifold that you're looking at, and as Mr. Weber testified too, these engine fittings are part of a package of products that are sold to customers, along with that manifold and the fittings and everything else. If the fitting comes out and now that's being priced at Chinese prices when I sell that entire package I'm going to be
forced to price the rest of the package at those similar
prices. So yes, excluding one of these parts along this
continuum starts to have ripple effects along the package of
parts that they produce.

VICE CHAIRMAN JOHANSON: Thank you for your
responses.

Mr. McEvoy, you'd mentioned the value added that
your firm does concerning aluminum extrusion with regard to
shower frames and I wanted to dig further into that issue.

Above and beyond the manufacture of aluminum
extrusions, to what extent do U.S. producers engage in other
related value added activity? To what extent does this vary
among producers and the specific markets that they serve?

MR. MCEVOY: Thank you. Bennett McEvoy, Western
Extrusions.

The shower enclosures that I was discussing was
just one market segment we service. I've actually some
products here. You can see that's a shower enclosure header
and it's again just one segment we service and I've got a
really heavy curtain wall anchor here that I was questioned
on the way in about what I was doing. And the reason I
bring up the shower enclosures was because the only reason
they were -- the Chinese were able to circumvent the duties
by changing the alloy. It's not a very structural part
because it's just holding up some light glass in your shower
door where that curtain wall anchor is holding up an entire, giant curtain wall unitized window frame that the size of four of those wooden shutters that are behind you, so we're talking about a massive structural product. And so they sold the shower doors because they could get around the duties by changing the alloys.

VICE CHAIRMAN JOHANSON: Was that their 5050 issue?

MR. MCEVOY: Yes, sir. And it was tougher in these other products that are structural to circumvent the issues and so I think for Western the real -- you know the fear, and I strongly believe the reality is you know the 5050 is just evidence of what they're willing to do. And we immediately lost all the orders. It was all about price. You know the specifications, you know like Sue was saying earlier, we can all produce these similar products and when they were able to get the cheaper price they left us immediately. When they couldn't get the cheaper extrusions, they came back to us immediately.

MR. PRICE: Commissioner Johanson, I'd actually just like to quickly of the all six of the producers just quickly state what type of manufacturing operations that you do, okay?

MR. MCEVOY: Yes, I'll start.

VICE CHAIRMAN JOHANSON: If you can make it
rather quick, though.

    MR. MCEVOY: Yes, I won't go through every
    machine, but so extrusions, anodizing, paint, mechanical
    finishing, brushing, polishing, CNC fabrication, punching,
    cutting, drilling, welding, deburring, and I'll stop
    there.

    MR. MERLUZZI: Rick Merluzzi representing Pennex
    Aluminum. We do punching, notching, CNC work, machining
    assembly, some anodizing external. And I think those who
    have been at the factory have seen some of our operations
    and the sophistication of the downstream of our operation.

    MR. ADAMS: Mike Adams, Brazeway, extruding,
    coating, cutting, stamping, lubing, vending, assembling,
    coining, and forming, which are processes that the ITC staff
    observed during their visit.

    MS. JOHNSON: Susan Johnson, Future Industries
    Utah, all of the above, except for painting. And in many
    cases, we're providing fully fabricated assembled parts to
    our customers to take labor out of their operations.

    MR. HAMILTON: Brook Hamilton from Bonnell. We
    can obviously extrude the machine. We anodize. We paint.
    We punch. We form. We tap. We drill. We assemble.
    Virtually all of the above that everybody else talked about.

    MR. WEBER: Jason Weber, Sapa Extrusions. We
do everything. Being the largest extruder, I would just add
quickly that the value added finishing is really something that you'll see throughout all the different extruders. That is really increased over the last years, especially, since the orders went in place. You know many of these services we put in to satisfy our customers requirements because they demand it. They want to take labor and become more efficient themselves, so they demand it out of us. It makes us a better supplier to get as close to our customers as possible.

VICE CHAIRMAN JOHANSON: Alright, thank you for your responses. The next Commissioner with questions will be Commissioner Williamson.

COMMISSIONER WILLIAMSON: Okay, thank you. I do want to express my appreciation to all the witnesses for coming.

Following on Vice-Chairman Johanson's question, do your Chinese competitors -- or other non-subject competitors provide all these services, in general? We sometimes have had Respondents come in and say, well, we just don't do all the things the domestics do. Is that an issue here?

MR. DEFRANCESCO: Sure. Commissioner Williamson, Robert DeFrancesco and I'll let the panel jump in.

Yes, is the short answer. And frankly, some of
the large consumers that are here today are also sourcing
the identical Chinese part into some of their Mexican
operations, so yes, the Chinese can service all of these
parts; but I'll let the panel answer.

MR. WEBER: Jason Weber, South Extrusions.
We actually operate two facilities in China and
there really is no difference between what they do in China
and what we do here.

MR. HAMILTON: Brook Hamilton from Bonnell.
I would agree. There's no reason to think that
Chinese producers can't do anything that we do. The
equipment is commercially available. CNC machines you can
order them on the Internet. They can set up and do whatever
we do. They do it in ways differently. They don't have the
same environmental regulations when it comes to paint lines
and anodizing and so forth, but they could do what we do.

COMMISSIONER WILLIAMSON: Okay.

MS. JOHNSON: Sue Johnson, Future Industries.
All of the above, but also that gets to the
question of why carve out engine fittings. If the engine
fittings why not everything else? There's no reason why
those should be carved out as a special exemption.

COMMISSIONER WILLIAMSON: Okay.

Sort of going back, conceptually, to some of
these questions here, you know this reminds me of looking at a Seurat painting, a great pointillist out there. And the question is what's the scope? Well, the scope is the painting, okay, in this case. And when you judge what it's like in similar, you look at the whole painting. You don't look at each dot because each dot, by the way, can look incredibly different and out of place, but under the Commission test, obviously, you look at the entire painting.

The Chinese -- we'll see it in all these scope exclusion requests.

COMMISSIONER WILLIAMSON: Which gets to my question, you have sometimes not objected to a scope exclusion because there's no domestic production. This looks like an awfully slippery slope. What's the justification for saying, okay, we're not going to oppose that one if these things are --

MR. DEFRANCESCO: Commissioner Williamson,

Robert DeFrancesco.

COMMISSIONER WILLIAMSON: Besides being nice?

MR. DEFRANCESCO: As the process has unfolded at the Department of Commerce, the Department of Commerce has drawn a line with a decision called Side Mount Valves that says if a part comes in that has -- let me just jump in here for a second.
So we look at the Department's precedents and rather than going to -- that we look at. We judge it that way. We judge it as a practical of what's of interest and we judge it, frankly, of what resources are available. This is a very expensive process. It's a very expensive process here. It's a very expensive process at the Commerce Department and we try to be practical --

COMMISSIONER WILLIAMSON: I can understand your client -- go ahead. I'm sorry.

MR. DEFRANCESCO: And we just try to be practical working with the client. And honestly, every month there is a call saying, hey, what are our priorities and what are we looking at here. So yes, it is a slippery slope, but we try to be practical. That's what scope exclusions do and why you deal with things on scope. It can be in the like product and you still take it out of the scope or you let it fall out of the scope and sometimes that happens.

COMMISSIONER WILLIAMSON: Okay. Along the same line, I think that Mr. Schaefer that raised this analogy of steel products. You know slabs, hot rolled, cold rolled. And he sort of said this is the same thing. You're shaking your head. Why is he wrong?

MR. PRICE: Well, needless to say, I know something about both of these.
COMMISSIONER WILLIAMSON: Yes, we've talked about those before.

MR. PRICE: We have talked about those, although they both have the same common over capacity problem, but we'll stay away from that sort of issue at the moment.

What I would say is that actually, first of all, most of you have walked through these steel mills. The hot mill is actually separate from the cold mill which is separate from the galvanizing line in most steel mills I've been in. I won't say it's true in every one, but it's they're generally -- these are big facilities that are bigger than this building, each one of these individually.

Those are each separate items and it's just a different industry, structurally, in that you just don't have this whole set of massive variation because that's what an extrusion is. The extrusion the whole reason is it what it is, is that you can put -- you know think of it as your Playdoh machine and come out with lots of different things and have lots of different variations of it and machine it and do all these things, and that's what these guys do in that facility.

Steel companies, basically, by and large, make steel. They may own ancillary, unrelated operations, but those steel operations are really completely -- you know are very different. It's a different industrial structure.
They're really just not comparable. The scopes are different. Each case is sui generis. You know if you want to go back and say in 1990 or 1980 should someone have said we have this thing called molten steel? I don't know, maybe, but the scopes are what you start with. Here are the scopes covers this product in this format and then what's like and most similar is what the question is under the statute.

The industry in steel, at least for dumping purposes, not 201 purposes, has said each of these are separate and that's what you start with. And then when you apply the factor test, based upon that scope, you get an answer that, yeah, hot roll is different than cold roll which is different than galvanized, okay.

I think in 201 context where they've said, hey, we have this thing called steel and it has been flat roll steel in at least one of those cases. So again, you start with the scope. You go from there. You start with this scope. This scope covers the uniqueness of this industry, so it's really inapposite analogy and discussion.

COMMISSIONER WILLIAMSON: Okay, thank you.

Going from big picture to more detail, how many domestic producers currently manufacture fin evaporator coil systems in the U.S. and also how many make fittings for engine cooling systems? And if you don't know that offhand,
I could take it post-hearing, but just wondering.

MR. ADAMS: Mike Adams, for Brazeway.

With regard to the fin evaporator coils, there would be a number of manufacturers capable of producing fin evaporator coils that would supply both the domestic appliance and the commercial refrigeration industry. Some of those are produced in copper and aluminum, some are fully aluminum. I don't know the total number of producers, but there are three producers of aluminum coils in the United States and I believe only two remaining that are both extruders and fabricators of FECs.

MR. DEFRANCESCO: Robert DeFrancesco on behalf of Petitioners.

With respect to the engine fittings, we'll have to get a number for you in the post-hearing brief, but you have at least three of them here in front of you today.

COMMISSIONER WILLIAMSON: Okay.

MR. PRICE: Alan Price.

Engine fittings is actually, I think, what you'll hear people say is a pretty unsophisticated part in the scale of things. Not unimportant, not that it doesn't have high demands, but I think a lot of people here would say they could all produce them. It doesn't matter whether it's -- in the context of like product it doesn't matter if it's none, one, or a hundred in the context. The industry
can make it and in this case the industry does make it, so it's clearly part of the continuum and those same producers produce lots of other things with the same employees, the same equipment. They are from part of the same packages of products that are often sold that you know at the time you extrude it, it's often interchangeable with anything else you could push through that press. It's all perceived to be part of a package you might offer to the transportation industry or to the appliance industry and so it is just part of the continuum.

COMMISSIONER WILLIAMSON: Okay, thank you for that.

My time is about to expire, so I'll come to some additional questions later. Thanks.

VICE CHAIRMAN JOHANSON: I'm sorry for interrupting you, Irving, but I've never chaired before. I'm not used to interrupting the former Chairman, but at that point I would.

COMMISSIONER WILLIAMSON: That's okay.

VICE CHAIRMAN JOHANSON: Okay, I will not hesitate next time. Commissioner Broadbent.

COMMISSIONER BROADBENT: Okay.

Yes, just to back up a little bit, we're in the first review here and I'm trying to figure out how the Commission weighted the evidence in its exclusion of heat
sinks during the original investigation.

How do the current separate, domestic like product arguments compare to the analysis conducted by the Commission in the original investigation? So -- what did we do during heat sinks and then how does it compare to these two products?

MS. JOHNSON: Susan Johnson from Future Industries.

At the time, in 2011, we produced a large amount of heat sinks and the way the exclusion happened, in my opinion, is that we did a very poor job of explaining how -- what was the evidence based on -- by the Chinese producers that they have a special and unique way of producing them. We couldn't find a way to explain that that was just not the case. I mean a heat sink if it's produced to print it's in its final form and it will produce in transferring the heat the way it's designed to do.

COMMISSIONER BROADBENT: That decision turned on sort of dimensions and tolerances, I guess.

MR. DEFRANCESCO: Commissioner Broadbent,
Robert DeFrancesco.

And I think what Ms. Johnson was getting at is that the distinction that was made between finished and fabricated heat sinks is a blurred line that is really not accurate. And frankly, in our view, the finishing is
just a testing requirement and that testing requirement actually happens at the time it's produced or just before and that the industry here, in fact, when they made heat sinks that's exactly what they did. And so, we take issue with it, I think.


There were a number of different scope exclusions, only one of which actually was the request that were considered -- not scope exclusions, but like product -- excuse me, like product arguments. Only one of which was accepted. We were not counsel for that decision, so I think whatever Sue thought in terms of presentation and not explaining it correctly that's her opinion.

COMMISSIONER BROADBENT: Are you trying to defend your honor?

MR. PRICE: Perhaps. What I would say is that, by and large, you know you don't look at that one exception and sort of say, hey, what happened there and maybe there was something unique about the heat sink because it went into the electronics industry had some special thing that was going on there, but if you look at the products that existed and the ones that were included, for example, in the entire scope and the other scope exceptions that were rejected, frankly, I would say that none of the arguments that have been presented by the Respondents in this case would
distinguish themselves from the overall scope and the items where the scope arguments were rejected.

Obviously, the Commission -- the best way of saying this is the Commission sometimes has a lot of discretion. I mean it does and we may or may not agree with the way those decisions are evaluated, but sometimes they're evaluated and you come up with a decision we think applying the six-factor test --

COMMISSIONER BROADBENT: So you're not arguing that there's different arguments here. You're saying we were wrong five years ago and we should -- you know there's nothing in these two new requests that would be valid to differentiate.

MS. JOHNSON: Yes, Susan Johnson, Future Industries.

I don't think that it had anything to do with the discretion because I think we did a poor job of explaining how ^^^ because I was the one that did a lot of that -- what was being argued about the uniqueness of their process was, in fact, fallacious. At the time we were producing a 20-to-1 heat sink that was used in the Sun's Spark System, which was a very powerful computer used for designing at the time. We were fully capable of producing heat sinks to the capability that was being claimed from China or greater.
COMMISSIONER BROADBENT: But I don't think it's whether you could produce it or not that's the issue here. In terms of the law, is it a different domestic like product, so we've got to look at how do we make this product distinction?

MR. PRICE: Right.

COMMISSIONER BROADBENT: And you're not helping me because you're saying we were wrong, so it would be helpful to me --

MR. PRICE: We would submit that your arguments -- all the other ones were correct, okay.

COMMISSIONER BROADBENT: No, but how do the requests here differ from the one that we made five years ago?

MR. PRICE: Go ahead, Robert.

MR. DEFRANCESCO: Sure. So the principal item in the request on heat sinks came down to the degree of testing that went into the particular product and how the particular tolerances and things of that nature that really don't exist. It didn't exist for the other products that you found to be in and it doesn't exist for the products that are at issue here, so we'll be happy to explain that further in the post-hearing.

COMMISSIONER BROADBENT: Okay. Well, talk to me about the two products that we've got on the table here as
requests for exclusions, the fitting and the evaporator coils.

MR. DEFRANCESCO: Certainly. And I can speak to the fittings and my colleagues can talk to the evaporator coils.

The fittings, I think everyone on this panel would say is not something unique that they make at their facilities. It's not necessarily produced to unusual tolerances or in any other unusual way from any other extrusion that they make.

MR. HAMILTON: I would second that. Brook Hamilton from Bonnell.

You know engine fittings we don't even have a category for engine fittings. I mean it's not a separate product code. We make them. It's not a separate -- we don't use different employees with different skills. They're just part of a wide variety of products that we make. We have well over a thousand customers. We have tens of thousands of individual dies that are geared to specific end uses and that's our business, so engine fittings are just one of thousands.

COMMISSIONER BROADBENT: One of thousands, okay. How about the fittings -- hang on one second. I had a good question here, now I can't find it. Okay, well, let's talk about the evaporator coils.
MR. DINAN: Yes, on the evaporator coils, we would submit we can explain this in more detail in the post-hearing brief, but the fact pattern as compared to the heat sinks and the actual decision-making points of the similarities and differences are just completely different than what exists in FECs. With FECs it all comes out of -- the billet goes into the press and out comes the tube. The tube that's extruded a number of things can be done with it. Brazeway sells much of its tube -- that's the product that actually gets sold. You can make hairpins where it gets bent. That's the product that gets sold. You can make serpentines. There's a number of things that you can do with that tube. One of the things that you can do with the tube is that you can bend it and make it into a serpentine, which forms the operative part of the FEC. In other words, the thing that makes it work is the extruded and bent tube, which the coolant is going through. All the fins do is make it more efficient for the evaporation of the heat, but after it's all made the extruded tube, which all comes off of the same press, all comes all off the same assembly line -- not assembly line -- manufacturing line, all comes off of the same coiling, then just gets merged. The machine just goes kaboom that puts the fins into it. And when you look at the cost of components and the value added, the insertion of those fins is a relatively
small part. So we would submit that to try to compare it
with the heat sinks, and again, we can go down
point-by-point, it's just -- I mean --

COMMISSIONER BROADBENT: Okay, well, let me ask
one thing. I apologize. My time is almost expired, but see
if you can answer this. Electrolux is arguing that the fin
evaporate coils systems are sold to a distinct class of
original equipment manufacturers, meaning refrigerated
system manufacturers. Are there other aluminum extrusions
or fabricated aluminum extrusions with in the scope that are
sold to a distinct class of original equipment
manufacturers?

MR. PRICE: I think everyone here would say yes,
they all, that, you know, you can sell one --

COMMISSIONER BROADBENT: So that's not a valid
distinction?

MR. ADAMS: Mike Adams from Brazeway. Just to
elaborate briefly, I think that's correct, that you would
not make a valid distinction from that. And I would
envision the product line as sort of a tree with branches.
We start with the billet and we can extrude any number of
shapes, a bar, a microchannel tube, a round tube, and then
any of those base tubes continue to be processed into a
finished product. In the case of round tube, we could cut
it, we could form it into a hairpin, form it into a
serpentine, and eventually a finned evaporator coil.

And what came to light during the investigative
team's visit and follow-up questionnaire was, we don't even
track FECs as a separate P&L line in our operations. It's
part of the continuum of what we produce.

COMMISSIONER BROADBENT: Okay.

MR. PRICE: And just, on the lack of dedication,
just a slightly different way of looking at it, which is, if
you look at the cooling industries which would broadly be
HVAC or something along those lines, or automotive or to the
appliance makers, all of those guys also buy lots of other
types of extrusions. So this is not something unique in
those items even.

COMMISSIONER BROADBENT: Okay. My time's
expired. Thank you.

VICE CHAIRMAN JOHANSON: Commissioner Kieff.

COMMISSIONER KIEFF: Thank you very much. If
The Graduate is about plastics, maybe this is about heat
sinks. I really hope to just not -- I hope this is not
drilling on a tooth. I'm hoping that the conversation about
heat sinks can be very value-neutral, nobody has to be
throwing themselves or anyone else under a bus.

