UNITED STATES
INTERNATIONAL TRADE COMMISSION

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In the Matter of:                 )
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STEEL: MONITORING DEVELOPMENTS )  Investigation No.:
IN THE DOMESTIC INDUSTRY       )  TA-204-9
(STAINLESS STEEL PRODUCTS)     )
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Thursday,
July 10, 2003

Room No. 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

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

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

DEANNA TANNER OKUN, CHAIRMAN
JENNIFER A. HILLMAN, VICE CHAIRMAN
MARCIA E. MILLER, COMMISSIONER
STEPHEN KOPLAN, COMMISSIONER

Staff:

MARILYN R. ABBOTT, THE SECRETARY
LETITIA D. THORNE, LEGAL DOCUMENTS ASSISTANT
DEBORAH A. DANIELS, LEGAL DOCUMENTS ASSISTANT
BONNIE NOREEN, SUPERVISORY INVESTIGATOR
HARRY LENCHITZ, INDUSTRY ANALYST
JOSHUA LEVY, ECONOMIST
CHAND MEHTA, ACCOUNTANT
WILLIAM GEARHART, ATTORNEY

APPEARANCES: (cont'd.)

Congressional Appearances:

THE HONORABLE PETER J. VISCLOSKY, U.S. Congressman, 1st District, State of Indiana
THE HONORABLE RALPH REGULA, U.S. Congressman, 6th District, State of Ohio

PANEL ONE - DOMESTIC PRODUCERS

On behalf of Carpenter Technology Corporation; Crucible Specialty Metals; Dunkirk Specialty Steel, LLC; Electralloy; and Slater Steels Corporation:

MICHAEL L. SHOR, Senior Vice President, Carpenter Technology Corporation, Specialty Alloy Operations
DANIEL M. ANDERSON, Vice President, Sales & Marketing, Slater Steels Corporation, Specialty Alloys Division
JACK H. SIMMONS, Manager, Marketing and Product Development, Electralloy, a Division of G.O. Carlson, Inc.
WILLIAM J. PENDLETON, Director of Corporate Affairs, Carpenter Technology Corporation
WILLIAM WELLOCK, Manager, Consolidated Planning, Carpenter Technology Corporation
EDWARD J. BLOT, President, Ed Blot & Associates
PATRICK J. MAGRATH, Consultant, Georgetown Economic Services
BRAD HUDGENS, Consultant, Georgetown Economic Services

DAVID A. HARTQUIST, Esquire
LAURENCE J. LASOFF, Esquire
GRACE W. KIM, Esquire
Collier Shannon Scott, PLLC
Washington, D.C.

APPEARANCES: (cont'd.)

PANEL TWO - RESPONDENTS

On behalf of Arcelor:

CHRISTOPHER M. RYAN, Esquire
Shearman & Sterling LLP
Washington, D.C.

On behalf of European Confederation of Iron and Steel Industries:

CHARLES H. BLUM, U.S. Representative, European Confederation of Iron Steel Industries

I N D E X

I N D E X

P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the United States International Trade Commission, I welcome you to this first in a series of hearings on Commission Investigation No. TA-204-9 involving Steel: Monitoring Developments in the Domestic Industry. The subject of today's hearing is Certain Stainless Steel Products.

The Commission instituted this investigation for the purpose of preparing the report to the President and the Congress required by Section 204(a)(2) of the Trade Act of 1974 on the results of its monitoring of developments with respect to the domestic steel industry, including the progress and specific efforts made by the workers and firms in the domestic industry to make a positive adjustment to import competition since the President imposed tariffs and tariff rate quotas on imports of certain steel products effective March 20, 2002.

Our monitoring efforts to date have consisted of collecting and evaluating information through a variety of means. These include obtaining producer, importer, purchaser and foreign producer questionnaires, conducting literature research, encouraging written submissions, as well as obtaining information directly from witnesses through this series of hearings.

The calendar for this hearing is at the Secretary's desk. Parties who participated in the prehearing conference are aware of the time allocations. Others should see the Secretary.

As all written testimony will be entered in full into the record, it need not be read to us at this time. All witnesses must be sworn in by the Secretary before presenting testimony. Please give copies of prepared statements or other documents to the Secretary as soon as they're available.

Transcript order forms are available at the Secretary's desk and in the wall rack outside the Secretary's office. Finally, if you will be submitting documents that contain information that you wish to be treated as confidential business information, your requests should comply with Commission Rule 201.6.

Madam Secretary, are there any preliminary matters?

MS. ABBOTT: No, Madam Chairman.

CHAIRMAN OKUN: Very well. Will you please announce our first congressional witness, who I see is here and ready to appear?

MS. ABBOTT: The Honorable Ralph Regula, United States Congressman, 6th District, State of Ohio.

CHAIRMAN OKUN: Welcome, Congressman Regula. Would you just make sure your microphone is turned on? There you go.

REP. REGULA: I thank you for the opportunity to speak with you today regarding the positive impact that the President's Section 201 safeguard action has had on the domestic steel industry.

The President took decisive action in March of 2002 based on the Commission's recommendations to provide the U.S. steel industry with some breathing room from the surge of low-priced imports that reached unprecedented levels in 1998. This surge of imports drove over 35 domestic steel producers to seek bankruptcy protection that led to numerous permanent closures. I strongly urge you to recommend that the remedy be allowed to run for the full three years and not be terminated prematurely.

As a founding member and former chairman of the Congressional Steel Caucus, I've appeared before the Commission on numerous occasions over the past 30 years. I have seen the steel industry go through several crises and make great strides in efforts to modernize and remain competitive. I have witnessed major events in each decade that impacted the industry and its workers.

In the 1970s, we put in place a trigger price mechanism in response to imports. In the 1980s, Congress worked with the Reagan and Bush I Administrations to implement the voluntary restraint agreements that limited injurious imports. In the early 1990s, we had a quiet period when the industry seemed to thrive, but the Asian financial crisis once again threw the industry and its workers into turmoil as low priced imports flooded the U.S. market in the late 1990s.

I would argue that the President's steel program is having the intended effect of allowing the domestic steel industry time to consolidate, restructure and become more competitive once again.

There are those who argue that the President's program has led to price spikes and significant job losses in the steel consuming community. I would argue that the President's program has allowed for exemptions from the tariffs if products cannot be produced in the United States and there are no functional substitutes. This process has been effective by allowing a total of 1,022 steel products to be exempted from the tariff.

I would also like to commend to you a recent study by Dr. Peter Morici of the University of Maryland who has studied the impact of the Section 201 program after one year. I ask that this study be placed in the record.

CHAIRMAN OKUN: Without objection.

REP. REGULA: Thank you. According to this study, steel prices did rise in the first half of 2002, but then tapered off and actually fell from the high in July by about 25 percent at the end of 2002.

When the President implemented the Section 201 tariffs, domestic steel prices were at a 20 year low. These prices were unsustainable and led to the many bankruptcies we witnessed. They also led to the idling of nearly 20,000,000 tons of steelmaking capacity in the United States.

Prices did rise in 2002 due to the loss of steelmaking capacity and because the tariffs slowed the rate of imports into the United States. However, the price increase during the first half of 2002 tapered off by the end of that year.

As a result of the stability created by the steel tariffs, new investors have come into the market and purchased the assets of shutdown plants and restarted them in a lower cost and more efficient manner. There are several examples in northeast Ohio, including selected assets of the bankrupt LTV Corporation that were bought and restarted by International Steel Group, ISG, and the assets of Republic Technologies International that were bought and restarted as Republic Engineered Products. The addition of substantial capacity which is being brought on line at relatively low cost has again brought down domestic steel prices.

The consolidation and restructuring of the domestic steel industry has not been without pain to many steelworkers and their families. As a result of the restructuring, pension obligations of many bankrupt facilities have been shifted to the Pension Benefit Guaranty Corporation. Many workers who were expecting pension benefits before the age of 62 now find themselves without those pension benefits and without health benefits. As selected assets of these bankrupt companies are being purchased and restarted, it does mean jobs for some and not for others.

The President's 201 program has created an environment that has encouraged the consolidation of the steel industry. This consolidation has led to the closing of inefficient capacity and the restarting of efficient plants at much lower cost. This will lead to a lower cost U.S. steel industry, which will be beneficial to all who use domestic steel in their manufacturing and production processes.

However, I would caution that this restructuring is costly and will take time to complete and pay for. Therefore, the premature ending of the President's 201 program could once again push the industry in the wrong direction. I have urged the President and his Cabinet members to keep the declining three year tariff in place for the entire three year duration that was announced in March 2002.

We need a healthy basic steel industry to Insure that we can meet our defense needs. We need a stable basic steel industry to insure there is a steady supply of steel for domestic steel users. I understand that you must conduct the midterm review of the 201 steel tariff measures within certain legal parameters, but I also ask you to step back and consider the long-term implications of the decision you will make.

Manufacturing in our nation appears to be on the decline. According to a recent National

Association of Manufacturers report, Ohio -- just Ohio -- lost 97,100 manufacturing jobs between July 2000 and December 2002. This represents an 8.9 percent decline in just over two years. Ohio had the third largest loss in manufacturing jobs behind California and Texas, which, of course, has much larger populations.

As a member of the Commerce, Justice, State Appropriations Subcommittee, I recently participated in a hearing examining the impact of Chinese imports on U.S. companies, including manufacturers. Officials from two small manufacturers in my district testified that imports had caused their employment and production to decline.

There seems to be a growing concern in Congress that we are either consciously or unconsciously pursuing a policy in this country that will allow manufacturing to further slip away. I believe that this represents a dangerous, long-term situation because the capital intensive manufacturing sector of our economy will be difficult to rebuild once it is gone.

Do we want an economy 20 or 30 years down the line that is built solely on a retail and service oriented employment base? Do we want a nation that doesn't produce goods, but must rely completely on the importation of manufactured goods? I do not wish to leave such a legacy for my grandchildren.

I respectfully urge the Commissioners to allow the tariffs, which decline over the three year period, to run their full course. Allow the domestic steel industry this additional time to continue its restructuring. This will allow us to come away from this latest steel import crisis with a positive result for the domestic steel industry, its workers, its suppliers, its customers and, most importantly, for our nation as a whole.

CHAIRMAN OKUN: Thank you, Congressman Regula. Your written statement, along with the report by Mr. Morici, will be included in our written record.

Let me just see if my colleagues have any questions or comments.

(No response.)

CHAIRMAN OKUN: If not, we thank you very much for appearing here this morning.

REP. REGULA: Thank you.

CHAIRMAN OKUN: Madam Secretary, please announce our next congressional witness.

MS. ABBOTT: The Honorable Peter J. Visclosky, United States Congressman, 1st District, State of Indiana.

CHAIRMAN OKUN: Good morning, and welcome back. Make sure your microphone is on. There you go.

REP. VISCLOSKY: You would think I would get the microphone right by now.

Madam Chair and members of the Commission, it is good to be back. Since this is the first of a series of four appearances I will make before you this month, I would want to set my remarks in context.

Chairman Regula, my good friend and someone I have a deep respect for, mentioned the decline in manufacturing in the United States. I would add to that and suggest that I think we have a collapse in manufacturing, but it is not your responsibility under the law to stop that collapse. There is a natural evolution in society, in the economy, and certainly the world we are talking about today is different than the last time I testified before you.

There is always going to be natural change in manufacturing and other sectors of the economy. I think collectively as government officials, our responsibility is to make sure that it is natural and that unnatural circumstances and arbitrary actions do not aggravate that to the detriment of the citizens that we represent.

I certainly do appreciate that you have undertaken the Section 201 review hearings, and I would begin by saying that as a result of the Section 201 relief that President Bush put in place we are seeing improvements and restructuring in the domestic steel industry. I do believe that we need to maintain that relief in place for the full three period of time.

I visited a number of shops at the former Bethlehem Steel facility now owned by ISG in Burns Harbor Wednesday a week ago. I worked a plant gate in Gary, Indiana, at a USX facility on Monday of this week, and I can tell you firsthand that restructuring in the domestic steel industry is not yet complete. For those who still have employment in the industry, people are scared to death.

As far as stainless steel products, I do think it is also important to keep perspective when evaluating the Section 201 relief. The initial relief provided to stainless steel products was substantially lower than to other types of steel. Stainless steel bar and rod imports were subject to tariffs as low as half of those placed on carbon steel products, and stainless steel wire imports were subject to tariffs roughly a quarter of those on carbon imports.

Secondly, stainless steel imports, especially from the country of India, continue to surge and would be overwhelming without any import relief. For example, stainless steel bar from India has increased from 3,384 short tons in March of 2001 to 21,484 short tons in March of this year, an increase of over 460 percent.

Likewise, stainless steel wire from India has increased from 2,843 short tons to 7,036 short tons over the same time period. Despite this disadvantage, stainless steel producers have done their best to use the tariffs to stabilize their sector of the industry, but we continue to see underused production facilities, reductions in employment and declining profitability.

I do not have any of these facilities in my congressional district, but there was one in Fort Wayne, Indiana, owned by Slater Steel. That melt shop was closed in April of 2001, and just last month the entire company filed for bankruptcy, so problems clearly remain.

I would again reiterate that I think it is important to maintain 201 relief to allow the industry to continue that generation of investment that they have been making. I think premature termination would only accentuate the industry's financial losses. It would make it more difficult for the domestic industry to increase sales, and it would delay and make more difficult the implementation of additional capital expenditures to improve the domestic industry and their position.

Again, I do appreciate the courtesy you've extended to me today to testify before you.

CHAIRMAN OKUN: Thank you very much. Your written testimony will be included in our record as a whole.

Let me see if my colleagues have questions or comments?

(No response.)

REP. VISCLOSKY: Thank you very much.

CHAIRMAN OKUN: Thank you very much, and we look forward to seeing you again.

Madam Secretary, please announce the first panel.

MS. ABBOTT: Opening remarks on behalf of the domestic producers will be made by David A. Hartquist, Collier Shannon Scott.

CHAIRMAN OKUN: Good morning, Mr. Hartquist.

MR. HARTQUIST: Good morning, Madam Chairman and members of the Commission and staff. I am David

A. Hartquist of Collier Shannon Scott representing the domestic industry today.

Our members fully support the President's steel program and have from the beginning. The Specialty Steel Industry of North America, or SSINA, our trade association, has long pursued an international steel subsidies agreement such as that which is now being negotiated among over 40 countries in the OECD process in Paris; in fact, with additional negotiations next week.

While we may disagree today with our European colleagues who will be testifying on the Respondents' side on the 201 program, we've worked very closely with them, their trade association, EUROFER, for probably 20 years in trying to develop a steel subsidies agreement.

The legal issue that we're going to be discussing today is whether the domestic industry has made a positive adjustment to import competition. Unequivocally in terms of stainless the answer is yes, and your questionnaire responses I think clearly indicate that. We nevertheless need the full year term that was provided by the President.

As you may remember, during the 201 process we took a position somewhat different from the rest of the steel industry in that we requested three years of relief instead of four years in part because we recognized that the job wouldn't be done in less than three years, couldn't be done in less than three years, but the President, in his wisdom, gave us three years and one day, so here we are for the midterm review process.

Domestic stainless producers initially were hopeful that the 201 relief would spur a quick recovery from the serious injury they were suffering, but they have yet to see significant improvement in their operations. Notwithstanding the declines in import volumes from foreign producers that are covered by the program, this lack of improvement has occurred despite significant increases in productivity by domestic producers and other efforts to adjust to import competition.

Several factors have led to the current situation. First, as Congressman Visclosky just indicated, the relief provided to the stainless sector was considerably less than that, about half that provided to the carbon steel industry. Second, there's been a meteoric rise, and you'll hear a lot about this today, in low-priced imports of stainless steel products from countries not covered by the 201 program, particularly from India.

Stainless bar imports from India have surged by 460 percent since the imposition of the relief, and stainless wire imports have increased by about 150 percent since March of 2002. Not only has the sheer volume of these imports taken critical sales away from domestic producers, but the prices have undersold U.S. producers by significant margins, thereby depressing prices generally in the marketplace.

Unlike other segments of the industry that are going to be appearing before you in the coming weeks, stainless producers, long product producers, really have experienced little relief; no relief on the price side. Average pricing is down from where it was in 2002.

Interestingly, you heard no complaints from anyone about stainless pricing during your recent Section 332 hearing. We didn't even request an opportunity to testify because we knew no one would be griping about pricing in the stainless steel or availability in the stainless steel sector.

Thirdly, effective relief has been delayed in part because of product specific exclusions that have been granted to foreign producers over objections of domestic companies, and we hope that that issue can be revisited because we certainly can and do produce many of the critical products that were excluded in the exclusion process.

You're going to hear about the economic conditions today in the industry. The market in stainless essentially is in the doldrums. It's the worst many people have seen, and I've had many of our clients who have been in this business for 30 years say they've never seen conditions worse than they are today.

It's a very difficult situation that we find ourselves in. The companies have not been able to generate the profits that they hoped that they would during this import adjustment period. They need the full year period of relief.

Thank you very much.

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: Opening remarks on behalf of the Respondents will be made by Charles H. Blum, International Advisory Services Group.

CHAIRMAN OKUN: Good morning, Mr. Blum.

MR. BLUM: Good morning. I think you know who I am.

I actually find a lot to agree with what Mr. Hartquist has said, and it is true that we have shared for a long time a common conviction that the global stainless industry needs a new set of rules to deal with a lot of long-standing problems, but the issue here today for this midterm review is, first, the adequacy of the adjustment effort made by each of the 14 industries involved in the review and, second, the likelihood that continuation of the Section 201 measures will facilitate further adjustment by each industry, and that is adjustment to import competition.

The President's aim in taking this action was to give each of the 14 steel industries a chance to make changes that would improve their competitiveness for the long run. There was no guarantee of success, but only of the opportunity to make needed changes and to do so without delay. The mere fact of the review implies that these measures could be terminated at any time after the review, so there's no reason for anyone to wait to make changes.

For this hearing today, the specific questions are have the U.S. producers of stainless steel taken steps to improve their long run competitiveness, and will continuation of this relief remedy existing problems that will hinder the industry's ability to compete in the future.

Our answer to the first question is yes. The data show that the industry has taken a number of effective steps to enhance its competitiveness, including a substantial increase in state-of-the-art capacity in stainless bars, rods and wire.

Our answer to the second question is no. Further relief will only serve to sustain marginal producers to the detriment of the stronger firms within the industry.

Thank you very much.

CHAIRMAN OKUN: Thank you very much.

Now, Madam Secretary, if you would announce the first panel?

MS. ABBOTT: If the first panel, the domestic producers, would please come forward? All members have been sworn.

(Members sworn.)

CHAIRMAN OKUN: Mr. Hartquist, it looks like everyone on your panel has been seated. You may proceed when you're ready.

MR. HARTQUIST: Thank you, Madam Chairman.

I can't resist commenting about Charlie Blum's opening remarks because many of us remember that about 20 years ago when Charlie worked for the U.S. Trade Representative's Office he designed a program at that time, part of a 201 import relief program, that was very much like what we have today under President Bush.

Unfortunately, the other legs to that program weren't carried out at that time. If they had been and his recommendations had been adopted by the Administration at that time, we might not be here today because it would be a different world I think in steel trade.

We have great respect for him. As I say, while we disagree today, I think we share a common view of the things that need to be done to fix the problems in steel trade.

Again, I am David Hartquist of Collier Shannon Scott. With me today are Larry Lasoff and Grace Kim of my firm; Dr. Patrick Magrath and Brad Hudgens of Georgetown Economic Services, economic consultants to the domestic industry.

Today you're going to hear from several industry witnesses about how current economic conditions, as well as new sources of imports and certain exclusions, have undermined their ability to fully recover under the current 201 program.

You'll hear testimony regarding the positive adjustments domestic producers have made in efforts to continue to be competitive with imports. By the way, you'll hear a common refrain through the testimony today about our continuing competitiveness, because we have always felt that the domestic industry has been competitive with imports and remains competitive with imports and has made investments to stay up-to-date, but it's a constant problem, and we need to try to stay ahead of the ball game here.

You're going to hear this morning from Michael L. Shor, Senior Vice President of Carpenter Technology Corporation; Daniel M. Anderson, Vice President of Sales and Marketing at Slater Steels Corporation.

One amendment to Congressman Visclosky's testimony. He indicated that there used to be a Slater Steel in Fort Wayne. They're still very much there, although they are in bankruptcy proceedings at the moment. They did shut down their melt shop, but the rest of their operations remain intact, and Slater is still very much a domestic producer of stainless steel long products.

John H. Simmons, Manager of Marketing and Product Development at Electralloy; and industry consultant Ed Blot of Ed Blot & Associates, who you've heard from in previous hearings.

Following Mr. Blot you'll hear from Dr. Magrath, who will review the economic data and address claims made by Respondents in their prehearing brief. Then Larry Lasoff will present some brief legal testimony regarding the statutory framework for the investigation.

We have with us other witnesses who will not be testifying today, but will be available to answer questions for you, including William Wellock, Manager of Consolidated Planning at Carpenter Technology Corporation, and Bill Pendleton, who you know very well from many investigations, previously the Director of Corporate Affairs for Carpenter Technology and now a consultant to the company.

With that, with your permission we'll proceed with the testimony from Mr. Shor.

MR. SHOR: Good morning, Madam Chairman and members of the Commission. My name is Michael L. Shor, and I'm the Senior Vice President of Carpenter Technology Corporation's Specialty Alloy Operations.

Carpenter Technology Corporation is a major U.S. producer of specialty metals and other high performance materials, including stainless steel bar, stainless steel rod and stainless steel wire. I am here today on behalf of Carpenter and the other domestic producers of stainless steel bar, rod and wire in support of the continuation of the President's program for the full three-year term.

Our company and our industry have been hurt by imports leading to layoffs, job eliminations and historically low volumes. The stainless steel industry desperately needed a comprehensive relief package to allow the industry to gather itself, to make the necessary improvements to further strengthen our competitiveness and to better position ourselves to compete head-to-head with imports upon the statutory expiration of the relief program.

When the President ordered relief for our industry, we were very hopeful that the relief would allow the domestic industry to accomplish three important goals. As the first goal, the domestic industry must be able to increase their production volume and recapture the market share it has lost to imports. Increasing production volumes will enable us to run our mills more efficiently and more cost effectively by permitting a more widespread absorption of the significant fixed costs associated with our industry.

With respect to Carpenter, an increased sales volume will permit us to take full advantage of these significant investments totaling more than $500,000,000 that we have made in facilities and equipment between 1996 and 2000 prior to the initiation of the President's program.

As the second goal, we need to restore prices for our stainless steel products that allow a fair return on our investments. We are very conscious, however, of the impact that price changes may have on our customers. We recognize that our ability to increase sales volumes is directly linked to our customers' willingness to purchase our products. Our goal is to produce and market stainless steel long products in a way that maximizes both our customers' and Carpenter's ability to grow and excel in the markets in which we operate.

Finally, as a third goal, the domestic industry must return to profitability to generate the capital needed to pay for the investments that will keep domestic producers competitive in the future. In the case of Carpenter, we did make substantial investments in the late 1990s and early 2000. As is the case with any business, we need to realize a proper return on these investments.

