UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	
STEEL: MONITORING DEVELOPMENTS	)	Investigation No.:
IN THE DOMESTIC INDUSTRY	)	TA-204-9
(CARBON AND ALLOY FLAT	)	
PRODUCTS)	)	

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Tuesday,
July 22, 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

APPEARANCES: (cont'd.)

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NORM VAN TOAI, INDUSTRY ANALYST
JOSHUA LEVY, ECONOMIST
JOHN FRY, ACCOUNTANT
WILLIAM GEARHART, ATTORNEY

Congressional Appearances:

THE HONORABLE JOHN D. ROCKEFELLER, IV, United States Senator, State of West Virginia
THE HONORABLE EVAN BAYH, United States Senator, State of Indiana
THE HONORABLE CHARLES E. SCHUMER, United States Senator, State of New York
THE HONORABLE GEORGE V. VOINOVICH, United States Senator, State of Ohio
THE HONORABLE HILLARY RODHAM CLINTON, United States Senator, State of New York
THE HONORABLE JIM OBERSTAR, U.S. Congressman, 8th District, State of Minnesota
THE HONORABLE SANDER LEVIN, U.S. Congressman, 12th District, State of Michigan
THE HONORABLE ALAN B. MOLLOHAN, U.S. Congressman, 1st District, State of West Virginia
THE HONORABLE PETER J. VISCLOSKY, U.S. Congressman, 1st District, State of Indiana
THE HONORABLE BENJAMIN L. CARDIN, U.S. Congressman, 3rd District, State of Maryland
THE HONORABLE AMO HOUGHTON, JR., U.S. Congressman, 29th District, State of New York
THE HONORABLE BART STUPAK, U.S. Congressman, 1st District, State of Michigan
THE HONORABLE MIKE DOYLE, U.S. Congressman, 14th District, State of Pennsylvania
THE HONORABLE TED STRICKLAND, U.S. Congressman, 6th District, State of Ohio
THE HONORABLE CAROLYN CHEEKS KILPATRICK, U.S. Congresswoman, 15th District, State of Michigan

APPEARANCES: (cont'd.)

Congressional Appearances: (cont'd.)

THE HONORABLE DENNIS J. KUCINICH, U.S. Congressman, 10th District, State of Ohio
THE HONORABLE STEPHANIE TUBBS JONES, U.S. Congresswoman, 11th District, State of Ohio
THE HONORABLE SHELLEY MOORE CAPITO, U.S. Congresswoman, 2nd District, State of West Virginia
THE HONORABLE ROB BISHOP, U.S. Congressman, 1st District, State of Utah
THE HONORABLE ARTHUR DAVIS, U.S. Congressman, 7th District, State of Alabama
THE HONORABLE TIM MURPHY, U.S. Congressman, 18th District, State of Pennsylvania
THE HONORABLE TIM RYAN, U.S. Congressman, 17th District, State of Ohio

State Legislature Appearance:

THE HONORABLE EDWIN J. BOWMAN, State Senator, State of West Virginia

PANEL ONE - DOMESTIC INDUSTRY

On behalf of United States Steel Corporation:

ROY G. DORRANCE, Vice Chairman, United States Steel Corporation
STEPHEN SZYMANSKI, General Manager of Sales and Service to Service Center, United States Steel Corporation
WILLIAM NOELLERT, Chief Economist, Dewey Ballantine
SUSAN HESTER, Economist, Dewey Ballantine
SETH KAPLAN, Vice President, Charles River Associates
DAVID RIKER, Economist, Charles River Associates

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On behalf of Nucor Corporation:

DANIEL DIMICCO, Vice Chairman, President and Chief Executive Officer, Nucor Corporation
ROBERT JOHNS, Director of Marketing, Sheet Mill Group, Nucor Corporation
SETH KAPLAN, Vice President, Charles River Associates
PETER MORICI, Professor of Economics, University of Maryland

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MICHAEL SCOTT, Vice President, Sales and Marketing, Weirton Steel Company
MARK GLYPTIS, President, Independent Steelworkers Union

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On behalf of Ispat Inland, Inc.:

STEPHEN ROGERS, Vice President, Sales and Marketing, Ispat Inland, Inc.

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On behalf of United Steelworkers of America, AFL-CIO CLC:

LEO W. GERARD, International President, United Steelworkers of America
WILLIAM J. KLINEFELTER, Assistant to the President and Legislative and Political Director, United Steelworkers of America

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PANEL TWO - FOREIGN RESPONDENTS:

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WILLIAM H. BARRINGER, Esquire
CHRISTOPHER DUNN, Esquire
KENNETH J. PIERCE, Esquire
Willkie, Farr & Gallagher
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On behalf of Korea Iron & Steel Association; Pohang Iron & Steel Co., Ltd.; Union Steel Manufacturing Co., Ltd.; Dongbu Steel Co., Ltd.; Hysco Steel Co.; Husteel Co., Ltd.; SeAH Steel Corporation; Pohang Coated Steel Co., Ltd.; and Dongyang Tinplate Co.:

DONALD B. CAMERON, Esquire
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On behalf of Companhia Siderurgica Paulista; Companhia Siderurgica Nacional; Usinas Siderurgica de Minas Gerais, S.A.; Companhia Siderurgica de Tubarao; Aco Minas Gerais, S.A.; Instituto Brasileiro de Siderurgica:

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APPEARANCES: (cont'd.)

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JEFF HOYE, President, Corus America, Inc.

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On behalf of Azovstal Iron and Steel Works and Leman Commodities, S.A.:

MARTIN J. LEWIN, Esquire
Kalik Lewin
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On behalf of European Confederation of Iron and Steel Industries:

CHARLES H. BLUM, U.S. Representative, European Confederation of Iron and Steel Industries
CHRISTIAN MARI, Director of External Relations, European Confederation of Iron and Steel Industries

On behalf of Association of Specialty Cold Rolled Strip Producers of Germany:

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APPEARANCES: (cont'd.)

PANEL THREE - CONSUMER INTEREST:

On behalf of AK Steel Corporation; California Steel Industries, Inc.; and Duferco Farrell Corporation:

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On behalf of Consuming Industries Trade Action Coalition Steel Task Force (CITAC):

DALE CANN, Formerly President, Nesco Container Corp.

LEWIS LEIBOWITZ, Esquire
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Hogan & Hartson
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On behalf of DURA Automotive Systems, Inc. (DURA):

JOHN J. KNAPPENBERGER, Vice President, Sales, Marketing, Quality and Materials, DURA

On behalf of Precision Metalforming Association:

WILLIAM E. GASKIN, CAE, President, Precision Metalforming Association
RICHARD WILKEY, President, Fisher-Barton
JAMES ZAWACKI, CEO, GR Spring and Stamping

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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 the third 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 Carbon and Alloy Flat 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 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 a series of hearings.

In addition, the Commission currently is conducting an investigation at the request of the House Committee on Ways and Means under Section 332(d) of the Tariff Act of 1930 to assess the current competitive conditions facing the steel consuming industries in the United States with respect to the safeguard measures. The Commission held separate hearings on that investigation in June, and the current hearings are not about the safeguard measures' effects on the consumers of steel products.

While the Commission is conducting the Section 204 and the Section 332 investigations simultaneously by virtue of the Section 204 statutory time table and the timing of the Ways and Means Committee's request, the Commission does not intend to augment the content of its Section 204 report beyond what is appropriate under the statute.

Likewise, the contents of the Section 332 report are defined by the scope of the Ways and Means Committee's request letter. As requested by Chairman Thomas, however, and with the acknowledgement from the Office of the United States Trade Representative that it had no objection to receiving the Section 204 report and the Section 332 report in a single document, the Commission will transmit to the President and the Congress these two separate reports simultaneously as one document. It is the Commission's expectation that the document will include multiple volumes, as did the Commission's original report to the President in the Section 201 investigation.

I also would note that neither Section 204(a)(2) nor the Section 332(g) request letter require or request the Commission to make recommendations in any of its respective reports.

On another matter, I note that in my capacity as Chairman, I approved the request permitting Mr. Thomas Usher, Chairman and CEO of U.S. Steel Corporation, to testify on Thursday rather than today because he is to attend a previously scheduled U.S. Steel Corporation board meeting. I am aware that some parties have objected to this decision.

Nevertheless, in reviewing the Commission's statutory responsibilities in a Section 204 monitoring investigation, it is my view that the witness best positioned to answer questions about the adjustment efforts of the largest steel producer in the United

States would be the head of that company. Moreover, because of the nature of this proceeding, it is my view that other parties are not prejudiced.

The Commission, however, is aware the parties at today's proceeding may wish to rebut Mr. Usher's testimony since it was shifted to July 24 to accommodate his schedule. If they choose to do so, they may use up to five double-spaced pages of text in an appendix to their post-hearing brief for rebuttal purposes only.

The calendar for this hearing is available 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 material 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 are available.

Transcript order forms are available at the Secretary's desk and also in the wall rack outside the Secretary's office. 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.

Finally, before we begin, I would like to cover some logistical matters. First, many Members of Congress are expected to testify throughout the day. Because of their schedules, we likely will have to interrupt the proceedings to accommodate testimony. We will try to minimize any disruption.

Second, depending on whether we can keep to this morning's schedule, the Commission intends to recess for lunch at around 2:00 p.m., the time that we anticipate completing Panel One's testimony and questions.