It is a feature, not a flaw for us to openly
discuss particular components of an analysis and simply say
it is what it is, and we now are asking you whether it is
something we should think about when thinking about these
two other products. It's water under the bridge. It's for
others, it's very kind of you to take upon yourself the --
the way you described -- I just want to move past, again,
the flame, so that we can instead really focus in on the
analytics. Because it seems to me, there might be an
opportunity here for us to really better understand what to
do in our like product analysis.

So do you -- and you might prefer to do this in
the post-hearing, as you've already suggested. I just want
to encourage in the post-hearing that the focus not be on
mistakes or rather just this analysis that is written and
that part of the opinion is wrong on its own terms and
that's fine. We like being told when we make mistakes.
It's very helpful to us. I view that as a feature, not a
flaw. I usually write hundreds of drafts of my documents,
precisely because I have to keep making them better.

So please don't be afraid to focus in on--for
both panels--to focus in on the reasoning with respect to
heat sinks and explain why it's relevant or not to our
analysis of these two particular product lines on the table
now.

MR. PRICE: We'll be happy to do so, and we'll
address it completely in the brief. I think as former
Chairman Williamson will say, that was actually, even that
decision was a 4-2 decision on that one point, just want to acknowledge that. But it was the Commission decision, so we'll, you know --

COMMISSIONER KIEFF: And I would be asking the same question if I were in the '2' -- that's what I did yesterday when I was in the '2'. So that's helpful as well.

MS. JOHNSON: Susan Johnson, Futura Industries. I will tell you a side effect of that decision on your part, is that that type of product virtually went away from being produced by domestic producers. It was gone once that decision was made. Now very large heat sinks that are used in battery isolators, uninterruptable power supplies, those kind of things, remained here. But that particular type and class of heat sinks disappeared from our product line.

COMMISSIONER KIEFF: And I'm just curious, do you have an intuition as to why the more complicated heat sink is now still being domestically made?

MS. JOHNSON: Because there's a lot more that goes into -- in a battery isolator, you've got a large heat sink, you've got mechanisms that get loaded in, dial connectors, a lot of -- we're doing much of that work for our final customers. Whereas the smaller heat sinks, the kinds that were being used -- well, you know, you just attach them to whatever you're trying to transfer heat away from.
COMMISSIONER KIEFF: So then I guess the next kind of conceptual question for me is, if it turns out--and I know that you think that we should not do this--but if it turns out that we treat these two products as separate, that of course doesn't end the analysis.

So the next question is, do we have enough industry coverage to analyze those two like products, assuming we decide they are separate like products? And if we don't, how do we go about our analysis?

MR. DEFRANCESCO: Robert DeFrancesco. I think if you decide that they are separate like products, you are then looking at the domestic producers that produce those like products, and if this were a case only on fin evaporators, and you had only one domestic producer, that is your domestic producer. So I think, depending on your decision, you do have enough coverage.

COMMISSIONER KIEFF: Okay. And with that coverage, I'll just ask both panels in the post-hearing to try as hard as possible to explain why we're compelled to go their way using that lens.

MR. DEFRANCESCO: Certainly. We'll be happy to address that in the brief.

MR. HAMILTON: Commissioner Kieff, Brook Hamilton from Bonnell. This whole thought process is somewhat intriguing, and I'll start off with saying I think
it was flawed when we lost the heat sink situation. But as
was mentioned earlier, and all these reviews from the time
of the original orders were put in place, and the various
challenges, they do become practical situations. And each
one on a legal perspective is a slippery slope.

And we should probably fight every single one
tooth and nail. But we don't have unlimited pockets and
resources and all the things that go along with fighting
these types of changes, or challenging them. But to me, the
slippery slope gets worse when you have the type of products
that are on the table today, asking to be sort of a separate
stand-alone special case and so forth.

Because I think if you open a door to that line
of thinking, there's nothing that says, well the guy who
makes this isn't special, and the guy who makes that isn't
special. And really what it does, in my mind, is it
undermines the ruling completely. And we'd be here for the
next twenty years, every week, in this hearing room
defending the same thing and saying well, no, I make this
and this is so special because that's my core business and I
want to be able to buy from China and do whatever. And it
would just go around and around and around. Because every
single product we make is somewhat different for a different
end use.

COMMISSIONER KIEFF: I am struggling with what
you are struggling with. I think it is a feature, not a flaw, that that is an awkward question. And I don't know how to answer it, and I recognize that in the Title 7 space that we are talking about right now, it seems as though there are these many slippery slopes and these happenstances of pause points on the slippery slopes, and it seems there's at least one body of professional commentary in the trade law space that says that's really a function of in effect how hard people push on both sides of each particular case and each particular argument in the cases.

And I don't know whether that kind of realist critique of trade law is correct, but it is a very prominent body of critique in the profession. I also spend a lot of my time and we, the Commission, spend a lot of our time in another body of law relating to intellectual property where the exact opposite arguments are kind of being made by -- under the last two administrations from two different political parties -- which is that kind of aggregating up the value chain is always wrong.

And the lowest value component is where the legal regime remedy should always focus and only focus. So you know, this might sell, a smart phone might sell for a lot of money, hundreds of dollars, depending on the device and the plan. But gosh, each chip, even the important ones, are pennies, and therefore, remedies should only just be
pennies.

So, but of course, I as a consumer, have never
bought a chip for a cell phone. I actually only buy the
cell phones, because I stopped playing with -- just like I
stopped playing with aluminum, I went to law school and
started doing other things.

But there is a big tension in the bodies of law
that govern us, about how we're supposed to even
conceptualize this stuff, and that tension was very present
for the last two administrations and it doesn't seem to be
coming any less tense in the current, and so I do think this
is a very fluid space and any guidance you can give us in
the post-hearing about what formal law we're supposed to
follow in this space for both sides will be very helpful,
because for us, we're not policy makers. You give us the
law and tell us what it is and we'll apply it.

MR. PRICE: Really quickly, we'll address the
law, but I think Stephanie actually wants to address --

MS. BOYSE: Yes, I cannot address the law. I
apologize for that. But what I would like to address, and
you had a question earlier that I would love to also tag
onto, because I think it's really critical to this case in
general for all of the extruders, including Brazeway and
including the FECs.

You know, the majority of an FEC is an aluminum
tube, so where does it stop, right? So if we suddenly
exclude the FEC from this case, which is found to be part of
the original scope, Electrolux has argued this once before
unsuccessfully. This is not the first time we've had this
discussion.

So here we are again trying to argue that an
FEC -- because we slap some fins on an aluminum-extruded
tube and because it's bent -- suddenly in a different
category. So then we would say, well then Brazeway would be
very concerned about our aluminum hairpins which are also
bent tubes which go to the air conditioning industry, so
suddenly now all of our hairpins are at stake, and is that
going to be part of a scope exclusion, and then continue to
go back through the entire chain of this product.

One hundred percent of what Brazeway makes is
related to extruded tubing. Our entire business will be
wiped out if this case is not resolved in a positive manner
for the all of the extruders here. But quite frankly, our
entire business will be done.

And very quickly these parts which have already
been challenged and already qualified with specifically what
I was looking to say, you know, many of our customers would
just come right back into the U.S., so our business has
gone.

To the earlier point though, I thought you asked
a great question and then you ran out of time, and if I may. You know, we've got a domestic OEM that's challenging a
domestic producer, which is a unique circumstance. But what
we don't have are the rest of the domestic OEMs here
challenging anything.
Whirlpool, GE, Subzero, Viking, Hussman, Hillphoenix -- none of those guys are here arguing this.
And it's because it happens to be, with all due respect to
one of our largest customers, Electrolux, it was Electrolux
that initially went and started to very quickly desource
product from the United States and bring in subsidized
Chinese FECs. So they have something specifically to lose.
Brazeway regained that business through this
period of time. And certainly what is the benefit of them
arguing this? They'd love the opportunity to go do it
again. So I understand and I respect that opportunity, but
again, you know, we were all talking about the continuum of
these products and I don't know where it would end. I'm
terrified, quite frankly, that if these orders are not
continued, that our entire business, we'll be out of
business within a year.

COMMISSIONER KIEFF: Thank you, and I apologize
for going over my time. Thank you, Mr. Vice-Chairman.
VICE CHAIRMAN JOHANSON: Certainly, Mr. Kieff.
U.S. apparent consumption of aluminum extrusion's increased
sharply since the imposition of the orders in 2011. And this can be seen at Table 1-1 of the staff report. However, U.S. producers' production capacity has declined over that period of 2010 to 2015. Please discuss the outlook for U.S. aluminum extrusion demand over the next few years and the domestic industry's ability to meet that further demand.

MR. WEBER: Jason Weber, Sapa Extrusions. I think for at least the next two to three years, we're looking at a situation of relatively flat growth, if any. So slow to no growth. We typically track GDP, so you can kind of understand from the whole macro-economic level what that means to extrusion activity.

I think you alluded to basically the capacity and what you saw in 2010 -- which is really at the height of the dumping that was occurring from China at that time -- when we saw a massive exodus of available product from domestic producers, being produced in China and shipped over here.

So at that time, I think there was somewhere around sixty presses that were taken out of the system, because there was just simply no business. And something like ten extrusion plants just ceased to exist. So overall, we're still not back, not even close to where we were pre-recession levels in the overall market of extrusion.

MR. MCEVOY: Commissioner, Bennett McEvoy,
Western Extrusions. I just want to add that -- talking about capacity -- and I echo Jason's comments about the growth in the market is kind of low to moderate and follows GDP -- but I think everyone in this room has been adding capacity and spending--you know, Western, upwards of $30 million--on adding capacity, and are continuing to try to do that, but we've taken on to do that, taken on a lot of debt. And if the duties were taken away, not only would it hamper our ability to service the capacity we've added, but additionally it would, you know, halt any new expansion because these are expensive additions to add. Thank you.

VICE CHAIRMAN JOHANSON: Certainly. Mr. Hamilton?

MR. HAMILTON: Brook Hamilton from Bonnell. Just to kind of add onto that. We suffered with the orders -- before the orders were put in place, we lost one of our plants, three extrusion presses were taken off line and several hundred employees lost their jobs and a plant was shuttered. And so we've seen both sides of it.

And since the orders have been in place, we've been able to recover, albeit quite slowly. But I'd like to sort of underscore the capital investment required to kind of service the market. You've heard numbers, $18 to $20 million for a press. And that's fairly typical.

And to Bennett's point, the payback for these
things takes a while. These are long-term significant investments and you can't hope to recover that type of investment inside of five years. It just takes a while. And that assumes you're going to be able to ramp it up and run it at a fairly full capacity.

So when you hear that without any demand the Chinese are -- one company in China is putting in round numbers, a hundred presses. I don't know how you could even service that debt without the things running full speed. And there's no demand for them to run full speed. So the whole economics of what's going on over there. Obviously the equipment will be put in place. There's a huge demand on their part to utilize it and run it and ship product somewhere. If they get a toe-hold back into this industry, our domestic industry will disappear. It will completely disappear and it won't take long.

MR. MERLUZZI: I'd like to just add on to Mr. Hamilton's comment and Mr. McEvoy's comment as well. This is Rick Merluzzi representing Pennex Aluminum.

The question around both demand and supply or capacity. The demand so far going forward, as Mr. Weber said -- we track generally with GDP and there might be changes within the market, but aluminum extrusions go into a zillion different products that we just talked about. And it touches -- you probably have gone by them a hundred times
today on the way in to the session here this morning.

But in essence, it tracks a lot with GDP and there might be transformation, greater growth in automotive, maybe less growth in the building construction today, but that's the demand profile we see. And on the capacity side, it is very encouraging that producers have put in the capital to supply the domestic industry. And as Mr. Hamilton said, it's a long-term payback and we are very nervous today.

And as the team from the Commission saw what we invested in the Leetonia facility, it is substantial. And even today as we are unsure whether the orders will continue, it affects our decision-making and what further investments go in. So I would strongly -- I'll come back to the essence of today -- we strongly encourage that these orders stay in place as they are currently configured.

MR. ADAMS: Mike Adams from Brazeway. We would have a similar story to the four speakers immediately presenting. Starting in 2005 and continuing through the period during the investigation of 2008 and '09, Brazeway was losing substantial pieces of business to Chinese competition to the point where we closed one of our factories in Michigan. That was the location that we were founded as a company. During that process, we lost 22% of our workforce in the United States.
After the orders were put in place, we were able to make investments and grow our remaining facilities and subsequently grow our U.S. employment base by 36%. So the other things driving our industry going forward to the other part of the question would be GDP gross housing starts in the general economy.

MS. JOHNSON: Susan Johnson, Futura Industries. I'd like to go back to the engine fittings. Sorry, I can't get away from that. But I realize we've talked about it a lot. But that's partially because of what was said in the opening statement, that there was no one who produced these products domestically, was an absurd statement.

I also read the nonconfidential version of the filing for Adams Thermal, and even though I am an engineer by education, I do understand nuance, and some of this was completely, to be polite, it was nonsensical. The talking about changing of the cross-section, making that some kind of a unique product, was -- so you're going to have a block and then you're going to hollow out the center and you're going to take metal off the outside in order to product an engine fitting, when you can extrude it into that shape?

MR. HENDERSON: This is Jeff Henderson with AEC. I'd like to expand on the investment and the significance of your decision on continuing the orders. I've reported to the folks in our preparation that I've had at least a half a
dozen calls in the last two to three months from various investors or ownership groups or whomever that have a financial stake in our industry, wanting to know whether or not the orders are going to be continued. Because if they are not, we're out. It's done. And to me, that's a very scary thing.

The other part is that we tracked capital investment in the industry based on press releases and knowledge just from our position in the market and almost $1.5 billion in plant and equipment have been invested by the extruders as a result of the orders. And it was all based on the concept that said, we are free now to go out and compete in the market and provide value-added services to the customers that want them. And I can't remember--I've been in this industry since the early 90s--and I can never recall a five-year period of time where anything close to that was ever invested in our industry. It's a remarkable outcome.

VICE CHAIRMAN JOHANSON: Thank you for your responses. The yellow light is on, so we will next move to Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. I just have some questions on another subject, but having wrestling with the heat sinks issue, so much back when we had the original case. And I had asked the question yesterday, what
happened to the domestic industry? Ms. Johnson, you've already answered that question.

And in your discussion, you talked about the testing and all -- I remember us spending a lot of time trying to figure out did this testing and assurance really make it different? And I came to the conclusion they didn't.

But what -- and I think there's a lesson -- at least I'm drawing some lessons from that that I want to test out here, because I think it applies to when we look at these other, the fin evaporator coils and the other product we're talking about.

All of you talked about what you've done in the last five years in terms of either more fabrication, quality improvements and I think there's a general trend in American manufacturing that people are having to meet tighter and tighter tolerances often -- this goes with the higher tech nature of all of our products.

And so what the question that I want you to address is, are these differences that -- when they're talking about the different products -- really just what anybody has to do with their product and make them competitive in the global market? I mean maybe you weren't testing your other extrusions like they were testing the heat sinks before -- I'm probably wrong, because I'm seeing
a look on your face, Ms. Johnson. But there's a trend I see here --

MS. JOHNSON: You either make them to print or
you don't.

COMMISSIONER WILLIAMSON: Good. Okay. So, but
the question I'm raising is, that doesn't make it a
different product because you meet tighter specifications or
you have to do more quality assurance or things like that --

MR. HAMILTON: Brook Hamilton from Bonnell. I
think what you're mentioning is a hundred percent true. And
probably true whether there were illegal Chinese extrusions
or not. I mean let's just say, manufacturing has evolved
and continues to evolve. The products put out by OEM, be
they electronic self-driving cars or whatever the latest
thing is, or smart phones, as Commissioner Kieff was holding
up.

They're more exacting, they're more precise,
consumers want more value in them and they need to be
assembled more efficiently and so tolerances are tighter and
it's incumbent upon all of us as manufacturers to
continuously improve. And that has become a bigger and
bigger part of our focus in this industry.

And in order to be competitive and survive, we
focus on those improvements, on cost-cutting and all the
things that make us just a better manufacturer. So to your
point, I don't think just because somebody extrudes and
machines something that's close tolerance, makes them any
different than all the other things that we're doing. It is
just part of an evolving and maturing industry that is
meeting the demands of today's marketplace.

MR. WEBER: Jason Weber, Sapa Extrusions. A
couple things, because I think, like everybody, we wrestle
with, you know, what happened on the heat sinks, and then we
hear about this engine-fitting, right? And I mean in
preparation for this, what is an entity, right? If it walks
like a duck and talks or quacks like a duck, it is a duck.

It's an extrusion. It's a machined extrusion.
That's all it is. There's nothing special about it. Until
the point that you actually machined it—and any one of us
can machine that—just like we can machine a heat sink, we
can extrude a heat sink, we can do everything that we need
to do to make a heat sink.

So I think that's a very important
differentiation. You can call it whatever you want, but
it's an extrusion. It's a machined extrusion. Going back
and further on to Brook's point about, you know, and your
question about domestic industry and getting better.

Sapa, being the largest extruder, there is not a
market that we don't serve, save a flight-critical aerospace
application. We don't make those types of extrusions, but
those are excluded from the scope of these orders in 2000 and 7000 series extrusions.

But if you look at what some people might term standard product, we sell a lot through distribution. But even that product is not standard. It might be a rod. It might be just a solid chunk of metal, but there is a specific reason that our customer has a specific specification that our customer has made of that rod, so when they get it into their production process, if they're machining it, that it performs the right way, it moves through their machining center and doesn't get a lot of chips or tool breakage and different things like that when you're actually machining a product.

And even though they're relatively simple in shape, it doesn't mean that they're not very complex to produce because we have special alloys. They might be a 6000 series alloy, but we have different mixes of 6061. Depending on what the final end-use is and the types of machining that's done to it.

So again, going back to even like Susan's point before, you know, you're not going to just extrude a blob of metal and then just machine the part that you want. You're going to get that as close as possible. We have three different product categories of round rod. And within that, we have different alloys, different tolerances, different
tempers, that all make those parts, those machined products, you know, a specific very unique product.

MR. HENDERSON: This is Jeff Henderson with AEC. Let's talk about the heat sink thing, okay? Because I was there. No blame. But here's what happened. We had the questionnaires. The questionnaires asked for your data about blank heat sinks, your data for fabricated heat sinks, your data for finished heat sinks.

Now, when I went back to our accounting department and our IT gurus who were gonna mine our data to come up with this, what's a blank heat sink? What do you mean? Well, that's just the full lineal. Oh, okay, just sticks, yeah. OK. Well, they all start as sticks, so they're all that. Well, no, no, we'll go a little farther. Well, we do fabricate.

So we filled out the blanks and fabrication as best that we could determine within that kind of obscure product group for us. Finished heat sinks was a mysterious term, and like the other extruders that submitted their questionnaires, nobody filled that column in because what in the world is a finished heat sink?

What I just sent to you is a finished heat sink. That's what you bought from me. You bought from me a piece of metal that will perform to a certain standard, that has the appropriate fabrication to meet whatever installation
need you have.

So in the hearing, when we actually heard the petitioners on this, we learned in live-time what a finished heat sink was, and we were put in a position because, oh my goodness, if that's what you're talking about, everything we do is that. And so, but it was way too late, because the wheels had turned and the documents were in, and it was too late to back step.