We are a little more than one year into the Section 201 import relief program. We have not yet seen the full benefits that we still hope we can realize by the end of the full term relief program, and we have not yet accomplished our three goals. In fact, Carpenter is currently facing some of the worst conditions we have ever experienced.

For example, with respect to the first goal of increasing our volume, Carpenter has experienced declining production over the last three years. Our capacity utilization rates are at historically low levels. As I mentioned earlier, without a return to increased production levels and greater utilization of our capital equipment, we cannot operate at optimum efficiency.

Consumption levels have declined, and imports still control more than 40 percent of the stainless bar market and 55 percent of the stainless rod market within the United States. These factors have impacted our workers. Our declining employment levels have reflected these downturns in production. Carpenter has been forced to lay off or eliminate the jobs of approximately 750 employees, which is 20 percent of our work force, in just the past year.

Certainly we at Carpenter and the stainless steel long product industry as a whole have not returned to healthy conditions. Any early termination of the relief program would only create more serious problems for our industry.

We have also not seen any realization of our second goal, a shoring up of prices. In fact, as with our declines in production, capacity utilization rate and employment figures, pricing levels have also been very disappointing, particularly with respect to stainless steel bar and stainless steel rod.

In fact, the average selling price of our stainless steel bar sales has declined nearly 10 percent over the last three years, and the average selling price of our stainless steel rod sales has declined nearly 20 percent over the same period. If we had not had the 201 relief in place, it is difficult to imagine what the current pricing levels would be.

Finally, with respect to our third goal, increasing profits and a reasonable rate of return for our investments, our questionnaire response to the Commission again tells the story. Our operating results are still not providing an adequate return on our investment. In fact, Carpenter had its first operating loss in 114 years of operation in the 2002 fiscal year.

Even with the 2001 program we have been

struggling. Negative pricing trends exist in the marketplace, and capacity utilization in the stainless steel industry is lower than it was during the Section 201 investigation, but I can assure you that the conditions in our industry today would be significantly worse had we not received the relief. We need to continue the relief if we are to have any chance of reaching the three goals I just outlined.

We have also been very mindful of our customers' needs through this time. We have worked with our customers and have agreed to product exclusions where they are appropriate. We have accommodated customers by agreeing to increase import volumes for certain products.

On the other hand, however, we have also had to object to certain exclusion requests where they simply had no merit because Carpenter and other industry members already produce or definitely can produce the products. For example, one of the most important products for the industry is high performance machining bar.

Despite our strenuous opposition to exclusion requests and our demonstration to the Administration that we produce huge quantities of these exact products and, quite frankly, could produce much more, the government granted very generous exclusions that directly benefit two of our biggest foreign competitors. This has seriously undermined the relief that was the intention of the President's program.

Along these lines, I know that many of our competitors overseas have contended that imports are necessary to fill a gap because they claim specific products are not being produced here within the United States. Carpenter has always prided itself on offering a full range of stainless steel long products in the full range of sizes that are demanded by our customers.

We are constantly examining ways in which we can improve our market and cost position so as to improve our financial situation. If the 201 relief were eliminated, these efforts would be seriously undermined. It is vitally important to Carpenter and to the domestic stainless steel industry that the President's program continue for the full three-year term.

Particularly in this economy, it takes some time for such a program to work. We need the stability and certainty of a three-year program. To end it or to liberalize it now is not in the best interests of the domestic stainless steel industry or our customers.

Thank you for your attention.

CHAIRMAN OKUN: Thank you.

MR. HARTQUIST: Thank you, Mike.

Dan Anderson of Slater Steel.

MR. ANDERSON: Good morning, Madam Commissioner, members of the Commission. In addition to my testimony today, we will also be submitting a written statement from our local steelworker president, Greg McMullen, which will be in a posthearing brief.

Again, I am Dan Anderson, Vice President of Sales and Marketing at Slater Steels Corporation. I've been with Slater since 1998, and I've been in the steel industry for 10 years. Slater is a major producer of stainless steel bar and angle in the United States.

When our industry appeared before you in 2001 when the safeguard case was originally under consideration, we had high hopes that the imposition of a strong remedy by the President would allow us to begin to turn things around. Unfortunately, the economic slowdown that we were facing at that time has only worsened, and demand for stainless steel bar and angle has fallen to the lowest levels in recent history.

While the tariff remedy that was put into place did have an effect on the volume of stainless steel bar imported from some countries, the amount of the duty was not as high as we needed to correct the injury we were suffering. At the same time, overall demand for bar and angle contracted. As a result, import penetration levels have remained extremely high.

Further, as volumes of some of the subject countries declined, imports from countries that were excluded from the remedy, most notably India, quickly took their place. In fact, this switch to different countries did not amount to a simple exchange of one country's imports for another. Imports from India currently enter at the lowest prices of any major source country, allowing Indian producers to undersell our products by margins of 10 to 20 percent.

Depressed demand for stainless steel bar and angle has been a reflection of the weakness in various industries that these materials serve as production inputs, including aerospace, power generation, petrochemical and capital goods. For more than two years now, we've been thinking that the market must be close to hitting bottom, but we continue to be proven wrong by further deterioration.

Despite poor market conditions, Slater has been making major efforts to rationalize production and improve efficiency. In April of 2001, we closed our melt shop in Fort Wayne, Indiana, so that we could consolidate the corporation's overall melting requirements at the Atlas Specialty Steel subsidiary.

In September of 2002, Slater acquired the Lemont, Illinois, production facility of Auburn Steel. This acquisition allowed the company to lower production costs and to improve product quality. Finally, Slater completed the permanent closure of one of the bar mills at the Atlas Specialty Steel location in Welland, Ontario. These changes will enhance the integration of our production process and increase efficiency.

Slater has also worked to improve customer service through a broadening of our product line. In late 2002, we completed the capital investment that allowed us to produce stainless steel angle up to four inches, and we also expanded our grade offerings and, finally, increased bar inventories to shorten customer lead times.

We have also been working with our unions to reduce cost and improve efficiency. In October of 2002, for example, a new collective bargaining agreement covering our Fort Wayne division was ratified. This agreement allows for increased flexibility in scheduling and allows more performance based pay incentives.

Despite these efforts to increase efficiency, we continue to face a very difficult business environment. Major increases in input costs have taken place recently, most notably those for natural gas, nickel, scrap and electricity.

In the face of extremely weak demand and aggressive price competition from imports of stainless steel bar and angle from India, we have been placed in a vicious cost/price squeeze. Given cost increases in material inputs, Slater's efforts to increase efficiency have amounted to treading water, and it's anybody's guess how long we can remain afloat under these conditions.

In fact, reflecting the dismal conditions in the U.S. market for stainless steel bar and angle, Slater was forced to file for credit protection under Chapter 11 of the U.S. Bankruptcy Code, as well as the parallel laws in Canada, in June of this year. I know that we are only one of many steel producers to declare bankruptcy in the last few years, but this is of no comfort to us in these difficult times.

I am very concerned about the future welfare of my company and of the many employees that have devoted their careers to Slater. The bottom line is that since the imposition of the Section 201 trade remedies by the President, Slater's losses on its U.S. production and sales of stainless steel bar and angle have widened.

It is not to say that the remedies haven't done anything. It's truly sobering to think where we would be right now if the remedies were not imposed. The willingness of producers in non-subject countries, particularly India, to take advantage of what was designed to give breathing room for U.S. producers of stainless steel bar has been staggering.

Previously, India had been a relatively minor source of imports of stainless steel bar and angle, but since the imposition of the trade remedies India has moved to the forefront. In 2000, imports of stainless steel bar from India were just a blip on the radar screen, accounting for less than three percent of all U.S. imports of the product as defined in this investigation.

After the imposition of the Section 201

remedies, imports of stainless steel bar from India moved in quickly, roughly tripling in volume between 2001 and 2002. India became the second largest supplier of stainless steel bar imports in 2002, accounting for 18 percent of the total U.S. imports.

In the first quarter of this year, India became the largest source of imports of stainless steel bar, accounting for 28 percent of all U.S. imports. In fact, imports from India in the first quarter of this year were almost as high as for the entire year of 2001. Although Italy has long been the top suppliers of stainless steel bar imports into the United States, in the first quarter of 2003 imports from India were more than twice as high as those from Italy.

The numbers I've just been discussing include both stainless steel bar and angle, but because of the importance of stainless steel angle in Slater's product mix it is important to also look at the details of stainless steel angle imports from India.

As recently as 1998, there were no imports of stainless steel angle from India into the U.S. By 2002, India had become the largest source of the product, accounting for nearly half of all imports.

In the first three months of this year, India accounted for 93 percent of all U.S. imports of stainless steel angle.

Reflecting this growth in Indian imports, total imports of stainless steel angle into the United States grew by 43 percent in 2002 and increased again in the first quarter of this year. These have been overwhelming developments. Imports from India of stainless steel bar and angle are sold at some of the lowest prices of any source, and in a time of weak demand customers have used these low offers to hammer us on price.

We have asked the Administration, through the USTR, to include imports from India in the safeguard program. While we continue to hope that such action will be taken, nothing has been done to date, and imports continue to flood in through this massive hole in the stainless steel long products remedy.

In the face of rising imports from India, dismal market conditions and Slater's tenuous financial status, the last thing we need right now is an acceleration in the phase out of the safeguard tariffs. To be honest, I wish you could recommend that the President increase the tariffs on stainless steel bar. I know that that is not an option, but it's what our industry needs right now.

Slater is at a crucial juncture. We have done everything possible to reduce our cost and improve our manufacturing efficiency. We ask that you recommend that the remedy originally put into place by the President continue for the full three years.

Thank you for your attention.

CHAIRMAN OKUN: Thank you.

MR. HARTQUIST: Thank you, Dan.

We now move to Jack Simmons of Electralloy.

MR. SIMMONS: Good morning, Madam Chairman and members of the Commission. My name is John Simmons, and I am Manager of Marketing and Product Development at Electralloy, a Division of G.O. Carlson, Inc.

Electralloy is located in Oil City, Pennsylvania, and we are a world class custom mill producer of high end stainless steel and nickel alloys, including stainless steel bar. I am here today because I feel very strongly that it is more important than ever that the Section 201 relief program continue for the full three years.

Since the safeguard was initiated in 2001, our industry has experienced the perfect storm.

Economic conditions have further deteriorated due largely of the events of September 11, and market demand for stainless bar remains depressed.

At the same time, domestic prices have continued to spiral downward while raw material and energy costs have escalated. Consequently, my company's profitability, as well as that of other domestic producers, has eroded, and we have been unable to make an adequate return on our investments.

Given these market conditions, it is no wonder that the stainless bar industry has realized insufficient benefits from the President's Section 201 import relief program. The 201 tariffs were simply not high enough to adequately remedy the injury our industry was suffering. Nevertheless, we need the Section 201 relief to continue because terminating the relief and these suppressed marketing conditions for stainless steel would only make things worse for our industry.

Imports continue to pose a problem to domestic producers. As you have already heard this morning, imports from India, which were excluded from the 201 tariffs, have skyrocketed and are being sold in the U.S. market at extremely low prices. Moreover, imports from new sources such as Norway and

Scandinavia have also entered the U.S. market at low prices.

Finally, and perhaps most surprisingly, is the willingness and ability of some foreign producers such as those in Italy to maintain prices at such depressed levels despite escalating import costs, the increased value of the euro and the fact that they are subject to both an antidumping duty and a Section 201 duty.

In an effort to continue to be competitive with imports, Electralloy has begun implementing certain capital improvements outlined in our adjustment plan to increase our productivity and efficiencies to reduce costs. For example, in January 2003, Electralloy entered into an operating agreement with one of our customers to install a new vacuum arc remelt furnace into our facility.

While we had originally planned on purchasing this second VAR furnace ourselves, the return on investment was simply not there, and we could not justify the capital investment. As a result, our customer actually ended up purchasing the new furnace. The VAR furnace, which will be commissioned at our facility in September of this year, will be dedicated exclusively toward the melting of that customer's non-stainless product. This will significantly free up our melting capacity of our other VAR furnace and thus increase our productivity and efficiency for our own stainless products.

Electralloy has a philosophy of forming operating agreements with producers and customers with underutilized facilities rather than adding new capital equipment to a market that is glutted by imports. Electralloy has purchased and installed additional saw capacity to help implement a new 30/45 day market program adopted by our company in July of 2002. Under the new program, our lead time was reduced from six or eight weeks to just 30 to 45 days, depending on the product, and allowed us to reduce our finished goods inventory, as well as meet new delivery schedules.

Other capital expenditures outlined in our adjustment plan, however, have been postponed due to the weak market demand, declining prices and declining profitability. These restructuring efforts by my company will be significantly undermined if the Section 201 relief program is not continued for the full three years.

We need the 201 remedy to continue so when the economy does improve our industry can obtain the full benefits of the Section 201 relief program that the President intended to provide to our industry. Prematurely abandoning or weakening the 201 remedy in this weak economy will only make matters worse and destroy any hope for our industry to recover. I urge you not to let this happen.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. HARTQUIST: Thank you, Jack.

Ed Blot will now present his view of what's happening in the stainless steel long products market and his forecast of what's likely to happen in the near future.

MR. BLOT: Good morning. I am Edward Blot, and I'm president of Ed Blot & Associates. My company provides consulting services to North American producers, service centers and consumers of stainless and nickel alloy products. This morning I will address three principal topics supporting the industry's position that the 201 relief program must continue for the full three years.

First, I would like to give you my forecast for the stainless long products market for the remainder of the three-year 201 relief program. Second, I will comment on market prices since the 201 relief program was initiated. Lastly, I want to comment on the volume and pricing effect on the 201 relief program as a result of excluding India by granting it developing nation status.

Now, when I appeared before the Commission at the remedy hearings two years ago, I presented a forecast of apparent domestic consumption for stainless long products, which includes bars, angles, light shapes, as well as rod and wire. Please refer to my Chart B up on the screen, which was presented at those hearings.

As you can see, my forecast two years ago was for stainless long products consumption to decline a total of 29 percent by the end of 2002 from the 2000 peak period. I further forecasted a pickup in the stainless long products consumption beginning in 2003 and further improving into 2004.

My forecast was questioned at that time by Messrs. Simon and Riley representing EUROFER as being too pessimistic. Well, let's look at the actual results for stainless long products consumption in my Chart B-1 for the years 2001, 2002, along with my current forecast for this year and 2004. If you just kind of follow this top line here, the green line, that's what you can kind of refer to in my remarks.

As you can see, results for 2001 and 2002 were very much in line with my forecast at the remedy hearings. The total market decline from 2000 to 2002 was 25 percent versus my forecast of 29 when I testified two years ago. Due to the continuing manufacturing recession this year, my current forecast is for a further decline in long products consumption of nine percent from last year for a cumulative total of 33 percent since 2000 before finally starting to recover next year. My current 2003 forecast puts stainless long products consumption at levels back to the early 1990s.

Our consulting business forecasts various stainless products for clients on a quarterly and semi-annual basis, and we use a combination of both science, and that's index trends and consumption data, and also discussions in the marketplace with service centers and end users. Our forecasts normally are in the one to three year range.

Now, regarding stainless long products, we focus on consumption trends and consumer goods, such as auto and appliance, and capital goods, including new and replacement equipment in aerospace, energy, chemical processing, petrochemical. Based upon numerous market studies, we estimate stainless long products consumption to be one-third consumer goods and two-thirds capital goods as defined above.

This ratio is important to understand that it is completely opposite the carbon steel and flat-rolled products and why there is always a lag in consumption of stainless long products to carbon flat products ranging from six to 18 months.

Now please refer to my Chart B-2. I believe it is important to look at import penetration as a percent of apparent domestic consumption for stainless long products. In calendar year 2000, the non-NAFTA import penetration for all stainless long products was 50.8 percent.

As you can see from my chart, there was a slight rise in 2001 with declines last year and forecasted for 2003, so while imports of stainless long products have declined in shipments, as stated in the prehearing staff report, the apparent consumption declines due to manufacturing recession have only resulted in modest declines and import penetration and correspondingly modest gains in U.S. producer market share.

The second subject I want to discuss is pricing. The public version of the prehearing staff report summary data sheets state that the average unit value of stainless bar imports from all sources declined six percent for the reporting period beginning with the relief program.

Stainless rod import prices from all import sources increased seven percent, but wire import prices from all sources declined five percent since implementation of the relief program. The unit value of U.S. producer prices, however, declined in all three product categories since implementation of the relief program.

My consulting business tracks pricing for all three stainless product lines. Our data confirms the trend reported in the prehearing staff report. As an example, please refer to Chart B-4, which tracks Type 304 cold-finished bar prices from U.S. producers along with imports from the west coast. This line are the U.S. producers. This bottom line down here are imports into the west coast.

The prices tracked by metals research are those negotiated with large volume buyers during the months noted in the chart. As you can see, the negotiated prices of imports and correspondingly the U.S. producers have trend levels at or below those quoted prior to March 2002.

As you recall, nickel is a major raw

material input for making stainless steel and is priced globally for all manufacturers. What was not stated in the prehearing staff report was that LME cash average for nickel was $2.97 in March of 2000, rising to $3.80 in March of this year, and continues to climb to $4.03 last month. That's your top chart here.

As stated above, LME cash nickel has been rising since the relief program was initiated and prices have been falling, which makes no economic sense. The U.S. producers are concerned about this trend, which is one reason why some of the adjustment plans have been delayed. The bottom line for the consumers of stainless long products is that they have seen price declines and not price increases as being reported in the marketplace on other products.

There's one final comment I would like to make regarding pricing. In Arcelor's prehearing brief they state that: "The domestic stainless industry has exasperated the problem by expanding domestic capacity." They further state that this capacity is part of the domestic problem and not the presence of imports.

To the best of my knowledge, the only new capacity operational since 201 relief programs started is Charter Specialty Steel's small investment in stainless rod finishing. Avesta Polarit will be adding some rolling capacity next year when the existing Allegheny Technologies All Vac mill is revamped to accommodate a larger billet from their melt shop. The mill upgrades will enable Avesta Polarit to supply over 10,000 tons of domestic bar and rod, displacing the material they currently import into the U.S. The mill upgrade will also improve efficiencies for Allegheny's nickel alloy business.

North American Stainless is installing a rolling mill to eventually utilize their flat-rolled melt capacity and not rely on imports from their parent company, Accerinox, to supply the U.S. market. Since Avesta Polarit and North American Stainless facilities were not in production and are not in production during the staff report period, they could not have had an impact on any of the current prices.

The third and final issue I want to address is my favorite, the exclusion of India as a developing country. I'm sure you've heard about all the industry's press releases on the unprecedented surge of stainless bar, angle, rod and wire. The Indian Government promised last year to have their stainless long products producers moderate shipments beginning

January of 2003. We've now got a new definition for the word moderate, and that is to increase rather than reduce the excessiveness of shipments.

The Indian Government has again stated they will investigate the issue. Please refer to my Chart B-5, which details the shipments of long products from India. On a calendar year, the graph represents the shipments in tons, and the numbers on top of each graph list the Indian shipments as a percent of total imports for each product line.

Clearly there's a surge in Indian shipments form 2001 for each product line to first quarter 2003 annualized. The long products shipments increased from about 13,000 tons in 2001 to a first quarter 2003 annualized shipping rate of over 38,000 tons, almost a 300 percent increase. This annualized number equates to 23.5 percent, and I repeat, 23.5 percent, of all imports.

The intent of the 201 relief program was to allow the domestic industry to increase their shipments, not allow a developing country to take advantage of the status and buy market share. The 25 ton first quarter 2003 annualized difference since 2001 would go a long way toward helping the domestic industry improve their financial position by increasing domestic long products market share another 7.6 percent with a corresponding drop in import penetration.

Indian bar and wire prices have been quoted in the marketplace as having a negative effect on both the covered import sources, as well as the U.S. producers. I want to present a typical scenario. A major purchaser of stainless bar will get a quote from an Indian producer. They go to their import supplier, a covered source, and also their domestic supplier.

The purchaser advises both suppliers that they must lower their prices to address the Indian producer price. The import covered source moves first, and then the domestic source follows. The major purchaser places business with the traditional suppliers, but also places some orders with the Indian producer so as to continue to receive favorable prices.

Further exasperating the Indian situation is what the stainless rod and wire producers are experiencing. Stainless rod shipments will most likely decline this year because of the recent administrative reviews increasing duties significantly on Mukand and Panchmahal. Since there are no duties or 201 remedies on any wire, guess what's happening?

Indian wire prices have fallen and in one recent reported case were only two cents a pound higher than the rod price.

In summary, the stainless long products apparent consumption will decline another nine percent this year before rebounding next year when manufacturing starts to increase their capital spending. Import penetration for stainless long products is modestly declining. Prices have decreased even in light of increasing raw material cost.

Finally, Indian producers have surged to take what potential tonnage was available from covered import source reduction, all at the expense of the domestic industry. The U.S. producers of stainless long products need the Section 201 relief to continue, and India must immediately -- immediately, immediately -- be denied their exclusion. Excuse me. I'm choking up on that.

In my opinion, these Indian shipments entering the U.S. should have the 201 remedy relief levied immediately and retroactive to the date our government was misled.

Thank you, and I'll be happy to answer any questions at the appropriate time.

CHAIRMAN OKUN: Thank you.

MR. HARTQUIST: Thank you.

Dr. Magrath?

MR. MAGRATH: Madam Secretary, could I have a time check?

MS. THORNE: You have 20 minutes remaining.

MR. MAGRATH: Twenty minutes?

MS. THORNE: Yes.

MR. MAGRATH: Okay. Good morning, members of the Commission and Commission staff, ladies and gentlemen. I'm Patrick Magrath of Georgetown Economic Services, consultant to the domestic producers of stainless steel long products in this proceeding. With me today is Brad Hudgens, also of GES.

CHAIRMAN OKUN: Mr. Magrath, will you just pull your microphone a little bit closer for us, please?

MR. MAGRATH: Okay. Thank you.

You've already heard today from the previous witnesses a comprehensive description of the state of the industry and a convincing case for determining that relief for this industry should run its full course.

I have been asked today to comment on the arguments made by Respondent Arcelor in its prehearing brief, as well as the adjustments made by the domestic producers under the 201 program.

Now, Mr. Blot has just testified as to the essential facts confronting the Commission in this monitoring investigation on stainless products. The 201 program has not brought any improvement in U.S. producers' volumes, prices and, therefore, profitability. In fact, for those of us who have access to the full set of data, the U.S. industries producing bar, rod and wire can be characterized as being in worse shape than at the start of the review period.

Further, as the summary data in the staff report in Appendix C show, although some injury indicators have shown improvement for some products since March 20, 2002, when the President's program was put into effect, all three sets of stainless long product producers still reported negative profitability, and most still report declining prices.

Respondent Arcelor readily admits the U.S. industry's continued state of serious injury. Its brief disputes that imports are the ongoing cause of that injury, but the presence of imports so pervades the data compiled in the staff report and record that Respondents cannot escape their impact. The domestic producers sitting here with me emphathize with this.

They also cannot escape the imports that continue to pervade their markets at levels exceeding 40 and 50 percent share.