Third, we will not, however, break for dinner, although I anticipate that the hearing will run into the evening hours, so I urge witnesses to plan accordingly.

Madam Secretary, are there any preliminary matters?

MS. ABBOTT: No, Madam Chairman.

CHAIRMAN OKUN: Will you please announce our first congressional appearance?

MS. ABBOTT: The Honorable John D. Rockefeller, IV, United States Senator, State of West Virginia.

CHAIRMAN OKUN: Good morning, Senator

Rockefeller.

SEN. ROCKEFELLER: Good morning. Good morning. I always feel badly if I'm not giving testimony at least once in a while.

CHAIRMAN OKUN: Senator Rockefeller, I'm going to ask if they can help put the podium up. I can hardly hear you.

SEN. ROCKEFELLER: It doesn't go up. I could sit down. I'll sit down.

CHAIRMAN OKUN: Thank you.

SEN. ROCKEFELLER: Thank you very much. Madam Chair and Commissioners, as always it's a pleasure to be before you. There aren't as many as there have been in the past. It sounds like they're trying to do something about that.

I'm very happy to testify about the challenges we still face in the domestic steel industry. I should say for the record that Senator Byrd was planning to be here, but has an appropriations conflict. I want to submit his testimony for the record with your permission, as well as my full statement since you're happily not getting my full statement.

CHAIRMAN OKUN: Without objection.

SEN. ROCKEFELLER: Is that all right? Thank you.

We are here because we're reviewing the effects of the 201 tariffs. The President is going to be seeking your recommendation on whether the domestic steel industry is squandering its opportunity to restructure on the one hand or whether changed economic circumstances have made the Section 201 tariffs ineffective and irrelevant. I reject both notions and will explain.

I would like to review what has happened in the 18 months since the 201 tariffs began. We've seen major restructuring in the industry, restructuring such as I at least in my lifetime have never seen. After years of fragmentation, the steel industry has had several major mergers.

In fact, it's a fascinating fact. The three largest steelmakers in the country now account for roughly one-half of all domestic production. If that isn't consolidation, I have absolutely no idea what could be.

We've also seen increased investment in the domestic industry, both by the industry and by outside investors, and that for the first time in years. We have seen groundbreaking labor agreements that have sought to realign the cost structure of producing steel in this country. All of these things were goals of the President's steel program, goals that I share, and they have begun to fall into place with remarkable speed.

When I talk about sacrifices on both sides, labor and management, particularly on the part of labor, it has been absolutely extraordinary. There have been votes to reduce packages, benefits, that I would not have imagined would take place in steel country, which, as you know, is a particular and strong mentality.

But, the job is only half done. The successes that have attracted so much press are far from the whole story. I've spoken at length with the steel companies in West Virginia, the workers, their families and the retirees, the 35,000 people that I represent that are affected by these issues.

They know the modernization of our steel industry is only partially complete, and they are worried, worried that our government will not follow through on its commitment to give industry the breathing room to modernize. I am terrified. If they are worried, I am terrified. My followup testimony should make that case because it's a devastating sort of a lack of a follow through.

They continue to face a very difficult market. You know that. Indeed, steel tariffs notwithstanding, Weirton Steel, widely praised as one of the most innovative and adaptable U.S. steelmakers, filed for Chapter 11 bankruptcy just two months ago. That was not meant to happen, should not have happened, but had to because of the situation.

If you look at the first six months of 2002, steel demand and steel pricing, much like the economy overall, remained weaker than expected. Input prices, like the cost of gas, continue to rise.

The Administration indicated that a core point of its steel strategy would be an effort to engage other steel producers at the OECD on an agreement to eliminate excess capacity and stop subsidies. The Administration quietly gave up that effort on an overcapacity agreement, and earlier this week efforts to reach a subsidy agreement basically reached an impasse. I would call it a give-up. They say an impasse. The effect in steel country is the same.

In sum, the fundamental changes facing this industry, and particularly the challenges posed by global overcapacity, have not changed. If the domestic steel industry is to retool, and that is the purpose of these safeguard agreements, it will need the full three years, such as they are, of the Section 201 tariffs that the President announced.

I know that during this midterm review you have been subjected to a massive public relations campaign trying to argue that the Section 201 tariffs had done irreparable damage to U.S. manufacturers. That is absurd on the face and embarrassing for those who purport to believe it. They are in the habit of doing it. They've been doing it on everything with regard to steel over the years, and they have no information to support them.

However, I think it's useful to take a minute to establish that these claims are overblown and untrue and exaggerated and simply what they do for a living -- lobbyists who are paid to do things for a living.

To start, we need to recognize how limited the scope of these steel tariffs actually is. This makes me angry when I have to talk about it. When the President initially announced the 201 tariffs, he said that many steel producers would be exempted from their provisions -- all the developing countries, which is most of the world, and NAFTA partners, Canada and Mexico.

Subsequent to that, on top of that, in response to requests from American steel users -- his friends, I guess -- he has excluded a staggering 1,022 products from the Section 201 measures. As a result, currently only about a fifth of U.S. steel imports or roughly five percent of all U.S. steel consumption is covered by the tariffs.

This was not the 40-40-40 that some of us were hoping it was. This is a 34 whatever it is, 30-24-18. I guess that's what it was. You know, five percent covered by that, and they're complaining? Again, lobbyists are paid to do what they have to do.

The other major fallacy is that Section 201 tariffs have raised prices unreasonably for U.S. Steel users. Prices have risen only modestly in the last 18 months. More importantly, the prices around the world have kept pace with American prices by showing that they are not artificially inflated, but they are merely keeping up with the market so that the argument that Section 201 tariffs have raised prices unreasonably on U.S. steel users is on its face absurd. Domestic steel prices are not out of step with the global market pace, which was in fact artificially low before the 201s were initiated.

Please allow me to focus more narrowly for just one moment on flat-rolled steel products because that's what you're looking at. As part of the 201 relief, the President imposed tariffs on finished flat-rolled products. However, there are no quantitative limits on the amount of these products that can be imported into the United States. Is that fair? Is that fair?

Imports from NAFTA countries and developing countries are excluded, once again, from the tariffs and are, therefore, increasing. Nothing we can do. There have been 127 flat-rolled products exempted by the President from the tariffs from the very start. I mean, it's a house of cards from my point of view. No. From lots of people's point of view.

The overall result? Imports of flat-rolled steel increased substantially -- what would you expect -- after imposition of the Section 201 tariffs in 2002 as compared with the same period in 2001, so it got worse after 201, not better, in terms of imports.

Now, you're going to hear from John Walker, the CEO of Weirton Steel, later about that company's struggles. He is a superb executive, a superb human being. You know, I have in my text here some triumphs. I simply believe that my text is correct.

In any event, if there have been some

triumphs he will tell you about them halfway through this steel program, but I can tell you that neither his company nor Wheeling Pittsburgh, between them representing more than a century and a half of steelmaking, has recovered from the import surge of the late 1990s which began all of this as both companies remain under the protection of the Bankruptcy Court. To try to explain what that does to a section of the state, to the coal section of the state as well, I will leave for another day.

In closing, finally, it is clear that the domestic industry has begun the work to recover from the glut of foreign imports that spurred the 201 in the first place, but also for our nation's ability to maintain the world's most open market and the kind of strong manufacturing base that steel provides. It has begun to restructure and to reinvest in its future. It already has the best productivity in the world, the finest products in the world. It has worked to become leaner, more competitive in the domestic marketplace. Those are not just words. I have talked to and seen the thousands that have been laid off.

While making these much-needed changes, the domestic steel industry has also run into a number of challenges in order for it to complete this restructuring. I strongly urge you respectfully to recommend the uninterrupted continuance of the President's steel program.

I thank you and would be happy to answer any questions.

CHAIRMAN OKUN: Thank you, Senator.

No questions or comments? We want to again thank you for your appearance here today and for the written testimony.

SEN. ROCKEFELLER: Thank you. Thank you very much.

MS. ABBOTT: The Honorable Evan Bayh, United States Senator, State of Indiana.

CHAIRMAN OKUN: Good morning, Senator Bayh.

SEN. BAYH: Thank you, and good morning. I want to thank all of your for your hospitality once again here this morning. It's hard to believe it's been almost going on two years since we gathered in Merrillville, Indiana, and I'd like to say this is a beautiful conference room. It's not Merrillville, but then again, you know, you can't have everything. Thank you for your hospitality.

Most of all, I'd like to begin my comments by thanking you for the action that you took following our hearing in Merrillville and the recommendations that you made to the Executive Branch of government. I know in all these lines of work we're always reminded when we do things that people disagree with, but I'd like to compliment you and thank you for the decision that you made. It was the correct decision then. It's the correct decision today. It took courage then, and I want to thank you. Thank you for your willingness to take those very important steps.

We've gathered here today to determine and answer the question whether the decision that you recommended at that time has been effective in abating the crisis in the U.S. steel industry. We gather here today to determine and answer the question whether all of the stakeholders in that industry have been willing to take the difficult, painful, but necessary steps to put that industry on a path of sustainable growth to restructuring and greater productivity.

Most of all, we gather here today to determine whether our work is done and whether we should stop in mid course or whether we should stay the course and allow the President's actions to remain in full effect for their full duration.