One note though that I think is quite interesting. I believe that the distinguishing characteristic that enabled them to win that case was that they claimed that they tested material, all the heat sinks to fit, whether or not they were going to meet the specs. And this testing that was done seemed to be that critical next thing, because we were asked, do you test?

Well, Sue's right. You don't need to test. It's designed. If it runs to spec, it works. That's just the nature of that product. But what's interesting is, a couple of years later, that same petitioner came back to us through scope and asked us if we could kind of move a little bit, maybe this testing thing wasn't needed after all, which was to me, the whole foundation on which they won their argument.

So I think that was a very isolated incident that just had a series of failures to communicate and other
things associated with it that just kept us from keeping
that product line. And as Sue said, that mistake has led to
a loss of business, loss of jobs and loss of those
relationships with those customers.

COMMISSIONER WILLIAMSON: Thank you. I had a
couple of other questions, but that's helpful to give a
history, and if there's any -- I'll leave it to the lawyers
to draw analogies to the present case, as I'm sure you will.

MR. DeFRANCESCO: We will in our post-hearing.

COMMISSIONER WILLIAMSON: Okay. Let's see, but
I did have -- is it fair to say that U.S. producers are
insulated in changes from primary raw material costs, given
the fact that the majority of U.S. producers index their
prices to the cost of aluminum?

MR. DeFRANCESCO: So I'll start, and I'm sure
the industry witnesses will jump in. I think you heard in
Mr. Hamilton's testimony that for this product, for these
aluminum products, it is true that the pricing mechanism is
the base metal price plus the amount of conversion and that
the metal portion of that price is passed through to the
customer.

That doesn't mean they're insulated, however,
from negative price effects from Chinese imports. I think
as Mr. Hamilton testified, where they erode the price is in
that conversion margin above the base metal. Rick, do you
MR. MERLUZZI: Yeah. Just a comment on this.

In normal market conditions, in fair market conditions like we are in today, the case is it is a pass through on the metal cost. What we saw during the period of imports back in 2009-2008 period is a fairly significant distortion, where product was coming in, as Mr. Hamilton had testified, at below the actual metal cost and how could that be? How could that be? So normal market conditions, you're right.

MR. PRICE: I'll go into one thing in this whole WTO case. How can that be? There can be a system in the supply chain throughout China where companies are operating below variable cost, and they keep on getting lending and they keep on, both continue to operate and to expand and that applies, we believe, not only to at the primary level, but actually we think it exists throughout much of that whole supply chain.

That's one of the reasons why we have all these China problems on this case, but also in the primary area in lots of other industries. But that will all come out as that dispute's litigated.

MR. DINAN: And I would just like to add, and we've seen this at the FEC level. There's no insulation whatsoever. U.S. producers have to cover the aluminum cost, what the aluminum costs them. In China, it's not even a
consideration. Oftentimes, we've seen the product is being fabricated and shipped to the United States, sold as FECs, at a price that is lower than they can buy the raw aluminum. They're not even covering their aluminum costs. So there's no insulation whatsoever.

COMMISSIONER WILLIAMSON: Okay, thank you. Thank you for those answers.

VICE CHAIRMAN JOHANSON: Thank you Chairman Williamson. Commissioner Broadbent, do you have further questions?

COMMISSIONER BROADBENT: Yeah. I think I had a couple here. Let's see. We often hear in steel cases sometimes, I think your counsel there, that there's this increasing shift to aluminum in the vehicle production industry, in the auto industry, and it seems that you're representing here that there's sort of the other situation, that demand is slowing for aluminum. Can you kind of explain the tradeoff so that you're consistent --

MR. PRICE: Yeah, I would say -- I'll let the clients explain the tradeoffs. But a lot of the shift that you're all hearing about is in the sheet side of the business. So if you look at hoods, if you look at, you know, those types of things, that's where the shift is to aluminum. It's not that there's not, you know, some extrusion portion but that's the heavy, that's where the
heavy shift is.

MR. MERLUZZI: I'll make a comment on that. This is Rick Merluzzi, representing Pennex Aluminum. I just gave a presentation on this at the Platt's conference a couple of weeks ago. As I said before, the aluminum extrusion market is growing. It is growing about GDP. It's been historically like that. Maybe through little periods we were better than industrial production in the U.S.

But there's been a bit of a transformation. The automotive market growth is greater right now, but the residential, construction in particular. The construction market is kind of bifurcated. The commercial construction is growing, and the residential construction is not growing as much. So net-net. We're seeing some growth, but it's more in the general economy GDP type of rate.

COMMISSIONER BROADBENT: Talking about the tradeoff between aluminum and steel.

MR. MERLUZZI: Well in the automotive market, there is greater growth of aluminum extrusions right now in part due to those tradeoffs and driven by the CAF and driven by the lightweighting of vehicles.

COMMISSIONER BROADBENT: Okay.

MR. WEBER: Jason Weber, SAPA Extrusions. Just to kind of add on a little bit to what Rick was saying, was you know, when you start to look at what was going in say
2005-2006, right before the recession, you had a huge surge in residential construction. If you look at, you know, what the numbers are today, that typically being one of the largest uses for extrusion, that hasn't recovered to, you know, pre-recession levels.

Who knows if it will or if it won't? Housing starts have come up, but you know let's say the transformation that we've seen in transportation, specifically in the automotive world, just go back and think we're somewhere around, what is it, 40 pounds per car? It's getting up to there. It's forecasted to go to there.

So we're somewhere below that right now of extrusion, and again when you start looking at the castings and the body sheet and those particular products, I mean that has way more impact.

But also on the transportation side, classic trucks and trailers, which is a huge use of extrusion, you know, those different segments are also down, I think, in something like the flatbed trailer market. They're off like 30 percent year over year.

COMMISSIONER BROADBENT: But I'm trying to get at the steel versus aluminum balance, and you're talking about general trends in different markets, just on the growth in those markets, right? You're not talking about any shifting of use.
MR. WEBER: Well, each one will, you know, will have its own shift, right, and when we specifically talk about transportation it's about weight. But overall, I guess I can't really comment on the steel, you know, side of things. I can just tell you what --

COMMISSIONER BROADBENT: What's going on in the -- yeah, okay, right.

MR. WEBER: General market, yeah.

COMMISSIONER BROADBENT: Right, thanks.

MR. MERLUZZI: Rick Merluzzi representing Pennex Aluminum. I think Mr. Price had it, made the comment about sheet. It's primarily driven by sheet.

COMMISSIONER BROADBENT: Right.

MR. MERLUZZI: Than extrusions, in terms of that substitution and effect on steel.

COMMISSIONER BROADBENT: Okay, thank you. What do you think is going on with this company's Zhongwang, and why do they keep adding capacity?

MR. HAMILTON: I believe that they're one of the outlets by which the Chinese primary industry is throwing off its excess production.

MR. DeFRANCESCO: Just to follow on that, so this company Zhongwang is the second largest extruder in the world, second to SAPA. Once their presses come online, they will be the number one largest extruder in the world. As
Jeff was saying, as primary aluminum production in China skyrockets, they have to have an offtake for that product, and it's an offtake in the semi-finished form, extrusions and sheet and the like.

So these same debt subsidies that are pumped into the primary industry are also pumped into the semi-finished industry to create that capacity, to offtake that aluminum, and in fact Zhongwang has just recently installed its own smelter. So now they're making the primary aluminum and they're making the extrusions as well.

So if the money is free or almost free, why not install a hundred more press?

MR. GARY: And it's Jesse Gary from Century, and maybe as a primary producer I can just add a little something here. I think the Commissioners will remember from the 332 hearing that one of the factors sort of affecting the primary industry is there's this 15 percent export duty for primary aluminum coming out of China. So they've built this massive capacity with no place to go. They don't have the demand.

So to get it out of China, they need to find a way to get it out, and that method is to build 90 presses that they don't have a need for, because then they can get the extruded aluminum or the semi-finished aluminum out of the country and therefore export their problem.
COMMISSIONER BROADBENT: Okay. Let's see. I'm trying to piece together the various numbers you've provided concerning Chinese capacity and whether that makes sense. Many of the Chinese capacity figures you refer to are sort of under two million tons, and then you kind of refer to individual companies. But overall, you say there's production and consumption in China that are orders of magnitude greater than the individual capacity figures that you reference.

You state that the production was 20.3 million and consumption was 16.5 million, respectively. Is that the number you feel pretty comfortable with?

MR. DeFRANCESCO: Commissioner, we can explain that further, but those numbers we've pulled, I believe, and I'd have to look at this to confirm it, but I believe we pulled those from the CRU data that we have, that talks about the amount of consumption in China versus the amount of production and there's figures in the staff report that talks about the amount of excess supply that exists of extrusions in China, and that that number is enough to service the entire demand in the U.S. by itself. But we can clarify that some more for you in the post-hearing.

COMMISSIONER BROADBENT: Okay, and since I know you all follow this really closely, have the Chinese made any sort of official representations about trying to reduce
capacity in this industry?

MR. DeFRANCESCO: Robert DeFrancesco. The only statements from the Chinese regarding their capacity has been on the primary side of the ledger. There haven't really been statements about extrusions. In fact obviously there's the Zhongwang expansion of 100 presses, and the Chinese statement vis-a-vis their capacity has been we're evaluating our environmental standards and may take down a smelter or two.

MR. GARY: And I think -- it's Jesse Gary from Century Aluminum. I think statements are one thing. Actions are another obviously. So there have been various statements throughout the years. We have never seen -- we have not seen a year, you know, choose which year you wish to go back to, where we've seen a net loss of capacity in China. They've continued to grow, not but for any statements that they have made, and grow significantly.

COMMISSIONER BROADBENT: Yeah.

MR. PRICE: So again, this sounds like the other rattle too. You see this constant, constant growth. Actually, although we can debate whether or not this means anything, on steel and on coal there is actually more -- there has been at least some announcements of trying to rein in the capacity in a more official way. It continues to expand, but at least there's been attempts there, something
like the Global Forum announced.

Whether or not it again is a talkfest and a, you know, whatever it is we'll see. There's nothing comparable in the aluminum area, and in fact our impressions are that the U.S. government, in its attempt to broach these issues with the Chinese frankly have been rejected in, you know. One of the reasons why, you know, is that I think in steel frankly, there's been this series of cases not only in the United States but globally going across multiple product lines in multiple countries, to start to deal with the issue.

It creates some impetus for trying to finally have to deal with the problem, because even China at some point has to deal with the fact that it can't lend money exponentially forever. Maybe they can, but you know, at some point even though you run into it for a problem out there, they have not come to that day of reckoning at all in the aluminum industry, and if anything in fact there are several major expansions of millions of tons coming online on the primary side that are in these whole facilities that have a whole huge set of extrusion plants tied right next to it, with a series of sheet plants right next to it, and it's all going to come out to the United States because there is no -- well excuse me, out into the global market or the United States, if you lift this order, because there is no
place for it to go to.

I mean this is really -- it's fascinating because in aluminum, you can actually get, you know, through a lot of work that we've put, worked with Jesse on getting together. You can actually get down to what's really going on a core industrial level.

COMMISSIONER BROADBENT: Okay, great. Yeah, my time has expired.

VICE CHAIRMAN JOHANSON: Commissioner Kieff. Do you have any further questions?

COMMISSIONER KIEFF: No. I just thank the panel and look forward to the other questions.

VICE CHAIRMAN JOHANSON: Thank you, Commissioner Kieff. I have one issue I would like you all to address in the post-hearing brief please. In the post-hearing brief, could U.S. producers of fin evaporator please respond to Electrolux's assertions on pages 5 to 6 and pages 19 to 21 of their pre-hearing brief, regarding the product mix by origin of its fin evaporator coil systems? Okay, thank you. That concludes my questions. Commissioner Williamson, do you have any questions?

COMMISSIONER WILLIAMSON: Are changes in raw material costs immediately reflected in aluminum extrusion prices, or is there a lag?

MR. HAMILTON: Brook Hamilton from Bonnell,
Commissioner. Hopefully I've got your question properly. So it kind of depends. It depends on customers and what you negotiate and so forth. In our case, for the bulk of our invoices, we transfer or charge the price of the raw material, the aluminum price, whatever's in effect at the time of shipment.

Different companies do it differently. Sometimes there's a lag that's agreed to and maybe we'll use a three month trailing average or what have you. Others in different sectors may have a fixed, maybe they're selling catalogue pricing for the various products that they make. So we'll agree to hold those prices firm for a year, you know, to allow them so they don't have to change their price books. But there will be an adjustment at some later date.

So it depends, but at the end of the day, the customers realize that if the value, I guess it's obviously more concerning if it goes up. But they're going to be paying sort of a two component price structure, the price of the metal and then the conversion cost.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. MERLUZZI: This is -- if I can add, this is Rick Merluzzi of Pennex Aluminum. The bulk of the industry operates the way Mr. Hamilton suggested. For Pennex we base it on the prior month's Midwest transaction price. So there's basically not a lagging. You acquire your raw
materials and then you sell it the next month.

COMMISSIONER WILLIAMSON: Okay, good. Thank you for those answers, and I thank the panel.

VICE CHAIRMAN JOHANSON: Thank you, Commissioner Williamson. We will now break for lunch. We will come back at -- oh, I apologize. Okay. The Chairman or the Vice Chairman requests that each staff -- I'm sorry. Does staff have any questions?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you Vice Chairman Johanson. Staff has no additional questions.

VICE CHAIRMAN JOHANSON: All right. Do Respondents have any questions?

MR. SCHAEFER: We don't, Mr. Vice Chairman.

Thank you.

VICE CHAIRMAN JOHANSON: All right, thank you. Then we will now -- we will now take a lunch break. We will come back at 1:15. Thank you.

(Whereupon, a luncheon recess was taken, to reconvene at 1:15 p.m. this same day.)
1  AFTERNOON SESSION
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3  MR. BISHOP:  Will the room please come to
4  
5  order?
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7  VICE CHAIRMAN JOHANSON:  Mr. Secretary, are
8  
9  there any preliminary matters?
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11  MR. BISHOP:  No Mr. Chairman, there are no
12  
13  preliminary matters.
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15  VICE CHAIRMAN JOHANSON:  All right, thank you.
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17  With that, we will begin our afternoon session with the
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19  Respondents.
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21  STATEMENT OF JEREMIAH DORRIS
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23  MR. DORRIS:  Good afternoon Madam Chairman and
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25  Vice Chairman and the rest of the Commissioners, my name is
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27  Jeremiah Dorris, and I am Electrolux's senior manager for
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29  trade compliance, where I'm responsible for the operational
30  
31  and trade compliance functions associated with the
32  
33  international trade. My teams are responsible for the
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35  import of any items where Electrolux is the importer of
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37  record into the United States, to include fin evaporator
38  
39  coils, kitchen appliance handles and trim kits.
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41  Accordingly, along with members of the
42  
43  Electrolux team, I've prepared and submitted the responses
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45  to the importer and purchaser questionnaires. I want to
46  
47  thank the Commission for holding this hearing, and the
48  
49  Commission staff for their follow-up questions to the
questionnaire responses.

I'm joined by two of our commodity manager, Erik Mata and Hernando Hicks, who will discuss fin evaporator coil systems and kitchen appliance handles, and all three of us are available for questions after our presentation.

Electrolux produces over 3.1 million refrigerators and freezers in Anderson, South Carolina and St. Cloud, Minnesota factories, where we employ approximately 3,000 people. Our overall U.S.-based employment is approximately 10,000 people. We are here today to respectfully request that you revoke the anti-dumping and countervailing duty orders on imports of fin evaporator coil systems and kitchen appliance handles.

We are unable to source these products domestically, so we have to import them. As a result of these orders, we have expended millions of dollars in anti-dumping and countervailing duties, compliance, accounting and legal costs. If there was a domestic industry that produced these products, the orders would at least benefit them.

But in this case, there are no competitive domestic producers of these products. Before the orders even went into place, the U.S. fin evaporator Brazeway moved its refrigerator fin evaporator manufacturing to Mexico,
where it has stayed and sold us fin evaporators ever since.

We have never been able to source kitchen appliance handles
domestically within the United States.

The orders on these two products creates
substantial costs to U.S. refrigerator manufacturers and
provide no benefits to another U.S. industry. These orders
should be revoked for such products. On behalf of
Electrolux, other U.S. manufacturers of refrigerators and
all of their workers and families, we respectfully ask that
the Commission revoke the orders on fin evaporator coil
systems and kitchen appliance handles. Thank you.

STATEMENT OF ERIK MATA

MR. MATA: Good afternoon Mr. Vice Chairman

and Commissioners. My name is Erik Mata. I'm the Commodity

Manager for Compressors and Cooling Systems, where I am

responsible for supplier relationship management for cooling

systems including fin evaporators for Electrolux

refrigerators and freezers.

I have held this position for 3-1/2 years and

in the refrigerator appliance business for over 14 years.

I'm here today to explain why fin evaporator coil systems

are different products from aluminum extrusions and should

be separately examined by the Commission in this review.

I'm also here today to clarify statements made by Brazeway

regarding its fin evaporator coil systems.
The Commerce Department has found that aluminum extrusion components of complete fin evaporator coil systems are covered by the scope of the aluminum extrusions from China orders. Electrolux, however, always purchases complete fin evaporator coil systems. It never purchases the aluminum extrusion by itself. Based on my industry experience and knowledge, there's a clear dividing line separating fin evaporator coil systems from aluminum extrusions.

As I explain what fin evaporator coil systems are and how they are different from aluminum extrusions, I would like to share with the Commission a sample fin evaporator coil system and sample aluminum extrusions, as we can see here on the table. The square and circle tubes are aluminum extrusions, and the other item is a fin evaporator coil system.

As anyone can see, these are plainly different products. Fin evaporator coil systems cool air for refrigerators, freezers, heating, ventilation and air conditioning or HVAC and other customer industrial appliances. I will explain more in a minute, but these systems evaporate refrigerant into gas to absorb heat and cool air.

The production process for fin evaporator coil systems begins with an aluminum billet extruded into a tube
of a designated diameter, wall thickness and coil. This is typically how the extruder tube is supplied to the fin evaporator manufacturers, in coils, not pieces.

The extruder tube is one of several input components used to manufacture fin evaporator coil systems. That manufacturing process involves up to 16 different steps, as follow. The extruder tube coil is cut to length. The extrusion is shaped into bent or hairpin profile, and then into separate serpentine-shaped tube. Sheets of aluminum alloy are cut, stamped and/or punched to form fins.

The insertion of the serpentine tubing into a stack of fins. Once inserted into the fins, the serpentine tubing expands in order to secure thermal contact with the fins. Aluminum or cooper U bends may connect the unbent ends of the serpentine tubing to each other and the fins through different brazing techniques.

The ends of the tubes are welded to import and export circuits, forming the systems. Some producers add other components, such as foam, stainless steel or non-extruded aluminum heaters, thermostat, sensors or other attachments, and fittings to the systems. Hydrostatic burst test of 350 PSI and factory proof test pressure of 140 PSI.