Respondents' brief puts forth three arguments. The first is that in the depressed market for stainless long products they characterize the period of review with domestic producers' increase in capacity that resulted in oversupply, which in effect continued to depress U.S. prices.

Let me say at the start of that that it is refreshing to discuss overcapacity arguments after nearly 20 years of rebutting the usual Respondent refrain that imports are needed because the U.S. industry has insufficient capacity to service the market.

In this case, the very moderate net capacity increases in question and that are in the staff report are due to one U.S. firm consolidating its facilities in the United States. The new bar capacity of North American Stainless prominently featured in the Arcelor brief has not yet come on stream and, hence, cannot be blamed for oversupply or depressed prices in the period of review, which ended in March 2003. Respondents blamed NAS anyway.

In general, you're asked to accept the

notion that a net capacity, and that's for all three products -- bar, rod, and wire. A net capacity increase of less than 10 percent of total consumption was the cause of oversupply in the U.S. market rather than the presence of imports, which equaled in excess of and usually well in excess of 40 percent of consumption for each of these three products. Ten percent versus 40 percent.

Why can't a condition of oversupply be attributed only to domestic capacity increases, and very moderate ones at that, rather than to the huge chunk of the market that is still occupied by imports?

Finally on this point, and Petitioners may be missing something in this. This is Respondents' principal argument, Arcelor's. Since when do capacity increases in and of themselves result in an oversupply?

Capacity is a measure of what a company can produce, not what it does produce or not what it does actually ship into the market. Put another way, it is only when capacity increases result in an actual increase in production of shipments into a market that an oversupply situation could develop as a result of that capacity.

As the staff report shows, both the actual domestic production and actual shipments for these stainless products declined in the period of review. The notion that an increase in domestic capacity without a resultant increase in production created an oversupply situation -- again, this is the principal argument of Arcelor -- is a non sequitur.

The second argument is that it is the general economic recession that is to blame for the further deterioration of U.S. stainless bar, rod and wire industries. Mr. Lasoff, who will testify briefly following me, will address the legal relevance of this argument to these proceedings.

Looking at the numbers, especially those concerning the depth of the financial losses suffered here for stainless, the number of U.S. producers experiencing such losses and the just awful decline in employment and employment related variables for this industry over this period, it's obvious that other, more important forces are at work in this period, a period most observers generally characterize as a period of weak recovery or, at worst, stagnation.

Within this anemic economic environment, the U.S. industry's production and capacity utilization continued to be crippled by the substantial market share of imports, and any attempt at price increases continued to be threatened by the underselling of imports of these commodity products. The Commission is no stranger to cases involving stainless steel long products and has consistently found that these are commodity products. As proof, I refer you to price charts in Appendix G-12 and G-13 of the staff report.

Finally in this regard, I do not see a reference to India anywhere in Respondents' brief and with good reason. The exclusion of India from the 201 relief for these particular products, despite that country being a named Respondent in previous unfair trade cases brought by the stainless bar, by the stainless rod and by the stainless wire industry, was a huge and tragic mistake by the Administration.

We request you review our brief and the staff report on how Indian producers have cynically exploited this loophole to greatly increase their share in the U.S. market and at prices far below those of U.S. producers.

The final argument of Respondent Arcelor is that the 201 relief is counterproductive because it has led to higher raw material costs for imported feedstock and cost. This argument can also be rejected by merely referencing the staff report and by considering the nature of the operations of the small number of producers who made that claim in their questionnaire response.

In fact, the producer complaining about the 201 program increasing its raw material cost that is quoted the most in Respondents' brief at page 4 does not even use stainless long products as a raw material. Its inputs are not subject to the stainless 201 tariffs. The company was apparently complaining about the carbon steel tariffs.

As for the few other producers who have registered complaints, in fact their costs did not go up over the period of review. Their unit cost of goods sold, as shown in Appendix C of the staff report, were flat over the period of review and actually went down -- went down -- in April 2002 to March 2003 following the implementation of the President's program. Their raw material costs, their unit raw material costs in particular, also went down.

In fact, all three of the stainless long products subject to this review have experienced declines in cost of goods sold per unit since the 201 went into effect. See Appendix C of the staff report, or you can look at the profit and loss tables in Section Stainless at Roman numeral pages III 6-8.

It is not surprising that costs went down or that stainless producers unable to generate profits or raise sufficient capital in this period concentrated their adjustment efforts on cost reduction and productivity improvements. Those adjustments they could make.

What U.S. producers of stainless long products have done with this short, 15 month period of modest relief is commendable, given the depressed market situation in which they have had to operate. Even though the additional tariffs, and we've heard that they were eight to 15 percent, a half to a quarter of what the carbon steel relief was.

Even if they did not satisfactorily remedy the underselling by imports and the exclusion of major producer India adversely affected potential volume and price benefits, Table F-4 of your staff report lists numerous and inventive investments and cost cutting measures undertaken by the U.S. industry in this 15 months period.

Unfortunately, some of these deficiencies have come with a huge price, a huge human price -- a substantial decline in workers, hours worked, hourly wages. Many Respondents also detailed similar slashing of management employment and white collar compensation as well.

In summary, the stainless companies represented here have done what they were able to do given the market situation, and the result has been major gains in efficiency and competitiveness as measured, once again, in the staff report in terms of productivity increases, unit labor cost decreases and unit cost of goods sold decreases.

The companies look forward to generating profitability adequate to fund investment when this economy finally turns up, and that will lead to even further efficiencies and enhanced competitiveness of the stainless long product industry.

Thank you for your attention.

CHAIRMAN OKUN: Thank you.

MR. HARTQUIST: Thank you, Pat.

Larry Lasoff?

MR. LASOFF: Good morning, Madam Chairman, members of the Commission. My name is Larry Lasoff from Collier Shannon Scott.

I would like to conclude the domestic industry's presentation this morning with a brief discussion about the statutory framework governing this Section 204 investigation.

Section 204(a) directs the Commission to "monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition."

To the extent the relief provided exceeds three years, the Commission must submit a report to the President on the results of its monitoring not later than the midpoint of the initial period. In this instance, the relief provided was three years and one day. Thus, the Commission's monitoring requirements and the next two weeks of hearings are now a reality.

Given that the statute only directs the President to monitor developments, the nature of this proceeding is somewhat limited. While this may appear to be a fairly obvious point, given the language of the statute, the point appears to have been lost on the Respondents, who have elected to transform this proceeding essentially into a forum to relitigate many of the issues of injury and in particular the weighing of relative causes.

Arcelor, in its prehearing brief, goes to great length, for example, to make the point that the problems befitting the domestic stainless long products industry are not the result of imports, but rather are the result of broader economic conditions.

Such an analysis is misplaced, given the statutory framework.

While the Commission is welcome -- indeed we encourage it -- as part of its monitoring function to investigate current market conditions in the stainless long products sector, the Commission is not directed to weigh causes of injury as has been proposed by Arcelor. Significantly, Arcelor in its brief fails to even address the primary issue before the Commission, the efforts made by stainless long products producers to adjust the import competition.

As you have heard in testimony this morning, even if their markets fail to improve, stainless long products producers made great strides to adjust to imports. These strides are reflected in the significant cost reductions and investments that were undertaken by these producers even in the face of a depressed market. The fact that some of those efforts may have been curtailed because of economic conditions should not detract from the efforts that were made.

In discussing the midterm review process when the Omnibus Trade Act was enacted in 1988, which led to this revised midterm review process, the Senate Finance Committee noted: "The committee expects the President to determine whether the firms and workers have made an adequate effort to make a positive adjustment in the context of general economic conditions.

"The committee does not anticipate that the President would terminate actions taken because the industry was having difficulty because of, for example, a serious downturn in the United States or international economy. Firms and workers should be judged on their efforts given the economic environment."

In sum, the opponents of relief today and we believe throughout the next two weeks will attempt to divert the Commission's focus away from its monitoring of developments with respect to the domestic industry, including its adjustment efforts, and focus instead on issues that were affirmatively decided in the original investigation. We hope the Commission resists these attempts.

Madam Chairman, that concludes the presentation of the domestic stainless long products industry this morning, and our witnesses look forward to answering your questions.

CHAIRMAN OKUN: Thank you very much. I want to thank all the witnesses for being here. Welcome back to many of you. We appreciate your willingness as well to answer questions.

We will begin our questions this morning with Commissioner Koplan.

COMMISSIONER KOPLAN: Thank you, Madam Chairman. I join in your opening comments just now.

Let me start with this, and this is an issue that you've all touched on this morning, but I'd like to pick up with it with you. You stated on page 14 of your prehearing brief that the Section 201 relief has been most beneficial in preventing the vast majority of U.S. stainless long products from further financial deterioration in difficult economic conditions.

You continue by stating that during this period of weak demand, U.S. producers have cut costs and made their operations more efficient by reducing labor, as well as implementing new capital expenditures, and that these restructuring efforts are being made in an attempt to increase sales and restore pricing by the domestic industry.

I heard your testimony this morning that you're not there at this time. You claim that these efforts will be significantly undermined if the Section 201 relief is premature terminated. Moreover, you state that premature termination will further delay the implementation of much needed capital expenditures and restructuring efforts.

I note that toward the end of your brief you outline specifics of what your individual companies still have remaining to be done, but because that is BPI I can't get into that at this time. I acknowledge the fact that it's there.

Now, Arcelor argues, as I understand it, that the problem lies in the domestic industry having added new efficient capacity, and I know, Mr. Magrath, you touched on this and Mr. Blot and others, but that is not, as I read their brief, the center of what their argument is.

They go on to say that while doing that they claim you are not retiring older, less efficient capacity, and it's that which is creating a glut of supply -- this is what is in their brief, and I'm sure I will be hearing it this afternoon -- thereby adversely affecting prices and causing exports to essentially remain flat. This is in their brief at pages 1 and 2. They also point to, and I quote, the "vagaries of the business cycle," a novel characterization, as a further cause of the current condition of the domestic industry.

I'd like you to pick up on what you've already said and deal with this issue that they're centering on from their standpoint of failure to retire less efficient capacity, older, less efficient capacity. I know you said that the net increase was less than 10 percent, but their allegation is the failure to take things out of service that I haven't heard discussed this morning.

Maybe I could hear a bit from the industry witnesses first and then come back to Mr. Magrath and Mr. Blot.

MR. MAGRATH: Certainly.

COMMISSIONER KOPLAN: Could I start with you, Mr. Shor?

MR. SHOR: Sure. As far as capacity is concerned, Carpenter in 1997 acquired a steel mill called Tally Specialty Metals, and the main --

COMMISSIONER KOPLAN: Could you move your microphone just a little bit closer?

MR. SHOR: I'm sorry.

COMMISSIONER KOPLAN: Sure.

MR. SHOR: In 1997, Carpenter did acquire a second stainless steel company called Tally Metals. One of the main purposes for that acquisition was to retire one of our older hot mills and not make additional investment, given the capacity that existed, and utilize the Tally Mill to roll many of our products.

At Carpenter, one of the major investments you can make in the steel industry is a hot mill, and our ability to take one of our older hot mills out of service for stainless -- we still use it for very specialty items, but for stainless and transfer that manufacturing to the Hartsville, South Carolina, Tally facility was a significant event for us.

COMMISSIONER KOPLAN: Thank you.

Mr. Anderson?

MR. ANDERSON: I guess I don't know how to answer the question in terms of how do you respond that it's going to be more efficient capacity when it hasn't even started, so I think it's a pretty big leap. There's new technologies out there certainly.

Slater has some experience in buying the latest and greatest technology that doesn't quite live up to the billing, I'm unfortunate to report, in some of the capital investments we've made over the years, so I think it's a pretty big reach to say that we should be retiring current capacity for something that's going to be coming on stream when they don't really understand our current cost structure, and we certainly don't understand theirs until they're up and running.

COMMISSIONER KOPLAN: Well, the brief doesn't specify it. It makes the allegation, but it doesn't get specific. That's why I'm asking these questions.

MR. ANDERSON: Sure. The known quantities, I think we have done what we can. For example, as I stated in my testimony, our melt shop in Fort Wayne, we have closed that facility in April of 2001 and consolidated the melting at our facility in Welland, Ontario, which has made us more efficient, was a more efficient producing facility.

For the things I think that are known quantities we've reacted to.

COMMISSIONER KOPLAN: Thank you.

Mr. Simmons?

MR. SIMMONS: Yes. Electralloy is a single location custom melter, and we've always utilized assets in the industry through partnerships and arrangements with both our customers and other operating mill sources to utilize assets in the industry that may be sitting idle.

We chose to put our capitalization dollars as a custom melter into our melt and finishing facility and not participate in any new hot working or underutilized equipment in the U.S. marketplace.

COMMISSIONER KOPLAN: Thank you.

Mr. Shor, could I come back to you for a moment? It sort of ties into this. You talked this morning about Carpenter's substantial investment between 1996 and 2000. I think it was $500,000,000.

MR. SHOR: Correct.

COMMISSIONER KOPLAN: Could you just talk about it more as to what your projections for return of capital were then and how, if at all, these projections have changed since 2000?

MR. SHOR: I don't think I can get into the actual numbers. I can share them I think in the non-public forum as far as the actual returns.

I can tell you that our expectations were that our business would continue to grow, given the lower level of imports that were out there in the past, and that growth would fill the facilities or at least make the facilities more robust than they are right now.

Actually, as I mention in my testimony, our volume has actually shrunk since those investments were made.

COMMISSIONER KOPLAN: Thank you. If there's any more that you can add posthearing on that that would be business confidential I'd appreciate it.

Mr. Magrath, I would come back to you on my original question if you'd like to add additional comments.

Could you move the microphone closer? Also, is it on?

MR. MAGRATH: There you go.

COMMISSIONER KOPLAN: Now it's on.

MR. MAGRATH: Now it's better.

COMMISSIONER KOPLAN: Much better.

MR. MAGRATH: Mr. Hartquist made a point in his opening remarks and throughout our testimony we have made a point of characterizing this industry as being competitive and saying that this 201 relief and the continuation of it will allow us to remain competitive.

If you look at the stainless steel cases you've had throughout the 1990s, you'll see a number of U.S. firms have dropped by the wayside -- Republic Technologies, the Eltech facility at Dunkirk, although it may be in the process of being restarted. It has always been the position of this industry that we are competitive and we remain so.

Most people recognize Carpenter Technology, most observers, as the lowest cost producer in the world. Some capacity has been retired, as Mr.

Anderson said of Slater, but it is incumbent upon other people to retire their capacity that is inefficient. That would be out position.

COMMISSIONER KOPLAN: When you say other people, who are you referring to?

MR. MAGRATH: Referring to the foreign firms that have been the beneficiaries of numerous subsidies, specifically the European firms over the years.

Just because Arcelor, which is a prime example of these subsidies and has lost money in most years of its 30 year existence, and their predecessor companies have lost money, but yet there they are one of the largest producers in the world. Just because they say we're inefficient and we have inefficient capacity, we do not accept that.

COMMISSIONER KOPLAN: Thank you. Does that complete your answer to this question?

MR. PENDLETON: Commissioner Koplan, I just want to add that in the many years I've --

COMMISSIONER KOPLAN: Could you identify yourself for the reporter? Could you identify yourself for the record?

MR. PENDLETON: Yes. My name is William Pendleton.

I'd like to add in my many years with the industry we've seen a lot of restructuring ongoing within this industry. We've been well recognized. As Dr. Magrath said, it's very, very competitive because we have as a matter of practice and the way it's evolved eliminated, you know, inefficient capacity over the years.

I would add Armco Baltimore is another capacity that was eliminated during this period. You could run through. Carpenter in the past, we had a mill at Bridgeport at one time that we eliminated to focus in the Redding area. As Mr. Shor said, then we consolidated with the Tally Mill.

Unlike the carbon industry, we differentiate ourselves. I don't understand where Arcelor is coming from. I think it's a specious argument. I'd really like to know in more detail what they had in mind in terms of the stainless industry.

COMMISSIONER KOPLAN: Thank you all very much for that, and thank you, Madam Chairman.

CHAIRMAN OKUN: Thank you, and again thank you to all the witnesses.

Let me start if I could. Mr. Blot, I appreciated kind of you were laying out what your demand forecasts were during the remedy phase and some of the other information you presented.

I wondered. I know that the chart that you had up that went through this demand forecast actual and anticipated is based on the long products market as a whole. Do you have available to you or could you present that to us in posthearing broken out from bar, rod and wire?

MR. BLOT: Yes, I can, Madam Chairman. I will do that in the posthearing brief.

CHAIRMAN OKUN: Okay. I would appreciate that. I think that would be very helpful just to see if there are any distinctions in there.

I guess what I'd like to turn to, and both you and Mr. Magrath have commented on this, but one of the things that I think we do have to try to evaluate in terms of what efforts the industry has made to adjust in terms of the economic circumstances it has faced is this distinction of whether you're arguing that some of the further adjustments you'd like to make were curtailed because of demand going down over the period or was it imports.

I'm not going to the weighing causes issue but more just to understand, you know, to the extent that this industry hasn't seen a price increase but has increased market share. What is it that's really inhibiting kind of further steps down the road of adjustment, if you can distinguish it?

I guess I'd like to hear from the industry witnesses how you see the environment or have seen the environment over this period. I'll start, Mr. Shor, with you.

MR. SHOR: As I mentioned in my comments, Carpenter Technology has spent quite a bit of money in this industry to modernize our facilities. The key for us right now is we believe we have the capacity, cost effective capacity, but with the lack of volume that we have, mainly driven by imports and the economy, the combination of the two obviously, the inability to gain a return on that investment is significant for us.

Without further improvement in the business or in our business, it would be very difficult to go with significantly increased capital expenditures because of the lack of return on what we have invested in.

CHAIRMAN OKUN: Mr. Anderson?

MR. ANDERSON: Yes. The honest answer is I can't distinguish what's import versus the economy. I can tell you that the numbers bear out that the gain in market share is extremely modest from an import penetration standpoint. Frankly, in a product line like stainless steel angle, which we're the sole domestic producer, import share has grown and grown dramatically again back to our favorite topic of India.

I think it's just very difficult. We can just tell you the practical reality is the business is in dire financial condition. There's no sign of relief. You know, it's a volume and a price issue we have. As Mr. Simmons pointed out, it is the perfect storm for us right now.

CHAIRMAN OKUN: Mr. Simmons, did you have anything further you wanted to add?

MR. SIMMONS: Yes. I would agree with Dan that demand and imports are tied so closely together I don't see how you can separate them.

Electralloy is more focused on the larger end of the size range and forge bar, but, when you get into the roll bar prices, dragged on the upper end of the forge bar product pricing in the marketplace because of their relationship established at service centers between small bar prices and forged bar pricing.

CHAIRMAN OKUN: Okay. Did the economists or consultants want to add anything further in terms of how the Commission should evaluate the industry's adjustment efforts in the context of the economic factors that have occurred over this period?

Mr. Pendleton?

MR. PENDLETON: Yes. I think you raised a very good point, and I think it's very important to put it in perspective how this industry is so different from the carbon and alloy sector. Not to knock that sector, but it's a Bible in this stainless industry over the years to never fall behind in capital investments. It is just too hard to catch up, and that's, of course, one of the problems that the carbon industry faced. They had inefficient capacity that they had to eliminate.

We've kept up with that elimination, and we've kept up with the modernization programs over the years. The quandary we run into is that in a situation we face like Carpenter up front invested mega dollars, 10 percent of sales over a five year period in modernization, but needed that return now to kind of stabilize the debt situation that has been built up. That in turn provides a springboard and a financial base upon which to make future investments.

We're not just looking at a three year period of this industry that has to play catch up and, you know, really go all out like maybe in the carbon and alloy area, eliminating some outdated capacity plus really modernizing. We've done that for the most part, and Carpenter is a leader in that.

I think you have to look at the adjustment here that's been focused on the internal cost, production, improvements, efficiencies, cost reductions as the staff report points out. I think those are the things we focus on, and that provides the financial springboard to move ahead. Those adjustments are the key ones.

I just want to make that differentiation. It's been well recognized this industry sector is far different from the other sectors.

CHAIRMAN OKUN: Mr. Magrath?

MR. MAGRATH: Madam Chairman, we have to emphasize, as did the other witnesses, that it is both. It is both the market and the imports.

If you're hungry, like I am now, having skipped breakfast, and you have a pie in front of you, you know, you can satisfy --

CHAIRMAN OKUN: Fear not, Mr. Magrath.

MR. MAGRATH: You can satisfy if there's a pie in front of you. Whether or not you get your hunger satisfied or not by eating it depends on, number one, how big the pie is -- that's the market -- and, number two, what kind of slice you have.

With imports in this market continuing to be in some cases half and in excess of half of that pie, it is both the shrunken size of the market, the pie, and the part that is taken that you're not getting to service.

CHAIRMAN OKUN: Okay. I appreciate those comments.

Mr. Pendleton, you went I think further in your comments on my next question, which was one of the things the Commission had asked companies to provide and is summarized from the confidential responses from the questionnaire are summarized in Appendix F, which is, you know, to go down what types of adjustment efforts you've made.

I think you've all touched on in this industry it was not necessarily the consolidation of restructuring that the stainless producers were looking to do, having felt like you've done that in prior years.

I wondered if I could hear from the industry folks in terms of the different categories of other things that have gone on that you've attempted to do during this period. If you could give me what you think when we evaluate some of this information, what you'd say were kind of the top two things that you focused on during this period in terms of the cost reduction, or I remember you touched on what happened with your employees.

I don't want to get into confidential information, and I recognize that Appendix F is confidential, but I wondered if you could in a general way just talk about, you know, if you had to say the top two things you've tried to do or had some success in doing, what would they be?

Again, I'll start it here with Mr. Shor.

MR. SHOR: Thank you. I'd have to say the two things that we have worked on are both task generation to reduce our debt and cost reduction. Those two, in my mind, are the keys to success.

It's a public figure that Carpenter, because of the investment we made, had when we went into this downturn almost $600,000,000 in debt, and we have managed. Without much operating income, we've managed with what we call working capital -- that's inventory, accounts receivable, accounts payable -- to significantly reduce our debt as we move through this period despite the poor economic times. That's number one.

The second item is obviously cost reduction. If between the imports and everything else going on our top line cannot improve, we have to find ways to improve our business. We have taken on a significant, sincere effort over the last few years to significantly reduce our cost in an attempt to return to profitability.

Unfortunately, as I mention in my comments, in my division it's been 20 percent of my overall work force. Over the past three to four years, it's been 40 percent. Through that plus many other items to improve our cost effectiveness, including how we process, what we process, are the things that we're working on.

CHAIRMAN OKUN: Thank you very much.

Mr. Anderson?

MR. ANDERSON: I would say in the case of Slater it's been rationalization, number one, to improve our efficiencies.

As we noted a couple times, the melt shop in Fort Wayne closed to consolidate our melting in Welland and the recent closing of a bar mill in Welland to consolidate rolling in our U.S. rolling operations have probably been the largest.

Past that, it's just additional cost

reduction efforts. As we mentioned, our new union contract in Fort Wayne has helped, but certainly as our financial numbers bear out has not got us anywhere near where we need to be.