Members of the Commission, I say unequivocally the answer is yes to all three of those questions. Progress has been made. The crisis, while not completely behind us, has at least been stabilized. The stakeholders have been willing to make historic and heroic actions in favor of trying to return the steel industry to long-term, sustainable viability.

Our work is not yet done. The President's actions must be allowed to remain in full effect for their full duration if we are going to address this issue not just once, but answer it once and for all.

As all of you know, particularly those of you who are from the Hoosier state, and we know a thing or two about steel in Indiana. Last year, we produced the most steel of any state in the United States of America, 20 million tons. Fully one-fifth of the entire production in the country originated in Indiana last year.

In spite of the loss of tens of thousands of active steel jobs over the last two decades, we still employ 21,000 hard working men and women in our steel facilities today in Indiana, and, of course, tens of thousands of our retirees account for their health benefits and their pensions on an active, vibrant steel industry. We do know a thing or two about steel.

While the prices have stabilized, there's still difficult work to do. Some bankruptcies still threaten. Some job losses may still occur. The important thing I want to emphasize here today is that for the first time literally in years you see signs of hope, signs of hope that if we continue to follow the course that has been laid out and continue to make the difficult steps a better day may arrive for the steel industry in Indiana and across our country.

These steps are being taken. Just since we met last in Merrillville, U.S. Steel acquired Indiana based National Steel, expanding their productive capacity and their global reach. We've had other acquisitions. International Steel Group acquired both Bethlehem and LTV, giving them two world-class facilities at Indiana Harbor and Burns Harbor.

Steel Dynamics acquired two shuttered facilities, closed down, completely bereft, that are now going to be back in operation once again. Ispat and Nucor have invested substantially in their facilities, improving their productivity.

In just the last just short of two years since we met, $3.6 billion of acquisitions, restructuring, taking some capacity off of line just in my home state. Tremendous changes are afoot in the industry. We see it every day in my state. These have not been empty promises. They've been backed up by significant deeds.

As importantly, working men and women as represented by organized labor have been full partners in this undertaking. They are willing to make some of the difficult, painful steps to insure the long-term viability of their industry. All of the stakeholders have been significant participants in the historic changes that are now underfoot.

We are at a crossroads as we gather here today, and we have to determine which path we are going to travel. It raises the I think fundamental question of what did you intend? What did we all intend when we gathered there in Merrillville almost two years ago and came together to take the steps that have led to the stabilization of this industry?

Did we intend a temporary expedient to provide only interim relief, or was our vision to try and return this industry to long-term sustainability based upon the principles of free and open competition that we all embrace? Did we intend a hospice for the steel industry, providing relief from pain as it slid slowly towards an inexorable death, or did we intend a long-term cure and an ultimate return toward a healthy, productive future?

I believe, and I hope that you believe, that we intended a long-term cure and a permanent answer, not a temporary expedient along the way toward oblivion.

Now is not the time to abandon our efforts. Now is not the time. There are still tens of millions of excess tons of productive capacity in the global marketplace. If we abandon our efforts today, those tons will not be taken off of line in accordance with the principles of free and fair competition, but instead will be illegally dumped once again upon our shores with all the effects that we had seen previously that led to the crisis.

I know there are negotiations underway to reduce that excess capacity, but they have not been completed, and even once they are hopefully completed it will take time to implement. Just as the steps that I outlined in my own home state and others will doubtlessly testify to here today will take time to implement, the consolidation, the restructuring, the investment in protective capacity, some of these have taken place just in recent months. They don't solve the problem with the snap of fingers or the blink of an eye.

It will take the next year to year and a half to get the job done so that we no longer have to reappear before this Commission asking for the steps that we did a year and a half ago. Much has been done, but much remains to be done.

In conclusion, I would simply like to paraphrase some words spoken at a time of another crisis much greater, to be sure, than the one we address here today, but I think quite apt. It was Winston Churchill actually who said we may not have arrived at the end, we may not even have arrived at the beginning of the end, but if we persevere at least we have arrived at the end of the beginning.

And so we have. I urge the Commission to stay the course, to complete our work, to restore this industry, and if we do I think we can look back on the actions that were taken in Merrillville and since with a great sense of pride and accomplishment. Again, I want to thank you for having placed us upon this path.

I would be happy to take any questions at this time.

CHAIRMAN OKUN: Thank you.

My colleagues?

(No response.)

CHAIRMAN OKUN: Seeing no questions for you, thanks again for your appearance today and for the written testimony that we will include in the record.

SEN. BAYH: Thank you all very much.

MS. ABBOTT: The Honorable George V. Voinovich, United States Senator, State of Ohio.

CHAIRMAN OKUN: Good morning, Senator Voinovich.

SEN. VOINOVICH: Good morning. It's nice to be back here again, and thank you for your willingness to listen to representatives from Congress in regard to this very, very important matter.

I do appreciate the opportunity to testify today concerning the positive effect the 201 relief is having on the American steel industry and the industries they support. Supply is robust, prices are moderate, and the industry is recovering. I urge you to continue this relief for the full three-year term.

As each of you knows, the U.S. steel industry employs tens of thousands of hardworking Americans, including some 30,000 men and women who live in the State of Ohio. Ohio is the second largest steel producing state in the country and the number one steel employer in the nation.

I've been a strong supporter of Ohio's steel industry for many, many years. The latter years of the 1990s should have been growth years for the U.S.

steel industry as a whole. Unfortunately, not everyone in the industry was able to take full advantage of the boom period because of unfairly traded imports.

Nations from the Far East or elsewhere dumped tons of unfairly priced steel into the U.S. market. The result of this action was lost sales and a reduction in revenues for the domestic steel industry. In addition, capacity utilization dropped from 90 percent to 75 percent in 1998, as unfairly traded imports gained more and more of the market share.

The difficulties that the U.S. steel industry has endured due to this dumping has also been compounded by the fact that they had spent over $35 billion in the 1980s to modernize the industry and update facilities, and I want you to know that a lot of that money was spent in the State of Ohio while I was governor.

While I was Mayor of Cleveland in the early 1980s when steel imports peaked at 27 percent and U.S. steelmakers were losing billions of dollars in revenue, I lobbied President Reagan for voluntary restraint agreements in order to give the domestic industry five years of breathing room to modernize and restructure.

A year before the VRA program was set to expire, I again got a hold of Vice President Bush for a temporary extension to give the steel industry some protection while the Administration attempted to negotiate multilateral steel agreements aimed at eliminating unfair foreign practices. Throughout 1988, I fought for the VRA extension, and then when they were up in 1992 I asked the Department of Commerce to really enforce that agreement and enforce our trade laws.

In 1991, I was the first governor in the United States to set up a Steel Industry Advisory Commission, a public/private partnership designed to strengthen ties among the steel industry, the State of Ohio and its citizens. You can tell I've been involved in this for a long, long time.

I also worked to bring steel companies into Ohio, including North Star Steel, to create more good paying jobs. During this time I saw investment in Ohio soar, and during my tenure as governor we added some 600,000 jobs to Ohio's economy, a lot of them steel jobs. I felt comfortable at the time that we were competing in the global marketplace with advanced technology and enlightened labor/management cooperation.

In June of 1999, when the unions were pushing a quota bill as leverage to get President Clinton to initiate a 201 investigation, I voted against the quota legislation that would have placed a monthly limit on steel imports for three years. There was a lot of bills being introduced to put the pressure on the President to introduce a 201 investigation.

Under that bill that I voted against, quotas would have applied to all steel mill products from all countries regardless of whether they had engaged in dumping or not. Some protested by vote at the time, and I was lobbied heavily by the steel industry and the steelworker unions, but I felt that the United States should not pass heat-of-the-moment laws that violate international treaties.

Instead, I felt it should level the playing field by going after the unfair market distorting practices that insulated foreign steel producers from the same market pressures our American steel producers were facing.

Even though I did not support quotas, I vowed to convince President Bush to take action on the 201. When he came into office, I said to myself I've got to convince him and his Administration that they go forward with the 201 investigation that President Clinton had failed to move forward with.

I can recall in fact my first meeting with Bob Zoellick when he came to see me in my office. I said to him it's time that we took advantage of the surge provisions in the WTO and the NAFTA agreements and do what all the other countries -- let's once and for all, folks, let's just look at the whole steel industry and find out whether they're being harmed or whether they're in jeopardy of being harmed.

I think it's important to note that I was not advocating that the Administration adopt protectionist policies. Rather, I was simply encouraging the President to apply provisions of existing trade law that fully complied with World Trade Organization rules.

After the President announced that his Administration would call upon the Commission to begin an investigation on steel, you began an exhaustive investigation. The Commission followed WTO rules scrupulously throughout the eight month 201 process. Procedural steps were taken all along the way to protect the interests of parties on both sides. This includes customers and consumers whose interests were carefully considered at all stages of the process.

This was not some kind of a political game. This was an honest-to-God, intellectual honest exercise by the Commission to look at the situation. At the end of the year, the Commissioners said that the increased imports were a substantial cause of serious injury to the steel industry -- I think it was about 17 out of 36 of the areas -- and five of you recommended a tariff remedy.

The President made his decision on the 210 remedy on March 5. In the final remedy, the President proclaimed safeguard tariffs ranging from eight to 30 percent. You're familiar with all of that.