First leakage check for circuit tightness at both ends of the opening of the tube of by filling with nitrogen to 1.8 to 2.0 MPa pressure and submerging the
entire system into a water tank to test for air bubbles. Multiple surface decontamination treatments using aluminum acid agent, water, and passivation film-forming agent. Second leakage check. Oven-drying at temperatures of 120 degrees plus or minus 10 degrees C for 18 to 20 minutes. Nitrogen injection to dry and clean inside of the tube. Electrical property check and finished product check.

This multi-step manufacturing operation changes the essential physical characteristics and uses of the upstream aluminum extrusion. Fin evaporators are complex components of machines, while aluminum extrusions are profiles. As you can see in the sample, fin evaporators include a number of stamped aluminum fins that are made of non-extruded aluminum alloy sheets of multiple sizes attached to the coil, two copper or aluminum stub fittings welded to the open ends of the coil, a capillary on the fin evaporator's suction line and, in certain instances, additional componentry such as foam air dams and defrost heater, sensors, thermostat, or other attachments. The sample we brought today is a refrigeration fin evaporator. Above you will see photographs of refrigeration and HVAC fin evaporators and aluminum extrusions, specifically window profiles, hollow profiles, and extruded aluminum tubing. Each picture speaks a thousand
Just as stark as the differences in physical characteristics and appearances are the differences in end-use applications between fin evaporator coil systems and aluminum extrusions. Fin evaporators are used for the thermal management of refrigerators, freezers, HVAC, and other consumer and industrial appliances that require cooled air. Fin evaporators have a complex chemical and mechanical function: to evaporate a recirculating refrigerant or cooling chemical into a gas, which absorbs heat in the process and cools the air that passes over the fin evaporator. The fins attached to the evaporator coils improve the efficiency of the cooling system by directing hot air closer to the coils and expanding the surface area of the evaporator system. Depending on the end-use applications, fin evaporators have varying degrees of cooling capacity, flow patterns, fin configuration, and fin densities. Fin evaporators are produced in custom shapes and sizes that are proprietary and dedicated to specific users and application and, thus by definition one type of fin evaporators is not interchangeable with another, much less with aluminum extrusions.

On the other hand, the end-use applications for aluminum extrusions vary widely, for example windows, doors, or framing, but their functions are simple and
physical in nature essentially, support, contain, and
transfer. Aluminum extrusions do not have specific cooling
capacity, flow patterns, or fins. Thus, fin evaporators are
significantly different from aluminum extrusions in terms of
function.

Aluminum extrusions are not dedicated for use
as fin evaporators and fin evaporators have specific
dedicated uses unlike aluminum extrusions. Aluminum
extrusions have literally thousands of different uses, one
of which is the production of fin evaporators. An extremely
small percent of aluminum extrusions are dedicated to fin
evaporators. Each fin evaporator has one specific use in one
specific type of refrigeration system. On the other hand,
many aluminum extrusions are mass produced for distributors
or for many customers and are standardized commodities, with
the same exact aluminum extrusion sold to many different
customers.

Fin evaporator and aluminum extrusions

comprise separate markets. While aluminum extrusions are
sold to distributors or end users, fin evaporator coil
systems are sold to a distinct class of original equipment
manufacturers of OEMs specifically, refrigerated system
manufacturers and produced-to-order exclusively for a
specific individual OEM. Fin evaporators are finished
merchandise that is fully and permanently assembled and
completed at the time of sale or importation. They have been
completely manufactured into a downstream product and
require no further finishing or fabrication for their
end-use.

On the other hand, as you can see in the
samples, many aluminum extrusions are sold as only
mill-finished, meaning they are only processed through
aging, but no further finishing or fabrication. Most
aluminum extrusions covered by the orders, even if they have
undergone some degree of further fabrication, are still pure
aluminum extrusion. Fin evaporators, on the other hand and
as you can see, are finished products that contain an
aluminum extrusion and many non-aluminum extrusion parts.
Not surprisingly, customers, end-users, and producers
perceive fin evaporators to be distinct from aluminum
extrusions. In fact, customers, end-users, and producers do
not identify fin evaporators as aluminum extrusions at all,
but rather as downstream components of refrigerators that
are used to evaporate cooling chemicals from liquid to gas.

As I just explained, extruding the coil input
is only the first of many steps required to manufacture fin
evaporator coil systems. Manufacturing of fin evaporators
requires unique knowledge, capabilities, and employees for
tube bending, attaching stamped fins, leakage testing, and
brazing copper tube. Fin evaporator manufacturers develop
and supply OEMs component solutions as opposed to producers of aluminum extrusions that produce commodity-type raw extruded profiles. Of the 30 U.S. aluminum extruders listed in the Commission's staff report, I believe only one, Brazeway, manufactures fin evaporator coil systems.

The majority over 70 percent of the cost and value of fin evaporator coil systems come from non-aluminum extrusion components and post-extrusion manufacturing costs. The proprietary data regarding relevant cost and value of fin evaporators and the component used to make them reflect the labor-intensive fin evaporator manufacturing process and resulting value added.

Thus, the Commission should treat fin evaporator coil systems as a separate product from aluminum extrusions.

I would also like to briefly address the statements made by Brazeway included in the U.S. Aluminum Extrusions Fair Trade Committee’s brief at Exhibit 8. Brazeway states that it is the largest manufacturer of fin evaporator coil systems in the United States and that it currently supplies Electrolux most of its fin evaporators. Brazeway states that, as a result of the orders, it kept a significant portion of Electrolux and Whirlpool's fin evaporator business and increased its sales, investment, capacity, production, and employment in the United States.
Brazeway is our primary supplier of fin evaporators for refrigerators we produce in the United States and Mexico. However, all of the fin evaporators that we purchase from Brazeway are produced in Mexico. Brazeway does not domestically produce the refrigeration fin evaporators we require. I presume the same is true for Whirlpool. Electrolux has purchased fin evaporators from Brazeway in Mexico since at least 2006 and continue to purchase from Brazeway in Mexico today. Based on my industry knowledge, I believe that Brazeway moved its entire refrigeration fin evaporator coil system production to Mexico to support its customer's operations base in Mexico, where both Electrolux and Whirlpool have additional refrigerator factories. The majority of Whirlpool's North American refrigerator manufacturing operations are located in Mexico, including a large factory in Monterey where Brazeway's fin evaporator operations are located. Electrolux has a plant in Juarez, Mexico. That is why I believe that, despite the protection of the orders and absence of significant Chinese imports of fin evaporators in the US market, Brazeway has kept its refrigeration fin evaporator production in Mexico. Thus, Brazeway has no US sales of fin evaporators to Electrolux and presumably Whirlpool to lose if the orders were revoked.

Brazeway also states that if the orders were
terminated, Electrolux and Whirlpool would shift purchases
to Chinese suppliers. In reality, however, this is
impossible. Electrolux is finalizing a long-term supply
agreement with Brazeway's Mexican facilities for the supply
of fin evaporator coil systems. This agreement demonstrates
the long-term partnership between the two companies. I do
not know, but I assume Whirlpool has similar long-term
supply agreements with Brazeway. These agreements protect
Brazeway's Mexican sales to Electrolux and presumably
Whirlpool.

Thank you and I am happy to answer any
questions you may have.

STATEMENT OF BEN CARYL

MR. CARYL: Good afternoon Vice Chairman and
Commissioners and staff. My name is Ben Caryl of Crowell
and Moring, counsel for Electrolux. My testimony will focus
on why revocation of the orders as to fin evaporator coil
systems will not materially injure the domestic industry
producing fin evaporators within a reasonably foreseeable
time.

First, as Mr. Mata just testified, there is a
clear dividing line between fin evaporator coil systems and
aluminum extrusions based on each of the five factors the
Commission semi-finished product analysis and the
Commission's traditional six factor domestic like product
analysis.

To reiterate, we are not arguing the aluminum extrusion tube used to produce fin evaporators are separate like products. We are arguing that a finished, complete fin evaporator coil system, the products that Electrolux purchases, are separate like products from aluminum extrusions.

Second, U.S. manufacturers of fin evaporator coil systems constitutes a separate domestic industry from U.S. aluminum extruders. This morning, Mr. Adams of Brazeway said there are a number of companies capable of producing fin evaporator coils. The identity of the domestic industry is confidential, but please look at the record to see if any other U.S. producers of fin evaporators have submitted questionnaire responses or otherwise indicated support for the orders.

Third, revocation of the orders on fin evaporator coil systems is not likely to lead to continuation or occurrence of material injury within the reasonably foreseeable time. Many of the key facts, conditions of competition, argument and analysis are confidential. But I will say what I can publicly now, refer to our confidential slides and continue to address this in the post-hearing.

There is no record evidence that subject fin
evaporator imports ever injured the domestic industry. The Commission typically begins its likely injury analysis in a sunset review with its injury determination in the original underlying investigation. The Commission's investigation for the aluminum extrusion orders, however, did not separately analyze the volume effects, price effects and impact of imports of fin evaporators on the domestic fin evaporators industry.

Instead, and contrary to testimony you heard this morning and the Commission's original determination and views in this case, without conducting a separate like product analysis for fin evaporators the Commission included them in the same domestic like product and industry as aluminum extrusions, but we are here to confirm that they are not.

There is no record evidence in the subject fin evaporator import data during the original investigation that indicates subject fin evaporator import volumes were significant. There's no record evidence that subject fin evaporator import price has depressed or suppressed domestic fin evaporators during the investigation. There is no record evidence that subject fin evaporator import prices undersold the domestic fin evaporators during the investigation, as neither Petitioners nor the Commission requested pricing data on any fin evaporator products during
the original investigation. Commission staff did not confirm any lost sales or revenue allegations regarding fin evaporators during the original investigation. I refer to Confidential Slide 2. Finally, there's no record data on the domestic fin evaporator industry's statutory performance factors during the Period of Investigation. Thus, there is no record evidence, much less substantial record evidence from the Commission's original investigation, that the domestic fin evaporator industry was ever materially injured by subject fin evaporator imports.

Further, the Commerce Department did not individually investigate or find dumped or subsidized sales of fin evaporator imports. Thus, contrary to Brazeway's claims otherwise, there was no record -- there is no record evidence from the Commerce Department's investigation that fin evaporator imports were being dumped or subsidized in the United States.

The domestic fin evaporator industry is not currently injured by subject imports of fin evaporators. Subject fin evaporator imports are virtually non-existent in the U.S. market. I refer to Confidential Slide 3, which shows U.S. fin evaporator market share for 2013 to 2016 based on the staff report data. Subject fin evaporator imports are currently negligible under the statute, and thus
by definition are not currently significant and are not
injuring the domestic industry.

As Confidential Slide 4 shows, there is no
correlation much less causation between subject import fin
evaporator volumes and the domestic fin evaporator
industry's performance. Returning to Confidential Slide 3,
which shows that the domestic fin evaporator industry's U.S.
market share declined from 2013 to 2016 has been due to
increases in non-subject fin evaporator import volumes
during the same period.

Thus any injury the domestic fin evaporator
industry currently suffers from imports is from non-subject
sources, which increased throughout the review period and
captured U.S. market share at the direct expense of the
domestic fin evaporator industry. Please refer to
Confidential Slide 5. Thus, the domestic fin evaporator
industry is not presently materially injured by reason of
subject imports, and given that the Commission has never
found that subject fin evaporator imports materially
injured the domestic fin evaporator industry, and that
imports do not currently injure the domestic industry, the
Commission has no historic base for which to compare and
assess the likelihood of a continuation or recurrence of
material injury, as it does in most sunset reviews, and
instead must determine whether it is likely that such
imports will materially injure the domestic industry within a reasonably foreseeable time upon revocation.

If the orders are revoked on the fin evaporator coil systems, it's highly unlikely that subject fin evaporator imports will materially injure the domestic fin evaporator industry within a reasonably foreseeable time. Due to several unique but confidential conditions of competition identified in Confidential Slide 7, the domestic fin evaporator industry is insulated from injury from subject fin evaporator imports.

I refer the Commission to Mr. Mata's testimony regarding Brazeway, our confidential pre-hearing brief at pages 19 through 26 and the confidential slides. Confidential Slide 5 compares the domestic fin evaporator industry's domestic fin evaporator sales to other confidential data. I can only publicly say that the bottom row levels on this slide are unprecedented. Confidential Slide 6 is a table summarizing U.S. fin evaporator producers' major customers and the location of the production sold to each customer.

Confidential Slide 7, as mentioned, summarizes two important but confidential conditions of competition in the fin evaporator coil industry, and Confidential Slide 8 summarizes our list of information that the Commission should request related to fin evaporator coil systems. In
its statements included in Petitioners' brief, Brazeway explains that it relocated a portion of its fin evaporator coil system production to Mexico by building a manufacturing plant that's supported by the supply of extruded aluminum tube from its U.S. facilities.

It states that the orders allowed it to increase its fin evaporator sales capacity, production and wages in the United States. These statements do not comport with the other confidential record information, including U.S. fin evaporator producer questionnaire responses.

Today, Mr. Adams of Brazeway and Mr. Gary of Century Aluminum now claim that revocation of the orders on fin evaporators will injure the U.S. primary aluminum and billet industry.

In general, I want to make three seemingly obvious statements, but they are very relevant to this case. The Commission examines likely injury to the domestic industry's domestic manufacturing and sales operations of the like product by subject imports upon revocation. Two, it logically follows the Commission does not examine injury to domestic industries' offshore manufacturing or sales operations of the like product, and three, it also logically follows that the Commission does not examine injury to a domestic industry's upstream operations of a different like product.
For example, in proceedings on cold-rolled steel, the Commission does not consider the impact cold-rolled steel imports have on domestic industry's
hot-rolled steel production. Thus, to the extent that Brazeway and now Century are arguing that revocation of the orders as to fin evaporators will injure their U.S. production of aluminum extrusions and primary aluminum billet, the Commission should only consider effects that revocation would cause to U.S. fin evaporators, fin evaporator manufacturers, U.S. fin evaporator production and sales. Thank you, and I'll now hand it over to Alex Schaefer.

STATEMENT OF ALEXANDER M. SCHAEFER

MR. SCHAEFER: Good afternoon, Commissioners.
In view of the ever-expanding scope in this case, we appreciate the Commission's examination of the like product issues associated with fin evaporator coil systems and fittings for engine cooling systems. But in response to the Commission's Notice of Institution, Electrolux raised another important like product issue concerning those kitchen appliance handles that have been found by Commerce to be covered by the scope.

The Commission's draft questionnaires in September included specific breakout data for kitchen appliance handles, and requested that interesting parties
provide comments on the definitions for and pricing products for kitchen appliance handles. In its comments on the draft questionnaires, Electrolux proposed specific revisions to the draft questionnaires to elicit more meaningful and useful data, that would enable the Commission to fully examine the like product issues, the domestic industry issues and separate injury analyses implicated by the handles.

The final questionnaires, however, not only ignored Electrolux's proposed revisions to elicit additional information, they in fact removed all of the draft questionnaire's requests for kitchen appliance handle-specific information.

Commission staff and an attorney from the General Counsel's office informed us that the reason for not creating the separate breakout was because Electrolux indicated in its substantive response that kitchen appliance handles are not domestically produced, and the Commission will not define a like product that's domestically produced.

We respectfully submit that that position is unsupported by the language of the statute, and also is inapposite with the statute's underlying purpose. In order to determine whether material injury to an industry in the United States is likely to continue to recur by reason of subject imports, the Commission has to apply the statutory
definitions of industry and domestic like product.

Under the statute, the term "industry" means
the producers of the domestic like product or at least a
large proportion of them. Domestic like product meanwhile
is, and I'm quoting here, "a product which is like or in the
absence of like most similar in characteristics and uses
with the article subject to an investigation."

Nothing in the statutory framework forecloses
the Commission from examining whether a product that isn't
produced in the U.S. is nevertheless in the language of the
statute, like or most similar in characteristics with the
article subject to the investigation, or whether it's not.
To interpret these provisions differently is to stand in
profound conflict with the overarching purposes of the like
product analysis exercise, which of course is to ensure that
AD/CVD orders are covering all of the like products that are
causing injury, and none that aren't.

There's no authority for the proposition that
once a product that the domestic industry doesn't produce is
inadvertently included within the scope, the Commission
lacks the authority to evaluate its impact and the extent to
which it represents a separate like product in order to
appropriately circumscribe the order.

The Commission has that authority, and it
shouldn't cede it, particularly under the circumstances at
issue here. If there's a separate like product that's not domestically produced, there's inherently no relief to provide to the domestic industry regarding that product. Accordingly, U.S. AD and CVD orders shouldn't encompass such products, and Electrolux submits that includes appliance handles.

As we've outlined in our prehearing brief and as Hernando will explain to you shortly, application of the Commission's traditional six like product factors establishes that kitchen appliance handles are a separate like product from aluminum extrusion. Given that there are no U.S. producers of kitchen appliance handles, a recurrence or continuation of injury by reason of a revocation of the order as to that like product is necessarily impossible.

The Commerce Department is obliged to determine the scope of an investigation, meaning describe the class or kind of foreign merchandise at the AD order covers. Although the Commission can't alter the scope of these orders directly, it must nonetheless identify the domestic like product or products, the industry or industries and the foreign like products.

In a given proceeding, the Commission can and has found multiple like products and voted affirmative on one and negative on another. In fact, that happened in this proceeding. In such cases, the Commerce Department issues
or continues an order only as to the imports for which the
Commission made affirmative determinations. Thus ultimately
such like product industry and separate injury
determinations may effectively change the scope of the
resulting or continuing AD/CVD orders.

There is every reason to maintain that
structure for a like product that's not domestically
produced. In short, if these items aren't part of the
domestic like product, then the orders shouldn't cover them,
and revocation on that basis is appropriate.

Finally, I'd like to make one additional legal
point that the Commission should address in its sunset
determination. The Commerce Department has issued several
scope rulings that kitchen appliance handles and trim kits
that include non-aluminum extrusions components are covered
by the AD/CVD orders -- I apologize -- are not covered by
the AD/CVD orders on aluminum extrusion from China.

That came after several rounds of remands from
the U.S. Court of International Trade. These remand
determinations were upheld by the CIT and are now before the
Federal Circuit. For purposes of the sunset review,
however, the Commission should confirm that it is treating
imports of such kitchen appliance components as non-subject,
based on the CIT's opinions affirming the Commerce
Department's determinations on remand that those handles and
trim kits are not covered.

Let me now pass the baton to Hernando Hicks of Electrolux, who can provide more detail on the distinction, the very important distinction between aluminum extrusion and kitchen appliance handles.

STATEMENT OF HERNANDO HICKS

MR. HICKS: Thank you. Good afternoon Mr. Vice Chairman and Committee and staff. My name is Hernando Hicks. I am Electrolux's commodity manager for stainless steel, where I'm responsible for metal, coated and component purchases of the seven North American facilities that produce Electrolux appliances, primarily refrigerators, dishwashers and ovens.

I have been in the refrigerator appliance business for nine years, and the U.S. manufacturing industry for 21 years. I am here today explaining why kitchen appliance handles produced from aluminum extrusion that have been found by the Commerce Department to covered by this case are different in key aspects from aluminum extrusions and should be separately examined by the Commission in this review.