I think the problem facing the industry is, as Mr. Shor mentioned, the lack of financial capital. One of the main reasons Slater is in bankruptcy today is our bank deal expired at the end of last year, and the financial community takes one look at our financial condition and what lies ahead for us, and they're not anxious to lend us money.

It's going to be a very difficult problem facing this industry. When you don't have a return on capital, getting someone to pony up for additional investment is going to be very difficult.

CHAIRMAN OKUN: Okay. Mr. Simmons?

MR. SIMMONS: Electralloy certainly is focused on cost reductions from top to bottom and in all areas. The other thing we've really made efforts on is property inventory control to make sure that we've gone on our marketing programs to eliminate lead times and tie up of capital and inventory. We've really focused on that.

CHAIRMAN OKUN: Okay. I appreciate those answers.

Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Thank you very much, and I, too, join my colleagues in welcoming I think all of you back to the Commission. We appreciate the time and effort that you've taken and obviously appreciate a lot of the data that you provided in your questionnaire responses.

I guess if I could start first with trying to understand. As I look at the data that we have, there does seem to be some differences. I mean, many of you have talked about the long products somewhat monolithically -- I mean bar, rod and wire kind of altogether -- and yet it strikes me in looking at our data that for whatever reason the rod market seems to have fared differently than bar or wire, meaning that there has actually been more of a decline in imports, both the products covered by or the countries covered by the 201 and those not covered, a much more significant gain in U.S. market share in that product. You know, U.S. shipments are actually a little bit over last year.

Again, it just looks to me from the numbers as though, and again I'll note on the rod side that things are a little bit different than they are perhaps on bar or wire. I wondered if any of you could comment on why you think that may be the case.

MR. HUDGENS: If I could, Brad Hudgens of Georgetown Economic Services.

One thing you should note is that there have been a few revisions in the rod data that will -- actually, there are some data errors in the staff report, which will show that there is a decline in U.S. shipments of rod over the period of investigation instead of an increase.

VICE CHAIRMAN HILLMAN: Okay.

MR. HUDGENS: That will affect the market share data.

VICE CHAIRMAN HILLMAN: Okay. All right. I appreciate that. I thought I was looking to some degree -- again, when I was talking about shipments I was looking at what I think is corrected data, but comparing in essence the 2000 data.

In any event, I still think the picture for rod does look a bit different than it does for bar or wire. I appreciate Mr. Hudgens' point, but I think if you look at the broader numbers there are some differences. I'm just trying to make sure I understand from the industry's perspective whether you think that's true and what may be the cause for it.

Mr. Shor?

MR. SHOR: Yes. If I may comment on that? Rod typically, when you look at the --

VICE CHAIRMAN HILLMAN: Can you pull that microphone just a little bit closer?

MR. SHOR: Sure. Rod typically, when you look at the value to our companies of rod versus wire versus bar, rod typically is at the lowest end of the value chain and the profitability chain.

With our inability to gain significant share or because the imports are where they are and the markets are where they are, at Carpenter we aggressively pursued incremental business where it did exist, and there was some slight increases on the rod side. That is the lower end of the value chain for us.

VICE CHAIRMAN HILLMAN: Okay. Okay. I appreciate that answer. That's very helpful.

MR. HARTQUIST: If I may add to that, Commissioner Hillman?

You've heard in many previous hearings about the need in this industry and other capital intensive industries to keep the equipment running, keep the mills as full as possible, keep capacity up. What you see and what has been one of our problems over the years with imports has been foreign producers many times shipping below cost material into the U.S. simply to keep those mills operating and keep the capacity going.

I think what Mr. Shor is testifying to is that Carpenter needs to produce as much material as they can, hopefully profitably, but achieve certain efficiencies by keeping that level of capacity utilization as high as you can.

VICE CHAIRMAN HILLMAN: Mr. Blot?

MR. BLOT: This is Ed Blot. If I could just make one more comment on that?

Of course, rod is a primary feedstock for the wire product. As you know, the shipments have gone up in wire. With again wire having a lower tariff, countries could shift from rod and go ahead and send wire on into the country or even bar product that's made from rod. That shift can take place, and I think that has taken place in some of the data that I have looked at.

VICE CHAIRMAN HILLMAN: Okay. I understand. Both of these points are what I was trying to make sure I understood, and I appreciate those comments.

I guess if I can follow up a little bit on the comment you were making, Mr. Hartquist, and a little bit on a comment that Dr. Magrath was making in terms of, you know, this constant argument we always hear in the stainless cases, as you very correctly state, is we must have imports because the domestic industry can't produce enough to fill all of the demand in the U.S. market. It's typically an argument.

As you point out, at least our numbers would indicate that for whatever reason we have now tipped that scale where the level of consumption, you know, arguably could be met. If the domestic industry were producing at 100 percent capacity, you would be in essence able to supply the whole U.S. market.

I will say I have never seen a stainless case in which the industry is anywhere close to that level of capacity utilization. For whatever reason, in all the cases that we've seen in a capacity utilization in stainless is always significantly below what it would be on the carbon side or in other industries.

I'm trying to get a better sense of what your realistic expectations are in terms of, you know, what do you really realistically think you can or should be getting in order to get to your point, Mr. Shor, of producing enough that you are getting a sufficient return on investment in terms of whether there was, you know, an expectation of your level of capacity utilization or again your level of market share that would have produced that level of capacity utilization and kind of your sense of, you know, what is realistic to assume in this market in terms of achievable capacity utilization levels.

MR. SHOR: When we talk about the stainless steel long products industry, typically we talk about much smaller quantities of tons than we talk about in other industries, so relatively what is perceived as small, incremental gains are significant for us.

I'll give an example. Two exemptions that I referenced in my statement talked about high performance machining bar. We have two foreign competitors that make product similar to the product that we make in our plants, and that total exemption for stuff that we make every day was 7,000 tons.

Seven thousand tons for those exemptions are the difference between success and marginal profitability at best in our company, so we're really talking about relatively small, incremental tonnage being the difference between being successful and not being successful.

VICE CHAIRMAN HILLMAN: Okay. Mr. Anderson?

MR. ANDERSON: Yes. If I could just comment and maybe back into the answer?

We had high expectations that we could get import penetration levels in stainless bar products down to that of certainly the carbon level or back to previous years' penetration, but, as the numbers bear out, it's still nearly 50 percent, 40 percent bar and 50 percent on the rod and wire side.

If we could get that level down to a 25 percent import penetration level, we would be all I think -- I can't tell you exactly what the capacity number would translate into. We could do that math for you, but that's really what we had in mind in terms of the remedy stage. It just hasn't beared out because we can't get to the price.

VICE CHAIRMAN HILLMAN: Okay. Mr. Simmons, did you have anything to add on that?

(No response.)

VICE CHAIRMAN HILLMAN: Okay. All right. Let me then go a little bit to the issue of price. Again, I'm just trying to make sure I understand sort of in essence what's going on in the price world these days.

Presumably I'm sure the expectation in the market was that once the 201 duties went in place that there would be price increases. I'm just trying to get a sense from you of have you attempted price increases at any point in the period since March 2002, and what happened?

Give me a little sense of what's happened in your price negotiations from the day the 201 duties went in effect to now. Give me a sense of what's gone on in pricing.

MR. ANDERSON: I'd be happy to start. On the bar side, after the announcement there was an attempt to raise prices, and we were successful for a very short period of time post the announcement of the remedy, but it didn't last very long.

I'm not staring at the data currently, but I would tell you from a practical nature it didn't last more than a quarter until we started to retract because of the willingness of -- back to India again as an example and Italy eating the 201 duties, pulling the market price right back down to levels they were.

Obviously as the data shows, we went through the floor of the pre-remedy price levels, and this in a time where input costs were rising. Therefore, our profitability continued or I should say our losses continued to escalate.

VICE CHAIRMAN HILLMAN: Mr. Shor?

MR. SHOR: Our ability to even maintain

prices in these times, let alone try to increase them, has been extremely difficult.

VICE CHAIRMAN HILLMAN: I mean, did you attempt any price increases?

MR. SHOR: Yes, we did.

VICE CHAIRMAN HILLMAN: Okay.

MR. SHOR: As we talk to our customers, what we clearly hear, and we are given quotes, for example, to show competitive situations, is if our prices do not decrease on certain products we will lose business. That's what we've been facing over the past year.

VICE CHAIRMAN HILLMAN: Okay. Mr. Simmons?

MR. SIMMONS: Yes. Electralloy certainly tried immediately afterwards a very small percentage price increase. Like Dan said, it did not hold. In fact, we struggle to maintain pre-201 pricing levels to this day. They're just not there.

VICE CHAIRMAN HILLMAN: Okay. I appreciate those answers. Thank you.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: Thank you to all of you for being here again today. The testimony has been very interesting and very helpful.

I appreciated particularly both in your

initial testimony, but also your responses to the Chairman regarding your adjustment efforts because all of that information basically in our staff report and your brief is confidential, and yet I do feel as though the 204 process ought to have some of that out there more publicly, so I appreciate the fact that you answered the question with some information publicly so that it can be out there in the record that way.

Let me ask one question that I've heard some reference to, but I'd like to get a little more information. Mr. Anderson, you referenced the effect of rising input costs, and I know your brief referenced escalating input costs as well. It's always been an issue in stainless cases in the past.

Could you talk a little bit more about what's been going in the input cost side, what specifically are where the increases are being witnessed, whether they're related to the 201 in any way? Just sort of give us more of a picture of what's been going on on the input side.

MR. ANDERSON: I would say that on the input side it's not related to 201. The largest component that you hear talked about in the stainless industry is obviously the nickel, the LME. It's a globally traded commodity. It's the London Metal Exchange.

It's a public figure.

When that translates into a product price, for some reason the imports -- foreign producers don't seem to have nickel in the price of their product. They roll it in, and they undercut our prices. Relative to natural gas, that's another public, you know, number that you can get. Certainly we tried a natural gas surcharge when we had a spike. We were unable to keep that surcharge in the marketplace. We were unable to get customer support due to the fact that foreign producers did not charge it on their offering.

Electricity is obviously an ongoing concern for us all, and the summer months are the worst times for us where we face not only the highest costs of the year, but also potential curtailment where we're asked to shut down our operations due to the grid just being overtaxed.

COMMISSIONER MILLER: And I know Mr. Blot did submit the table that showed the LME index for the nickel. That is what you would point to first in terms of -- okay. All right.

Mr. Shor, do you want to add anything, or Mr. Simmons?

MR. SHOR: I'll just follow up to what Mr.

Anderson said. Stainless steel is made up of a combination of iron, chrome, moly -- I'm drawing a blank. They're the majority of the elements that are involved. For the most part, each of those elements is up, and what they are is they're inputs.

As we melt our steel, come up with our recipe, we have to take a certain amount of each of those elements, whether it be chrome, whatever else, nickel, whatever might be in there. If the raw material input costs more and then the energy costs on top of that to melt it and to process it cost more and yet pricing is flat, in a market that already has not shown any significant profitability it's, as was talked about, almost a perfect storm, and that's what we're dealing with today.

COMMISSIONER MILLER: Mr. Simmons, do you want to add anything?

MR. SIMMONS: Just one final thing on nickel. It's amazing -- amazing -- as a custom melter to see nickel go from $3.50 to $4.60, $4.30, $4.40. It goes up and down, and there's no effect on import prices of product.

You know, LME is a globally traded commodity that is priced the same whether it's in the U.S. or any other place on the globe.

COMMISSIONER MILLER: Yes, Mr. Blot?

MR. BLOT: I just thought to give sort of a magnitude on what this is, on my Chart B-4, which has the LME nickel, if you can read off the graph, and I know it's hard with two scales on it, but roughly you're looking at a price of the bar that's a little bit over $1 a pound, depending upon whether it's import and then, you know, closer to maybe $1.07 or $1.08 for the domestic price.

Now, when you take nickel going from, as I said, in March of 2002, and let me just make sure I requote myself correctly here on my numbers. It went from -- bear with me as I find this now. Let's see. Yes. It went from $2.97 in March of 1992 to $3.80 in March of 2003, so that's roughly a 90 cents a pound difference.

In a type 304, you have eight percent nickel. With a little bit of yield loss, you can almost think that for every 10 cents a pound jump in nickel there's a one cent a pound increase in cost, all right, so if it went up in that time frame 90 cents, you would expect the cost of 304 -- not expect it. It is a fact the cost went up nine cents a pound.

Now, on a product that's selling at $1 a pound, that's nine percent, so I want to try to put that in the magnitude of it there trying to take these raw numbers into some kind of a percent. Maybe that gives you a little bit of a feel for that kind of an input alone.

Mr. Shor also mentioned there are other elements, you know, like chrome and moly and tungsten vanadium and a bunch of other things that we can't think about that are in the mill, but nickel is still one of the primary ingredients that has a cost factor for the input.

COMMISSIONER MILLER: Okay. You know, I know you've probably told me this in the past, but I'm going to ask the question anyway because I can't remember the answer, and that is what is it that's driving nickel prices up? I mean, what creates the fluctuation we see in the nickel prices?

I know I probably know the answer to this question, but I can't remember it. I'll be honest.

MR. BLOT: Well, you still have a supply/ demand situation, you know, on nickel, nickel elements. Nickel is really affected by the world stainless flat-rolled demand because that is the primary driver and user of stainless steel.

As that product, and keep in mind the flat-rolled products, as I mentioned in my testimony, flat-roll, whether it be stainless steel or whether it be carbon steel, is consumer goods related, whereas long products is capital goods related by one-third for consumer goods in long products, two-thirds for capital goods.

So as those demands go up, there is a demand then for nickel, and there has not been a lot of new mining of nickel that's been going on. As a matter of fact, even more recently, there's been some shutdown and some strikes at nickel mines. So that's kind of keeping things up there as far as what the availability is. So I don't know how to explain. Mr. Shor could probably get a little bit more detail.

COMMISSIONER MILLER: Mr. Shor?

MR. SHOR: This is an opinion not a fact. I believe nickel used to be, price used to be more controlled by supply and demand. It now appears to us at least to be it's traded by traders, it's a commodity, it's heavily influenced by those traders. We're obviously in a period of relatively low demand right now and yet the price has gone up as the charts have shown.

So we really can't depend on supply and demand, it's more who's trading and what positions they're taking in that than anything else.

I will also say with the Chinese steel industry coming on line there especially the nickel companies are talking about potential long-term shortages of nickel. And so that potentially could drive that up. So it's a real combination, a variety of factors. Unfortunately it does not seem to be supply and demand.

COMMISSIONER MILLER: Yes, Mr. Magrath?

MR. MAGRATH: Commissioner Miller, I'd like to point out that this is a problem for the integrated producers only, the people that are here. I said in my testimony that the two U.S. producers who oppose certain elements of the tariff increases, Arcelor made a big deal of in their brief. Well, they're few producers and those are all non-integrated producers.

Now, their raw materials is the rod and small diameter bars that these people produce. So the raw material increases in this market and given the import problem it stops with people like Mr. Shor. The raw material costs of the buyer re-drawers have gone down. And the staff report shows that and that was my testimony.

COMMISSIONER MILLER: Okay. The yellow light is on so I think I won't be taking another question. I think it's important because to the extent we are supposed to be monitoring developments in the industry, you know, this is clearly having an effect as well as the recession and imports and other things. So thank you. I appreciate your answers.

CHAIRMAN OKUN: Commissioner Koplan.

COMMISSIONER KOPLAN: Thank you, Madam Chairman.

There are three matters left I'd like to cover: the private exemptions you've talked about, India and China. So let me start with the exemptions.

You list nine product categories for which the administration granted exclusions but for which "the U.S. stainless steel long product industry can produce a product that is identical to or can be substituted for the imported product." From reading that I want to ask is such production taking place now?

I did hear Mr. Shor refer to the fact that Carpenter has already prided itself on offering a full range of products to its customers. So I assume that your response to that would be that it's a yes.

I also wanted before I go on to just clear up a matter. You mentioned, Mr. Carpenter, I mean Mr. Shor, that in the product exclusion category there were two exclusions that were granted for products that you could produce and that that's undermined the release for you. Just for the record, in looking at page 19 of your brief I just want to make sure I understand. The first two listed product categories you gained improved machinability, stainless steel bar in an annual quantity not to exceed 5,000 metric tons. And that's identified as X-090.020. And improved machining stainless steel cold finished bar in sizes less than 25.4 millimeters with an annual quantity not to exceed 2,000 metric tons. And that's M-389.01. So those are the two you're talking about?

MR. SHOR: Yes, they are. Those are products that we manufacture. Obviously they're different brand names than what we manufacture. Ours are called Project 7000. But they are manufactured across our equipment every day.

COMMISSIONER KOPLAN: Okay. I just wanted to close that loop with you if I could. Now let me go on with this.

I have a series of questions, I'll run through it and then I'll listen to the others of you. I ask whether production is taking place now? When were these nine exclusions granted by the administration? Were the exclusions contested?

And I'm asking that because what I've heard in the past is oftentimes if production was going on and an exclusion was being contested the domestic industry was successful. Obviously in the two instances that you have referred to, Mr. Shor, you were not successful.

So were they contested? Which of you contested these other seven? Was domestic production taking place then? Obviously with regard to the first two it was. And you indicate that the volume of sales of these particular products doesn't represent a substantial portion of the overall stainless steel bar market.

I'm wondering if you could provide for the record what that volume and corresponding value has been for each of the nine listed product categories during the period we are examining, including the projections of what that will be for the balance of the relief period if the exclusions stay in effect?

And, finally, are you planning to renew your request that these exclusions come off, are you planning to renew your request when the opportunity to do that opens up in November of this year?

MR. HARTQUIST: That's a mouthful, Commissioner Koplan. I think we can answer --

COMMISSIONER KOPLAN: I thought I'd let you go to the transcript for that one. Yes.

MR. HARTQUIST: We can answer part of those.

COMMISSIONER KOPLAN: Right.

MR. HARTQUIST: But I think some of those we're going to have to go back and check the record on the dates that some of those exclusions were granted and so forth.

COMMISSIONER KOPLAN: You see I'm looking for specificity on these.

MR. HARTQUIST: Yes.

COMMISSIONER KOPLAN: Because you do list each of them specifically in your brief.

MR. HARTQUIST: Yes. We will be very happy to give that to you.

And let me ask Mr. Lasoff and Mr. Hudgens whether we can respond to some of Commissioner Koplan's questions.

COMMISSIONER KOPLAN: Yes, whatever I can get now would be great.

MR. LASOFF: Actually, Commissioner Koplan, I have a chart which basically gives every, every exclusion as well as which particular company objected and the dates that they were granted. Unfortunately it's such a lengthy chart it would probably just take most of your time to specify the ones in question, the ones that were a major concern.

And we will provide this. We will provide this chart in our post-hearing brief so you will have --

COMMISSIONER KOPLAN: That's exactly what I'm looking for.

MR. LASOFF: -- you will have all that information.

The one point I want to make is that I don't believe the exclusion process really contains an opportunity to revisit and remove an exclusion unless, you know, unless you could make the case that there was a particular surge. Because there is a surge mechanism that had been established as a result of that. But our thoughts are that that surge provision was more designed to address issues like the Indian situation.

COMMISSIONER KOPLAN: Commerce's mechanism.

MR. LASOFF: Yes. The surge mechanism --

COMMISSIONER KOPLAN: The licensing.

MR. LASOFF: Well, not the licensing but actually a surge mechanism. The licensing is an element of that that allows a monitoring of surges. And then if in fact there is a determination that there is a surge the president, you know, has stated that they might utilize that mechanism to remove a particular exclusion. And but it's our sense that that was directed more at country exclusions rather than at specific products themselves.

COMMISSIONER KOPLAN: But the November process doesn't preclude you from raising it again. What you are saying is the likelihood is that those that are already excluded will not be revisited?

MR. LASOFF: Since the program has been into effect I am not aware of any exclusion that has been removed.

COMMISSIONER KOPLAN: Thank you, I appreciate that. I'll look forward to that submission.

Yes, Mr. Pendleton?

MR. PENDLETON: Commissioner, William Pendleton.

COMMISSIONER KOPLAN: Yes.

MR. PENDLETON: Having suffered through the first round of exclusions last summer and learning the process, you know it's a little bit of a black hole type of process. You get information on the exclusions, we react to it, and particular in the case of the machining bar it was extremely frustrating. We responded in a way that made it very, very clear that this was not only a product that we can make, this is product that basically invented when you talk about premachining stainless, went back a number of decades.

And we thought we made that very clear in our submissions. But somehow through the political process, there was a lot of political pressure at that time as you know from the Europeans and from other countries to grant broad exclusions. And I think there was a lot of pressure brought to bear. We don't know how the decision was made nor were we privy or had an opportunity or did not know that we could go in and maybe express our views. Obviously the foreign producers must have gone into the Commerce Department to express their views. It was a black hole.

We only found out through the weekly announcements what was approved. We did not know what was disapproved until the government said the process was over, that anything that was not approved was therefore disapproved. So we had no warning on premachining. It came as a total shock.

And we have no recourse now. We were told that we could not appeal that. We had no court that we can go to and we're stuck with that.

Now, what's interesting in the November

round, another country, Italy, brought in the same request for the same type of product. We took a very proactive position on that and actually met with the Commerce Department officials to reemphasize again that we are a master of that product. And that was not granted in that round. But, unfortunately, the product, very key product that was granted there's not anything that we know of that we can do about it and it's not open to any appeal.

COMMISSIONER KOPLAN: Thank you very much for that. I appreciate that, I appreciate your response.

Let me turn to India if I could. There has bene a lot of discussion about India this morning. And in your prehearing brief there are several pages devoted to what has been going on with India since with regard to stainless steel bar and angle in particular going on since the exemption was granted. And that's detailed at pages 15 to 18 of your brief. And I heard you talk about this this morning.

With regard to bar you stated there that between FY 2000 and FY 2002 the surge from India amounted to 460.3 percent. And with regard to stainless steel wire it amounted to 147.5 percent. And you mentioned that this morning in your direct testimony.

You also mentioned that Slater Steel's requested that the administration invoke the surge provision contained in the president's program and remove the exemption but was rejected because the Indian government gave assurances because those assurances remain unfulfilled. And you mentioned that this morning.

I note that in the original 201 the Commission did not take a position with regard to such exemptions and is not being asked to do so now. To borrow Mr. Lasoff's term, we didn't litigate that.

When did Slater make the request? And when was it rejected with regard to India? And given you assertion that the surge continues in 2003, is the domestic industry precluded from renewing its request of the administration? I'm not talking now of a product category, I'm talking about a country exemption.

Could you respond to that?

MR. HARTQUIST: We'll be happy to furnish for the record a number of letters that we sent to Secretary Evans, to Ambassador Zoellick and to President Bush over a period of about seven or eight months chronicling what had happened in the surge from

India. And as you recognize, we're pretty steamed about this whole development in part because the language in the president's proclamation, the president's own words say "if I determine that a surge in imports of a product described in paragraph 7 of a developing country WTO member undermines the effectiveness of the pertinent safeguard measures, safeguard measures shall be modified to apply to such products and such countries." It's right there.

And we'll provide you with a stream of correspondence that developed on that.

COMMISSIONER KOPLAN: What is your next step then with this?