According to U.S. law, in addition to the terms of the WTO safeguard agreement, protective measures must be progressively relaxed during the period of application. As such, the remedy tariff rates decline in the second and third years. People forget about that. You know, you put it on number one. Number two is you're going to rachet it down. It's going to be over at the end of three years.

There is also an ongoing process that allows for additional product exclusions on the grounds that the products are not currently available in sufficient quantities from U.S. producers and that excluding these products would not undermine the effectiveness of the safeguard on steel products.

This past spring, an additional 295 products out of a total 661 requests were excluded by USTR and the Commerce Department. Of these requests, 208 were not objected to by domestic steel producers. This action brings to 995 the number of products spared duties. This is a quarter of the 13 million tons of steel imports originally covered by the tariffs that had already been exempted in previous months.

I mean, we have the people that promoted, including myself, the 201 investigation, and you're going forward with it. They complain that too many exemptions were granted. You had people here I guess the last couple of days that said, you know, that you haven't granted enough of them, and you ought to do away with these things.

I know most of you are familiar with these facts, but I'm bringing this up to reinforce the notion that the USTR and the Department of Commerce have been very fair in their handling of this issue and to counter the argument I sometimes hear about their actions during this process being arbitrary and capricious.

Nothing could be further from the truth.

The actions the ITC took were based on facts, not politics, and the resulting actions were well-grounded under the WTO safeguards agreement.

Madam Chairman, today, as a result of the relief this Commission recommended and the President imposed, the landscape is different. Even in a weak economy, our industry is consolidating and restructuring. Our steelworkers continue and even enhance upon their efficiency. Productivity is up. Investment is up. Morale is up.

This Commission has given hope to a critical American industry. The situation remains extremely delicate and requires the relief to be in place for the full three years.

Just last month, during 322 (sic) hearings you heard from some businesses and foreign producers complaining that the relief, already cut short from what many of you recommended, has been a disaster and should be terminated. They claim steel is now positively more expensive and in a short supply. They also attributed the temporary steel tariffs to their decision to permanently move production facilities offshore.

These claims are illusory. The entire U.S. manufacturing sector has experienced sharply escalating international trade deficits since 1996. You know that; a problem that's been damaging the steel producers and steel consumers alike. There's no evidence, however, that since the Section 201 tariffs were imposed steel intensive manufacturing industries have performed worse than other manufacturing industries unaffected by tariffs.

I'd like to point out that there's no question that our manufacturing industry in this country is in jeopardy, but the real culprits in their plight are soaring natural gas prices, health care costs, government regulation, the litigation tornado that is cutting across America, unfair trade competition with such nations as China, which manipulate their currency.

I was pleased to have a voice in the President's economic stimulus package, which I believe will go a long way towards stimulating the economy and adding jobs, but the problem we are now facing is that we're not doing a good enough job to enforce the trade laws of the United States of America.

I intend to have a hearing in the United States Senate in my Subcommittee on the Oversight of Government Management and Federal Work Force in regard to the enforcement by the Commerce Department of our trade laws. Do they have the right people with the right knowledge in the right places at the right time to get the job done?

Again, with regard to the 332 hearings, first let me respond to the claims of supply shortages. There is no evidence that the relief has unduly hampered import supplies. Imports have actually increased since the imposition of the 210 tariff measures. There are no quantitative limits on the amount of finished flat-rolled products that can be imported into the United States. The potential import is unlimited.

In addition, ISG has restarted LTV's facilities in my home State of Ohio that had fallen prey to dumped and subsidized imports. Nucor also restarted other facilities that were closed because of unfair imports. As a result of the remedy, we now have more American steelworkers back to work, more domestic capacity on line and more imports to fulfill demand.

Second, some have claimed that the President's remedy has resulted in increased prices. In fact, the tariff measures have resulted in only modest price recovery for steel products. For example, prices for hot-rolled and cold-rolled steel are now below 20 year historical averages. Despite these modest price increases, our domestic manufacturing base has not been at a disadvantage with its international competitors as overseas steel prices have increased much more than have domestically.

The benefit that steel consumers were receiving on the backs of American steel producers and from unfairly traded imports were not sustainable. The 201 has brought prices up to reasonable levels. Furthermore, steel prices in the United States actually remain lower than in most major steel consuming markets around the world. American low-cost, high-quality steel continues to be a superior value for U.S. customers.

Third, I'd like to address the claim that certain American manufacturers are moving their operations overseas because of increased cost due to the 201 measures. These claims are not based on long-term business strategies, and they certainly cannot be blamed on the 201 remedy.

To begin with, the steel tariffs only affect five percent of American steel consumption. Furthermore, the tariffs are temporary and are reduced each year. In addition, steel constitutes only a small fraction of production cost for end products.

According to the Department of Commerce, steel represents on average just 1.8 percent of the total cost to the manufacturing industries. I've already made reference to what I think the problem is. When you look at the collective facts, it is evidence that the 201 remedy has not had an adverse effect on other U.S. industries.

The American steel industry has taken significant steps to restructure itself to better compete against low-priced foreign imports. Subjecting the industry to renewed surges of imports prior to completion of the restructuring effort would erase the progress that's been made so far.

Today, supply remains ample, prices are reasonable, and the 201 remedy is not damaging other industries. This case proves to be one of the best examples of an industry needing relief under Section 201, and I was glad to see the Commission recognize that and provide a short window of protection.

Madam Chairman, to date, and I think this is very important, this industry is doing its part to consolidate and increase productivity and efficiency. As a result of the 201, the American steel industry is in the midst of its most significant restructuring. Nearly 20 mergers or acquisitions in the steel industry have been completed or are pending involving over 30,000 employees and 38 million tons, 30 percent of the domestic steel capacity.

In the 14 months after the Section 201 was imposed, domestic producers have invested $3.6 billion to consolidate and improve productivity. That's exactly what Secretary of the Treasury O'Neal, that's exactly what Don Evans, Secretary of Commerce wanted, that's exactly what Bob Zoellick wanted was to get them to restructure and take advantage during this three-year period.

We have seen U.S. Steel acquire the assets of National Steel. ISG has purchased the assets of LTV, Bethlehem Steel and ACME. Nucor has purchased the assets of Birmingham Steel and Trico Steel. Isn't it interesting that the biggest steel producer today in the United States of America is ISG? Can you imagine that? If it hadn't been for your action, that would never have happened. We're going through the process. We're doing what the Europeans have been doing.

As a result of its acquisition of National Steel, U.S. Steel expects cost savings of $200 million per year within two years and a 20 percent increase in productivity. ISG is emerging as one of the lowest cost, U.S. integrated steelmakers and has reduced time needed at former LTV mills to produce a ton of steel from two and a half man hours to less than one. Think of that. Two and a half hours down to less than one.

It's happening. Nucor is expected to obtain significant synergies and cost savings involving flat bar, rebar and wire products. Furthermore, both ISG and U.S. Steel have reached new agreements with the USW, with the United States Steelworkers of America, that will significantly increase efficiency and productivity, dramatically reduce cost, improve competitiveness and insure humane consolidation.

I'd like to congratulate publicly Leo Gerard and the other leaders of the United Steelworkers Association for their enlightened leadership throughout this process, and I laud the USW members for having the good sense to follow their lead. They are doing extraordinarily different things than they've done before to become part of the solution and not part of the problem.

Madam Chairman, in order to complete the restructuring efforts, continued relief for the full three-year term is necessary so the industry can undertake further consolidation and restructuring, as well as vital capital investments that it was forced to postpone during the import crisis.

Madam Chairman, the President got it right when he initiated the Section 201 investigation in response to unprecedented import crisis that threatened permanently to cripple the American steel industry, and this Commission got it right when it found after thorough review that the domestic flat-rolled steel industry was seriously injured as a result of low-priced steel imports.

If the program is going to work, if this industry is going to be given the chance it needs and deserves to recover and restructure, it is critical -- it is critical -- that the 201 relief remain in place for its full term. I urge this Commission to insure that the steel industry has the full three years that we have promised.

Madam Chairman, thank you again for giving me an opportunity to appear before you, and I apologize for the length of my statement, but it certainly has come from the bottom of my heart.

You did the right things. Let's stay the course. It will be over in a couple years. The restructuring will go on. After that, it's a jump ball. Thank you.

CHAIRMAN OKUN: Thank you very much for your statement.

MS. ABBOTT: The Honorable Hillary Rodham Clinton, United States Senator, State of New York.

CHAIRMAN OKUN: Welcome, Senator Clinton.

SEN. CLINTON: Thank you very much. Madam Chairman, I thank you for giving me and my colleagues this opportunity to testify on behalf of the steel industry.

I had the pleasure of hearing my colleague and friend, Senator Voinovich, testify as I was waiting in the anteroom, and I think you will hear many of the same points made from different parts of the country, on both sides of the aisle, from both ends of Capitol Hill.

I submitted testimony in September 2001 asking that the ITC make a finding that our domestic steel industry had suffered serious injury from cheap foreign steel imports, and, of course, I was joined by many others who had the same concern and perception. I had originally planned to deliver that testimony in person before the Commission, but following the tragic attacks of September 11 I was not able to leave my duties in New York and was not able to be here personally, but I thank you for receiving my testimony.