The Commerce Department found that kitchen appliance handles, handles for refrigerators and ovens without end caps are covered by the scope of the aluminum extrusion orders. Based on my industry experience and
knowledge, however, kitchen appliance handles and aluminum extrusion are different products in different markets and industries.

Handles and extrusions have different physical characteristics and uses. Kitchen appliance handles have been designed and manufactured for a specific refrigerator or oven models. At the time of import, they are fully complete, finished, and are ready for the specific use. The kitchen appliance handles are constructed and finished to precisely match the contours, colors and finishes of the kitchen appliance models for which they are intended.

The handle in the design is specified by Electrolux's major customers, as well as consumer-specific feedback from kitchen appliance focus group reviews. The handle tolerances must always meet the customers' specific requirement of aesthetics, texture and function mandated for kitchen appliance. Kitchen appliance handles cannot serve any other purpose than their specific intended use, whereas aluminum extrusions have a wide range of uses, primarily in building, construction, transportation and engineering product sectors, which the group that spoke before focused on.

Kitchen appliance handles are not interchangeable with aluminum extrusions. Kitchen appliance handles are produced in custom shapes and sizes that are
proprietary and dedicated to specific applications, users
and models. Thus, these handles are not even
interchangeable with each other, much less with aluminum
extrusions.

Handles and extrusions are sold in different
channels of distribution as well. Kitchen appliance handles
are sold to distinct classes of commercial users and
consumers, while aluminum extrusions are sold to a wide
array of manufacturers, fabricators and distributors and end
users. The commercial end users that buy kitchen appliance
handles are kitchen appliance manufacturers such as
Electrolux.

Kitchen appliance handles are sold as finished
products, not as products requiring further fabrication
before use. The channels of trade for kitchen appliance
handles are also different from aluminum extrusions because
they are all imported. No U.S. aluminum extruder makes or
sells kitchen appliance handles.

Kitchen appliance handles and aluminum
extrusions do not share common manufacturing facilities or
production employees. As I just mentioned, no U.S. aluminum
extrusions produce kitchen appliance handles. Producers of
kitchen appliance handles are not in the business of selling
aluminum extrusions. Producers of kitchen appliance handles
purchase aluminum extrusions from aluminum extruders, and
manufacture them into kitchen appliance handles.

Specifically, the unfinished aluminum extruder profile is cut to length on the cutting machine, is bent to the design specification, is punched by a punching machine. Then holes are drilled and chamfered on a bench drilling machine. The end surfaces are then cut to a contour specification. Holes are screwed using an automatic screwing machine. The sizes and dimensions are inspected.

It's brushed using a triangle brushing machine to specification, and anodized, mirror polished with a vertical abrasive finishing machine, and then finally assembled, inspected and packed for shipment. These manufacturing processes add significant value to the aluminum extrusion. In fact, the extrusion could be as little as 20 percent of the total value of the kitchen appliance handle.

Based on these differences, it is no surprise that customers, end users, producers perceive kitchen appliance handles to be distinct from aluminum extrusions. Purchasers of kitchen appliance handles expect such products would not require further fabrication or processing, such as bending, cutting, forming, punching or stamping prior to being affixed to the kitchen appliances.

Purchasers of kitchen appliance handles, whether manufacturers or consumers, expect such products to
enhance the function, usability and appearance of their kitchen appliance by giving them a functional yet attractive means to easily open their appliance doors.

Many consumers of kitchen appliances demand that their appliance have high end finishes such as stainless steel and the appliance's appearance complement the overall design of their kitchens. Electrolux kitchen appliance handles offer such discriminating consumers with the enhanced and customized appearance for their appliances.

Finally, kitchen appliance handles are priced on a different basis than aluminum extrusions. Kitchen appliance handles are sold by the piece, whereas aluminum extrusions, as you heard earlier, are typically sold on the basis of a metal price plus a per pound fabrication charge. Thus, there is clear difference between kitchen appliance handles and aluminum extrusions.

Because there are no U.S. producers of kitchen appliance handles, revocation of the aluminum extrusion orders on kitchen appliance handles would have no impact on the U.S. aluminum extruders. On the other hand, revocation of the orders on the kitchen appliance handles would provide significant relief to Electrolux and other U.S. manufacturers of kitchen appliances, who currently have to pay millions of dollars in extra duties for a product that is not available domestically.
Thank you, and I'm happy to answer any other questions you may have.

MR. HEFFNER: Good afternoon, Vice Chairman, Commissioners and staff. My name is Doug Heffner from Drinker, Biddle and Reath. We're here today on behalf of Adams Thermal. I have to the right of me Mr. Rick Johnson from Drinker Biddle and Mr. Richard Ferrin from Drinker Biddle.

Todd Herkschorn from Adams Thermal was going to be here today. He had an unexpected emergency and had to cancel. So we apologize, but he is available for any questions for post-hearing.

And I'll pass it over to Mr. Johnson now.

STATEMENT OF RICK JOHNSON

MR. JOHNSON: Good afternoon, Commissioners.

Thank you for this opportunity to testify.

Adams Thermal is a manufacturer of engine cooling systems for off-highway and on-highway vehicle applications. It manufactures cooling modules, radiators, charge air coolers, oil coolers, fuel coolers, and condensers.

Adams Thermal did not participate in the Commission's original injury investigations because it had no idea that an import investigation covering aluminum extrusions would have any direct relevance to its business.

When the Commission conducted its original injury
investigations the scope referenced 15 HTS classifications, as you heard this morning. But now these Orders identify more than 100 HTS classifications, including, by my count at least, eight entirely different HTS chapters. These are not minor modifications.

We are unaware of the existence of any other Order that has undergone such an expansion of HTS classifications. Moreover, as of late 2016 there were already 97 scope rulings conducted by the Department of Commerce.

For virtually every one of these, the product at issue was not investigated nor considered by the Commission in its original investigation.

`In making its like-product analysis, the Commission looks for clear dividing lines among possible like-products and disregards minor variations. In the initial investigation, the Commission found such a clear dividing line with respect to finished heat sinks based on the totality of the factors analyzed in the separate like-product analysis.

Now before we present our argument, we would like to show you which products we're talking about, some samples.

MR. HEFFNER: We have both the aluminum feedstock that it came from--this is Douglas Heffner--and the fitting
that was machined from that aluminum feedstock.

MR. JOHNSON: And I think you can probably figure out which is which based on the shape from the original blank. So these aluminum extrusions, these blanks, are aluminum extrusions of the type considered by the Commission in its initial investigation.

As you can see, they are unfinished, basic shapes and forms, have uniform cross-sections. The finished fittings, on the other hand, are those that are imported by Adams Thermal. Much of the aluminum extrusion has been removed through machining, as you can see. Holes have been bored to allow fluid to pass through. They have been threaded, whether on the interior or the exterior of the formed tubular sections. The tubular section itself may not be uniform. They no longer have uniform cross-sections. They are finished parts ready for assembly into the engine cooling system.

Finished parts such as these were not considered by the Commission in its initial investigation. Adams Thermal believes that the precision fittings--machining that changes the uniform cross-section of the original extrusion into fittings for engine cooling systems fundamentally changes the nature of the product such that it's no longer merely an extrusion, but is a fabricated finished part and becomes a separate like-product.
Indeed, they are a separate like-product regardless of whether the Commission applies its standard like-product test, or instead applies its semi-finished product analysis. For purposes of this testimony, we will focus on the traditional like-product factors and refer to the Commission to our prehearing brief for consideration of the semi-finished product analysis.

Under the traditional like-product analysis, as you know, the Commission generally considers six factors. These show a clear dividing line between fittings for engine cooling systems and subject aluminum extrusions when these factors are evaluated.

Looking at the first factor, fittings for engine cooling systems have physical characteristics and uses that are distinct from aluminum extrusions. Fundamentally, every example of an extrusion from the initial investigation is a product with a shape that generally resembles a profile with a consistent cross-section.

In contrast, the particular machining processes used to produce the Adams Thermal fittings significantly changed the physical properties of the blank feedstock to be more than a fabricated aluminum extrusion, and instead a fully finished part.

The cross-section shape of the finished part is not uniform, but instead is fundamentally changed by the
machining processes. The finished parts are specially
designed and processed to have physical characteristics that
meet the unique requirements of on- and off-highway vehicle
parts manufacturers.

These parts do not resemble the aluminum
extrusions contemplated by the Orders. As also noted in our
brief, none of the information presented by the other
parties contradicts the plain-to-see fact that fittings are
not feedstock. Instead, they're downstream, highly value
added, physically very distinct and therefore entirely
different products.

Ultimately, fittings for engine cooling systems
are systems or parts designed specifically for use in oil
coolers, condensers, and radiators. There's no secondary
market for these fittings.

In contrast, the class or kinds of extrusions
covered by the Orders have a wide range of uses. I think
somebody said a zillion this morning.

Regarding the second factor, the manufacturing
facilities and production employees used to produce aluminum
extrusions differ sharply from the facilities and employees
used to manufacture fittings for engine cooling systems.

In fact, the aluminum extrusion blank is just the
starting point for the production of the fittings. The
smooth blank is inserted into a CNC machine where it
undergoes complex shaping processes. The blank is rough-turned, holes are drilled. The piece may be shaped further through a boring and threading process. The top of the piece may be further flattened in the C&C machine and an inner thread bored in the drill hole.

In all cases, much of the aluminum is removed by precise post-extrusion machining processes. It is these steps taken in the CNC machine that fundamentally changes the form of the final fitting part.

Indeed, the fittings require very tight tolerancing and control of processes to ensure that they will braze adequately in Adams Thermal's heat exchanger manufacturing process. Extensive technical and quality system audits are conducted prior to engaging with a supplier.

In most cases, the U.S. aluminum extrusion producers do not make fittings for engine cooling systems, but instead only extrude the blank and sell it to an independent downstream customer who manufactures the fitting. The record shows that one U.S. extruder claimed to be a producer of fittings for engine cooling systems, but the Commission staff collected further evidence for that particular producer that they did not produce the fitting, instead producing the extruded aluminum blank that was then sold to unaffiliated customers that manufactured the
fittings in a separate plant. Even in the rare case where an extruder also manufactures the downstream fittings, the producer must transform the extrusion to a different production area where entirely different machinery transforms the extrusion into a fitting. And labor is performed by different employees from those on the extrusion line.

There is significant additional processing equipment and manpower necessary to operate the equipment for these fittings as compared to what's necessary to produce the general aluminum extrusion shapes and forms.

The relevant analogy here, as I think you've already heard, is flat-rolled steel. There's a reason that the Commission considers a slab to be a different like-product than a hot-rolled coil or a cold-rolled coil. These forms of steel are often made in the same mills but the production lines are entirely separate and are manned by different employees. Yet the Commission does not dismiss these distinctions by saying the slab is no different than a cold-rolled coil being finished in a certain way based on end use.

Turning to the third factor, aluminum extrusions are not interchangeable with fittings for cooling systems. This point should be obvious. Ultimately an extruded aluminum shape or form is about as interchangeable with one
of these fittings as a cherry tree is with a bedroom
dresser, or a flat piece of paper is with an origami swan.

Regarding the fourth factor, it should go without
saying that the perceptions of customers and producers of an
extruded aluminum bar, rod, or hex blank differ sharply from
the expectations of Adams Thermal's customers who purchase
finished fittings for engine cooling systems, or Adams
Thermal itself.

Adams Thermal customers do not expect to receive
an extruded aluminum bar or a blank, and in fact they would
obviously find no value in the receipt of such raw material.
For purchasers of fittings for engine cooling systems, the
underlying intermediate extruded product has no value other
than as a raw material.

For purchasers of general aluminum extrusion
shapes and forms such as bars, rods, and hexes, of course
the expectation is that they will receive an extrusion for
further processing into a semi-finished or fully finished
downstream good. Purchasers of general aluminum extrusion
shapes and forms would not expect to receive a finished
fitting for engine cooling systems, as such finished good
would likewise have no value for purchasers tasked with
making any other extruded aluminum product.

Regarding producer perceptions, the producer of
raw hexed or barred extruded aluminum understands that its
product will be further fabricated into a final good, including but by no means limited to fittings for engine cooling systems.

The producer of these fittings expects finished product to be incorporated into the engine cooling system without further fabrication.

Regarding the fifth factor, aluminum extrusions have different channels of distribution than fittings for engine cooling systems. Aluminum extrusions may be sold to general producers of aluminum products, or sold to customers in specified finished applications.

The Adams Thermal fittings enter an entirely different channel of trade at the time of importation, and they're clearly dedicated for a specific market. Thus, the channels of trade differ from the channels of trade for general aluminum extrusions shapes and forms.

Indeed, I think it is important to note that Adams Thermal purchases its fittings from Chinese machining shops, not from extruders. By contrast, aluminum extrusions are either sold directly to end users, or sold as a raw material to machine shops so that they can produce a precision machine part such as fittings for oil cooling systems.

Additionally, although the prehearing staff report states that a certain percent of all producers
reported shipments of extrusions intended for fittings for
engine cooling systems, or to end users, the shipments of
eintrusions were as feedstock. That is, the extrusion
shipments were intended for fittings. They were not yet
fittings. And thus, the end users were in fact end users of
feedstock, not end users of the fittings.

Regarding the final factor, price, it's clear
that the value added to the aluminum extrusion feedstock by
the further processing is significant, and that finished
fittings are sold at a much higher price than aluminum
extrusions.

This translates to significantly higher prices
for the finished fitting. The informatino in the prehearing
staff report comparing the average unit values for aluminum
extrusions versus fittings is inaccurate because the data is
skewed by one U.S. producer that did not report the price of
the finished fittings, but instead reported the price of the
aluminum extrusion that it sold to a downstream customer
before the customer transformed it into a fitting and marked
up the price.

When that extruder's data is removed, the
remaining data show that there was a clear difference in
price. We refer you to pages 20 and 21 of our prehearing
brief regarding the details.

Moreover, in terms of how prices are set,
fittings are priced by the piece, not on some other basis. 
As discussed in our brief, no evidence exists on the record to contradict this fact.

For all of these reasons, the Commission should determine that fittings for engine cooling systems constitute a separate like-product from aluminum extrusions.

Thank you.

STATEMENT OF DOUGLAS J. HEFFNER

MR. HEFFNER: Thank you, Mr. Johnson. Again, my name is Doug Heffner from Drinker Biddle. In my testimony today I'd like to briefly go through the analysis of the likely volume, price effects, and impact of imports of subject fittings for engine cooling systems. 

There is--I first would like to start out on coverage. There's a small quantity of fittings for engine cooling systems that are produced by domestic producers of aluminum extrusions. Those data are on the record.

There are also fittings for engine cooling systems that are produced by U.S. fabricators that are customers of the domestic extruders such as independent fabricating and machine shops.

Adams Thermal provided to the Commission staff several names of U.S. fabricators that make fittings for engine cooling systems, but it appears from our purview of the record that the Commission received no response from any
of these producers.

In the absence of additional data, the Commission should rely on the data it has on the record right now.

Concerning volume effects, the total volume of imports of fittings from all countries is small and stable. Subject imports from China represent a small fraction of total imports. Please refer to the prehearing staff report at C-3 for the details.

The Commission should note that the import data from most of the Period of Investigation does not reflect the effects of the Order, because Adams Thermal was not aware until late 2015 that Chinese fittings for engine cooling systems were potentially subject to the Orders.

Like so many other importers that are caught up in these Orders, the fittings that Adams Thermal imported were not classified among the HTS codes that were originally identified in the Orders.

So as a practical matter, the Orders did not have a restraining effect at all on the import volumes you see for Chinese engine fittings in Table C-3 of the staff report.

This alone suggests that revoking the Orders with respect to the fittings for engine cooling systems would have little or no volume impact. Moreover, there is no evidence provided in the record that subject fittings for
engine cooling systems took away sales from the U.S. industry.

For these reasons, the Commission should conclude that if the Orders were revoked the likely volume of subject imports would still be small.

Regarding price effects, the Commission staff did not collect pricing series data on fittings for engine cooling systems, so our thought is the Commission should look at the AUV data contained in Table C-3 of the staff report.

Those data show that Chinese imports of these fittings are priced higher than nonsubject imports and U.S. fittings, too. Moreover, the trend in pricing data do not support any theory that Chinese imports are depressing or suppressing U.S. prices.

Impact. Finally, the Commission must consider the likely impact of subject imports on the domestic industry if the Orders are revoked.

Although most of the data on impact are confidential, it suffices to say that the data do not point to any indication that revocation of the Order with respect to these fittings will result in likely declines in the indicia that the Commission typically examines concerning its analysis of the impact on the domestic industry. Please refer to pages 26 and 27 of Adams Thermal's prehearing brief.
for additional details.

In conclusion, if the Commission determines that
the fittings for engine cooling systems constitutes a
like-product that is separate and distinct from the aluminum
extrusions, the Commission should determine that revocation
of the Orders with respect to Chinese imports of these
fittings is not likely to lead to continuation or recurrence
of material injury to the domestic industry producing these
fittings.

Thank you. Can we have a check on time?

MS. BELLAMY: You have eight minutes remaining.

MR. HEFFNER: Thank you. We will reserve that.

Thank you.

VICE CHAIRMAN JOHANSON: I would like to thank all
of you for speaking this afternoon. And before we begin our
questions, I would like to note that Chairman Schmidtlein
would like to apologize for not being here today. She was
up all night with her sick 5-year-old child. She was really
hoping to make it this afternoon, but unfortunately she is
not going to be able to make it here. She looks forward to
reading the transcript and your post-hearing briefs.

We will now begin the questions with Commissioner

Kieff.

COMMISSIONER KIEFF: Thank you. And as with the
morning panel, I join my colleagues in thanking each of you
on the afternoon panel for preparing, presenting, traveling, and following up in the post-hearings.

Let me, if I could, just start with one question that may be on a number of my colleagues' minds. Just to formally ask it: Do you on this panel take any position with respect to continuation of the Orders with respect to any of the products other than the ones you specifically mentioned?

MR. SCHAFER: I think officially we don't. For my part, frankly, to be perfectly truthful, I agree with Mr. Price's comment this morning that the recovery of the extrusions industry reflects the law working the way that it is supposed to. And I should add that that is the first time I have ever begun a sentence with the phrase "I agree with Mr. Price" on anything.

(Laughter.)

MR. SCHAFER: The issue is whittling down just precisely what that industry is and what it makes and what it doesn't. That's really I think where all of the people on this panel are living.

COMMISSIONER KIEFF: Okay, so then to follow up on the origami reference, I the other day passed an art supply store here in town that was selling origami paper, and selling origami instruction services.

Last month I was at a conference in Tokyo and stayed in a hotel where the bill that I received was for the
hotel services. They provided coffee and tea in my room. They also had an origami swan that you described, an instruction sheet for making origami swans, and a stack of origami paper which of course I brought back to give to my 4-year-old so that we could practice playing.

Did they sell me the--what were they in the business of doing? I think they advertise themselves, we all know--right, this is Starbucks that, you know, charged for the coffee but gives free Wi-Fi. There are lots of airports that don't provide a nominal charge, but do have free Wi-Fi and charge you extra if you want to sleep for five hours.

How particular people bundle their services, there is no one size that fits all for all people and all times. And for me as someone who really does enjoy milling aluminum--I haven't in a long time--I just am struck that the part that your counterparts circulated, and the parts that you circulated, tell me that you do the same things differently.