MR. HARTQUIST: Well, we still have a letter to the president pending on the issue --

COMMISSIONER KOPLAN: Okay.

MR. HARTQUIST: -- which has not been responded to asking that India be added to the program.

COMMISSIONER KOPLAN: Thank you very much for that. I look forward to the submission.

Thank you, Madam Chairman.

CHAIRMAN OKUN: Thank you. Well, let me ask just a couple other questions that I guess are India related. I'm going to use a figure for just the non-covered import sources.

I'm trying to understand. I mean I've read the argument and obviously the percentage increases that you give are large but I'm just trying to understand this in terms of impact. I mean let me start with bar.

For bar the covered sources' imports declined almost 20,000 short tons between '01 and '02 while non-covered sources increased about half that, about 10,000 short tons.

For rod covered sources' imports decreased about 24,000 short tons where non-covered sources increased only about 2,500 short tons. Less on wire.

And you haven't spoken on India with respect to rod so much or focused on it so much. But I wonder if you could just help me understand what it is about, you know, the India claim. I mean if I just look at these numbers I think, okay, imports have gone down and the non-covered sources haven't -- in short tons don't seem to have been a large, you know, haven't come in and swamped what's come out of the market.

So you've all focused on India and I wanted to get a little bit more of a thorough response on that. Who wants to start? Mr. Magrath?

MR. MAGRATH: I will start very briefly.

It's always of course a problem of both volume and price. Increased volume into a depressed market with these guys fighting for every pound they can sell. But I'd like to direct you to your charts at the very end of the staff report, I think it's Appendix G, where you still see the underselling charts. And you will see that the covered imports undersell uniformly the domestic product.

But India, and once again in this commodity market, undersells consistently to even both the domestic product and the covered product. So they're having a disproportionate impact. Their volume is big enough, it's a quarter of all imports, as Mr. Blot has said. But their price is having a disproportionate impact in this depressed market.

CHAIRMAN OKUN: Mr. Anderson, you look like you wanted to add something?

MR. ANDERSON: I can't comment on rod which was your specific question. And angle obviously is not a sole category for the purposes of this investigation. But as 93 percent of total imports I can assure you they have swamped the angle market, absolutely devastated us as regards angle.

CHAIRMAN OKUN: Because the customers are seeing their price quotes? That's what I'm trying to understand. I mean what Mr. Magrath just said, volume versus probably there is often a difference. What I'm saying I'm not sure about the volume but I'm trying to figure out in terms of price if there is something here we should be focusing on for purposes of this report of what was going on other than, you know, the general information we have about overall pricing for non-covered.

MR. ANDERSON: Sure. I think Dr. Magrath's comment on price is absolutely relevant to all categories. And I would venture to guess the Europeans would agree with us in this regard that their pricing has been pulled down by India as well.

You know, if permitted or if it would be helpful I would be happy to show you, to submit data with regards to the size of the angle market and what percentage India is today from a volume standpoint and price. We could do that. Be more than happy to share that information.

CHAIRMAN OKUN: Okay. I mean, you know, if there's more information with regard to, you know, what's particular about India as distinguishing an amount here for purposes of the completeness of the report I'd be interested in that.

Mr. Blot, did you have something you wanted to say?

MR. BLOT: I just want to -- Ed Blot here -- just to re-emphasize again the Indian will come in with price and that's what starts the spiraling down. I don't think that the covered importers like the Indian price any more than the domestic guys do. I mean as far as we're concerned if India sinks in the Indian Ocean okay. And I would like to say perhaps maybe some of the Europeans may think the same way because they're running into the same situation. They're having to have their prices drop down because of what's happening from India. So it's driving the whole market down.

CHAIRMAN OKUN: Okay. So you're saying that amount of volume is driving the market because of the prices they're coming in with?

MR. BLOT: Well, again they don't necessarily get it all. I mean in my testimony what I tried to give you was a scenario. So a purchaser has so much to place. They don't want to lose their current domestic supply and they don't want to lose their current import supplier that covered their country. But they are faced with the fact that there are lower prices offered to them and the scenario if they don't buy it their competitors do. And I'm talking about the end users.

And so what they do is they put pressure back on the covered source and then pressure back on the domestic source. So the product that was to be placed may have been, you know, 1,000 tons of stainless bar and the Indians get 10 percent of that but everybody has dropped their pricing down on the domestic and other offshore people to address that pricing. And they get, the domestic and the offshore get the rest of the 90 percent.

CHAIRMAN OKUN: All right. Yes, Mr. Pendleton?

MR. PENDLETON: Yes, I just want to add to what Ed Blot said. And, you know, this industry is very price sensitive to being driven to the lowest denominator in terms of prices. It only takes one maverick country and a series of producers from a country like India in this case to really knock the blocks right off of the price, the market price. And everybody is driven down to that. And that's an historical in this type of business, particularly in some of the commodity products. Not all of the products. Some are more immune to that or but they are often all related, too, even the lowest products, lowest price products as they move. So it's the nature of the business.

And you take India as a good example of that.

CHAIRMAN OKUN: Okay, but Indian is not -- I just want to understand, your argument most of India applies to rod angle in Mr. Anderson's case but not so much, I mean with bar not rod? I mean is rod, are they equally as problematic in rod?

MR. SHOR: Madam Chairman, I believe the same situation exists that Dr. Magrath talked about. It is not only the volume but it's the leading of the price down. By coming in, going after business at a very, very low price and having others follow. So it's both a volume and a pricing issue.

CHAIRMAN OKUN: In that product as well?

MR. SHOR: Yes.

CHAIRMAN OKUN: Rod as well. Okay.

I wanted to make sure I understood those arguments.

I wanted to return briefly to input costs. I share with Commissioner Miller the view that for evaluating the developments in the industry that the staff reports should contain information on the natural gas and nickel. So I would ask you I guess, Mr. Blot and Dr. Magrath, if you can work with our staff to make sure that we have the information on the nickel price and natural gas and electricity I think were the three main ones you mentioned to see what they did during this period and how that relates to the cost.

And the other question I wanted to go back to on nickel is in the chart that you have, Mr. Blot, you on the bottom it says that the prices you list here don't include the raw material surcharge, the nickel surcharge as I think it's referred to. Was that in effect the whole time or did it go into -- I remember from other cases it's triggered at some level and I just wanted to make sure that I also understood that in terms of the prices and where nickel went?

MR. BLOT: Well, the domestic industry uses basically $3 a pound roughly as the basing point to trigger surcharges on nickel. Other elements have different numbers. So as you can see, nickel's been at or above $3 during that whole time frame if you look at my chart.

CHAIRMAN OKUN: Okay. And so that, the blue line if it had, I'm just want to make sure I understand, if the surcharge is on it will actually be a little higher? You're saying -- that's what I'm trying to understand, I'm trying to make sense as what the other prices were?

MR. BLOT: Well, what should be happening is the fact that U.S. prices should be going up because of the fact of the surcharge.

CHAIRMAN OKUN: Right.

MR. BLOT: And I think Mr. Anderson and Mr. Shor covered that in their comments to you that what they've had to do is compress their prices. Now, whether they've charged a surcharge and then having to force something else down, but a total that a purchase looks at is a total net number of both the base price and the surcharge. So they're implementing it but they're having to compress something else in order to, you know, meet the offshore pricing.

CHAIRMAN OKUN: Okay. And that's what I'm just trying to make sure that I understand what that blue chart is, if that's an actual line or that is something extracted out of it?

MR. BLOT: Oh, I'm sorry. The blue line is the actual LS --

CHAIRMAN OKUN: The black line. The black line.

MR. BLOT: Okay.

CHAIRMAN OKUN: My eyes are getting bad here. The black line.

MR. BLOT: I'm sorry.

CHAIRMAN OKUN: The U.S. producer midwest.

MR. BLOT: No, the black line does not include the surcharges, okay. The red line does include the offshore, if they have a raw material surcharge included it does include that.

CHAIRMAN OKUN: Okay. So that black line if it reflects the surcharge would be higher?

MR. BLOT: That's correct.

CHAIRMAN OKUN: Okay, thanks.

MR. BLOT: I misunderstood --

CHAIRMAN OKUN: I'm sorry, wrong color for you. Now I understand. Okay.

MR. BLOT: I misunderstood your question. I apologize.

CHAIRMAN OKUN: I was using the wrong color. Even the color charts are good if you get it right.

I see the yellow light so I'll turn it over to Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Well, actually just a quick follow-up to make sure I understand it now.

Do most of the imports that come in assess a nickel surcharge? I mean do the Europeans? Do others? Are the U.S. producers the only ones that typically add a nickel surcharge to their prices?

MR. ANDERSON: In most cases the import price that is quoted to a customer is inclusive of surcharge. It's a net number. It's rolled into the price.

I will point out here for the European producers they very much charge a surcharge in Europe and it's a $2 nickel base not a $3 -- or $2.50 depending on the producer. They actually charge it in their home country. But when it's a quoted price to a customer it's rolled into the price.

MR. HARTQUIST: And in fact evidence of the European method of doing the surcharges is the antitrust fines that were levied a few years ago where the companies because of the way their surcharges were structured they basically agreed upon the way they were going to do it and all the companies do it the same way.

VICE CHAIRMAN HILLMAN: Okay. But you're saying the non-European producers typically do not assess, and the Europeans don't assess one coming into the U.S. market as such? I mean presumably, I mean obviously in response to your answer to Chairman Okun at some level money is fungible, I mean whether you're charging it as your base price or whether you're charging it as your nickel surcharge at some level it doesn't make any difference the price is in the end net? I mean that is what it is?

MR. ANDERSON: Correct. They don't separately state it on their offers.

VICE CHAIRMAN HILLMAN: Okay. Are their prices typically going up when nickel prices are up and down when nickel prices are down?

MR. ANDERSON: Well, you would think so but I would say the practical matter is it's not a direct correlation, if at all. And in the case of India it seems to be no correlation. With some European competitors their prices do rise slightly when nickel goes up. But I can't say from a practical matter that that direct correlation exists in a practical matter in the marketplace, I don't know.

VICE CHAIRMAN HILLMAN: And I guess one other question on the India front.

It's my recollection from our sunset reviews that we do currently have outstanding antidumping or countervail orders on Indian bar and rod; is that correct?

MR. LASOFF: That's correct.

VICE CHAIRMAN HILLMAN: But their -- in other words Indian goods are coming in paying dumping duties or countervail duties, can't recall which, and nonetheless you're saying are coming in even paying those additional duties at prices that are market leaders?

MR. HARTQUIST: That is essentially the situation although there are some Indian companies, some large Indian companies that have been able to escape the antidumping duties. Frankly, they're notorious for creating what are called "new shippers."

VICE CHAIRMAN HILLMAN: Okay.

MR. HARTQUIST: And you are familiar with that phenomenon I think.

VICE CHAIRMAN HILLMAN: Yes, I am familiar with that phenomenon.

MR. HARTQUIST: They're past masters at the art of new shippers.

VICE CHAIRMAN HILLMAN: Okay. All right, now I just wanted to make sure I understood it.

I guess if I can then turn to another issue which is that of demand. Obviously we see Mr. Blot's chart. But again I'm trying to make sure I understand it, not just long product generically but more specifically the three products that we're looking at here. I wondered if each of you from the industry could give me a little sense of what do you think demand is going to look like for the remainder of

2003, even going into 2004, again separately for sort of bar, rod and wire? What do you think demand is going to do?

MR. SHOR: I'll actually group bar, rod and wire together only for one reason, we see pretty much across every market that we have demand that I'll call it bumping along the bottom right now. Our customers, who is obviously who we have to listen to, are indicating no significant increase in volume coming. And honestly when they start --

VICE CHAIRMAN HILLMAN: Any significant decreases or just basically flat?

MR. SHOR: I'd say it depends on the customer. Some are talking about further decreases. Some are talking about slight increases.

And what I have found with our customers as far as their ability to forecast is anything beyond three to six months they truly don't know what's coming. But in that short period of time I don't see any increases coming.

CHAIRMAN OKUN: Okay. Mr. Anderson?

MR. ANDERSON: Well, as Ed Blot pointed out, the stainless long products market is one-third to consumer and two-thirds capital goods. In the case of Slater's product mix we're nearly entirely capital goods due to the nature of the size range we produce. And there is no sign of light in any of our key markets, power generation, aerospace. You know, if there's a ray of sunshine, petrochemical may have a blip here and there.

But I very much agree with Ed's forecast, I think it's going to get worse this year. And if we're lucky we'll reach bottom and start to have a slight uptick next year.

CHAIRMAN OKUN: Mr. Simmons?

MR. SIMMONS: Yes, thank you. The markets we serve, the aerospace, power gen., the oil and gas we would say it's going to be a slight decline to the balance of the year and we don't see any turnaround until hopefully first quarter next year.

VICE CHAIRMAN HILLMAN: Okay. Now, some of the importers have suggested that continuing the 201 duties will further depress a weakened market by softening domestic demand for stainless products. I just wanted to get any of your sense of whether that's the case?

I mean do people shift out of stainless if there's a -- do you see these having any effect at depressing demand? Are the 201 duties having an effect on demand?

MR. MAGRATH: Your former cases, of which you've had many as I recall, have all, have consistently found, and it's true, that there is very little -- there are no real substitutes for stainless steel. People only buy stainless steel, whether it's stainless steel bar or stainless steel flat rolled, when what they need is corrosion resistance or some other special property. It's much more expensive than carbon steel. And so if they can buy carbon steel or a low alloy steel they will buy that. They will only go to stainless when whatever end use it is, you know, specifies that they have to use stainless.

So you've got a really inelastic demand situation here, Commissioner, and that's been consistently found.

VICE CHAIRMAN HILLMAN: Do you think the 201 duties are having any effect at all?

MR. MAGRATH: No.

VICE CHAIRMAN HILLMAN: I mean obviously it's very weak demand.

MR. MAGRATH: No. And, frankly, the level of the tariffs wouldn't indicate that either in my opinion.

VICE CHAIRMAN HILLMAN: Okay. Mr. Anderson?

MR. ANDERSON: And the bottom line is that prices have never been better from a customer standpoint. We're at historically low prices. So to say that, you know, pricing is hindering demand from an end use standpoint is ludicrous from where I stand. That makes no sense to me.

VICE CHAIRMAN HILLMAN: Okay.

MR. ANDERSON: Because prices have obviously, as you see in the staff report, gone done.

VICE CHAIRMAN HILLMAN: I appreciate those answers.

I think with that I have no further questions. So I thank you very much.

CHAIRMAN OKUN: Commissioner Miller.

COMMISSIONER MILLER: Thank you, Madam Chairman.

There is one more thing that I wanted to ask about to make sure. And I know you had a discussion earlier with Commissioner Koplan about capacity changes. But specifically Arcelor has pointed to the introduction of over 100,000 tons is the number they have of new capacity for North American stainless. Mr. Blot, I know you referenced this, made some comments about it in your initial testimony.

I just want to make sure I'm correct, North American has historically been a plate, sheet and strip producer; right? They haven't been in the bar, rod, wire market?

MR. HARTQUIST: Correct.

COMMISSIONER MILLER: Okay. We've seen them in other cases but not in this case.

I just want to make sure we understand what's going on with North American and what their adding. They are going to be a new entrant into the rod market. Rod and wire or? I have these quotes out of "Metal Center News" in the Arcelor brief and a description of the technology they're adding but I need an interpreter.

MR. SHOR: Okay, I'd be glad to take that.

COMMISSIONER MILLER: Please.

MR. SHOR: Typically NAS in the USA obviously has been a stainless flat roll manufacturer. They have a very large melt shop that they bought that they put in as part of that flat roll capacity. That melt shop has excess capacity and they've decided to -- and again this is from me reading the publications -- they decided to use that melting capacity to put in and put in a long product mill and begin to roll.

My understanding is they started with some small pieces of finishing equipment, brought some steel in from overseas to get that equipment started.

And just now they are beginning to start their hot rolling mill.

So although they will have an impact in this market going forward on at least rod and bar, I don't know about wire, that has not occurred yet because it is brand new equipment that's truly just starting up.

COMMISSIONER MILLER: And I understood that was your argument that it doesn't affect the numbers that we're looking at because it's not in use. But it does strike me that it is an important development in the industry. And I'm sure you guys looking forward think of it as a fairly significant development. So that's why I wanted to make sure we understand what's going on there.

So I think that was very helpful. Does anyone else want to comment on it or the impact you think it is likely to have on this market?

MR. MAGRATH: Commissioner Miller, very briefly, you know in a former life eons ago I used to be the steel analyst for the International Trade Commission. So, you know, so I fancy myself I read the publications. And I mean NAS is a stainless flat roll producer, a good client of ours. But just because there's an assumption in the Arcelor brief just because it's new capacity it will be efficient capacity and price-competitive capacity I'm not sure of that the way it's been set up. We'll just have to see.

And I that, you know, it's 100,000 tons surplus mill capacity. How much of that is going to actually end up being rolled into bar or stainless long products we don't know. I don't know if NAS knows at this point either.

COMMISSIONER MILLER: Okay. Well, actually I did want -- thank you for that comment because I was wondering how you felt about this 100,000 tons number.

Anybody else want to comment? Don't touch it. Okay.

I appreciate it. I have no further questions for you and I appreciate all the testimony today. Thank you.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman, I just have one.

On the last page of Arcelor's brief they say that China has now surpassed the United States as the largest consumer of stainless steel in the world and that many are predicting that Chinese import quotas on stainless steel will either remain unchanged or even increase due to the high cost of producing this material. They go on by saying the sheer number of antidumping duty orders combined with the availability of such a vast market as China and the weakened dollar reduces the global incentive to shift imports to the United States even in the absence of the 201 relief.

Could you comment? I know, Mr. Shor, you made reference to China's steel industry as coming on line, I think you said a little earlier. So maybe let's start with you on this claim by Arcelor.

MR. SHOR: I will start by saying I'm not an expert on the Chinese stainless steel industry. Where I know that they have been concentrated to date has been on the stainless -- I'm sorry, on the flat rolled side. I know that they have recently in recent publications talked about a new state-of-the-art hot rolling mill which will be able to roll long products. But to the best of my knowledge that is not something that we see in this country right now because the capacity is still being developed.

COMMISSIONER KOPLAN: So you don't see them as the largest consumer of stainless steel in the world at Arcelor claims?

MR. SHOR: Oh, I'm sorry, I thought you were talking about manufacturing.

COMMISSIONER KOPLAN: You referenced their manufacturing industry. But this reference by Arcelor is to them as a consumer of stainless steel.

MR. ANDERSON: If I could just chime in. Yes, currently China is a net importer of stainless products. But with the expansions that have been announced in that country that dynamic is going to change dramatically.

From what you read in the trades the plant openings are going to be enormous from what we understand.

MR. MAGRATH: Commissioner, I don't think they're the largest consumer right now. They're projected to be but that's a projection. What we do know, and we've actually we published material on this, the capacity additions in both stainless flat roll which are gigantic and stainless long product projects in China.

So as they undergo the strategy of import substitution which they are doing throughout their entire economy, that will actually drive stainless exports now from the other Asian countries that were going to China back out into the world.

I'd like to make one other short comment. The article that Arcelor quoted is much more even-handed in terms of whether there will be increased quotas or not. It says at one point there may be increased quotas. It says at another point that there is a large inventory overhang of steel and stainless products and, therefore, the quotas may not be loosened. And we will provide that article in the post-hearing brief.

COMMISSIONER KOPLAN: I'm interested in that because it's a recent article. It came out May 15 of this year.

Thank you. With that I have no further questions.

CHAIRMAN OKUN: Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Just a quick follow-up. Sort of along the same lines of Commissioner Miller's questions about the NAS facility. You mentioned, I think it was either Mr. Pendleton or Mr. Blot, the AvestaPolarit facility. Again, same sort of questions of sort of when do we think they're up and running and what do we think is a realistic number in terms of their production and which long products are they going to be in?

MR. BLOT: According to customers I've talked about they are as we speak just starting to roll --

VICE CHAIRMAN HILLMAN: Okay.

MR. BLOT: -- the stainless product. And they're starting with bar product. And I assume as they move through this quarter or next quarter that's hard to always say when you're starting something up how quickly it will happen, they will eventually get into making the rod product.

So whether that will happen this month, next month, three months down the road I don't know.

VICE CHAIRMAN HILLMAN: Okay, do you have any sense of total tonnage?

MR. BLOT: Well, they're saying that the mill is rated for 100,000 tons. That doesn't mean that they're going to --

VICE CHAIRMAN HILLMAN: Is that AvestaPolarit?

MR. BLOT: Oh, I'm sorry.

VICE CHAIRMAN HILLMAN: This is Avesta.

MR. BLOT: I'm sorry.

VICE CHAIRMAN HILLMAN: Okay.

MR. BLOT: About Avesta in terms of how much?

VICE CHAIRMAN HILLMAN: Yes. What products, when and how much tonnage?

MR. BLOT: I'm sorry. Well, they're currently right now rolling material on the mill that exists. Avesta and Allegheny Technologies have a joint agreement for that rolling mill. That currently exists in Richburg, South Carolina. What they're going to be doing is making modifications to that mill because Avesta's melt shop makes a larger billet size now. And so they're making modifications on the front-end and the tail-end of that particular mill. And it will probably increase the capacity I'm not quite sure how much more but it will increase the capacity of that rolling mill.

VICE CHAIRMAN HILLMAN: Okay. I had sort of heard from some of these testimonies it sounded to me as though this was a much more significant, major, sort of new amount of capacity. But you're basically saying that's not the case on the Avesta side, it's a modification of what they've already got. It may add some tonnage but it's not as though it's a new hot mill or something.

MR. BLOT: That's correct. When the mill was put in by Allegheny Technologies some 12, 13 years ago it had a rated capacity of 100,000 tons. But they've never been able to have enough business or come anywhere close to that on the nickel alloys or the stainless that's run there.

So I don't know that anything that they're doing, what they may be doing right now is just may get up to the point where they become more efficient to say that if the demand was there they would be able to get closer to that capacity number.

VICE CHAIRMAN HILLMAN: Mr. Shor, did you want to add something on this? No? Okay.

MR. SHOR: I believe Mr. Blot covered it. It is an existing hot mill. They are upgrading that hot mill. The hot mill was designed for mainly non-stainless products. It is now Avesta in working with Allegheny who owns the mill has been rolling stainless but they want it to become more efficient.

So when you asked the question as far as is it a capacity increase, it will become -- there's no new equipment in hot rolling but it will become most likely a more efficient mill. And they have increased capacity in finishing, take the product off of that mill and finish it.

VICE CHAIRMAN HILLMAN: Okay. All right, no, I appreciate those answers.

The very last question I had was again on this capacity side but looking on the foreign side of it our staff report would indicate, you know, projections overseas for modest, you know, 6 to 8 percent sort of range increases in foreign capacity to produce these stainless products. Do you have any sense of where that is? Is there any particular? I mean is it all just China issue or does anybody have any sense on the foreign side of sort of where and when and what product? Is there any new, you know, significant production likely to come onstream?

MR. MAGRATH: Again, Commissioner, we have a study on stainless steel capacity additions, both flat rolled and long products that we could provide you in post-hearing brief.