Today, I am pleased to deliver this testimony in person to demonstrate my commitment to a strong domestic steel industry as part of an effort to revive not only that industry, but to guarantee that we have a strong economy in our country going forward in the twenty-first century.

I strongly support continuation of the President's temporary import remedy. Allowing the relief to run for its three-year term is essential to the continued recovery of the American steel industry and to the tens of thousands of jobs that it supports. As our country faces difficult economic and international challenges, a vital, healthy domestic steel industry is important not only for the economic health of our nation, but for our national security as well.

I will never forget being on the train between New york and Washington following the attacks of September 11 and talking with a gentleman who was in the steel industry. He told me that following the attack on the USS Cole in Yemen, the Navy had only one place to go in our country for armored steel. That was at the time Bethlehem Steel, and we know that Bethlehem Steel no longer exists.

As my September 2001 testimony described, New York has had a long history of providing steel for our national economic and security needs. In the late nineteenth and early twentieth centuries, the area around Buffalo was a heavy industrial base that included the nation's number one grain milling center. The Lackawanna Steel Company mill, built in 1907, was for many years the largest and most modern steel mill in the world and ushered in a new age of steelmaking in the United States.

Yet New York, which was once a major steel producer, has seen mill after mill close as a result of dumped and subsidized imports. In 2001, our state was in danger of losing its last active steel mill in Auburn, New York. Fortunately, Nucor Corporation, whom I have known ever since my days in Arkansas, saw an opportunity to take advantage of the skills and dedication of Auburn's workers and bought that mill. Nucor's purchase of Auburn is just one example of the pivotal role New York is playing in revising the U.S. steel industry.

The President's Section 201 decision was based on the idea that by limiting the ability of illegally traded imports to pour freely into the U.S. market, temporary import relief would make it possible for our domestic industry to attract the investment it desperately needed to fund consolidation and modernization.

Indeed, that is exactly what is happening. The International Steel Group, formed by Mr. Wilbur Ross, a resident of New York City, bought not one, but three companies -- LTV, Bethlehem and ACME -- out of bankruptcy. Mr. Ross was willing to invest hundreds of millions of dollars of his own money, thousands of hours of time, in turning these companies into efficient, low cost producers of steel.

Other investors have followed his lead, and the domestic steel industry is finding itself able to raise capital on competitive terms for the first time in decades.

The steel industry workers have also invested heavily in the industry. As you can see, there are many steelworkers attending today's hearing. That is a testament to their commitment to the future of the industry that they love. In fact, in terms of the sacrifices that the steelworkers have made, their investment -- personally, emotionally, physically, financially -- dwarfs that of Wall Street.

Millions of retired steelworkers saw their pensions and health care benefits disappear as a result of unfairly traded imports. The workers remaining in the industry realized that their jobs depended upon their being willing to adapt to new conditions.

American steelworkers have agreed to dramatic changes in work rules and compensation, all to make the American steel industry more competitive. They have succeeded, as the U.S. steel industry is establishing itself as an efficient, low-cost producer able to compete with any steel industry anywhere in the world.

Now, both investors and workers were willing to make difficult decisions because of the stability and predictability that the President's decision to provide import relief brought to the U.S. steel market. Both investors and workers are now counting on this Commission and on the President to give them the time they need to finish this job.

Eighteen months is not long enough to do what needs to be done. While the domestic steel industry has made great strides in revising itself since the President announced temporary relief, the process is still continuing. If investors are to obtain the returns they anticipated when they decided to invest in the industry and if workers are to receive the appropriate reward that they should for their sacrifices, the industry must have time that it needs to complete this process.

Indeed, a newspaper report in yesterday's *Wall Street Journal* supports the view that the industry needs the full three years. As you know, the world steel market is ripe with excess foreign steelmaking capacity. Since large foreign markets such as Japan, China, Brazil and India are closed to foreign steel, the U.S. has become the prime target for those looking to sell off excess steel.

The U.S. has been engaged in negotiations under the auspices of the Organization for Economic Cooperation and Development to reduce worldwide excess steelmaking capacity. According to the article, while some progress has been made in reducing foreign government steel subsidies, Brazil, India, China and Turkey, among others, have resisted eliminating government subsidies, which leads in turn to worldwide steel overcapacity. With this overcapacity expected to continue for the near future, it is critically important that the Section 201 measures be allowed to run the full three years.

Finally, a healthy steel industry is necessary in order to insure access to steel for our defense industry. We need to be able to guarantee, especially in these times, that our military and defense industries will have access to the steel they need -- that we need -- for our security purposes and that they not become overly reliant on foreign sources.

Madam Chairwoman, in conclusion, continuation of these temporary measures for the full three years as contemplated will allow our domestic steel industry to reward its investors and its workers.

Now, I have no illusions that in this remaining time period we will be able to deal with the unfair trading practices of our competitors, nor that we will come to some resolution of the subsidies that are provided directly and indirectly to competing steel companies and national industries, but, nevertheless, I have a great deal of confidence in both our steel manufacturers and in particular our steelworkers. We can compete with anyone anywhere as long as we have a chance to rebuild our capacity, put our people back to work and then go back into the international market.

The greatest beneficiary of these potential changes that will give us a steel industry for the twenty-first century is not only the industry and not only the workers, but the U.S. economy as a whole. I urge you to let us continue with this rebuilding/ consolidation effort that will make a tremendous difference in whether or not we have any steel industry left in America.

Thank you very much.

CHAIRMAN OKUN: Thank you very much for your testimony.

MS. ABBOTT: The Honorable Jim Oberstar, United States Congressman, 8th District, State of Minnesota.

MR. OBERSTAR: Thank you, Madam Chair. I've got a little different show for you here.

CHAIRMAN OKUN: Okay. All right. Can you identify these for us, Congressman?

MR. OBERSTAR: I can do that.

CHAIRMAN OKUN: We have a microphone for you there.

MR. OBERSTAR: Thank you for the opportunity to come once again before this august body, Madam Chair. What I have brought for you here, I represent the other end of steel where it all originates in the iron ore mines of northern Minnesota, and I speak for Upper Peninsula Michigan as well.

What you have here is natural ore, direct shipping ore we call it, just dug right out of the ground, put in ore cars, shipped it to the Lower Lake Steel mills. It took eight hours to make a heat of steel melting this ore.

After shipping nearly two billion tons of this ore from the mines of northern Minnesota from 1894 through World War II, Korea, we virtually depleted that ore, but beneath it was another strata called taconite, rock harder than granite, in comparison to this, which is 51 to 64 percent iron, This is 28 percent iron. This has to be crushed, ground, pulverized to this consistency of a concentrate, separated magnetically and then rolled into little pellets as you see here.

This technology, which was started in the 1930s, perfected in the 1940s and put into practice in 1953, the first shipments came in 1956, my senior year in college. That reduced the time to produce a ton of steel from eight hours to four hours with higher quality, uniform consistency and far better ductility of the end product steel.

We have maybe 200 billion tons of this ore in the ground in northern Minnesota. This vial, however, is the last shipment from LTV's taconite plant in northeastern Minnesota when LTV went into bankruptcy, from the day that 1,400 men were laid off.

This is the steel. This is ship steel. This is from the Tate my wife launched. It's a Coast Guard buoy tender. That's what all this stuff does is make that ship steel. In fact, there are 10,000 tons of ship steel in a Trident submarine.

This is the future, if you let us have it. Feel this vial and then feel this. Now, what we do with the new technology is to intercept the taconite process from the concentrate, take metallurgical grade coal, grind and pulverize it, mix it with the taconite concentrate and produce a pig iron, which is in that heavier vial that you have in your hand. That can be used in the blast furnace. It can be used in an electric arc furnace. It can be used in a mini mill.

That product will extend the length of the ore bodies and the life of the iron ore mining and processing industry in Minnesota and improve the quality of the steel industry throughout the United States, but only if you let it happen, only if you recommend the continuation over the full three-year period of the 201 process.

Now, I am no casual participant in this. I grew up in the Iron Range. My grandfather came here from Slovenia to build the first steel mill in Duluth.

He was an oven maker, and then he went into the iron ore mines in the Iron Range. Every member of my family has worked in the mines. My father spent 26 years in the underground, 14 years in the open pit. I worked my way through college working in the iron ore mines.

But, I knew that they weren't forever. I studied the industry. I studied the resource. I studied the geology very carefully. I knew that we had to move on to something better. What I've given you is that better technology that my predecessor in Congress worked on, John Blotnick and I worked on.

I did my graduate studies at the College of Europe in Belgium at the time of the formation of the European Common Market. I studied the economics, the politics, the governance. We completed a year of graduate studies in the year in which the Treaties of Rome were signed. I saw the subsidies that the European Government poured into their steel industries.

I also traveled around to Bohume, to the Kruppworks, to see how Europe had, with our Marshall Plan money, rebuilt their steel industry, rebuilt their foundries and then subsidized them to compete with us in our marketplace.

I traveled to Brazil where they have 27 different tax subsidies for the production and export of steel to dump in the world's largest open free market -- ours. I've traveled to Japan and to China where also China is less a problem today because they have such a massive infrastructure building program internally, a $200 billion infrastructure program, $100 billion building airports and another $100 billion building rail and highways. They are consuming 200 million tons of steel a year also in the Three Gorges Dam.