But what I don't understand is how that informs our thinking about what counts as a domestic like-product. So let me try it this way.

Do you agree with each other on many of the facts, and disagree with their significance? Or do you think there's like a big factual difference between the
morning panel and the afternoon panel?

I'm trying to understand where the disagreement is, and the nature of the disagreement. I mean, do you disagree that the product they handed off to us that they made? Because that part was an extruded piece of aluminum, and it had been machine milled, and it had threading in it, and it really resembled the machine-milled threaded extruded parts that you handed up. Did it not exist? Did they not make it? Like where's the difference? Or did they do those things and it doesn't matter to your case?

MR. FERRIN: This is Richard Ferrin at Drinker Biddle. With respect to the fittings, certainly the domestic industry makes the extrusion feedstock for the fittings. And according to their testimony, at least some of them do actually make the fittings for engine cooling systems. So there is a domestic industry.

But as I think they will admit, what they do is they take it to a different location there on the shop floor and use completely different equipment. They don't use a press to make the finished fittings. Instead, they use a C&C machine, and those involve a number of different processing steps, and that adds significant value. And that is what is very, very different here.

It doesn't matter the fact that they're doing it, you know, in the same building. The fact is that they're
adding a great deal of additional value by doing the
fabrication processes with the C&C machine. And I think one
piece of evidence you can look at to clarify and confirm
that is look at the average unit value pricing data on Table
C-3.

If you look at the average unit value for the
domestic industry and compare it to the average unit value
of subject imports, there is a huge difference there. There
is also a huge difference--

COMMISSIONER KIEFF: Just so I'm getting the
nature of your argument, I take it their response, though,
was the nature of that argument applies to the tens of other
products currently in the case, as well.

In other words, there's lots of processing for
those, too. Why are those not separate domestic
like-products, but these three or four or two, whatever key
number is, why are these separate domestic like products?

MR. FERRIN: I apologize. I now understand your
question a little bit better. There may be other products
with other fabrication steps that might well be separate
like-products, as well. We don't know. We're speaking--

COMMISSIONER KIEFF: You take no position on them,
and therefore you're not--

MR. FERRIN: We don't even know what they are.

COMMISSIONER KIEFF: Gotcha -- .
MR. FERRIN: The only thing that's before the Commission now is comparing the aluminum extrusions to our product, and comparing the aluminum extrusions to the product, the FEC product. And so that's all we can speak to.

MR. HEFFNER: And if I could add, it's a very fact-specific, intensive type of investigation. So it's difficult to just go ahead and say for any product, you know, whether it's going to meet the requirements for the subject--

COMMISSIONER KIEFF: Yeah, I just want to confess my own, as I did with the morning panel, my own unease about highly fact-intensive multi-factorial analysis, because to me they resemble whoever pushes harder.

MR. HEFFNER: Well, and we are pushing hard.

COMMISSIONER KIEFF: And I absolutely get that, too. As I mentioned to the morning panel, I noticed that this is not a case where we have a foreign industry in the afternoon and a domestic industry in the morning. This is a case where we have a domestic industry in the afternoon and a domestic industry in the morning, and they're both pushing hard, ably, with good witnesses and lawyers.

MR. CARYL: Ben Caryl, Crowell & Moring.

Commissioner Kieff, as far as fin evaporator coils, the Commerce Department had a scope ruling and it found that the
aluminum extrusion component of the fin evaporator coil system was subject to the Order.

So, you know, there's all this discussion of fabrication and processing. As Mr. Mata testified, there's a manufacturing process, once you get aluminum extrusion, to manufacture a fin evaporator coil system. And that's also why we argued we have done our like-product analysis to the semi--

COMMISSIONER KIEFF: Okay, so it sounds like you are basically saying that if we were doing an independent analysis of each of the many tens of other products, and if somebody were here presenting that analysis to us, we ought to be pretty open to the view that all of those post-extrusion processing steps for all of those other products make them at least good candidates for an analysis of separate like-product?

MR. CARYL: Well we're not going to take a position on the other ones, but there's a difference between processing something, and once the processing is finished it's an aluminum extrusion. And then manufacturing something using aluminum extrusion to make a different product. That's what our focus is.

COMMISSIONER KIEFF: Okay, so--

MR. CARYL: And then--go ahead.

MR. SCHAFFER: I was just going to say, another way
to conceptualize that might be to say, we heard a lot this
morning about the continuum, but the continuum of course
can't go on endlessly. It can't be everything that has an
extrusion in its somewhere.

At some point, the nature of the manufacturing
process has become more than fabrication, punching, and
gnarling, and what have you. At some point you have
something like this (indicating), that's so vastly different
from what comes out of the far side of the die that it's not
reasonable to treat it that way anymore.

COMMISSIONER KIEFF: Absolutely. But just to be
really explicit for both sides, what I'm struggling with is
it's surely got to be more than zero, and a lot less than
infinity. I just can't figure out why either side is giving
me a cogent, objective, neutral rule of decision.

Let me try it this way. So for Mr. Caryl, I
guess, can you in the post-hearing try to flesh out, are
there other domestic producers of FECs, and third-party
assemblers, and et cetera, you could flesh out the details
of that domestic market and try to explain a little bit more
about why earlier in the investigation when they were
originally mentioned these arguments weren't fleshed out
more fully, because they seem to be coming in at this phase.

For Mr. Schafer, I'm trying to figure out how we
define a domestic like-product if there's no domestic
production. And if you can kind of give us some precedent
about how we should think about that. And if not, what do
we look at as most like.

And then this is just a very minor question, and
I don't mean it to be a gotcha, and I don't want to--I just
want to try to figure out whether this is actually just a
typo, or whether I'm supposed to be taking significance from
this word.

On page 3 of the pink sheets, to the right of the
pie chart--and I'm not going to say anything confidential--
there is a word next to the--there is a blue square, a small
blue square. The last word next to the small blue square is
the word "injury." Should that be "industry"?

MR. CARYL: That should be "industry."

COMMISSIONER KIEFF: Okay, that's fine.

(Laughter.)

COMMISSIONER KIEFF: I just wanted to make sure
that--paging Dr. Freud.

(Laughter.)

MR. CARYL: If there was a color on that pie chart
for domestic injury as far as the fin evaporator coil, it
would not exist on that pie chart.

COMMISSIONER KIEFF: That's what I thought you
were arguing. That's why I was struck by it.

Okay, thanks. No further questions.
VICE CHAIRMAN JOHANSON: Thank you, Commissioner Kieff. And I would like to thank all of you for being here this afternoon.

Adams Thermal has indicated that fittings for engine cooling systems are within the scope. And Electrolux has reported that fin evaporator coil systems are within the scope. What other fabricated extrusions are within the scope of the Orders?

For example, are there fabricated aluminum extrusions that are sold to the automotive industry other than fittings for engine cooling systems?

MR. HEFFNER: I can--this is Doug Heffner from Drinker Biddle. I believe there were some other scope rulings on that, and I can--sometimes my memory is not the best, but I will get that for you in the post-hearing.

VICE CHAIRMAN JOHANSON: Okay, thank you.

MR. HEFFNER: I know there is at least one or two.

VICE CHAIRMAN JOHANSON: Alright, Mr. Caryl?

MR. CARYL: We can follow up post-hearing, but we can also refer to our Exhibit No. 1 in our pre-hearing brief that tries to summarize all the scope rulings, and which ones were found in, and which ones were found out.

VICE CHAIRMAN JOHANSON: Okay, thank you.

And this is quite an investigation. As I mentioned this morning, I was not here for the original
investigation, but I've read so many reports about this since coming to the Commission, I guess largely due to the scope determinations. There seems to be quite a bit in the trade press.

So I know that you all have been busy in the Trade Bar in this issue. And this is a question for Electrolux. On page 11 of your brief you argue that fin evaporator coil systems are not interchangeable with other aluminum extrusions.

But this would seem to be true for many types of extrusions across a spectrum of this broad scope. How is your product different?

MR. MATA: This is Erik Mata from Electrolux. Fin operators are completely different than just simple extrusions. One of the products included into the fin evaporator is the extruded tube, but the extruded tube alone does not function in our refrigerator, so they're completely separate products and that's why they are not interchangeable.

MR. CARYL: Vice-Chairman Johanson, you know the Commission when there's a continuum like product the fact of the lack of interchangeability is not the deciding factor.

We also point out that interchangeability is not a specific factor in a semi-finished product analysis. Of course, it's a consideration and it's fact that they're not
interchangeable, so that's just another reason that
semi-finish product analysis is more appropriate for fin
evaporate coils.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr. 
Caryl.

In their pre-hearing briefs, Electrolux and
Adams Thermal the issue as to whether fin evaporator coils
or fittings for engine cooling systems are a separate
domestic like product than aluminum extrusions.

How should the Commission take into account in
its domestic like product inquiry the fact that the scope
includes extrusions that are "finished, fabricated or any
combination thereof"?

MR. SCHAEFER: Mr. Vice Chairman, and as
Commissioner Kieff has pointed out, the lines can be
difficult to draw, but I think I would say there's a
difference between a finishing or fabrication operation and
a manufacturing operation that yields an entirely different
category of product. That is a fact-intensive analysis.
There's no getting around that, but I think everybody
understands that if you have a piece of carpet trim that's
been punched out of the far side of the dye and you then
punch nail holes in it that that's a fabrication operation.

When you make that thing and start welding
copper stud fittings and press fitting and brazing fin sheet
onto it and adding thermostats and dams, you're not
processing any more. You've undertaken a manufacturing
operation that should be enough to justify being considered
a separate like product.

VICE CHAIRMAN JOHANSON: Okay.

MR. FERRIN: This is Richard Ferrin of Drinker Biddle.

With respect to our fittings, it seems to me that what the scope of the order includes or doesn't include isn't really the issue before the Commission. We're not arguing here that these fittings for engine cooling systems are outside the scope of the investigation.

We did argue that before the Commerce Department, but that's not an issue here. The question whether it is a separate like product or part of the same like product, so how Petitioners define the subject merchandise is really not the issue. The issue instead is what is the domestic industry? Are we're talking about multiple domestic industries here? Are we talking about one single domestic industry here? And I would say, respectfully, that I don't think that you can answer that question by looking at the scope.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr. Ferrin.

And I guess taking a 30,000-foot view of what
we're doing here today arises in this question. The Aluminum Extrusions Fair Trade Committee argues at page 7 of their brief that Adams Thermal and Electrolux are attempting to re-litigate scope proceedings that they lost at Commerce under the guise of domestic like product arguments. Could you all please respond?

MR. HEFFNER: Doug Heffner for Adams Thermal.

We're not trying to re-litigate whether something's in the scope. We're trying to make the argument that it's a separate domestic like product. Two totally separate different issues, so I don't see them as being one in the same here.

MR. SCHAEFFER: We consider that to be sort of unresponsive, frankly, to the arguments that we've made. We said these are separate like products for all of the reasons that the Commission typically find separate like products and there's no indication that they are likely to cause injury if the order is revoked.

It's not a response to that argument to say you're just trying to re-litigate scope. We're trying to get them out of the order because they belong out of the order. It has nothing to do with scope.

VICE CHAIRMAN JOHANSON: Alright, thank you, Mr. Schaefer and others.

Is there any evidence that producers of the
finished fittings in engine cooling systems use a different price setting structure than producers of all other aluminum extrusions?

MR. HEFFNER: Doug Heffner again for Adams Thermal.

What we understand from our client, and we can confirm this in post-hearing, they purchase the fittings on a per-piece basis. They purchase it from a machine fabricating shop. They don't deal with extruders at all, so for us the answer is it's on a per-piece basis that they negotiate with a particular producer, machine shop in China and then they produce it and they sell it to them on a per-piece basis. That's it.

VICE CHAIRMAN JOHANSON: Okay, thank you, Mr. Heffner.

And this is a question for Electrolux. What record evidence supports your assertion at page 5 of your pre-hearing brief that "many other aluminum extrusions, on the other hand, are typically commodities in that they are mass produced for distributors and many customers, i.e., the same exact aluminum extrusion is sold to many different customers"?

MR. SCHAEFER: Let me start on that. I think the first principle is you go back to the petition. The petition had some fairly remarkable exhibits. They had
essentially -- when they showed their sort of archetypical extrusion product what they showed was a bin with L-channel and U-channel pieces coming out. And what they said in the petition was what extrusions are, are intermediate products that are fabricated in the manufacture of other stuff. That's no more, no less. They were quite explicit about that. That is, in fact, why so many manufacturers find themselves in the position that Electrolux and Adams Thermal find themselves because the understanding was what comes out of the dye is the subject merchandise, not this thing and not their things.

And when I hear testifying witnesses saying take a look at this. We bang out 400,000 of these before breakfast there's reason to think that what they're selling is going to multiple customer bases.

VICE CHAIRMAN JOHANSON: Alright, thank you for your responses. And the yellow light is on, so I will stop with that question. Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you. You know I always want to thank the witnesses for their testimony this afternoon.

I want to go back to Commissioner Kieff's question. And I guess this is back to the slippery slope question and I know you've -- basically, what you're arguing we don't know the answer to that question, but we know our
products should be excluded; is that fair?

    MR. SCHAEFER: Well, it seems to me, Commissioner Williamson, that the only alternative is to say since the slope is so darn slippery if there's an extrusion in it that's the end of it. We understand it's a product category that covers hundreds of thousands of things and we're not going to get into a fact-intensive inquiry about every single one of them, so heck with it, we'll throw them all in there. That's deeply unjust and it's not consonant with the underlying law and there's no indication that this is going to lead to some sort of landslide of people coming flying in making like product requests, but as a factual matter we can provide information and data as to the products that we know something about.

    MR. CARYL: And I'll just add to use the analogy the slope is much more slippery as a result of the expansion of the scope and these scope rulings. And we understand you guys are not in control of the scope, but you do make domestic like product analyses and determinations which, as Mr. Schaefer testified in our affirmation presentation, can rationalize these orders and make the slope less slippery, in fact.

    COMMISSIONER WILLIAMSON: Okay.

    Post-hearing it maybe looking at Commission precedence and if you can give us any further -- and I
invite the Petitioners to do the same -- give us any further
guidance on this, looking at Commission precedents and
things like that. We've had an interesting discussion on
heat sinks, which has convinced me that I was right six
years ago, but anyway, yeah, I don't know if there are other
precedents out there that you think can provide us some
guidance on this.

MR. SCAHEFER: I think there are and we'll do
our level best to marshal them and feature them in our
post-hearing brief, but I wanted to back to the heat sink
example for a minute because there were a couple of things
that I heard this morning in precisely that vane that I
found troubling in terms of the continuum and where this
thing has to start and where it has to end.

There were a number of assertions about what
happened with the heat sinks situation and as far as I can
tell they boil down to two. One was that the Chinese
producers alleged that there was some voodoo element to
their manufacturing process that may or may not exist.

COMMISSIONER WILLIAMSON: No, they said that we
tested them and we tested each one and that made a
difference.

MR. SCHAEFER: And that the issue wasn't fully
vetted, in effect, that they sort of snuck in because nobody
was paying attention.
COMMISSIONER WILLIAMSON: Well, I don't know about that because I know they spent awful lot of time looking at them.

MR. SCHAEFER: Well, that was precisely what I was going to say and I was disheartened on behalf of the staff that it's been my experience they don't let anything snick in and heavens knows I've tried, but I went back and looked at the determination and wanted to quote a couple of the findings that you all made. They weren't related to testing and weren't related to propriety coatings or anything else.

It started out with specific and precise tolerances, okay. "Customized thermal resistance properties, also true of fin evaporator coil incidentally, sold to distinct classes of end users and distributors. There's evidence in the record that customers and producers of them perceive them to be distinct from other aluminum extrusions. On balance, we find that there's a clear dividing line separating them from other aluminum extrusions based on these factors." This is precisely what we're talking about with these products.

COMMISSIONER WILLIAMSON: But you remember my discussion this morning about what is happening in modern manufacturing. Tolerances, all those things are changing and you told me all the virtues of why this is different and
that's part of it.

MR. SCHAEFER: I don't believe there's any
evidence on the record suggesting that the tolerances are
changing for other types of extruded products. We have some
speculation, at best, but no data to support it and even if
you accept that they are there's no way to quantify the
difference between the sort of baseline commodity stuff and
more sophisticated product.

COMMISSIONER WILLIAMSON: Well, I guess the
question, though, is the more sophisticated stuff is
included and we consider that part of the like product.

MR. SCHAEFER: Again, I'm not aware that that's
ture because we haven't looked at the details for any of
those types of products. We've only examined the ones that
are before the Commission at this point.

MR. CARLY: Can I just add --

COMMISSIONER WILLIAMSON: And we did have a lot
of testimony on that this morning.

MR. CARLY: And sophisticated aluminum
extrusions that fall within the scope are covered by the
scope and you have to determine whether they're part of the
same like product or not. Products containing aluminum
extrusions the aluminum extrusion part is the only part
contained in the scope and you're asking about Commission
precedents, we'll look at that further for post-hearing,
but most recently you guys in the truck and bus tire case or OTR, one of the most recent cases, you had the issue of mounted assemblies, you know, the wheel and the tire.

In that scope they specifically included mounted -- tire assemblies, but the duty is only applied to the actual tire. And in the prelim, you guys explored the issue under the semi-finished product analysis of whether the whole assembly, the assembled tire, was a separate like product. In that case there's very little difference because the wheel is not of very much value to the tire, but so far, that, I think, is the closest situation where you're trying to look at a product that's being imported -- the fin evaporator coil system is being imported that covers the included part of aluminum extrusion.

And just to reiterate, we're not arguing that aluminum extrusions that go into fin evaporator coil systems are separate like products. We're arguing that the system that comes in that's sold that is the separate like product, so I agree that it's an unusual situation, but you know it is what it is. We didn't create it.

COMMISSIONER WILLIAMSON: Okay.

I believe in your pre-hearing brief you basically argued on semi-finished product that if you used that argument. Could you maybe in the post-hearing address looking at the traditional six factor.
MR. CARYL: Absolutely. And this morning someone referenced the fact that the Commission decided it was appropriate in the original investigation to apply the six-factor test instead. I'll just note that the footnote addressing that said the six-factor test is "somewhat more appropriate than a semi-finished analysis in analyzing these four product issues."

The four product issues in the original investigation were aluminum extrusions. They're different levels of processing, but a semi-finished product analysis is for products that are upstream and downstream and that's what the Commission has traditionally used and we're happy to provide you with an analysis for both tests.

COMMISSIONER WILLIAMSON: Okay. And I guess the question should the test be the outcome determinant in this case?

MR. CARYL: We argue that under either test you're going to get the same outcome.

COMMISSIONER WILLIAMSON: Okay, good.

MR. HEFFNER: For Adams Thermals too. This is Doug Heffner.

I would agree that looking at it either way, and we addressed it both ways in our pre-hearing brief using the traditional like product six-factor test or the other test that one way or another it should be considered a separate
domestic like product, but I want to emphasize here one of
the important things that when you look at fittings is both
of these tests look at perception. What is the perception
of producers? What is the perception of consumers? And I
think that's a big issue here, especially, in this case
because what do we have before us?