VICE CHAIRMAN HILLMAN: That would be much appreciated. I think that would probably answer a number of these questions.

And with that I have nothing further, Madam Chairman. I do thank these witnesses. Thank you very much.

CHAIRMAN OKUN: Commissioner Miller? Any other questions from my colleagues?

Turn to staff and see if staff has questions of these witnesses?

MS. NOREEN: Bonnie Noreen with the Office of Investigations. The staff has no questions.

CHAIRMAN OKUN: Thank you, Ms. Noreen.

I'll return to counsel for Respondents. Do you have questions for this panel?

(Negative response.)

CHAIRMAN OKUN: They're not on microphone but the record will reflect that there are no questions.

With that this will be a good time, Dr. Magrath, to break for lunch you'll be happy to hear. And we will go ahead and break until 1:00 o'clock, 45 minutes, if that's okay with everybody up here. This hearing is adjourned.

(Whereupon, at 12:12 p.m., the hearing was recessed, to reconvene this same day at 1:03 p.m.)

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

(1:03 P.M.)

CHAIRMAN OKUN: This hearing of the United States International Trade Commission will please come back to order.

Madam Secretary, I see that our second panel is seated.

MS. ABBOTT: The second panel, the domestic -- the respondents, I'm sorry, the respondents are seated and have been sworn.

(Panel Two sworn.)

CHAIRMAN OKUN: All right. That just confirms that 45 minutes is not enough time for lunch. I just got that. I will remember.

All right, you may proceed.

MR. BLUM: Thank you, Chairman Okun and Commissioners, for this opportunity to appear in this proceeding to examine the progress being made by U.S. producers of stainless steel products under the Section 201 relief program. I'm Charles Blum of International Advisory Services Group appearing on behalf of the European Confederation of Iron and Steel Industries, EUROFER. At my right is Christopher Ryan of the law firm of Shearman & Sterling appearing on behalf of Arcelor, the largest member of EUROFER.

EUROFER has a strong interest in this proceeding for a number of reasons. First, our members are leaders in the global stainless steel industry. According to the International Stainless Steel Forum which is an organ of the International Iron and Steel Institute, the Arcelor Group, ThyssenKrupp Stahl, the Acerinox Group and AvestaPolarit, four of our members, are the four largest stainless steel producers in the world.

In addition we have a number of smaller members which occupy important niches in stainless and other specialty steel production.

Second, import from covered countries and from Europe in particular have been reduced by this relief even though historically we have been responsible trading partners with the United States.

Third, Europeans have for some time been the leading foreign investors in the American stainless steel industry and we are continuing to invest here. We want this sector to return to profitability so that we can make money here too.

I will begin by examining the steps the domestic industry has been making and then Mr. Ryan will address some issues that arise out of the prehearing brief of the domestic producers.

As I said in our opening, we feel that the industry has made steps under the specialty, under the Section 201 relief to increase its competitiveness and we feel that further relief will only serve to sustain marginal producers to the detriment of the stronger ones within the industry.

I'd like to repeat just a couple of points that were in our general brief filed on all products in the name of EUROFER. First, adjustment is a very strong concept in our view that encompasses all efforts to restructure, reduce costs and increase revenues. No one size fits all. Rather, every company must make its own route to competitiveness if it is willing and able to do so.

Second, the Commission and the president should recognize that adjustment often entails upfront costs that promote competitiveness over the long run. Basically you have to spend money to make money. Consolidations, new investments, work force reductions and other steps must be paid for immediately but they can produce a stream of benefits for the future.

Third, the Commission and the president should consider the adjustment process as inherently competitive. Not all companies, certainly not all facilities can be winners. Thus, the USITC and the president should make its judgment based on the industry as a whole rather than the weakest individual member of the industry.

I think each of these points will be amply illustrated by developments in the specialty steel industry since March of 2002.

It's striking, looking at that record it's striking that a majority of the 21 reporting firms in the three stainless steel industries failed to submit an adjustment plan to the Commission or to the executive branch. Actually, to be perfectly fair about it, only eight of the 21 responding companies actually acknowledged that they had failed to do so. Three others couldn't recall for certain whether or not they had filed.

Now, for most of the domestic firms it seems that the adjustment process, the adjustment aspect of this 201 process is some minor detail or perhaps a major annoyance. For whatever reason, they don't seem to have taken it very seriously. So what does that say about the seriousness of purpose of those firms in making themselves fit competitors for the long run?

We would also call the Commission's attention to some rather curious language in the domestic industry's description of the adjustment process. Referring to stainless wire on page 9 of their prehearing brief the industry laments that U.S. producers have been forced -- that is their word -- forced to reduce costs. So their idea of cost cutting is that it's some kind of bitter medicine, some kind of punishment that you must do or rather than being a necessary ingredient to long-run competitiveness cost cutting should be a way of life not a bitter pill.

This language also betrays a curious lack of urgency on the part of some of the U.S. producers, particularly in view of their claims over many years of the damage that they have sustained from imports. We simply fail to understand why this central aspect of the 201 process seems to be of such little importance to some of the stainless steel producers in this country.

Nevertheless, despite their lack of enthusiasm for adjustment measures, at least on the part of some producers, the industry as a whole has made substantial progress over the 15 months relief has been in place, generally in terms of raising productivity and lowering costs. You heard many allusions to that this morning so we won't make the same ones. But it is clear to us that overall today, right here, right now the industry is better able to compete with imports than it was before the relief began. And you will find many examples of this from a majority, a substantial majority of the reporting firms in confidential Appendix F to the prehearing staff report.

One of the most notable successes -- I just want to speak about two or three in a little detail -- one of the most notable successes was that of a wire producer, it is an APO, it's identity is APO information we believe, that was able to effect a dramatic turnabout in its bottom line by making one modest investment and several operational changes. And you can find this information at page F-41 of the prehearing staff report and on pages 13 and 29 of the prehearing brief from the domestic industry.

This success of this company, this success demonstrates two principles. First, that a positive adjustment does not necessarily require huge amounts of capital. And, secondly, that timely, I underscore timely changes can produce dramatic positive results even before home market demand has recovered. This company did not wait for better times, it acted and it's already profitable.

The Cartech experience is also instructive. As one of the largest producers of all three products under examination in this hearing Cartech's financial performance heavily influences the industry's overall numbers. It's interesting that in its most recent quarterly report, dated May 14, Cartech provided a number of indications of a company on the rebound.

Let me just cite a few items: net income for the quarter was $1.7 million compared to a loss of $10.5 million in the same period of the year before; gross margins were up 410 basis points to 15.3 percent versus only 11.2 percent only a year earlier. This improvement was attributed to a "cost reduction effort" that resulted in a lower cost structure and productivity improvement.

Specifically, selling and administrative expenses were reduced by 14 percent, almost $7 million. More than half the improvement was due to reduced employment costs. Overall the company eliminated 500 jobs, not in the quarter but over some period of time in the fiscal year.

Interest expense, as was mentioned this morning, interest expense was reduced by about 7 percent due to lower debt levels and also lower interest rates on floating rate debt.

And even the result for the second half of 2002 need to be interpreted in light of -- I'm talking about the financial results, need to be interpreted in light of the $27 million in special accounting charges for reductions in workforce, that was about 17.5 million, pension plan curtailment loss, about 6.7 million, and the write-down of certain assets of something less than $3 million. Most of these expenses were incurred in the July-September and October to December period of 2002.

So Cartech's experience, and remember it is the major producer in the industry, Cartech's experience served as an excellent illustration of our point that structural changes often entail upfront costs that once made can provide a stream of benefits well into the future. The crucial need is to act in a timely and decisive way, as it has done.

Overall the reporting firms have made a number of changes with a rather modest sum of money collectively. In that regard we think the Commission should pay particular attention to the reported capital expenditures of the industry. The BPI data is found in Stainless Table C-1, C-2 and C-3 of the prehearing staff report. The rather consistent trend in these numbers over the three year period and from one product to the next is striking.

Finally, it's truly impressive that the domestic industry witnesses managed to submit a prehearing brief that studiously avoids the single biggest change in the stainless bar and rod industries, the imminent entry of North American Stainless as a domestic producer. NAS, a subsidiary of Acerinox, a Spanish-based company, is completing a state-of-the-art, 100,000 net ton per year bar and rod facility in Ghent, Kentucky where it already produces 800,000 tons of raw stainless steel.

The question arose this morning How do we know that this is state-of-the-art? Let me suggest just two factual reasons why.

I think the Commission is well aware from many cases in the wire, all kinds of wire industries that coil size is of critical importance to people who process wire rod. The coil size coming out of the NAS mill will be 14 tons compared to 6 to 7 tons -- sorry, 3 to 7 tons from the rest of the American industry. So there is an enormous competitive advantage stemming from that fact.

NAS will also produce commercial grades in long runs, long production runs. They will not aim at niche products, they're going to aim at long production runs in dimensions from 5.5 millimeters to 16 millimeters. And while it was suggested to you this morning that this is going to displace Spanish imports, if you check the record I don't think you will find large quantities of Spanish imports. It is, however, aimed at imports. It is aimed at commercial quality imports from all sources. And the idea is to make competitive, U.S.-based product that will compete successfully with imports from wherever.

So, NAS's entry will change the competitive facts of life in the U.S. stainless bar and rod industries. Indeed, at this point the firms now in those businesses will have to compete with domestic competition rather than with imports.

So the stated strategy of waiting to make needed improvements until financial performance has improved, we would cite the prehearing brief of the domestic industry at page 21 where they make this statement, "as the economy improves the domestic industry's financial situation should increased to profit levels where it can make investments required to be able to compete with imports." And you heard echoes of that this morning. This idea that you wait to make needed improvements for us is very hard to understand.

First of all, the best time to raise funds would be while relief was at its maximum level. Why would you think it would be easier to raise funds in year two or year three of aggressive relief?

Secondly, domestic competitors are not standing still. They are moving on their own plans and getting results. North American Stainless is making a big bet in Kentucky.

Third, the U.S. industry is aware because it participates in the process of creating these forecasts, it is aware of the promising forecasts for stainless steel demand. Again to quote the International Stainless Steel Forum, they have put out a projection that shows that next year worldwide will be a record year for stainless steel production. And just to be sure what this means they encapsulate it just this way -- you can find this on their website -- they call 2002 a year of recovery. 2003 a year of transition. 2004 a good year, and as I say, a record year in terms of actual production. The strongest growth will be in Asia and in central and eastern Europe. There will be recovery expected in North America and western Europe.

So if record demand is expected as early as next year why not act now to lower costs, improve quality and adjust the product mix to the market? Why wait until the order book is fuller and physical changed to the facilities will actually hinder the mill's capability to make and deliver steel?

So in conclusion we would cite three sets of reasons why this relief should be terminated. First, global demand is rising and it is expected to reach record levels next year. This will open new opportunities for any competitive U.S. producer even if domestic demand recovers at a slower rate. They, the U.S. producers, are being presented with a golden opportunity to establish themselves as worthy competitors in a growing global market.

Second, the domestic industry has recovered substantial domestic market share and has been given a new chance to solidify relations with customers. Most of the domestic firms have already taken steps to improve the costs or quality of their product and to reposition themselves in the market. There is a considerable amount of new state-of-the-art capacity coming onstream to serve the domestic and world markets.

Third, in adjustment terms most members of this industry, these industries have set modest objectives and they have achieved them. Whether these steps are adequate needs to be judged by competition, both domestic and international, in the marketplace.

The U.S. stainless steel industry has had a fair opportunity to make the changes it deemed necessary. Further relief will only serve to sustain marginal producers to the detriment of the stronger firms within the industry. There is scant justification for continuing relief.

Thank you very much.

CHAIRMAN OKUN: Thank you.

MR. RYAN: Good afternoon. Madam Chairperson, Commissioners, staff, I am Chris Ryan from Shearman & Sterling on behalf of Arcelor.

Mr. Blum presented a general overview of the key issues involved in this midterm review. My comments are directed at the arguments raised by the domestic industry in their prehearing brief and as we heard this morning. As I read the domestic industry's brief and listened to them this morning I wa struck by the amount of agreement between their position and ours. Although much of this agreement involves APO data it centers around three basic facts.

First, imports have declined. Imports from subject countries have declined even more substantially.

Second, a number of companies within the domestic industry have taken positive steps to adjust to import competition by reducing costs, rationalizing employment and making selective capital expenditures designed to modernize their facilities.

Third, the industry is currently confronting a serious economic downturn in stainless steel consuming industries and a corresponding downturn in U.S. demand. Unfortunately, the domestic industry and we appear to have a philosophic disagreement about the fundamental purpose of Section 201 and the lawfulness of continuing the tariff in light of these three basic facts.

The domestic industry argues that Section 201 must be continued for three reasons.

First, as we heard this morning, demand in the stainless steel market is severely depressed. This depression is attributed greatly to the downturn in steel consuming industries. As a result, the domestic industry argues that continuation of relief is necessary to allow it to weather this downturn in the natural business cycle.

Second, imports from India have surged thereby causing additional pressure in the U.S. market. The domestic industry therefore argues that Section 201 relief must be continued to offset the negative impact that Indian imports are having on their bottom line.

Third, the tariffs set by the president were not sufficiently high to permit the industry to recover and were further weakened by the granting of product-specific exclusions. As such, the domestic industry argues that it will take substantially longer for it to benefit from these tariffs.

From our perspective none of these arguments provides a persuasive or lawful justification for continuation of Section 201 relief. The fundamental purpose of Section 201 is to permit the domestic industry to adjust to import competition. By providing temporary protection Section 201 is intended to reduce imports so that the domestic industry can modernize it factories and production, reduce costs and hone its competitive edge.

We heard throughout the testimony this morning that the industry has consistently viewed itself to be competitive, views itself to still be competitive and views itself that it will continue to be competitive within the foreseeable future.

Imports from subject countries have declined. In response the domestic industry has implemented a number of adjustment measures. Although, as Mr. Blum pointed out, the industry only begrudgingly seems to accept these adjustment measures as a sign of positive adjustment to import competition, the data shows that the industry as a whole has benefitted from them and it has strengthened its long-term competitiveness. All of this despite the downturn in the U.S. economy and in the steel consuming industries. Much of the benefit is APO information contained in the staff report and as such I don't go into it in my comments.

In its brief, however, the domestic industry downplays its competitive position and argues that the continuation of Section 201 relief is necessary to protect it from the full effect of the stagnant economy and decreased demand within the U.S. market. What the domestic industry seems to fail to grasp, however, is that Section 201 was never intended to protect it from the vagaries of the business cycle. The president clearly stated when implementing Section 201 that the relief was intended to permit the industry to adjust to import competition.

In its March 5 memorandum on Section 203 tariffs the president equally clearly stated that he will consider whether such adjustments had occurred and will consider the impact of removing tariffs on a continuation of adjustments and on steel consumers and the industry as a whole.

The clarify of his statement is not surprising. Given the severely distorted nature of Section 201 remedies, the statute requires a direct causal relationship between imports and any difficulties currently facing the domestic industry. The domestic industry's request that Section 201 relief be continued flaunts this requirement. No causal relationship exist between imports, subject countries and the domestic industries current difficulties. Imports are down. The growth of imports within the U.S. market has been stemmed. The problems facing the domestic industry are not related to such imports.

Rather, the industry is facing an array of problems related to the economic downturn in its consuming industry and, as Mr. Blum pointed out, to the impending presence of substantial additional capacity. Neither of these has anything of these to do with imports.

As we have heard, the domestic industry concedes that its problems have been caused by a slowing economy. Continuation of Section 201 relief will not reverse this downturn. Under the circumstances the continuation of Section 201 relief would not be in accordance with the statutory purpose or the presidential proclamation.

Equally significantly, the continuation of Section 201 relief will not alleviate the adverse conditions of competition that are created by the imminent introduction of new capacity by North American Steel. As you've shown in the staff report, domestic capacity has increased since April 2001 throughout the period of decreased demand. As Mr. Blum pointed out in his opening statement and as we heard throughout the testimony today, domestic capacity is about to increase substantially more when North American Steel finally brings its Ghent, Kentucky, long product facility on line. It is projected that this facility bring an additional 100,000 tons of stainless bar and rod capacity on line.

The domestic industry has probably recognized that the introduction of this capacity will make North American Steel the market leader in terms of price and product availability. It has also recognized the potentially significant supply and demand imbalance that North American Steel could create. But in 2002 at least the industry appears to have dismissed this risk because of projections that

U.S. demand would increase sufficiently in the near and long term to easily absorb this new capacity.

The industry's projections, however, have proven wrong. U.S. demand has not increased and at least in the near term is not projected to increase sufficiently to offset the impact of NAS's additional capacity. The domestic industry now appears to be asking for the continuation of Section 201 relief to compensate what has proven to be incorrect business judgment. Section 201 was never intended to apply in this manner.

The domestic industry further argues that the continuation of Section 201 relief is necessary to offset what it calls the surge of low price imports from India. As the Commission pointed out this morning, imports from non-subject countries have increased. It's questionable in terms of absolute numbers how much that increase has offset the decrease from imports of non-subject -- or subject countries.

As the domestic industry has stated, however, Section 201 relief has resulted in declining imports for covered sources during the past year while the absence of relief for Indian products has resulted in historical increases of stainless products from India. This argument is somewhat, appears somewhat inappropriate at this point. The domestic industry seems to be asking that producers from France, Italy, Germany and other historically responsible trading partners bear the cost of India's export practices by continuing Section 201 relief.

If the domestic industry is being injured by the surge of low priced imports as they claim there are alternative remedies. As they pointed out, the largest exporters appear to have escaped antidumping and countervailing duty measures that currently are in place against Indian imports. If there is sufficient information and sufficient support within the industry, it would seem that this oversight could be corrected by petitioning a new antidumping or countervailing duty investigation.

We also note that although Slater Steel has requested that the president bring India into the scope of Section 201, the reasons stated in the domestic industry's brief for why that request was rejected, assurances from the Indian government that they would exert export controls, seem to be hollow. There does not appear to be anything that would preclude the domestic industry from again requesting the administration to impose restrictive quotas on Indian imports under the guise of Section 201, thus eliminating their potentially injurious presence in the market.

Finally, the domestic industry argues that the effectiveness of Section 201 relief has been mitigated by the exclusion process. Indeed, they specifically cite an exclusion granted to my client Arcelor. Frankly, however, I'm not certain whether this is the forum to discuss exclusions. The administration established a fine procedure for evaluating whether to grant specific exclusion requests. Exclusions were granted only where the administration determined that the domestic industry did not make a product, a directly competitive product, or did not make it in sufficient quantities to supply the U.S. market. In other words, the administration evaluated the objections raised by the domestic industry to specific exclusions and rejected them where the evidence demonstrated an inability to produce that product.

The importation of these products by definition, therefore, cannot contribute to any problems currently facing the domestic industry as much as they are not directly competitive. The industry's argument therefore is without merit and its request that the exclusions be rescinded should be rejected outright.

That concludes my comments. Thank you for the opportunity to appear before you today.

CHAIRMAN OKUN: Thank you. Does that conclude the panel's comment then?

MR. BLUM: Yes, it does. Thank you.

CHAIRMAN OKUN: Okay. Thank you very much for being here this afternoon, for the written information you have provided and for the willingness to answer our questions. We very much appreciate it.

I'm going to begin the questions this afternoon. I think I am going to start with one that as I listened to your opening remarks and your testimony I think I'm going to pose because we've got a few of these 204s, not that many yet, but I'm just curious in terms of some of the things you're arguing about what the future is and what that means in the context of 201. As I read what the ITC's role is in this 204(a) procedure to monitor, it talks about monitoring developments expected in the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make positive adjustment to import competition, which to me just means what's happened from the day the president imposed the relief it to now, and that we do that.

And that the president in looking at that is supposed to -- or when it says, you know, what he looks at in terms of reducing, modifying or terminating, after taking into account the report he receives from us or the staff it says on the basis of 801 the domestic industry has not made adequate effort to make a positive adjustment to import competition or, 2, the effectiveness of your action taken under Section 203 has been impaired by changed economic circumstances and that changed circumstances warrants its reduction or termination. And a few other things.

But I guess my point is if I read your statement, you know, your first question is have they taken, you put it out in your question, have the U.S. producers taken steps to improve their long range competitiveness? First question. And then you answer yes. And to me that is part of what our monitoring is.

And then your second question, will continuation of such relief remedy existing problems that may hinder the industry's ability to continuation? And the answer no.

And I'm just trying to make sense of in the context of how we describe the monitoring of the industry how that fits in or how you envision it fitting into our report?

MR. BLUM: That's an interesting question that we've pondered a few times because the statute, the statute may have been written with other kinds of cases in mind. I don't know that we've ever seen a case in which the success of the adjustment effort was as important as in these 14 cases. These are 14 industries that have repeatedly over the course of 30 years or more sought assistance from the government in a variety of ways including repeated uses of the trade laws. So the stakes here are very high. And it may be that this is a case that wasn't exactly envisioned when the statute was drafted.

And we don't know, we're occupying -- we're operating in a vacuum. We don't understand exactly how the administration will evaluate these questions either. So our approach was to try to deal with the facts. And the facts are we think very clearly in most if not all of these industries there has been a substantial effort made and for the most part a successful effort made to do what can be done, to use a phrase that was said several times this morning.

How the White House will evaluate it, because I believe it's essentially their call, how they will evaluate the changed economic circumstances is something we don't know. So our hope was, our advice to the Commission was they should take a comprehensive view of the efforts of the industry and try to develop the fullest possible factual base for the eventual decision by the White House.

And really that's I think the only advice I can give you. The statute is a little bit unbalanced perhaps in the way it was drafted.

CHAIRMAN OKUN: Mr. Ryan, do you have anything you want to add?

MR. RYAN: Yes, just a brief follow-up to that.

CHAIRMAN OKUN: Pull your microphone a little closer, please.

MR. RYAN: Sure.

I think it's important particularly in this case and in this industry to note that a number, as you're monitoring the developments in the industry, a number of them are essentially forward looking. The introduction of NAS, for example, as Commissioner Miller pointed out earlier, that this is a significant occurrence in the domestic industry as we were consistently reminded by the domestic panel's today. Well, it hasn't happened yet. But the industry's ability to compete with this, to account for this occurrence within the industry I believe is an important measure of your monitoring program.

The second thing I'd like to point out is that the domestic industry's argument basically says we have done all that we can, please give us more time and maybe we can do more. As part of a monitoring program it's your task and the president will determine whether the industry has adjusted to import competition. In light of a claim that we may be able to do more it would seem essential to make some sort of judgment as to whether continuation of the relief would actually allow further adjustment to import competition that would increase their competitive stance within the industry.

Thank you.

CHAIRMAN OKUN: Okay. I appreciate those comments. And, you know, in looking back in what we have done in other 204s thus far it seems that we have made an effort to put it in the context of, you know, what demand forecasts are and other things going on in the industry. So I think we've struggled a little with it in terms of what the statute directs us to do and how the president evaluates that. But I appreciate those further comments.

On that though I guess I would go back to the demand question. And, Mr. Blum, you cited the ISSF, I believe it is, forecast going forward. And did you, is that submitted with your brief at this point. So many briefs in my office I can't remember what's submitted with what.