Japan figured it out before the other countries did. Subsidize your steel. Dump it in the United States marketplace. I have been fighting this issue since 1979, which was the largest year production of steel in the United States. We produced 129 million tons of steel. We shipped 60 million tons of taconite from the Mosabe Range to the Lower Lake Steel mills to produce that steel.

When the flood of foreign subsidized steel came into the U.S. marketplace, steel mills started going downhill. When I was a college student, we had 22,000 jobs in the iron ore mines. That dwindled down to 16,000 in taconite. Today we are down to under 4,000 jobs.

Now, you need to walk through an empty taconite plant with the water dripping and the footsteps echoing and the sounds of the men reverberating in your memory to understand what it's like; to go into the communities and talk to the families who have no future; to talk to the young worker who said to me a couple years ago in the first wave of this, you go back to Washington and tell President Reagan I'm tired of being trained for jobs that don't exist. They don't exist here. We're 20 miles from the Canadian border, one of the mines. We're the end of the energy pipeline. We're a natural resource based economy.

In the 1970s and 1980s, there were 450 open hearth furnaces which used that product before you. Today, there are only 47 blast furnaces left. If they go out of business, unless we have time to perfect the process of making that pig iron pellet, we'll be out of business as well.

Forty thousand people migrated from northern Minnesota. They didn't stick around to get welfare checks. They went somewhere else to find jobs at about a third -- a two-third reduction -- of what they were making in the iron ore mines.

We've done our part, the iron ore mining industry, modernizing, upgrading, improving the quality of the pellets, tailoring it to the needs of the steel mills. We cut the cost from $51.50 a ton in the 1970s to $28, $29 a ton today and still going down. We could give it away.

There was a study under President Johnson in 1964, the food marketing study, that said if the farmers gave their corn to Kellogg's for free, corn flakes would still fetch the same price on the marketplace. If we gave the pellets free to the steel industry, foreign steel would still come in.

It doesn't make sense that the United States continues to be an open dumping place for the rest of the world's unemployment, unproductive measures in their steel industry. You have it within your grasp to make a recommendation to the Administration to stay the course, as Senator Voinovich has said, as Senator Clinton and Senator Rockefeller earlier said, Senator Bayh has said.

I plead with you to put a human face on your decision. The people who are working there today, their children, their families, they stay in this north country because they love it. They have skills they're proud of. They have families they love, but their future is not in their hands. It's in your hands. It's in the President's hands.

It's also in the hands of foreign governments who decide to keep their people working, who don't include the social cost of production in the end price of steel.

In Brazil, they don't have a social security system. They don't have medicare. They don't pay unemployment compensation benefits. They don't pay workers' comp. They don't have time off. They don't have time and a half for overtime. Yet, they're dumping their steel in our marketplace because we're paying all those things.

Their industries don't comply with air and water quality environmental standards. Even though they have laws on the books, they just don't live by them. The same in South Korea. In Ukraine and Russia, not only do they not have all the foregoing; they haven't even paid their workers in six months.

How can anyone look at this import picture today and dismiss those facts and those realities and say it's time to cut this off? We've got to play fair, by the Marquee of Queensbury rules of international trade. I'll tell you, the rest of the world is using black belt karate, and they're kicking the hell out of us. It's time we kicked back.

You have it within your hands to do that. Please make that decision. Thank you.

CHAIRMAN OKUN: Thank you, Congressman Oberstar. I want to make sure. I take it you want to take these things back because it looks like they're yours specifically. We'll make sure we get those.

I want to thank you for your testimony and also note that the next time counsel is looking for a metallurgist to testify, I think they need to look no further than you to be an expert. We appreciate again your testimony.

MS. ABBOTT: The Honorable Alan B. Mollohan, United States Congressman, 1st District, State of West Virginia.

CHAIRMAN OKUN: Welcome, Congressman Mollohan.

MR. MOLLOHAN: Thank you. It's a pleasure to be here, Chairman, members of the Commission. I appreciate the opportunity to testify here today.

I represent the 1st Congressional District of West Virginia. My district is home to both Weirton Steel and Wheeling Pittsburgh Steel. The viability of these two companies and the hundreds of other businesses in my district that are connected to the activity of these two steel companies is directly dependent upon continued application of the Section 201 safeguards program for the full three-year period.

America's domestic steel industry has been under assault by foreign producers for a long time. Foreign governments have subsidized their steel companies at outrageous levels, thus enabling these companies to build additional capacity.

This excess capacity has been built by these foreign companies for the express purpose of exporting their steel to the United States and dumping it into our market. The tragic result has been that more than 30 of our domestic steel producers, including Weirton Steel and Wheeling Pittsburgh Steel, have filed for bankruptcy.

The 201 tariffs, Madam Chairman, have been a critical part of returning some stability to our domestic steel industry, our steel work force and their communities. To abandon the 201 remedy now would be disastrous. Since enactment of 201, much has happened in the steel industry, some of it encouraging and some of it disturbing.

Nearly 20 mergers or acquisitions in the steel industry have been completed or are in process involving 30,000 steelworkers and 30 percent of our domestic steelmaking capacity. For the year-to-date in 2003, total and finished steel imports are down 16.3 percent and 8.3 percent respectively compared to the same period last year. However, it's important to note that the total steel imports in 2002 were the fourth highest level in U.S. history, 8.2 percent higher than in 2001.

Continuance of the 201 tariff is essential to help provide some semblance of stabilization for our domestic steel industry. Sadly, more than 50,000 steelworkers have lost their jobs, and further job loss is expected. The Pension and Benefit Guaranty Corporation has acted to terminate the pension plans of 14 steel companies, and 200,000 retirees and their dependents have lost their health care benefits.

Although the 201 remedy has been an important weapon in the war on overwhelming quantities of imports, it is not a panacea. Data show that imports of flat-rolled steel were at the same level in 2002 as they were in 2001. What occurred? What occurred was that imports from uncovered countries increased at a rate that offset the decline in imports from covered countries.

Can you imagine what would have happened if the 201 remedies had not been in place? The covered countries surely would have increased their import levels as well.

For example, non-covered imports of hot-rolled steel increased by about 1.4 million tons or 106 percent in the most recent 12 month period as compared to the prior 12 month period. Despite these conditions, the industry has, nonetheless, made gains in improving its competitiveness as worker productivity has grown and labor costs have decreased.

Lastly, and something important you should keep in mind as you analyze the impact of the 201 tariffs. Foreign excess steel capacity remains a huge problem. A number of major steel industries abroad, such as the Chinese, are continuing their plans for massive steel capacity increases with government support.

This makes it even more critical that the 201 remain in place for the full term, giving our industry the best possible chance to strengthen itself so that it may be positioned well to deal with this looming reality.

In conclusion, the 201 program is providing benefits to our domestic steel industry and must continue to its full term. I'm hopeful that after this midterm review you'll reach the same conclusion. Our steel industry, our steel workers, their families and the communities in which they operate are counting on it.

Thank you for allowing me to appear here today.

CHAIRMAN OKUN: And thank you very much for your testimony.

MR. MOLLOHAN: Thank you, ma'am.

MS. ABBOTT: The Honorable Sander Levin, United States Congressman, 12th District, State of Michigan, and the Honorable Amo Houghton, Jr., United States Congressman, 29th District, State of New York.

CHAIRMAN OKUN: Welcome to both of you. Welcome back.

MR. LEVIN: Good morning.

CHAIRMAN OKUN: Good morning.

MR. LEVIN: So that you're not confused, this is Houghton, and I'm Levin. Levins confuse people.

Thank you so much for letting so many of us appear. We know that you've had some earlier testimony, and Mr. Houghton and I very much wanted to join our colleagues and others to talk about this. I'll do so briefly. Since L comes before H, I'll start off, and Mr. Houghton will finish.

You know, I've been thinking about the steel issue. I come from Michigan where there's a considerable steel industry; also where there's a major impact of the steel industry on other industries, big, medium and small, and so in a sense Michigan is in the center of this issue.

I've been thinking about it. It seems to me that there are several points that are very clear First of all, there was clearly a steel surge. I think that's unmistakable. I saw charts, but, more importantly, I saw the results of that surge, and that was clear and unmistakable, the people who were laid off, people who had worked decades, companies forced out of business. There was not only clearly a surge, but there was clearly an impact, a dramatic, dramatic impact.

Third, it seemed to me clear that 201, the safeguard mechanism, was there precisely for this kind of a situation. That's why it was negotiated. That's why it was maintained in the Uruguay Round, which I was privileged to be a small part of the discussion about.

The next point I think is also clear, and that is that it's been working. It was intended to not be a permanent approach, but to give some important breathing space for industry and for the workers to adjust, and that's exactly what's been happening.

I know you've heard a lot of testimony from others and so I won't burden you with it -- the consolidation that has occurred, the further modernization that has occurred, the willingness of the workers and their representatives to sit down with management and try to utilize the opportunity provided in desperate situations to try to salvage an industry, to salvage jobs and to salvage lives and livelihoods. Why in the world would anybody think what was working should be stopped?

MR. LEVIN: I reviewed the decision from the Word Trade Organization panel. As you know, it's now on appeal. In my judgment, they're wrong. WTO panels have overturned all safeguard cases before it, I think going beyond the letter and the intent of the WTO structure and my hope is that decision will be overturned. But that isn't what's before you.