We have a situation where you have a large
aluminum extrusion industry that you sent questionnaires to.
You know what you got back as far as who's producing
fittings, okay. They testified today that there were two
companies that produced fittings for engine cooling systems.
The third customer who testified today I believe from Pennex
said they make the extrusions for the fittings, okay. So
you don't have a very large base there to start with, okay.
So then the next thing is look at all the hundreds of
fabricators that make this product. I mean there are
hundred of fabricators that make fittings for engine oil
cooling systems. We gave the staff a number of names to
send out questionnaires to. We saw nothing back from any of
them on the fact that they were even interested in this at
all and the most likely reason is they don't consider these
to be extrusions. They consider them -- their perception is
these are separate and distinct parts, separate and distinct
industries.

MR. FERRIN: This is Richard Ferrin with Drinker
Biddle.

One brief thing that I would like to add, you

even heard the terminology this morning from Petitioner's

side saying that they refer to the aluminum extrusions as a

semiinished product. That's exact right. It's a

semi-finished product, whereas the products that are before

you today here are finished products, not semi-finished

products. They are finished products.

Now the other side may want to say, well,

there's a whole bunch of finished products out there, but we

did not create this problem in the first place. The problem

was created, I think, by something that was over broadly

drawn by Petitioners in the first place. And what is before

the Commission is now is trying to determine whether or not

these two products should be considered part of the same

like product as a semi-finished product that they're made

from. Thank you.

COMMISSIONER WILLIAMSON: Okay, my time has

expired. Thank you, I'll come back.

VICE CHAIRMAN JOHANSON: Thank you, Commissioner

Williamson. Commissioner Broadbent.

COMMISSIONER BROADBENT: Mr. Caryl, it's my

understanding that under ADCVD orders that cover the

finished fin evaporator coil systems Commerce applies duties

solely to the aluminum extrusion portion of that incoming
product; is that correct?

MR. CARYL: That is correct.

COMMISSIONER BROADBENT: If that's correct, does it make sense for us to be conducting our six-factor domestic like product test between a finished sub-assembly, which includes copper fins and other stuff, to all other aluminum extrusion products?

MR. CARYL: Yes.

COMMISSIONER BROADBENT: Wouldn't it make more sense to compare the aluminum extrusion components within the sub-assembly to other aluminum extrusions?

MR. CARYL: No. We're not arguing that the aluminum extrusion that is eventually incorporated into aluminum extrusion -- I'm sorry, fin evaporator coil system is a separate like product.

As Brazeway testified earlier today, you know they sell aluminum extrusions. They sell hairpins. They sell serpentine tubes by themselves. They also sell fin evaporator coils. So that's exactly what this semi-finished product analysis should be used for.

COMMISSIONER BROADBENT: Okay.

MR. SCHAEFER: This is Alex Schaefer from Crowell for Electrolux. Electrolux doesn't import the tube that goes into a fin evaporator coil systems like that. And a fin evaporator coil system like that doesn't compete with
tubes. The point of commercial contact is the finished system, which is what Electrolux purchases and what they import. And so, from our perspective, comparing it to just the tube does a disservice to the nature of the manufacturing process that it goes through to become the finished system, which is sort of the point and why we think it's a separate product category.

COMMISSIONER BROADBENT: Okay.

Are there other scope imports of sub-assemblies, other than the fin evaporator coil systems?

MR. CARYL: We'll have to look at that specifically at post-hearing, but again, reference our Exhibit 1 where we tend to summarize these scope rulings and which products have been found to be in and out.

COMMISSIONER BROADBENT: Okay.

This is a legal question for Adams Thermal, I guess. If the Commission determines that there's a feedstock aluminum extrusion product that is distinct from downstream from fittings and other fabricated products, would it be appropriate for the Commission to conclude that fittings for engine cooling systems is too narrow a definition of a separate like product?

MR. FERRIN: Richard Ferrin for Drinker Biddle.

The Commission could make that determination.

We're not here advocating this determination because we
don't have knowledge to be able to impart about all the
other products. Also, Mr. Schaefer, I believe, gave an
example that there are some products that may have some
minimal amount of fabrication that might more appropriately
be considered the same like product as aluminum extrusions.
They may be, they may not be, but we don't want to get into
that. That is for the Commission to decide, but the
analysis that you're using I don't think that we would,
principle, have any objection to that.

COMMISSIONER BROADBENT: Yes, I guess it would
be the data challenge would be the biggest thing.

Okay, this is for -- let's see, Brazeway and
AEFTC report that Commerce considered whether fin evaporator
coil systems were within the scope during the original
investigation and then in a subsequent scope inquiry; is
that right? It was considered in the beginning and then
subsequently?

MR. SCHAEFER: Electrolux didn't participate in
the investigation, but there was like many importers that
were unaware of the breadth.

COMMISSIONER BROADBENT: So you don't know.

MR. SCHAEFER: We know there was a scope ruling
subsequent to the investigation because there was some
ambiguity in the wake of the investigation about whether the
product that Brazeway had intended to cover was merely the
internal coil or the entire system. Our view was that by all appearances it was merely the internal coil, but since we were importing the systems there was a different scope issue in play. The Commerce Department disagreed.

COMMISSIONER BROADBENT: Okay.

MR. CARYL: And if I could chime in. Ben Caryl, Crowell.

I think the more relevant question is whether the Commission looked at fin evaporator coil systems as a separate like product in the original investigation. And although, Brazeway participated in the original investigation, there was no like product argument made as to fin evaporator coils. There was a handful of products that the Commission did analyze specifically, including finished heat sinks. But again, Electrolux was not aware that fin evaporator coil systems were considered aluminum extrusions because, in reality, they are not.

COMMISSIONER BROADBENT: Okay.

I don't know how to pronounce AEFTC argues on page 10 that very small portions of extrusions are created to a standard size and specification that can be sold through distributions, whereas, the large majority of extrusions are sold directly to end users for specific use that they were designed for and often manufactured for propriety designed dyes for specific customers; therefore,
MR. HEFFNER: Doug Heffner for Adams Thermal.

Again, I would say that with regard to Adams Thermal we're talking about a feedstock. The feedstock can come in a variety of different forms and shapes. Most of it is going to be an extrusion like a hex or a round bar or a square bar or a rectangular bar. There's some other shapes too. Some of the things we brought today are some other shapes, but many of those shapes -- more of the basic shapes will go to distribution and so the feedstock that a lot of our product is made out of as far as fittings does end up going to distribution.

They could be sold to distributors or it could be used for specific other uses for purposes like fittings for an engine cooling system. Once you put it in a CNC lathe it changes the shape and form of the product.

MR. SCHAEFER: And this is Alex Schaefer from Crowell Morning for Electrolux.

I would add that I think it's telling. There's sort of the use of the same words to describe two rather different phenomena in the following sense. It's telling that they talk about custom dies because the dye dictates...
what sort of shape you're going to have, what sort of
profile you're going to have coming out the other end and
they can be quite complex and unusual, but you're still
talking about the thing coming out of the other end of the
extrusion press. You're punching a billet through.

Now depending on what dye you use and how
customized it is, you may have some fairly funky shapes, but
you're still talking about an extrusion emerging from an
extrusion press. That's fundamentally different from saying
we have an extrusion of whatever shape that we're then
manufacturing into a product that falls in an entirely
separate commercial category, so it's not just a question of
the specificity. It may be that some of those funky shapes
that come out means that the product is only useful in a
particular context or for a particular purpose, but as I
say, that's different from manufacturing an extrusion among
a number of other inputs into something altogether
different.

COMMISSIONER BROADBENT: Okay.

Just out of curiosity, has Commerce made any
additional subsidy findings or conducted any new subsidy
investigations regarding the subject aluminum extrusion
industry in China since the original investigation?

MR. HEFFNER: Doug Heffner for Drinker Biddle.

I believe they have, but we're not really
representing any Chinese producers. We would have to look that up and provide that to you in post-hearing.

COMMISSIONER BROADBENT: Okay.

MR. SCHAEFER: We can also look at that post-hearing. I am fairly certain that the Commerce Department has not found any subsidies whatsoever specific to the Chinese fin evaporator coil system manufacturers.

COMMISSIONER BROADBENT: Okay.

Electrolux reported that Commerce has issued several scope rulings regarding the kitchen appliance handles and trim kits and that multiple rounds of litigation has ensued. What is the current status of the litigation for some or all the kitchen appliance components within the scope of the orders? What evidence supports your answer, keeping in mind that we have to defer to Commerce on the scope rulings?

MR. SCHAEFER: So for trim kits, Commerce initially found them within the scope. After a series of remands, Commerce determined that they are not within the scope. The Court of International Trade upheld that determination and it's on appeal before the Federal Circuit at the moment.

As to appliance handles, the process was similar, except that the Court of International Trade distinguished between appliance handles with end caps,
assemblies, in effect, and those without. The Court said
the ones with the end caps the Court remanded and
ultimately, Commerce determined that the ones with the end
caps did not fall within the scope. The ones without the
end caps do fall within the scope. That's why I raised the
issue of the appliance handles because, for the moment, the
appliance handles without the end caps remain within the
scope and the Court has affirmed that determination as well.

COMMISSIONER BROADBENT: Okay, thank you very
much.

VICE CHAIRMAN JOHANSON: Commissioner Kieff.

COMMISSIONER KIEFF: Yes, thank you very much.

Let, if I could, try to say back to you what I
think I'm hearing as everyone's theory of the case so that
you can then tell me if I'm hearing it correctly. And then,
if I'm not hearing it correctly, fix my thinking.

So it sounds to me like the morning panel put
forward a broad, deep, detailed-rich case and they covered a
whole lot. And it sounds like, in effect, and I'm
summarizing and summaries are always somewhat inaccurate,
but as I understand it, in effect, you're saying you don't
make the determination about what the Complainants complain
about. You don't make the determination that Commerce
determines on scope. You are here to talk to us about what
our statute tells us we should pay attention to on the
question of separate like products.

And on the separate like products, you have no particular water to carry with respect to the many tens of other products that have been discussed. You are reminding us that we should be aware that they are not the product of a fully argued, fully vetted, highly adversarial contested and multiple prongs of adjudication adjudicated set of decisions. They are merely the product of a reasonable set of complaints, a reasonable set of determinations by a political branch of the government, the Department of Commerce, and the absence of peer groups like you representing each of the many other tens of products.

And so your affirmative case back to us is for the particular products that you're talking about you see some pretty concrete differences between them and extruded aluminum and you think we should take some significance those distinctions, enough significance to treat them as separate like products. Have I basically got it right so far?

MR. SCHAEFER: Commissioner Kieff, I don't want to speak for the Adams Thermal folks, but for our part, I don't think we take issue with any of that description.

COMMISSIONER KIEFF: Okay.

MR. HEFFNER: For Adams Thermal, we agree entirely, except maybe with regard to whether Commerce was
reasonable.

COMMISSIONER KIEFF: That's fine. And I don't mean to be disparaging anybody in this. I just mean to be recognizing it all for what it is.

So then if we were to decide that there are separate like products, the next question we have to try to figure out is, is there a domestic industry that is being materially injured or threat with material injury. And now you may differ in some of these products, but as I think I'm grasping your argument, it basically goes along the following lines.

Gosh, these particular products either don't have much of a domestic industry that's why you're buying them from China or you're buying them from places other than China that are non-subject and that non-subject geographic location -- I forget which is confidential, so that's why I'm being vague. That non-subject location may be part of the reason there is not much domestic manufacturing, may not be, but whether it is or isn't -- whether there is domestic industry or not, that domestic industry is not being injured and then you have kind of various subtleties or textures to those arguments. Is that big picture basically right?

MR. SCHAEFER: It's precisely right Commissioner Kieff. I would only add -- not to put too fine a point on it but in the case of the appliance handles it is not just
that there is not much of a domestic industry it is that
there isn't any which is why we find the whole issue of
breaking out the domestic like product so troublesome.

Because it puts an importer of that product which
presumably wasn't targeted by the Petition in the position
of being caught in the crossfire -- that interpretation puts
that importer in the position of being caught in the
crossfire and of everybody saying, "Gee sorry fellows that
that got stuck in there, there's nothing anybody can do
about it," versus for example an importer of the heat sink
where there is domestic production.

That person is better off. That's a perverse
result in our view. But other than that nuance we agree
with your summation.

COMMISSIONER KIEFF: Alright and then Mr. Heffner
you looked like you wanted to say something?

MR. HEFFNER: I was just going to say that we
agree.

COMMISSIONER KIEFF: Okay.

MR. FERRIN: If I may this is Richard Ferrin
again. Of course in our situation it is more the former but
just to be clear we are not saying unlike the other group --
we are not saying that there is zero domestic industry.

There is a small domestic industry and you can --
there's not a lot of evidence on the record but there is
just enough evidence on the record that you could examine
the volume price and impact of it and I think the answer is
clear when you look at the tiny little domestic industry and
measure it the way the Commission normally does it should be
a negative determination.

COMMISSIONER KIEFF: So then what do we then do
with the argument made by the morning panel that "Look
whatever has just been said -- they still would love to sell
you the very stuff you are talking about. And if they can't
sell it to you they are being either injured or threatened
with injury."

MR. SCHAEFER: Alex Schaefer from Crowell for
Electrolux. That sort of Alice in Wonderland thinking from
our point of view which is to say -- we have asserted
repeatedly and argued repeatedly that for example, appliance
handles are not manufactured in the United States.

There is no domestic production. That assertion
stands unrebuted. As far as I am aware nobody has ever
argued differently. The witnesses this morning said we
would love to do it -- issue an RFQ and that's fine as far
as it goes but it seems to me you can't possibly sustain an
argument that you are going to be injured by continuing to
not have business that you never had in the first place.

COMMISSIONER KIEFF: I don't think that's their
argument. I take it their argument is there are some
domestic -- there is some domestic production of that stuff
and the switching cost for them of putting on a different
dye or adding another post-processing manufacturing step --
whatever you want to call it are such that that's business
they would love to have.

So I don't know that they are making a truly
Alice in Wonderland argument. I think they are making an
argument that we often see here by Petitioners that this is
-- as long as there is a legal framework to our
decision-making process and the legal framework is domestic
industry being injured or threatened with injury, they
presumably are going to make the colorable showing that they
have some domestic industry with respect to these separate
like products, assuming we make the determination they are
separate like products.

They are then going to say -- and here's our
proof that we would be consummating those sales -- why is
that not either injury or threat?

MR. SCHAEFER: Well I don't know that they are
going to say that and I don't know that they could --

COMMISSIONER KIEFF: Let's assume they do and
let's assume they do with some amount of data greater than
zero. I mean I'm not suggesting that it is going to be as
they say in the legal movie "awesome". I am just saying as
I understand our statute as long as they come forward with
some credible showing of evidence that they have some
industry and that they would like to be doing those sales,
doesn't that start to resemble a plain vanilla Title 7 case?

MR. SCHAEFER: I guess I don't think it does
because particularly for the purpose of a Sunset Review
where you are considering whether injury -- material injury
is likely to recur, that's not a sort of injury that was
occurring in the first place because they have never served
-- they have never produced these products.

They never sold them to us, they never expressed
any interest in doing so. As we have been publicly out
there litigating back and forth our phone hasn't rung.

COMMISSIONER KIEFF: Okay so then please in the
post-hearing for both sides give us legal authority for the
view that the standard's is especially tough in a Sunset or
that in a Sunset where the data is especially small that the
lens through which we look at this, the eyes should be
especially jaundiced when -- because that will then give us
a clear path to the decision you are asking for.

I take it the alternative path would be even if
they were tool and dye ready to sell these products that you
would still be buying them from whomever you are buying them
from and that the replacement benefit would not go to the
domestic industry.

And if anyone has evidence on either side of that
point pro or con, that can really help us make a decision pro or con.

            MR. SCHAEFER: We will address that in our post-hearing.

            MR. CARYL: Commissioner Kieff, typically when those arguments are made it is in reference to, you know, certain grades or sizes of a single like product. That argument is not made when it is you know, definitely when it is not domestically produced at all.

            And if it is, you know, barely produced or produced in a very small -- in the original investigation they would allege, you know, they wouldn't have alleged present injury or threat they would allege, you know, material retardation of the industry.

            And that certainly wasn't alleged in reference to evaporator coils or kitchen appliance handles in the original investigation.

            COMMISSIONER KIEFF: Great and then if there is anything else to the analysis -- again I just gave a sketch but if I am missing something on either side, please just brief it in the post-hearing but thank you all very much.

            VICE CHAIRMAN JOHANSON: Thank you Commissioner Kieff. Mr. Schaefer, as you were discussing with Commissioner Broadbent about 15 or 20 minutes ago several of the extrusion shapes that you passed to us here on the DIAS
were what you would call "funky" shapes, that's a quote I think.

MR. SCHAEFER: Those didn't come from us Commissioner Johanson.

VICE CHAIRMAN JOHANSON: Okay, okay from Mr. Heffner then maybe I will address this to Mr. Heffner and to Mr. Schaefer as well. As you mentioned once extruded such an unusual shape could probably only be used to make the part that you showed to us. How does that impact our analysis of the first prong of the semi-finished product analysis which is dedication to downstream product?

Aren't these shapes -- aren't these funky shapes basically wholly dedicated to making that part and does this contrast with the photos on pages -- how does this contrast the photos on pages 10 to 12 of your Brief which shows it pieced off as a basic hex shape that probably has many downstream uses?

MR. HEFFNER: Doug Heffner from Drinker Biddle -- unfortunately the only samples that we had left after we gave them to the Department of Commerce were these funky ones that we had so that's all we could bring you.

A good portion -- if you look at the information that we have provided, because we actually also included our scope ruling, there you will see that most of them are basic shapes. So -- and as I said basic shapes that can be used
for a variety of different things.

So I would say even though the ones that you are looking at may be dedicated to that specific product, I would say overall the products that we are using are more so the basic shapes.

Yeah -- you can also refer to our Brief at page 10. You can see some of the more typical 10, 11, 12 -- you can see some of the more typical shapes that we have there.

VICE CHAIRMAN JOHANSON: Alright thank you Mr. Heffner I appreciate your comments.

MR. HEFFNER: Sure.

VICE CHAIRMAN JOHANSON: Do you all know which firms manufacture fittings for ancient cooling systems in China and which firms manufacture fin evaporator coil systems in China?

MR. MATA: This is Erik with Electrolux. Yes there are a few that I know of in China, Changzhou Changzheng, one of them and Jiangsu Changfa is one of them and Changzhou Changfa is another one, those are the ones that we know of.

VICE CHAIRMAN JOHANSON: Okay so you know of three of them then, okay. I appreciate it. Well that concludes my questions. We have a rather discreet number of topics that we have been discussing here today and I think that we have covered them pretty well so that concludes my questions.
Commissioner Williamson do you have any further questions?

COMMISSIONER WILLIAMSON: Yeah just a couple. I was curious I have been looking at this thing here -- how, extrusions are a wide variety. Are fitting evaporator coils a wide variety too, is that a more complicated, a simple one, and I guess there are fin evaporator coil systems that you are talking about and what is the significance of that? I am trying to figure out these to get a better feel of what we are talking about here.