MR. BLUM: No, we discovered it too late for that.

CHAIRMAN OKUN: Okay. If you could submit that with your post-hearing brief that would be great.

MR. BLUM: Certainly will.

CHAIRMAN OKUN: And did you say is it broken down by bar, rod or is it an overall?

MR. BLUM: Well, unfortunately it is not.

CHAIRMAN OKUN: Okay. But is it all stainless --

MR. BLUM: Yes.

CHAIRMAN OKUN: -- or not? Long products or not necessarily?

MR. BLUM: No, it is all stainless.

CHAIRMAN OKUN: All stainless, okay.

MR. BLUM: We have searched for a more micro kind of a forecast and have not found it.

CHAIRMAN OKUN: Okay. Well, if you would submit what you have that would be appreciated.

And then, and maybe this is best put to Mr. -- well, to both of you really as observers of the industry which is during this period that we are looking at do you, you know, the demand as testified to and looking through here demand has increased, is that consistent with your view of the market and is North America behaving any differently than the international markets during this period?

MR. BLUM: Well, I don't have the kind of data I think that would be satisfying to you handy. I don't know that I've seen it either. But I think we could deduce from the fact that world steel stainless production is approaching now and next year will reach an all time high that there is strong demand in parts of the world.

We don't have it in this country. And this would have to be -- well, I think that it would be interesting to look at the impact of certain exchange rates on the American stainless steel using industries. I think that may be one place where you might find part of the answer. It's obvious that the U.S. is in the down part of a cycle whereas the rest of the world is not. We're not necessarily, in Europe we're not necessarily at the high end of the cycle either but in Asia there is some very strong demand.

CHAIRMAN OKUN: Mr. Ryan? No?

Okay, if we turn to your arguments regarding capacity for a moment. One of the interesting points that I thought Petitioners made in response to your argument when asked this morning was that, you know, you look at capacity and it increases a specific percentage, but that the most relevant point of that is that shipments are not, you know, it's really how much is really out there on the market as opposed to what their capacity is and therefore that's not what is affecting prices staying down. And I wonder if you could respond to that argument given the context of how you've argued it?

MR. RYAN: Yes. And I think there's two points. The first is that it's interesting that the increase in capacity occurred at a time of increasing demand when production was also going down. And the necessary result is that as capacity increases you need to increase your capacity utilization rates to become profitable. You need to -- there is additional pressure to fill order books to fill this capacity to reach these capacity utilization rates. All of which creates additional incentive to reduce prices, particularly in a period of demand where the consumers have the advantage in terms of price, all of which lead to increased downward pressure on U.S. price, decreased profitability and increased problems resulting from just the mere introduction of the capacity.

CHAIRMAN OKUN: Okay. My light's on. Mr. Blum, did you have anything you wanted to add on that point?

MR. BLUM: Just quickly, I think that one basis issue is what is your market? Again, if you look at the North American market as your market when demand is down, demand is down. That's the whole story.

If, as is typical of the larger European producers, you consider the entire world to be your market and you produce in more than one country then you're not, you know, completely the prisoner of demand conditions in your market. There is a fundamentally different approach to this question in this part of the world from the rest of it.

CHAIRMAN OKUN: Okay. Appreciate those comments.

Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Thank you. I would join the Chairman in welcoming you. We appreciate both the prehearing brief and the information in it as well as your willingness to appear here today.

I guess if I could start, Mr. Blum, with you on sort of the conclusion of your testimony that, you know, one of the reasons why you're arguing that we should terminate or should recommend termination of relief -- I will leave aside the issues that the Chairman was getting at that at this point we are simply reporting on the monitoring, we're not recommending anything -- but leave that aside, I mean your argument focusing on this issue of the domestic industry has recovered substantial domestic market share.

And part of me says I can even quibble with those numbers. I mean I'm looking at numbers suggesting that at least in some of these products the domestic industry didn't in fact recover any market share, in fact, tended to lose share. But even if I accept the fact that there was at least in one of the products a modest gain in domestic market share I'm trying to understand whether that's the relevant test here.

I mean I'm looking at a situation in which shipments are actually down. So I'm trying to get a sense of how relevant that is as an assessment of, you know, the effect of the 201 relief and whether it has provided this kind of adjustment period or this breathing room that is often described as part of the process for the industry to recover. If in fact shipments are down and prices are down does it matter that market share, you know, might be at least for one of these products up a little bit?

MR. BLUM: Okay, what I would direct your attention to is the second phrase of my sentence which is they have been given a chance to, I think I said, solidify relations with customers. We have --

VICE CHAIRMAN HILLMAN: I'm trying to understand that. If shipments are down --

MR. BLUM: Yeah.

VICE CHAIRMAN HILLMAN: -- you're actually selling less.

MR. BLUM: Right.

VICE CHAIRMAN HILLMAN: I mean have they been able to really get new customers or solidify relationships if the chips are down?

MR. BLUM: Here's my point. Yeah, I understand but here's my point. Nobody can guarantee demand. They're dealing with low demand at the bottom of the cycle in this country, okay. What has happened is quite clear is that European and other established imports have been pushed out of the U.S. market to a substantial degree. They have had a chance to develop relations with those customers, yes.

VICE CHAIRMAN HILLMAN: Well, okay.

MR. BLUM: I mean we can't make demand go up, Commissioner. I think that's the problem. But we certainly know what we have lost, and we have lost a considerable amount. And the U.S. industry has had the chance to develop customer relations with our former or our present but reduced customers. That is an important opportunity for them. If they do it right they will keep customers for a longer time.

VICE CHAIRMAN HILLMAN: Well, all right. Then go to this issue of demand. Obviously your testimony you described it, you know, refers to more, you know, worldwide demand. But from your companies' perspective what are they looking at in terms of their projections for demand just in the U.S. market. I mean do you have a sense of what their expectations are, you know, kind of with relief still in place or in the absence of relief? I mean what are they saying their projections are in terms of demand for bar, rod or wire?

MR. RYAN: We have the data from the questionnaire responses which is based on the assumption that relief. I know my client Arcelor has spoken publicly and its projected, does not think that demand is going to increase in the United States sufficiently over the next two years to warrant substantial imports into the United States. And that is almost regardless of whether duties are in place because the presence of relief doesn't drive demand. The demand problem is a function of the economic downturn in the consuming industries which is unrelated to the presence of relief.

VICE CHAIRMAN HILLMAN: How about on the price side do you have a sense? Again we've heard a lot of testimony this morning about what prices have done. Again I'm curious from, again, from the European company perspective do they have a sense of what prices are likely to do in the U.S. market?

MR. BLUM: Yeah, I think the truthful answer is if they have it we don't know. We certainly could ask them about that.

The practical, the practical matter is for the immediate future that the swing in the value of the euro has certainly diminished the attractiveness of the U.S. market for most Europeans. I mean you'd have to have some pretty extraordinary advantages to be able to sell over the penalty imposed now by the euro. It has moderated considerably in the last couple of weeks. There is no telling where it will be in three months, six months or two years.

That's again just going back to my previous answer to the Chairman, that's another reason why it's so important to consider the larger market because these matters can't be predicted. If you build your business model based on assumptions about where prices will be you are bound to be in trouble sooner or later because they are inherently unpredictable.

VICE CHAIRMAN HILLMAN: And would you say currently where they are in terms of Europe versus the U.S. market versus say the Asian market, I mean is there much of a price difference for these products between those markets?

MR. BLUM: Commissioner, I don't have any systematic data on that. I have seen some data on certain bar products from earlier this year where there was a very substantial different in the cost. I think it was 304 cold finished bar, about a $900 per ton price difference between the U.S. being on the high side and Europe being on the lower. But that was before the currency movement first of all.

Secondly, in all of these cases it's very difficult to know what price quote is comparable with another. There are all kinds of ideas around in the market but the actual transaction prices are sometimes very hard to establish.

So I don't know that we would be able to get you very clear information on that point.

VICE CHAIRMAN HILLMAN: Okay. Now, obviously we heard, you know, staying on this issue to kind of understand the prices, we heard a lot of testimony from the industry about the decline in prices that, you know, there is no question we see in our data they're obviously attributing at least some of that price decline to non-covered imports and particularly the Indian imports. Obviously to the extent the Europeans are still in the market, I mean I recognize your point that imports are smaller but they're still in the market, how would you describe sort of the price relationship of the Indian product versus the European product in the market and who do you think is leading prices? Why are prices going so low?

MR. BLUM: Well, I'm certain the Europeans are not leading the prices or they would be higher.

VICE CHAIRMAN HILLMAN: Yeah.

MR. BLUM: I think one of the difficulties is when you're in -- I think it depends where you are in the cycle. When you are in the down part of the cycle I think the market is very susceptible to downward pressure. In this case I don't doubt the information that's been presented that the Indians are being extremely aggressive price-wise. And certainly the mechanism I think Mr. Pendleton spoke of by which those price quotes are transmitted through the markets, this is something we've seen for decades. I think it frequently works that way. And I think especially when people are desperately, more desperately looking for business in the bottom part of the cycle I think that's much more likely to happen.

It could also happen though, and in another part of this proceeding I think we're going to see a totally different situation in which it was domestic price aggression actually that led to reduction of prices. It all depends on the market situation. I don't doubt though the description that was given by the Petitioners, by the domestic industry this morning.

VICE CHAIRMAN HILLMAN: Well, just one quick further on that. We obviously hear this argument all the time on the carbon side. I didn't know whether stainless tends to be distributed perhaps differently than a lot of the carbon products. And you obviously have a lot more relationships between, again, the U.S.

producers and some of the European producers. Would you say that's equally true though in the U.S. market that, you know, again one price coming in any one place, any one outlet does translate into price declines throughout the market? You're saying you agree that happens in stainless in the same way it typically does in carbon?

I mean I kind of figured that would be a little bit different on the stainless side than they are on the carbon side.

MR. BLUM: I'm sorry, I'm not sure that I can make a really firm judgment on that. There are differences. There are certainly a lot fewer players in the stainless market, both buyers and sellers. And there are fewer exporters active in the market as well. So it's a smaller market. But the lead times are also much longer. I mean I think structurally it's a different kind of market.

But I think the problem is when you get into periods of low demand when there is substantial excess capacity in the domestic industry price discounting is going to be very hard to avoid. I think that's just part of the nature of things.

VICE CHAIRMAN HILLMAN: Okay, I appreciate those answers. Thank you.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: Thank you, Madam Chairman. And thank you to Mr. Blum and Mr. Ryan for being willing to be here and participate in this proceeding.

Let me go first to ask you a question about something in your direct testimony that I want to make sure I understand because I sort of heard conflicting things from you about your view on whether the domestic industry has adjustment. On the one hand, Mr. Ryan, in your three points you listed as saying the companies have taken steps to adjust. And, Mr. Blum, you've recognized that.

At the same time in your testimony you characterize it as sort of a lack of enthusiasm and you sort of do a count of companies. Now, to me there is a conflict between those two statements. And maybe first I will just ask you to reconcile the conflict if you can.

MR. BLUM: I'll do my best.

I think again the issue goes to the industry's performance and the individual company's performance. Obviously a company like North American Stainless has no lack of enthusiasm for making an investment in the United States and making a big one now. They're not waiting for conditions to improve.

I think Carpenter has done a number of things over the last year to two years without waiting for conditions to improve in order so they will be able to take advantage of that.

There are other examples as well which I guess I shouldn't name the companies but they are adequately documented in the prehearing staff report.

There are others, honestly I think you could find them just by going through the material you have, that have not found a real solution for themselves. And some of them did not even -- our point about the lack of enthusiasm was that they did not even bother to submit a plan.

That may be quite a normal thing. I mean what you're charged to look at is the efforts of the industry not each individual company. You don't have to have a checklist and say, okay, there are 21 and this relief can be taken off when the 21st company has met its objectives. I think that would be a mistake. That would be actually, in our argument that would be detrimental to the competitiveness of the industry as a whole.

I think part of the problem I think depends upon whether you're looking at it from the top down as a whole industry or are you looking at a micro level at each individual producer.

COMMISSIONER MILLER: Okay. When I looked at your, you know, the table and just the numbers about -- I think actually comments just now reflected this in some way that some of the companies that didn't submit adjustment plans may have been the smallest players or players that weren't supportive of 201 relief in the first place. And so I sort of questioned looking at the count so to speak.

You might try to do the same thing for us on a trade weighted basis for example, the size of the producers and whether most of the industry on a size basis has in fact both submitted adjustment plans and taken steps to adjust. And how would you characterize it if you looked at it on that basis?

MR. BLUM: Off the top of my head I think you would find, you would find a more impressive record, yes. I think it's not exactly correlated but I think that you would that if you took, if you weighted it by production I think you would in fact, particularly if you would include let's way North American Stainless, I think you would find that in fact the stronger companies are getting stronger.

COMMISSIONER MILLER: Well, I asked these questions about your characterization of adjustment efforts frankly because as I read our statutory obligations here that's first and foremost. I think some of the comments and questions of the Chairman that were put to you about what we're supposed to be looking at are appropriate.

And your comment about the statutory provision that the president implements, not us, because all we do is monitor and present the most complete information that we can about the condition of the domestic industry, leaving aside your comment about the statute being unbalanced I would say even, Mr. Blum, in all honesty to think that the Congress wasn't aware that steel might have recourse to the Section 201 in 1988 kind of is hard to reconcile with the history of the 14-year trade policy history that you cited yourself.

So, you know, when I look at the statutory construction and, Mr. Ryan, constantly in your comments you were talking about -- the assumption here is that the relief continues for three of the years and one day unless the president makes a determination that certain conditions are met -- and you characterized it as, well, they're asking for more relief at this point in time. And so where we are is in some way a point where the relief stops and they're asking for more. This is a midterm report. They have three years and a day unless the president makes a determination that they haven't been taking adequate steps to adjust or that there have been -- that the effectiveness of the action has been impaired by changed economic circumstances.

So that's the president's decision not ours but we do have to present the information to the president that allows him to make that determination. So that's the argument that I've heard, frankly. Other than that that speaks to the adjustment efforts it has not been clear to me how it's on point to what the president is facing in terms of a decision.

COMMISSIONER MILLER: Anyway. One other question. That doesn't ask for a response because there's no response to be given, but one other question I would ask you because I think it is appropriate in the context of the statutory provisions, Mr. Lasoff cited some language from the Senate Finance Committee report regarding economic conditions. I'm sure you heard him earlier and you've read the report language yourself.

How do you square that language with the arguments that you've made today?

MR. BLUM: Well, Commissioner, if you would permit me this, since you said that your last point didn't have a response, we would like to take a whack at that.

COMMISSIONER MILLER: You're welcome to.

MR. BLUM: We'd like to take a whack at that very carefully in a post-hearing brief, if you don't mind.

COMMISSIONER MILLER: Okay. All right.

MR. BLUM: Thank you.

COMMISSIONER MILLER: At both the question regarding the Finance Committee report language -- okay. All right.

I believe I have no further questions for you. Thank you very much.

COMMISSIONER OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman. I don't know whether I'm going to succeed at this, but I'm going to try. I think you have, in your opening question, your opening round, touched on the key question that's before us right now when you went to the statute, so let me pick up on that if I could and walk through and see how we come out on this.

In your brief, at pages 5 and 6, you place great emphasis on what you term this dramatic decrease in demand since March of 2002 for stainless steel, bar rod and wire. And you mention that the vast majority of stainless steel producers attribute that decrease to the general slowing of the U.S. economy over this period as well as a weakening in the major consuming sectors, oil and gas, power generation, aerospace, automotive construction and petrochemical and capital goods and a softened global market as well.

It appears to me that these, and I quote, "vagaries in the business cycle," to borrow your phrase, and I'm referring to Arcelor's brief, Mr. Ryan, slowed down the domestics' ability to stay on schedule with their various adjustment plans.

I don't understand why that should be a basis to penalize the domestic industry by cutting short the period of relief originally granted. While the period of relief is going on, the remedy is being phased down, so it's not where it was when it started and it will continue to be phased down.

And I note that in your brief and in your testimony today you acknowledge that domestic companies are taking various steps necessary to reduce costs and improve efficiency and then I look at the statute, at 204(b)(1)(a)(ii) that talks about the

President looks to see whether (i) the domestic industry has not made adequate efforts to make a positive adjustment to import competition and I think you acknowledge that that's not a condition that's satisfied here. In other words, they are making, under the circumstances, what would amount to adequate efforts.

But then we turn to (ii), the question of effectiveness of the action, whether that's been impaired by changed economic circumstances and what does that mean?

I look at the presidential proclamation of March 5th and the accompanying memorandum and I also look at Subsection C that deals with possible extension of action by the President. And when you take all of that together, I think, as I read it, you're looking to see is the domestic industry making -- to me, it amounts to is the domestic industry doing basically what they should be doing during this period of time to accomplish what they said they were going to do in their adjustment plans or not. And if they're not at the stage that they had expected to be, what's the reason for it.

And what you've said is the reason is one that's basically beyond their control and it's what's happened as a matter of worldwide conditions and a decrease in demand.

I don't get a sense that something like that that is beyond their control is a basis for you coming in to argue to terminate the relief. And what I would appreciate is if for purposes of the post-hearing you could walk through the statute, the proclamation, the President's memorandum and the arguments you've made and give us a detailed briefing on that question.

And I'd appreciate getting the same thing from the domestics post-hearing as well.

We can go back and forth on the interpretation of this here, but I think at least for my purpose it would be better served if it could be briefed and I don't think we have it in that fashion at this time.

MR. RYAN: Certainly. Absolutely.

COMMISSIONER KOPLAN: Thank you, Mr. Ryan.

Mr. Blum, could you acknowledge to doing that as well?

MR. BLUM: Yes, certainly. Of course. We made one attempt in our general brief to do that, but we'll try again.

COMMISSIONER KOPLAN: I'd like you to tie it -- right now, we're talking about stainless. Your brief is more of a big picture.

MR. BLUM: Right. We ambitiously tried to deal with 14 at once.

COMMISSIONER KOPLAN: Right. But right now, what I have to look at is stainless.

MR. BLUM: Right. Right.

COMMISSIONER KOPLAN: And then we're looking at these in various stages and this is the first piece of the puzzle.

MR. BLUM: Yes, sir.

COMMISSIONER KOPLAN: And I don't get that from your brief.

MR. BLUM: Okay. Fair enough.

COMMISSIONER KOPLAN: Thank you.

Let me ask you this. I assume you would agree that during the period we're examining there's been worldwide over capacity of stainless steel products which is why U.S. exports, as you've pointed out, have rained flat. I remember that one point the administration urged our global trading partners to address this problem by doing the very things that the domestic industry is attempting to do through implementation of their adjustment plans.

I am particularly glad that you are here today, Mr. Ryan, because I note that on February 18, 2002, Arcelor was created by a merger of three European groups: Spain's Aceralia, Luxembourg-based Arbed, and France's Usinor, to create a global leader with the stated ambition of becoming the major player in the steel industry, according to your website.

What steps has your client taken to undertake to reduce costs, increase efficiencies, eliminate older production facilities and reduce over capacity to deal with the fact that global demand is at best flat?

And I'd let to get as much from you now as I can in the public forum and have you fill in with that post-hearing for me, if you would.

MR. RYAN: Commissioner, just to note, Exhibit 1 of the joint brief, of the European general brief, lays out the adjustment plans that have been taken by a number of European companies including Arcelor on a global basis to improve efficiency, reduce capacity and to actually accomplish the stated goal.

COMMISSIONER KOPLAN: With regard to stainless?

MR. RYAN: It's globally. In terms of all products.

COMMISSIONER KOPLAN: But I have to look at each phase of this separately, so what I'm referring to -- this is not an overview hearing for me, it's strictly for stainless. So for my purposes here, I'd like it for stainless.

MR. RYAN: I understand. Frankly, I don't have the data that would satisfy you to give to you here, but we'd be happy to provide you with the details.

COMMISSIONER KOPLAN: But you understand why I feel I have a need for it?

MR. RYAN: Yes. Yes, sir.

COMMISSIONER KOPLAN: Thank you.

Mr. Blum, do you want say something?

MR. BLUM: Yes. There are some cases in Europe that are addressing just what you look for. We will respond with respect to the other companies.

COMMISSIONER KOPLAN: I appreciate that very much.

I'm going to wait for the next round with my additional question. Thank you very much.

Thank you, Madam Chairman.

COMMISSIONER OKUN: Thank you.

I wanted to go back to a couple of pricing questions, if I could, or at least one, and that is -- and maybe, Mr. Ryan, start with you, which is I'm just curious whether when the President imposed relief whether your company, Arcelor that you represent, or the other companies, Mr. Blum, that you represent, anticipated that there would be a price increase at that point? I mean, did they have any internal forecasts that would have said the imposition of relief is likely to raise prices in the U.S. market?

MR. RYAN: During the original investigation, there were studies conducted about the anticipated impact of price relief, a price based on relief, and they were basically across the board depending on the level of relief that was put into place.

One example that comes to mind, unfortunately, it's an example that relates to the 40 or 30 percent tariffs, the competing tariffs that were thrown around that everybody asked for, is that even with the imposition of a 40 percent tariff there was an expectation that there may be a 5 to 7 percent price increase resulting from that tariff. So, yes, there was an expectation that there would be at least a minimum price increase following the imposition.

COMMISSIONER OKUN: And then what's your view of what happened? Why didn't prices increase? I mean, other than -- I'm just curious what the companies thought. I mean, obviously, the models were predicting different things across the board for the different industries. Since I recommended quotas, I wasn't buying those anyway, but that's beside the point.

I'm just curious whether -- you talked about the worldwide demand and that the U.S. has been in a different place than other ones, I wonder if there is something else that happened out there that affected the U.S. market that hadn't been anticipated. That, I guess, is my question.

MR. RYAN: Well, I think it wasn't -- the serious downturn in demand that has occurred since then wasn't anticipated and the absolute impact that that downturn has had on price just is basic economic principles, particularly serious, as we said and the domestic industry said in the stainless case because stainless long are capital goods and it takes longer for prices to recover.

I don't think the downturn in the consuming industries can be overstated in terms of its impact on prices, combined with, as we said earlier, increases in capacity within the industry here have created additional pressure to fill order books and there is no escaping the impact of India.

COMMISSIONER OKUN: Okay. I couldn't remember if you had a chance to comment on Mr. Blum's comments regarding India. Okay. I appreciate those further comments with regard to price and what went on.

I guess the only other question that I had, you had talked about the appropriateness of looking at either the impact of India or exclusions as part of the monitoring reports and the only thing I was going to raise was I know that former Commissioner Bragg in wheat gluten report had written separate views noting that she thought that the relief was being undermined, certain conditions during that time were undermining the effectiveness of the relief.

And I assume, although the petitioners have not cited that directly, that that in fact is their approach here, which is if a commissioner, since it's not really what our monitoring report says, although you're not prevented from doing additional views, were to say the presence of India in this quantity and at the prices here are effectively undermining the ability of the commission, that that would be the way this argument is presented, and I wondered if you had any further comments with respect to either India or exclusions with that in mind.