What's before you is the realities of what was and what now is and what is likely to be as a result of, I think, the correct action of invocation of Section 201.

So I just would urge that the worst thing that could be done would be to cut off in midstream through a mid review of something that is flowing in the right direction in terms of this nation's economy the critical importance of a basic steel industry in this country and the livelihood of tens of thousands of Americans who have worked hard and worked hard all their life.

So I know there has to be under the statute, under the agreements. a review and, in a sense, this is healthy so that there can be a better understanding of what was and what is happening and what is likely to occur.

So thank you for hearing me. I could not feel more deeply about the need to let this effort continue to unfold. It's moving in the right direction. True, there are various facets to it and no 201 is so simple that there are no down sides as well as pluses. It's too complicated for some automatic result, but overall the result has been so positive, I think there is no choice but to let this process be continued.

Thank you very much.

CHAIRMAN OKUN: Thank you.

MR. HOUGHTON: Thank you. My name is Amo Houghton. Sandy Levin and I have tried to strike a blow for fair trade for many, many years, so I wanted to be here with him and I thank you, Madam Chairwoman and Madam Vice Chairwoman and the other members of the panel.

This is not an intellectual exercise for me. I was in business for 35 years, I've seen other situations crying for 201 provisions that were not allowed and in situation after situation, I happened to be in the glass business, where jobs left this country unnecessarily. So if you take a look at the United States, where we have the most precious asset in the world, which is our open market and somehow we've got to protect that as others protect theirs.

So in a word, I think this 201 situation is right. It hasn't had a chance to work itself out. Halfway through, I am delighted you are having a review and I think it's doing exactly what was intended. Other countries have other provisions, they're not called 201 or 301 or whatever it is, but this is exactly what we should be doing.

I've got examples in my district of a steel company which was able to not only improve its production, lower its costs, increase its quality, but also have an opportunity to develop associations with other companies which it never would have been able to do because it wouldn't have had access to capital.

And so this is a very, very important thing.

Let me just say this, and you've heard many, many words and you'll continue to hear words and I'll try to shorten this whole process up. I am probably the oldest person in this room. I enlisted in the United States Marine Corps in May of 1944 and I realized -- I was with some extraordinary people, but at the same time I recognized the reason that we had such terrific might was our industrial might. And you just can't undercut that.

We've got a bigger issue out there. I don't know whether you saw it in the New York Times this morning about IBM exploring the shift of jobs overseas, there were questions about the IT industry, 3 million jobs going, this is a whole industry. And then there's another estimate of another 450,000 computer jobs going in the next 12 years, representing 8 percent of the nation's computer jobs.

We've got a big issue there. It doesn't have anything to do with 201 or 301, we've got a big issue. And we've got to wrestle with that. But in the meantime, at a very minimum, we should be able to protect those industries which are unfairly attacked so that we don't end up as a warehouse for products we can't afford to buy.

Thank you very much.

CHAIRMAN OKUN: Thank you very much for those statements.

My colleagues don't have any questions. We want to again thank you for your appearance and your written statement will appear in the record.

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

CHAIRMAN OKUN: Welcome back.

MR. VISCLOSKY: Madam Chairman, thank you very much. I appreciate again your forbearance, recognizing that this is the fourth time since the month of June that I have testified before you.

As you also know, I have been engaged in steel issues for more than 20 years. I am here, obviously, to ask for your serious and fair consideration as far as the Section 201 program the President has initiated and for a recommendation that it be held in place.

Given those 20 years of experience in steel and thinking about the testimony today, I came to the conclusion that there are two words I now hate. Those two words are "used to."

In the 1st Congressional District of the

State of Indiana, we used to make steel pipe. We used to make steel tube. We used to make steel plate. We used to make steel bar. We used to make railroad rails. We used to make railroad wheels. We used to make steel I beams. We used to other structural product.

National Steel used to be a company in my congressional district. Youngstown Sheet and Tube used to be a company in my district. J&L Steel used to be a company in my district. LTV Steel used to be a company in my district. Bethlehem Steel used to be a company in my district.

But in the end, this is a problem that involves people and in 1982, 59,000 people in the 1st Congressional District used to work in steel; 35,000 of those people don't work in steel any more. And before the end of this year, another 1100 to 1300 people who today have a job in steel at USX in the 1st Congressional District will have used to work in steel.

Twenty percent of the people today at the former National Steel facility that is now owned by USX in the 1st Congressional District will have used to work in steel. About 800 to 1200 people at the former Bethlehem Steel plant in Porter County, Indiana, now owned by ISG, by the end of this year will have used to work in steel.

More than 10,000 people over the last two years in the 1st Congressional District used to have health insurance from Bethlehem and LTV Steel. Nationwide, 208,000 retired steelworkers used to have health insurance, 51,200 of those retirees are not eligible for Medicare.

I would implore you to keep Section 201 in place for the full three years.

I will again testify before you in two days, but after Thursday, I hope I never have to come back before you again, with all due respect, because of illegally traded steel. I hope any future absence isn't necessitated because we used to have a steel industry.

Thank you very much.

CHAIRMAN OKUN: Thank you very much for your testimony and for your appearance again here today. Your written statement will appear in our record and we'll look forward to seeing you in a couple of days.

MR. BISHOP: The Honorable Benjamin L. Cardin, U.S. Congressman, 3rd District, State of Maryland.

CHAIRMAN OKUN: Welcome, Congressman Cardin.

If you can just put your microphone on. Thank you.

MR. CARDIN: Good morning, Madam Chair and members of the commission. I thank you for this opportunity to appear here and I would ask that my entire statement be made part of your record. I would just note the many colleagues that have already testified and that plan to testify. I think it points out that this is an issue of basic fairness and economic priority for our country and a matter of national security. All of us are united in the importance for the continuation of the 201 relief and I understand the 204 midterm review is a process that we go through and you're going through your responsibilities, but I would urge you to continue the 201 relief.

I think it's interesting to point out that since the 201 relief has been put into effect we've seen the continuing restructuring of the U.S. steel industry, the continued consolidations. We have seen some stability which has attracted some investment, which has certainly been welcome. But this is in a backdrop that continues in the international steel community. We find that as we have reduced capacity there is still gross over capacity in the world in production of steel.

As the United States continues to increase its efficiencies in the production of steel, we find there are still gross market distortion practices within our trading partners. We have paid a heavy price here in the United States. The ITC's own investigation pointed out exactly how we have been injured by the trading practices of our partners.

My testimony points out a specific example. The International Steel Group, ISG, in Sparrows Point which bought out the Bethlehem Steel facility, as a result of the 201 relief, we have seen that they were able to reach agreements with the United Steelworkers and we have continued our modernization of Sparrows Point. We have the most efficient cold mill in the world. The impact on the workers, the impact on our economy at Sparrows Point, it produces a billion dollars a year to the Maryland economy, so this is a top economic priority for our nation.

We need the three-year period to continue on the 201 relief. Without that, I am convinced that we'll see a renewed import surge here in the United States. The steel industry cannot survive another surge of imported steel. We still have excess foreign capacity. We still have a weak international economy.

We still have large foreign imports into the United States. Among all the developed nations in the world, the United States still has the largest net import of steel. You put that all together and the climate is very clear that without the relief in 201, we will sustain substantial damage to our U.S. steel industry, so it's absolutely vital that the 201 relief continue.

I thank you for your attention into these matters.

CHAIRMAN OKUN: Thank you, Congressman, and your full statement will be included in our record.

MR. VISCLOSKY: Thank you.

MS. ABBOTT: The Honorable Bart Stupak, United States Congressman, 1st District, State of Michigan.

CHAIRMAN OKUN: Good morning, Congressman Stupak.

MR. STUPAK: Good morning. Madam Chairman, members of the commission, thank you for giving me the opportunity to once again appear before the commission. I've come to deliver just a very simple message: do not cut short the promised three-year relief because it's absolutely essential to the American steel and iron ore industry workers.

We heard from Mr. Oberstar earlier this

morning. Jim and I have the last iron ore mines left in the United States. He handles props up there that are made in my district and everything he said holds true for northern Michigan as it does in Minnesota.

He mentioned the steel plate there from the Coast Guard buoy tenders. Those are actually made in Marinette, Wisconsin, which borders my district, right there on Mnemony River. Michigan and Wisconsin workers make those buoy tenders.

Our industry is all inter-related, from steel to iron ore, so what happens in the steel industry, as Mr. Visclosky so articulately outlined the impact of the used to be steel industry and that's what we're seeing in the used to be iron ore industry.

But the 201 action has actually been very instrumental in bringing back to life an industry that really was crushed because of the large volume of low priced foreign steel. In return for granting the domestic steel industry relief from these imports, the American steel industry and the iron ore industry accepted the responsibility to restructure and that's exactly what they've been doing. So after 18 months, we can't turn back the clock after we've told them they have three years to restructure.

As I know members of this commission have heard me testify before, the workers in the mines, their families, the surrounding communities and economies all suffer when we have unfair competition that really flood our country with subsidized slab imports that really hurt the domestic iron ore industry. The 201, as I said, has given us new life. It's stabilized the slab imports at a price and volume that we can compete with. And, as I've testified before, I still believe that more should be done. I believe we should have had straight tariffs rather than tariff rate quotas. I do not think we should have excluded NAFTA countries such as Mexico from the 201 action. But, you know, what the administration and commission did, we thank them for that, that you recognized that relief was necessary, that 201 safeguards have been necessary and a step in the right direction and a step towards recovery for both the domestic steel and iron ore industries.