MR. MATA: Sure. Fin operator coil systems there are a few, there are several different kinds of it micro channels is one of them which is vastly used in the automotive industry. The fin evaporators that we have here they are the most common in the appliance industry.

There are different configurations -- tubing configurations. There are different fin configuration and density and also sizes depending on the size of the product that the fin evaporator system is assembled into with varied capacity -- cooling capacity so to say.

MR. CARYL: And Commissioner Williamson in the handout there was a slide, there is a picture I think I have two pictures -- I saw those and then there's an A frame one that is used for HVAC, that's a fin evaporator coil also so that's kind of two pieces and we can submit post-hearing you
know additional pictures and samples.

COMMISSIONER WILLIAMSON: What I am trying to get an idea of you talked about this one having different materials attached and all -- sometimes we have people talk about the most extreme example of something to make a point.

MR. CARYL: We definitely brought one of the smaller examples just for logistical purposes.

COMMISSIONER WILLIAMSON: Okay that's what I would like to get a better feeling from post-hearing, Petitioner's also can address that question too.

Let's see Mr. Heffner, in post-hearing maybe you can address the difference and looking at the cooling systems, the fittings and cooling systems the differences in the unit values between domestic, Chinese to explain those difference if you can.

And you probably can do it post-hearing given the proprietary --

MR. HEFFNER: Doug Heffner, Drinker Biddle again -- we'll try to do that in post-hearing. It involves confidential information.

COMMISSIONER WILLIAMSON: Yeah I understand that, if there is anything that can tell us about that that would be helpful.

MR. HEFFNER: I don't know if there -- I don't know.
COMMISSIONER WILLIAMSON: Yeah.

MR. HEFFNER: I would have to go back and look at the information in detail and try to sort it out.

COMMISSIONER WILLIAMSON: Okay thank you. I guess the other thing for post-hearing for the lawyers is precedent -- what you are asking, basically what you are asking us to do is to say -- create a like product or identify a like product category that wasn't in the original and then find that that category doesn't injure the domestic industry -- I think that's what you said.

I don't know what precedent, what legal guidance -- kind of along the questions that Commissioner Kieff has asked here. I don't know, I'm not sure that there is any precedent for that here.

MR. CARYL: We can look at that post-hearing.

COMMISSIONER WILLIAMSON: Yeah okay and Petitioners of course would be asked to do the same. I think that is all the questions I have so I want to thank you all for your testimony.

COMMISSIONER BROADBENT: I have no further questions I want to thank the panel.

Vice Chairman Johnson: Alright that concludes the Respondent panel. Yes I would like to -- would, does staff have any questions for the panel?

MR. CORKRAN: Douglas Corkran, Office of
Investigations. Thank you Vice Chairman Johanson staff has
two additional questions please.

MR. ENCK: Justin Enck, Office of Investigations.
The question regarding U.S. imports of aluminum extrusions
from non-subject countries -- the volume of those imports
has been sizable during the period of review.

I was wondering if the orders were revoked how
would the presence of those imports affect the imports from
China?

MR. SCHAEFER: For our part as Mr. Mata discussed
earlier because Electrolux is in the process of signing a
supply agreement it appears likely that the presence of
those imports would largely forestall additional imports
from China, you only need so much.

But any further detail than that likely strays
into confidential data territory and so we are pleased to
address that in the Brief.

MR. ENCK: Thank you.

MR. HEFFNER: Doug Heffner from Adams Thermal, we
will have to address that in the post-hearing.

MR. HICKS: If I may add in the case regarding
handles it wouldn't change anything because you don't have
anyone that is producing it.

MS. ALVES: Thank you, good afternoon it is Mary
Jane Alves from the General Counsel's Office. There was
mentioned in the pre-hearing Briefs and again today that Commerce has made a preliminary circumvention determination in November, 2016.

Either now or in your post-hearing briefs and this extends to Petitioners as well when is Commerce scheduled to issue its final results and what is the significance, if any, of its preliminary or final circumvention determination in these reviews?

Thank you.

Mr. Vice Chairman, staff has no further questions.

VICE CHAIRMAN JOHANSON: Thank you Miss Alves. Do the domestic industry parties have any questions for this panel?

MR. PRICE: No questions.

VICE CHAIRMAN JOHANSON: Alright thank you. Now we turn to closing statements. This morning's panel has 14 minutes left from their direct testimony and 5 minutes for their closing statement for a total of 19 minutes.

The afternoon panel has 8 minutes left from the direct testimony and 5 minutes for their closing statement for a total of 13 minutes. As is our practice we will combine the remaining times. Mr. Price you may begin when you are ready -- or Mr. DeFrancesco you may start when you are ready.
MS. BELLAMY: Will the room please come to order.

VICE CHAIRMAN JOHANSON: You may begin.

MR. DeFRANCESCO: Thank you, Commissioners.

To give part of our rebuttal, Ms. Boyse is going to begin, and then I will take the balance of the time on the close.

CLOSING STATEMENTS OF STEPHANIE HICKMAN BOYSE

MS. BOYSE: Thank you, Commissioners. Stephanie Boyse with Brazeway. You know, quite frankly I am incredibly disappointed by Electrolux's testimony. There were multiple comments that are completely inaccurate.

They showed you a photo of an A coil for HVAC that is not a product we make. It is not a product Electrolux buys, and it is not a product in question here.

They also talked about processes we don't produce and has nothing to do with a fin evaporator coil. They also mentioned that they brought one of the simplest parts. They did in fact bring the most complex part. In most cases we simply assemble the fins onto the tube. Sometimes we'll put a joint on; sometimes we won't. So I wanted to clear that up.

Electrolux said that they are unable to source domestically. This is simply not true. Brazeway has a large facility in Hopkinsville, Kentucky, that makes all of our processes from the beginning of the extrusion through to
the final assembly. As a matter of fact, Whirlpool still
buys their products from that Kentucky facility, and the ITC
staff visited that facility. So that is evidence of that.

As a matter of fact, we could make all of our
products in Kentucky, and I would love to do that. I would
love to make products in our closed-down Michigan plant.
But the fact of the matter remains that we are forced to
move a portion of this assembly to Mexico in order to meet
the China price.

We lost millions of units prior to the Orders
being put in place, and in order to be able to regain those
units we were--it was insisted upon by Electrolux that we
move a portion of that assembly to Mexico so that we
wouldn't raise their price. Quite frankly, much more,
including other types of extruded products, could be done in
the United States but those industries have been lost, and
frankly customers aren't willing to pay those prices
anymore.

The outcome of your decision doesn't harm
Electrolux. They are a large, multi-national. They're
going to be just fine if these Orders go in place as
written, but the outcome of your decision severely affects
my business. It affects the 800 employees that work at
Brazeway, our three communities, and the entire supply chain
that we help feed.
If you modify the scope, or if you change the
Orders in any sort of way, quite frankly our business will be lost. We will fully go out of business.

Brazeway has been in my family for over 70 years. We have, as I mentioned, 800 employees. We are a significant employer in the small towns that we reside in. Any change to these Orders will decimate my business. Short of a natural disaster, quite frankly, unfair Chinese imports are the single most competitive threat to our business that could wipe our business out overnight.

So I urge you to please take that into consideration as you're making your decisions. Thank you.

CLOSING STATEMENT OF ROBERT DeFRANCESCO

MR. DeFRANCESCO: Thank you, Commissioners. I'm just going to start with a few points, first about appliance handles and trim kits.

We heard today that there are no domestic producers of those products. There was an APO release yesterday. There's a domestic producer questionnaire. In that APO release, that domestic producer identifies himself as an appliance handle and trim kit manufacturer, among other products that he makes.

The producer that's in that release submitted a questionnaire response in the original investigation of domestic producer questionnaire response, and has submitted
one here. There is domestic production. The appliance
handles and the other products that domestic producer makes
are no different than any of these other products.

All of the extruders who were here today on the
panel, they can produce those appliance handles just as well
as any other U.S. producer, given the chance, given an RFQ
from Electrolux or any other appliance manufacturer. They'd
be happy to supply that product.

Electrolux may not purchase from that particular
U.S. producer that was in that APO response, but that
doesn't mean there are not U.S. producers of that product.

With respect to the legal proceeding as it
relates to appliance handles, we have been at this both at
the Court of International Trade and now at the Federal
Circuit for a very long period of time, and Electrolux and
others have been trying to chip away at that appliance
handle market. And I can tell you that the producers, we
would like to be able to produce more of it and they can't,
and there's a recurrence and continuation of injury as it
relates to that product.

With respect to Commissioner Johanson's question
earlier about Chinese FEC producers, you had asked if there
are any. Electrolux's answer was, yes, there are. And I
would ask you: Where are they? They didn't submit any
questionnaire responses to the Commission. No Chinese
producer submitted a questionnaire response to the Commission.

If we are evaluating the degree to which the FEC industry may be injured or may not be injured, the Chinese have refused to provide capacity data, shipment data, or anything else to the Commission. I just leave you with that.

Finally, with respect to the like-product we have same physical characteristics. They are aluminum extrusions. They are produced to different shapes, different sizes. They're all produced to aluminum alloy grades 1, 3, and 6. We saw all the different shapes and permutations that can be produced. They're made in the same facilities on the same equipment by the same employees.

The fabrication takes place in the same facilities with the same employees on the same equipment. There's nothing unique about the fabrication that takes place in those facilities.

With respect to the engine fittings, all we heard from was Adams Thermal's attorneys. There was no Adams Thermal witness to discuss the market or how it's purchased. And I fail to see how they buy the product in China that relates in any way to domestic production and the domestic industry in the United States.

Finally, the engine fittings that they're
complaining about are no more complicated. Frankly, they're even less complicated than the engine mounting system that they go into, which is also manufactured in the same U.S. facilities, in the same production equipment, by the same employees.

When we talk about pricing mechanisms, the pricing mechanisms, whether it's per-pound or per-piece, it is the metal plus a conversion cost. It is the same pricing mechanism across all of these extrusions. It is metal and conversion. And as you can see, these products have very extensive fabrication. Some have extensive. Some have less extensive. But they are all produced in the same facilities by the same production and same employees.

The channels of distribution are also the same. We have, some of these are sold to automotive and transportation customers. Some of these are sold to building and construction customers. Some of these are sold to appliance manufacturers. But there is direct overlap. A lot of sales to OEMs. The small amount that goes through distribution, even those products are dedicated to becoming that product and to go into particular end customers.

Finally, with respect to the semi-finished analysis, just a quick note. We heard in our panel today the amount of dedication that the product, when it comes to the die, this is a net blank--this comes out as a net shape.
It is going to be fabricated, yes. It's going to have these holes machined into them, and whatnot, but this is going to become an engine fitting—an engine mounting system. It is not going to become something else.

We heard from testimony today that even the engine fittings that they're producing, they're produced from one die. It's sold to one customer. And that customer only makes engine fittings out of them. They don't push metal through the same die, sell that metal into distribution, and it is somehow machined into something else.

Finally, we heard a little bit of allusion to it today in the questions and answers. Essentially what they are asking you to do is go down the rabbit hole and start finding all sorts of different domestic like-products. Based on their analysis, we could have hundreds if not thousands of like-products, given the permutations that can be pushed through the die.

Obviously that is not appropriate. We do not agree with that analysis. And if the Commission wants to have multiple changed circumstances reviews to address like-product in this area, if we start chipping away at that that's what's likely going to happen.

And your decision in the original investigation was correct. It is a single domestic like-product. It is a
continuum of products that all have the same production
employees, the same production equipment, the same
facilities where they both fabricate and extrude. And some
products are more fabricated than others, but they're all
produced in the same facilities and all sold to similar and
overlapping channels of distribution, and all priced the
same way.

And with that, I'll close. Thank you very much.

VICE CHAIRMAN JOHANSON: Thank you, Mr.
DeFrancesco and Ms. Boyse.

And it is now time for the opposition for
rebuttal and closing.

CLOSING STATEMENT OF ALEXANDER H. SCHAEFER

MR. SCHAEFER: Thank you, Commissioners. Alex
Schaefer from Crowell & Moring for Electrolux. I am going
to be brief because we don't frankly have too much to say
that hasn't been said.

In my inarticulate fashion today, and in much
better fashion in our papers, and we'll have more to say in
our post-hearing materials, there are a couple of points I
would like to make in response to Ms. Boyse from Brazeway's
comments, which Electrolux found rather galling.

She began by saying we showed a picture of a
product that Brazeway doesn't make. I'm not sure why that's
in any way relevant. The product is a fin evaporator coil
system that Electrolux purchases, and the duties don't get
any smaller just because it's not one that Brazeway makes.

She also accused us of arguing that the product
that we brought in was the simplest example, when in fact it
is rather sophisticated. We said nothing of the sort.

Mr. Mata very clearly said this is the most
common one, meaning the one that's sold the most. He took
no position on whether it's relatively complicated or
relatively simple. We explicitly deferred that to the
briefing.

As to the reasons why Brazeway moved its
production to Mexico, I fail to understand the relevance.
The U.S. antidumping and countervailing duty laws are not
designed to prop up Brazeway's Mexican operation. I don't
think I need to address the they're going to be just fine
argument. I'm not sure the company's size has anything to
do with anything in this matter.

And in re that Mexican production, I'd note
Brazeway didn't file a foreign producer questionnaire. They
also indicate that Whirlpool buys from them in the U.S., but
Whirlpool, who ha been involved in these cases from the
start, both at the Commerce end and on the ITC side, as far
as I know didn't file a U.S. domestic purchaser
questionnaire.

But here's the thing. Ultimately we don't
actually have a quarrel with most of the domestic extruder
industry, because we're not buying extrusions. What we're
saying is, the Commission has to take a hard, hard look at
what that industry is and what it makes and what it doesn't.

Thank you for allowing us the opportunity to sort
of air our grievances here today, and I'll cede the rest of
my time to Mr. Ferrin.

CLOSING STATEMENT OF RICHARD P. FERRIN

MR. FERRIN: Good afternoon. Let me just start
briefly by talking again about the analogy that I mentioned
earlier about steel products. As I said before, you have a
slab which is separate from hot-rolled, which is separate
from cold-rolled, which is separate from galvanized.

In each of those instances, at least with the
hot-rolled, cold-rolled, and galvanized, those products can
either go down the line to make the more downstream product,
or they can be made to make a gazillion different products.
There's a gazillion different products, for example, that
are made with a corrosion-resistant steel. Some are used in
the building trades. Some are used for blanks for
automobiles, et cetera.

There's a lot of--but the Commission doesn't
decline, well, because there's so many downstream products
that are made from corrosion-resistant steel, we're just
going to consider corrosion-resistant steel and everything
made subsequently from it as all one like-product because there's no clear dividing lines. That's not how the Commission does its analysis, at least with steel products. And they don't do that with any other metal products that I'm aware of. This seems to only be happening with the case of aluminum extrusions. And unfortunately I think this was a problem from the very beginning of the investigation.

This investigation, the original scope was so broad that it created--there were all sorts of like-product problems lurking there in the background, and they really weren't discussed, I don't think, all of them in the preliminary--in the original investigations. Only a few specific like-products were discussed.

The Commission didn't really tackle the broader issue. Now here, I don't think the Commission is in a position to tackle the broader issue of how to define the like-product for all time, because we have a limited record. All we have is evidence about aluminum extrusions as the domestic industry generally is conceived of, which is stuff that you push through the die. And then you have these two separate like-products. And that's the evidence on the record before the Commission right now.

So when the Commission starts looking at this, I don't think it's sufficient to say, well, you know, there's
so many different products that are made from aluminum extrusions that we're just going to lump it all together so that everything subsequent to pushing it through an aluminum extrusion is all going to be one single like-product. I don't think that would be consistent with the Commission's jurisprudence in any steel case or any metal case, or frankly any other case that I'm aware of.

Now a couple other points. Mr. DeFrancesco complained that there was no testimony from anybody at Adams Thermal here. I'm sorry that our witness was unable to come today, but I just want to emphasize that he is available to answer any questions. So if Commission staff have any questions for him, we will be glad to put that in the posthearing brief.

Now Mr. DeFrancesco also says that for aluminum extrusions all the dies are different. But the point is the analysis here is not what is pushed through the die, but it's what occurs after it's pushed through the die. They're talking about their industry in terms of all of the data, the pricing products, et cetera, at the stage in which the aluminum extrusion is pushed through the extruder.

They don't really talk much about the fabrication steps that occur afterwards. And they did not ask the Commission to collect data from the hundreds and hundreds of independent fabricators in this country. And it's probably
a good reason why, because they have no idea what they're going to say. If they did this in the original investigation, they might not have even had standing.

But unfortunately, that just wasn't considered in the original investigation. It is becoming increasingly a problem now, and I think the Commission should think long and hard before they accept all of the injury information that's just talking about the portion of the industry that is pushing it through the die, and then have them turn around and claim, well this industry really includes also the fabricators.

Even though the fabrication is done on different equipment, it's done on a CNC machine, it's not done on an extrusion press, and it's not done by the same people. I wasn't at the plant tour, but I doubt very seriously that the guy on the line who handles the extrusion press is also the same guy that handles the CNC machine. I think that's highly unlikely. I think the Commission needs to go through its normal six-step like-product test, and I think that they will conclude that there are significant differences that the Commission must consider and must determine as a result that aluminum extrusion industry is a separate and distinct industry from the industry that produces fittings for engine cooling systems.

Once the Commission does that, then I think they
ought to proceed to looking at the separate injury analysis. There is a domestic industry that produces fittings for engine cooling systems. However, if you just look at the evidence in the record--and admittedly there's not a lot of evidence on the record that's isolated to this particular domestic industry--but what evidence you have makes it clear, it seems to us, that there's no volume effects.

There have been no allegations--no allegations whatsoever--by the domestic industry that they have in the past, that they do now, or that they ever will in the future lose any sales to Chinese extrusions. There's no price effect.

If you look at Table C-3, again look at the average unit values for the Chinese extrusions versus what the domestic industry presents as their average unit values for these fittings, I can't tell you what the difference is but just look at it and it's not a small difference. And as a result, I don't think there's any consequent impact. For these reasons, we hope that the Commission will make a negative determination with respect to fittings for engine cooling systems, determine that it is a separate like-product, and that the domestic industry that produces fittings for engine cooling systems is not likely to be materially injured, or have a continuation or a recurrence of material injury by reason of subject imports.
of such fittings.

Thank you.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Ferrin. I will now make the closing statement.

Post-hearing briefs, statements responsive to questions, and requests of the Commission, and corrections to the transcript must be filed by February 6, 2017.

Closing of the record and final release of data to parties, by March 1st, 2017. And final comments are due on March 3rd, 2017.

And with that, this hearing is concluded.

(Whereupon, at 3:35 p.m., Thursday, January 26, 2017, the hearing in the above-entitled matter before the United States International Trade Commission was adjourned.)
CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Aluminum Extrusions from China

INVESTIGATION NOS.: 701-TA-475 and 731-TA-1177

HEARING DATE: 1-26-17

LOCATION: Washington, D.C.

NATURE OF HEARING: 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: 1-26-17

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: Duane Rice

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: Gaynell Catherine

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