MR. RYAN: My comments are really directed at what the domestic industry has asked and they've asked that basically the product specific exclusions be removed. And I don't think that that is something the commission is in a position to judge. And I don't think even in terms of whether it's an economic condition, the presence of exclusions and economic conditions affecting adjustment, I don't think a judgment as to whether they should be removed for would fall into that assessment. But the commission obviously has the right and the ability to take note of India and exclusions and make an assessment.

COMMISSIONER OKUN: Okay.

Mr. Blum, anything further on that point?

MR. BLUM: I don't think so at this point. Thank you.

COMMISSIONER OKUN: Okay. I have no further questions. I very much appreciate all the answers you've given and the additional information we'll see post-hearing.

Vice Chairman Hillman?

COMMISSIONER HILLMAN: Thank you.

I guess just a couple of follow-ups on the issue of North American stainless, the NAS additional production.

Mr. Blum, you focused heavily on this and I wondered, just to make sure we have as much facts on the record as we can about it, do you know again, the timing -- you stated in your testimony state-of-the-art 100,000 metric tons per year rod and bar. Do you have a sense of when they're likely to be able to achieve 100,000 tons? I mean, obviously it takes some time to ramp up. I'm just wondering if you can give us any details on, again, the timing, the tonnage and the products in terms of when are we likely to expect commercial quantities of each of the products and timing, et cetera.

MR. BLUM: Yes, ma'am. We understand that in fact shipments have begun, they are in the process of ramping up, as you rightly put it. Production at the full commissioning of the facility will not take place for some more months, but it is expected in the course of this year.

COMMISSIONER HILLMAN: Okay. And at that point, you're saying before the end of the year you would expect them to be able to produce 100,000 tons?

MR. BLUM: That is my understanding, but we will check that for you.

COMMISSIONER HILLMAN: Again, just so our record is complete. Obviously, I understand the nature of the argument and what 100,000 tons means in this market, but if there are any details in terms of getting product mix, timing, tonnage, those kind of things that are available to be put on the record. Obviously, we have some just public reports, they're more like newspaper article type things, but if there is anything further that you could add to that, I think that would be extremely helpful.

I think with that, I have no further questions.

Thank you.

COMMISSIONER OKUN: Commissioner Miller?

COMMISSIONER MILLER: I have no further questions. Thank you very much.

COMMISSIONER OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Just a couple of short matters.

First, Mr. Blum, your testimony about what's been happening with imports since the relief has gone into effect doesn't comport with a table that Mr. Blot introduced this morning and I'm referring to the one that's entitled "Stainless Long Products Import Penetration Shot B-2." So I would just ask you if you could look at that and either respond now or post-hearing, because that chart shows that the level of imports has been basically pretty much the same.

And then I'd like to ask you this in conjunction with that. When is it best for the domestic industry to try and raise funds?

I think you indicated why not now when relief is in place and that's with the assumption that the imports have been on a substantial decline since the relief went into effect, but we heard this morning from Slater that they can't borrow money due to their low sales and who is going to lend money when demand is down and prices are low?

So I'm interested in your response to that.

MR. BLUM: Well, I think this is really an essential issue here that we've been dancing around a little bit all afternoon.

As we tried to say, this is a very competitive process. The adjustment process is not a process where everybody is guaranteed success. If you add up all those firms that indicated in one way or another in an adjustment plan to anybody what they wished to do, if you added them all up, you would probably find that it would be quite literally impossible. I mean, U.S. Steel wished to buy National Steel and A.K. wished to buy National Steel and only one could. If they both said this is essential to our plan, well, then, one of them failed, all right?

And I think that in the nature of this companies are competing with one another and when you've got substantial excess capacity as you have now, and when you have new state-of-the-art capacity being added to the industry, that means that for some people it's going to be very hard. I make no judgment specifically about Slater or anybody else at this point, but it is competitive business. So some people are clearly able to go out and raise money and build even green field facilities. Many of them are doing brown field renovations that will have a substantial impact.

The one wire producer that we cited was able to raise a million dollars, which doesn't sound like a lot for a wire producer, it might be, to make a dramatic impact. They didn't wait. I honestly cannot understand why someone would wish to wait until the relief program was, let's say, coming around the bend on the return lap to wait to do this. I mean, you should have done this right away. Because, again, it is intensely competitive. The first one to get it right wins. The ones who hang behind and wait could well lose. So I don't understand why anybody would wish to delay.

And if you are losing money now, then you need to make changes now. You can't wait for that.

COMMISSIONER KOPLAN: Well, I didn't get a sense that they wished to delay. I got the sense that they weren't able.

MR. BLUM: Well, but my point is if you're not able that may be the market's judgment on you.

COMMISSIONER KOPLAN: Okay. Well, I appreciate your response.

MR. BLUM: And if I may just elaborate one more thing?

COMMISSIONER KOPLAN: Sure.

MR. BLUM: One reason we feel so passionately about this is because in Europe, as we testified in the original phase of this hearing, a key part of the success of the rebirth of the European industry in the early '90s was the closure of capacity on a massive scale.

We didn't try to maintain it, we didn't try to get another year out of it, we didn't try to just, you know, nurse it along for a few more years. The stuff that didn't work was brutally closed down. And that allowed, then, the money to go to the most productive use. And that is a very hard process, lots of human lives are affected by this, entire communities are affected by this, but if you wish to be successful competing globally, that's what you have to do.

COMMISSIONER KOPLAN: Thank you.

Mr. Ryan, if I could close by asking you this, I referred to this this morning, it's on page 11 of your brief, that China has now surpassed the U.S. as the largest consumer of stainless steel in the world and many are predicting that Chinese import quotas on stainless steel will either remain unchanged or even increase due to the high cost of producing this material.

You go on to say the sheer number of antidumping duty orders combined with the availability of such a vast market as China and the weakened dollar reduces the global incentive to shift imports to the U.S. even in the absence of the 201 relief.

My question is how have your export shipments to the U.S. been affected since the 201 relief was granted? Since China is considered by you to be the largest consumer of stainless products in the world, how has China's growth affected your sales?

MR. RYAN: Commissioner, frankly, I'm not certain whether the specific numbers from our company, and I believe they would be APO --

COMMISSIONER KOPLAN: That's fine. Can you respond post-hearing?

MR. RYAN: Absolutely. I just didn't want to not respond here and explain why. I would be reluctant to give those numbers here, but we'll certainly respond post-hearing with a detailed analysis.

COMMISSIONER KOPLAN: I note when you do that, there was a June 23rd article in the Wall Street Journal that states in part that Arcelor was studying a joint venture in China with Nippon Steel that would involve investments of $800 million. Could you include some comments on that in your submission as well?

MR. RYAN: Yes, sir.

COMMISSIONER KOPLAN: Thank you. Thank you very much for your answers.

I have nothing further, Madam Chairman.

COMMISSIONER OKUN: Vice Chairman Hillman?

COMMISSIONER HILLMAN: Actually, your comment, Mr. Blum, to Commissioner Koplan just reminded me that I wanted to ask you for your sense, we heard a little bit of it touched on earlier, of what you think the likely outcome from the OECD talks is going to be on either the issue of restraints on subsidies to the steel industry or on capacity reductions.

Are we likely to see an OECD agreement on either of those two fronts?

MR. BLUM: I hate to speculate, but you're asking me to. If it were left up to the specialty steel industry of North America and Eurofer, this would have been done years ago. Mr. Hartquist alluded to that at the beginning. We have always agreed that this is an essential improvement in the world trading system. The steel industry is badly --

COMMISSIONER HILLMAN: Would you say that on both fronts, on both subsidies, elimination of subsidies and on capacity reduction?

MR. BLUM: And I want to get to the connection. Right.

COMMISSIONER HILLMAN: Okay.

MR. BLUM: Actually, our historical agreement is about the need for subsidy discipline and that is an area in which we feel commonly that the old GATT, we started these discussions a long time ago, the old GATT rules and the new WTO rules are really not effective in a sector like steel and eliminating the subsidies is the key to eliminating the excess capacity. I make one assumption and that is that the intermediate step happens as it did in Europe. Once the subsidies are eliminated as a matter of law, the government wants to get out of the business, privatization almost automatically happens.

Once you have gotten to that point, you can have normal competition among all players and once you've done that, then capacity closures should be driven by the bottom line. That's what we all want. We want competitive -- I think there's one thing that I'm sure the domestic industry would agree with us, we want the competitive producers, whoever they are, wherever they are, to be able to prosper and grow. And part of that is going to mean the elimination of the uneconomic capacity and I think our record shows, even if it's not specific to specialty steel, but in general our record shows that in Europe the closures now reach anything that's suboptimal, it's not just uneconomic. If we don't make enough money, we want to close it, rather than just whether we lose money. There's a different test now.

To get to that, though, we really have to have some way to deal with the global problem. That would be through this agreement.

We have supported this for a long time steadfastly, as has the SSINA. I think based on what

I've learned, there was just recently -- this last week, there was a worldwide tour by some OECD and U.S. Government officials. The reports we've gotten back from them are, I would say, at least modestly encouraging. There is going to be a fundamental issue, though, and it involves some of the same people we've been talking about today, China and India and others, who at least some of them have clear rights as developing countries, that they wish to preserve. It may be a point of honor, it may be a kind of legalistic or diplomatic point rather than a commercially valid one, that's part of the argument we're having with them. We're trying to convince them that they would in fact be better off in a world that operated this way, too.

I've spent my entire career trying to find a way to make this happen and after 26 years, I can tell you I don't have a great record of success, but it's vitally important and I think that's one reason why we're wrestling with these issues right here and right now. And it's very difficult, I think, to try to solve any of these things on a national basis. The issue is a global problem. And so I would think that until we can have some success globally, we're just going to see repeated instances of cases like the present one.

So I am hopeful that it will happen, I wouldn't dare predict that it will.

COMMISSIONER HILLMAN: Okay. You're speaking largely -- I understand the linkage you're making between subsidies and capacity, but in theory the OECD talks started on two tracks.

MR. BLUM: Yes.

COMMISSIONER HILLMAN: One dealing with subsidies and one sort of separately dealing with an agreement on capacity.

MR. BLUM: Yes.

COMMISSIONER HILLMAN: You are, I would say, expressing cautious optimism that something could happen on the subsidy side. How about on the direct capacity side?

MR. BLUM: I have to be a little bit -- how can I say this -- a certain degree of reserve, I think, is in order when it comes to the capacity closing exercise. The United States Government, for example, is not in a position to give any assurance to any trading partner that one single ton of capacity will close in this country. We cannot direct it.

The fact is most of the participants are in the same position. They can't really make these commitments. We call them commitments, but they're not really commitments. They're company commitments. If you look at that, and, again, I don't have anything that's specific to stainless steel, but if you look at that, the commitments on the table are well over 100,000 tons over some period of time.

Will they all happen?

Probably not because things change.

Will a substantial amount happen?

I think yes. Certainly, we know in Europe, as I think you will find in Exhibits 1, 2 and 3 to the Eurofer brief, we tried to give you some very specific examples of what Europeans are doing now and into the future. We're planning closure of millions of tons of capacity that don't work. It doesn't always happen that way around the world and one reason that it doesn't is because particularly poorer countries don't have the means to do what was done in Europe. I mean, Europeans were able to buy social peace by putting a fair amount of public money into the transition of workers and communities.

The government of Ukraine, just to pick an example, doesn't have those resources, so that kind of transition for them is impossible. And that is a practical problem I think that we run into in the capacity closing, is that since the reach of market forces in a lot of places in the world is limited and since the means of government to deal with the social consequences is even more limited, a lot of closures that are dictated by the market just don't happen.

As we know, a little subsidy will take you a long way. You can buy another five years for mills with just a little more money and that, in many cases, is just a lot cheaper than trying to close down.

COMMISSIONER HILLMAN: Thank you. I appreciate that answer.

Thank you.

COMMISSIONER OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman.

This is not a new question, I'm going to back to an old question. I hope I don't prompt anything.

I need to come back to my last round because I don't think you answered this question. Do you disagree with Chart B-2 that Mr. Blot submitted that reflects import penetration during the period we're examining? Do you disagree with the import levels reflected on that chart? That can be a simple yes or no.

MR. BLUM: Well, actually, I'd like to give you a simple yes or no, but the truth is I've never done the analysis on the basis that this chart purports to, I don't doubt that it does. This is non-NAFTA countries, so I would have to look at those numbers and look at the other numbers in comparison. And if I've made a mistake, I will certainly apologize and note it for you.

COMMISSIONER KOPLAN: Okay.

MR. BLUM: But I've never looked at the numbers this way.

COMMISSIONER KOPLAN: Okay. And you can see reflected on the chart what the sources of those graphs are, right? 2000 bar data from commission questionnaire, all imports from DOC statistics, all other data AISI and Consultants Market File.

MR. BLUM: Yes.

COMMISSIONER KOPLAN: Okay?

MR. BLUM: Yes.

COMMISSIONER KOPLAN: Thank you. So I'll get that post-hearing?

MR. BLUM: Yes, sir.

COMMISSIONER KOPLAN: I have nothing else.

COMMISSIONER OKUN: All right. If Commissioner Koplan has no further questions, I'll turn to staff to see if staff has any questions for this panel.

MS. NOREEN: Bonnie Noreen with the Office of Investigations. Staff has no questions.

COMMISSIONER OKUN: Let me ask counsel for the domestic producers whether they have questions for this panel.

Mr. Hartquist says he has no questions.

All right. Thank you very much.

I want to thank you both of you very much for your testimony, for your answers and for the information we'll be receiving.

Just to give everyone a time check here, domestic producers have a total of 11 minutes remaining, which includes five for closing. Respondents have a total of 36 minutes, which includes five minutes for closing.

Are you ready to proceed, Mr. Hartquist?

All right. I can let Mr. Hartquist come up here -- unless he's going to go to the --

Mr. Hartquist are you going to use the podium?

Okay. That's fine, you can just stay there.

MR. HARTQUIST: I so much enjoy working with Charlie Blum because he has a great world view of these steel trade issues and we agree about so many things and I also enjoy jousting with Charlie Blum when we don't agree about certain things and today is one of those days.

I think the questions of a number of the commissioners make my point. We've got to bring this discussion to stainless steel long products and a lot of what Mr. Blum has been talking about has been carbon steel, stainless steel generally flat rolled. Bring it back to stainless steel long products.

So a number of comments about respondents' testimony.

First of all, the reduction in capacity that Mr. Blum has been referring to in Europe among the Eurofer group has been primarily in carbon steel, not in stainless steel, and I would urge Mr. Blum in the post-hearing submission to present some data on capacity reduction to make stainless steel long products in Europe during the period that we're looking at here. I think it's a different picture.

The question that Commissioner Koplan has been getting to about why don't we do more, I think you made the point, Commissioner, that banks lend money to firms that are making money and that have prospects for being profitable and repaying those loans, even at today's low interest rates, and the criticisms of the domestic industry to invest money now are just unrealistic now in these current situations.

I think, frankly, what has been done during the period of relief thus far is almost heroic in terms of the efforts that these companies have made to adjust to import competition in every way, in terms of their investments, in terms of the human sacrifices that have been made in laying people off, in terms of their productivity improvements. It's really a remarkable story.

NAS, the big dog maybe out there looming in the marketplace, this so much reminds me of testimony that we had, I think a number of the commissioners were here at that time, a few years ago about Nucor's entry into the stainless steel flat rolled market. Nucor, the efficient carbon steel producer, moving into stainless. And we spent about half a hearing a few years ago talking about that and speculating about how domestic stainless steel flat rolled producers were going to compete with these magicians at Nucor who were entering into the stainless steel market. And everybody expected it to happen in a big way.

It hasn't happened. We're about five or

maybe seven years from that testimony. It hasn't happened.

And what's going to happen in NAS's case, I don't know. As Mr. Lasoff indicated, they're a client of ours, we represent them on the flat rolled side. I'm not going to characterize what they're going to do in the marketplace because I don't know beyond their press reports, but one scenario that may be the case with NAS is they put in a lot of tonnage, about a million tons of melt capacity. They put in finishing capacity for stainless flat rolled and the original plans were clearly to add stainless flat rolled capacity at a time when the flat rolled market in the U.S. was pretty strong and companies were making money. Remember, we didn't include flat rolled in the 201 case because they were doing pretty well then.

Well, since that time, the flat rolled segment of the industry has gone down, too, and they're facing conditions like the long product side is these days. But I think NAS took a look at what was happening a couple of years ago. They had excess capacity that they were building. They saw 201 relief on long products. Maybe things are going to be pretty good in the long products sector, so let's build some capacity to make stainless steel bar and rod and use some of that melt capacity, that excess capacity that we have. That's a possible scenario.

And, by the way, the reference to the coil size, this takes us back to another hearing, too, a few years ago, 1998, I think it was, when we had the rod cases before you and there was a lot of discussion about whether the U.S. producers could make a certain coil size of rod and compete with foreign producers and U.S. producers. Someone mentioned 14 ton coils of stainless steel rod. No. The coil size that they're talking about at NAS is about two tons and Charter Steel, which has gotten modestly into the rod business also is talking about two ton coils.

Mr. Blum's comments about Carpenter's financial results, please, he used the consolidated results of the company. They make a lot of stuff besides stainless steel long products. They're in the aerospace market, they're in the high nickel market. You've got to talk about stainless steel long products and the data that's on the record. The APO data on the record indicates the financial condition of Carpenter in that respect.

Their earnings, the so-called turnabout, the $1.7 million that Mr. Blum referred to, that's on $200 million of sales of those products. That's a 1 percent return. That's pretty anemic under any circumstances, unfortunately.

The U.S. producer that Mr. Blum referred to several times that has accomplished this very significant turnaround, we think we know the company that he's talking about and what he's talking about is a relatively small producer making a niche product, which, by the way the Indians don't produce and export to the U.S. So, yes, they found a little niche, but that's not a good example for the industry overall.

With respect to what the industry has done, the record is very good in terms of their efforts to reduce costs and improve efficiencies. I really think that we have a very strong presentation in that regard. And, by the way, we've never said -- no one from this industry has ever said we've done all we can. They are continuing to try to make improvements and you heard testimony today that they want to continue with the adjustment plan and continue to have the relief available to them.

The forecast data that we were talking about that respondents referred to, again, I think they're talking about total stainless and about 70 percent of the stainless market is flat rolled, so we need to narrow that down and get a forecast as to whether they would agree or disagree with Mr. Blot's forecast for stainless steel long products.

As to the respondents' responses to the ITC questionnaires, we think that about 80 percent of total production of stainless steel bar, rod and wire is represented by the responses that you have in front of you and we can break that out for the various segments if that would be helpful.

Most of the non-respondents were stainless steel wire redrawers, relatively smaller companies that are not participating in the hearing today. The only wire producer that's here is Carpenter. So we're frustrated, too, that you don't have a complete record. Unfortunately, we don't represent many of those companies that didn't respond and we wish that you did have a complete record. Frankly, I'm confident that if you did, the nature of the record wouldn't change significantly because those wire redrawers are in pretty tough shape, too.

That concludes my closing remarks and rebuttal and I appreciate your time and attention today.

Thank you.

COMMISSIONER OKUN: Thank you.

Mr. Blum?

MR. BLUM: Thank you, Madam Chairman. If it's okay, I'll answer from here.

Just a few points. There has been this persistent question as to why prices have remained low in these three stainless steel industries despite the existence of relief. It's not surprising to me when I look at the capacity utilization numbers that prices would be low. It would be hard for me to cite an example of an industry running at such rates that actually had robust prices. I can't think in all of my experience of any case where that would be true, so it's not surprising.

You might think about the situation that occurred in the carbon flat rolled where there was a big run up of prices prior to the relief and it was actually then sustained for a while after relief came in place. That was driven by the closure of capacity, domestic capacity, which changed the psychology, in effect, the physical ability of steel was quite different. That has not happened in any of these three industries. There has not been a significant closure. There have been some bankruptcies but the firms have tended to continue.

So we haven't seen anything like the withdrawal of LTV's tonnage and what that did to the carbon flat rolled, there's just no equivalent, so I would say it would be really exceptional to expect robust prices given these conditions.

I also would like to go back to something we didn't quite spend, I think, adequate time on and that is the export performance of this industry. If you have -- well, to the extent that you have excess capacity, unused capacity based essentially on your domestic market, that is a measure of your capacity available for export. And I think if you look at the record of the industry, given the three years of depressed operating rates, what is surprising is that there isn't really a very interesting or sustained increase in export activity in any direction at all.

If the industry truly were competitive, if it truly were a low cost industry, the natural thing to do would be to increase exports into whatever part of the world had the most robust conditions. That's certainly the way our companies approach the world and we don't understand exactly why the American industry does not.

And this, I think, then goes to the question of why are the returns so anemic. If you have this amount of excess capacity, if this excess capacity weighs heavily on the results of the better producers of the industry, I would consider, for example, Cartech to be a good, strong company. I think its results for the last two years have been rather poor, I think those are the facts and they've said so themselves. They are, in fact, a victim of this situation and this will remain a burden on them as long as the capacity is not closed or export markets are not found for that extra capacity.

There is a huge capacity overhang in this market, it has been here for a long time, but in those circumstances, it seems to me it's really unrealistic to expect any kind of different price performance than you have seen.

And so I think we would go back again to our basic notion of what adjustment is. Adjustment in our understanding, not as a legal matter, as an economic process, as a commercial reality, it is an ongoing process, it's not something that you begin and you end. This used to be the idea in Europe, we used to have restructuring programs in Europe and they would negotiate very carefully and then not do them. Lots of things would change, but the bottom line wouldn't change. This was the experience in the '70s and the '80s. And it only changed when they decided to end the subsidies, privatize the companies and let them compete. And since then, there's been a radically different approach taken to all of these questions that I think has something to recommend itself to the Americans.

Adjustment is an everyday competitive reality. Every day you have to do whatever you can within the constraints of your resources, of course, to make yourself better. And with some sense of anticipation, you need to get rid of the facilities that don't work and build ones that do and if that means relocating them, you relocate them.

We will cite, Commissioner Koplan, an example of just that for you that I think will answer one of your questions.

This is the reality. In a global economy, this is the only way to succeed. You've got to treat the whole world as your market, you've got to treat adjustment as an ongoing necessity, not something which is forced on you, not something which is a quid pro quo for import relief, but something that you have to do in order to be an excellent producer and serve your customers around the world.

We think in that sense the American industry has made many, many advances over these last couple of years. What our concern is is that at some point, and they may be very close to it, if not past it now, the primary function of relief will be to keep going facilities and companies that otherwise would close and there the burden is placed on those other companies who have done the right thing, who have made the investments, who have made the hard changes, who did the timely actions, they'll be robbed of the prices, the profits and the return on investment that they should otherwise enjoy. And that is in fact our concern about the continuation of this relief.

We thank you very much.

COMMISSIONER OKUN: Thank you.

Post-hearing briefs, statements responsive to questions and requests of the commission and corrections to the transcript must be filed by July 18, 2003.

With no further business before the commission, this hearing is adjourned.

(Whereupon, at 2:50 p.m, the proceedings in the above-captioned matter were concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Steel: Monitoring Developments in the Domestic Industry

INVESTIGATION NO.: TA-204-9

HEARING DATE: July 10, 2003

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: July 10, 2003

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I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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