I'd like to specifically point out that Cleveland Cliffs, the majority owner and operator of the Tilden and Empire mines in my district, have taken great strides to become more efficient and more competitive. Cleveland Cliffs is working now to consolidate the mines in my district.

Before we had 201, we had 2200 workers in the two mines, the Empire and the Tilden. After 201, we're down to 1500 and they are negotiating with the union for further job reductions in the iron ore industry. Other steel companies and iron mines have made similar steps in consolidation and efficiency and I commend them for their efforts. For the steel and iron ore industry, these have been trying times and more challenges lie ahead.

I want to emphasize that even underneath the current safeguards, the road ahead is not easy for the steel and iron ore industry. If we eliminate the 201 tariffs now, we will wholly prevent the steel and iron ore industry from having a chance to complete the necessary restructuring and capital investments they need to compete against cheap foreign steel.

In closing, I would like to reiterate to you the importance of maintaining the 201 tariff measures for the full three years. This commission, through its hard work in conducting an exhaustive investigation, has given the American steel industry a chance, a chance to survive. But the key factors, and you've heard it from others today, the key factors that led to the import crisis are still in place. Foreign over capacity in steel is today as rampant as it's ever been. Foreign governments still subsidize their steel manufacturers. Foreign markets remain protected and anti-competitive market practices by foreign governments keep U.S. steel products out of their countries.

What does it mean for all of us?

It means the American market can once again be flooded tomorrow, the next day, by foreign steel at a moment's notice. The U.S. must remain vigilant to protect the steel and iron ore industry from unfair, illegal steel dumping if we are to maintain a U.S. domestic steel and iron ore industry. We have about six mines left in this whole nation. If we do not have iron ore mines, we do not have domestic steel production in this country and this country cannot survive without a domestic steel industry.

We can't expect our steel and iron ore industry to complete all the necessary restructuring steps in as little as 18 months when we promised them 36 months. We must give them an honest chance. They have taken the steps we have asked them to take. We should not let them down now.

Thank you very much for the opportunity to appear here today.

CHAIRMAN OKUN: Thank you for your appearance and your written testimony will appear in our record.

MS. ABBOTT: The Honorable Mike Doyle, United States Congressman, 14th District, State of Pennsylvania.

CHAIRMAN OKUN: Welcome, Congressman Doyle.

MR. DOYLE: Thank you very much.

CHAIRMAN OKUN: If you could just make sure your microphone is on? There you go.

MR. DOYLE: Madam Chairman and members of the commission, thank you for the opportunity to testify before you today regarding the vital need for maintaining a vibrant and dependable domestic steel production capacity for our nation's defense.

I believe strongly that the President's Section 201 relief is helping the domestic steel industry return to a state of profitability and viability and this belief has been echoed in the capital of my home state where members of the Pennsylvania House unanimously pass Resolution 348, voicing support of the people of Pennsylvania for the continuance of this relief for the full three-year term.

The importance of a strong American steel industry extends beyond the hundreds of thousands of jobs it provides or the superior products it produces.

American steel plays a critical role in our nation's defense and homeland security. Vital to our defense capabilities, steel was used in countless applications, ranging from major weapon systems to the small yet vital components within them. For example, this spring, President Bush flew a naval jet, the very type of jet whose flight surfaces are controlled by steel wire rope and landed on one of our great nuclear power aircraft carriers, constructed largely of steel.

Each of the ten aircraft carriers constructed in recent years needed 50,000 tons of steel plates to make and contain steel parts ranging from the sophisticated alloys of its nuclear propulsion systems, it's electrical generation systems, high frequency radio equipment, pipes, aircraft hoist systems, aircraft launch rails and even the cable that arrested the President's plane as it landed.

These are exactly the essential components that must be made with steel from American plants. Of course, an aircraft carrier is only one example of the many defense systems that rely on steel for their effectiveness. In the recent war in Iraq, the Army once again fielded the M1A-2 tank. The M1A Abrams tank is the best in the world and each one contains 22 tons of high quality steel plate to protect its crew. All together, 187,000 tons of steel plate has been used in recent years to construct 8500 tanks and a further 30,000 tons went in recent years to build light armored vehicles.

Notably, many of the steels that are used in defense applications were specifically developed through joint cooperation of the American steel industry with the Department of Defense. Such specialized research and development is not something we can farm out to foreign steel producers. Not only would the technology become unsecure, but America runs a potentially grave risk if supplies of this vital resource become controlled by foreign sources. Recent disagreements in international relations demonstrate why it's prudent for the United States to maintain domestic supplies that will not under any circumstances be subject to external pressures.

It is also prudent to consider the need to maintain an industry capable not only of supplying current needs without disruption but also one capable of rising to the increased needs of an emergency.

Although current demands for steel for military uses are very low by historical standards, it has been much higher when our forces have been committed in past extended conflicts. For example, at the height of Vietnam, American steel manufacturers supplied an average of 2.4 million tons of steel product annually for military uses. In a volatile world, we cannot be sure that this level of supply will not be needed in the future and that it might not be needed so rapidly that only domestic producers can respond in a timely manner enough for expanded military demand.

In addition to the traditional demands of defense applications, dependable supplies of steel plays a vital part on the homeland security front. Much of our critical infrastructure relies on steel for structural integrity, from skyscrapers to bridges to electric power plants and dams. Most visibly, each of the nation's suspension bridges require nearly 100,000 tons of structural and reinforcing steel to make and are critical to public mobility and safety as vital arteries of our nation's commerce.

Should any one of these infrastructures fall victim to some future terrorist attack, it would need to be rapidly rebuilt to minimize the economic effects. That rebuilding task could be hampered by unreliable supplies caused by over reliance on imported steel.

In short, a strong and vibrant domestic steel production capacity is central to our defense. Prudence dictates that we safeguard this resource and the continuance of the President's Section 201 relief for the full three-year term is a vital component to ensuring the strong future of American steel.

I urge the commission to consider this important matter in your deliberations and I thank you all for your time.

CHAIRMAN OKUN: Thank you very much for your appearance and your written statement will appear in our record as well.

MS. ABBOTT: Madam Chairman, the Honorable Bob Ney, United States Congressman, 18th District, State of Ohio, is unable to attend today's hearing. He asks that his written statement be accepted into the record.

CHAIRMAN OKUN: I would just note, Madam Secretary, that I believe Congressman Ney was here but was unable to stay to give his testimony in light of the number of people here. So he was here and we apologize that he was not able to with us at this time.

MS. ABBOTT: Yes, That is correct.

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: Our next witness is the Honorable Carolyn Cheeks Kilpatrick, United States Congressman, 15th District, State of Michigan.

MS. KILPATRICK: Good morning, Madam Chairperson and members of the commission. Thank you for coming and having this hearing as we review as required by law to review the law.

I'm here to report that the steel industry has considered and has worked with the parameters that the President has put forward and has begun to help the steel industry although many helps still need to be done. A strong viable steel industry is important to the 13th Congressional District of Michigan. I have two steel facilities in my area and I have been working with them very closely to save their jobs.

There are other steel industries throughout the state of Michigan. U.S. Steel in Ecorse, Michigan, which is part of my district, and Rouge Steel, which is in Dearborn, Michigan, are integrated producers of flat rolled steel. Both are vital employers to Michigan's 13th Congressional District and employ nearly 5000 people. Rouge Steel has been taking major steps to improve their cost competitiveness of their flat rolled products. The company acknowledges in its annual report that Section

201 relief is important to its ability to become competitive. However, the relief is compromised by increases in imports from other countries that were excluded from relief by the President. The commission's public hearing staff shows surging imports of uncovered rolled steel and strip and coated products important to my constituents.

It is important the commission reports identify which countries are responsible for the surge and then act accordingly.

I join those domestic producers who have urged the President to address shifting problems through the authority that exists currently under the President's proclamation. Our steel industry and our steelworkers are doing their part, but the relief that must be provided and continued must take into account country and product exclusions that are no longer justified.

We must save the steel industry so that they can continue to take care of their families, their workers and our country. It is important that as you look interimly at what's going on that you recommend to the President that they stay the course and complete the three-year obligation that he has represented and asked for.

We need relief for all the full measures of time originally granted. The world has got to tackle its over arching problem of too much steel making capacity kept in place by massive subsidies. If we do not succeed in bringing subsidies under control and get rid of the inefficient capacity in other parts of the world, our companies, our workers, our communities and our states will continue to suffer despite doing everything humanly possible to be the best that we can be.

Please recommend to the President to keep relief in place. Make it more effective and keep home and alive for hundreds of thousands of American workers who put their lives on the line and support their families daily who are dependent on a viable steel industry.

I thank you, Madam Chair, and I look forward to working with you.

CHAIRMAN OKUN: Thank you very much for your appearance here today.

MS. KILPATRICK: Thank you.

MS. ABBOTT: The Honorable Dennis J. Kucinich, United States Congressman, 10th District, State of Ohio.

CHAIRMAN OKUN: Good morning, Congressman

Kucinich.

MR. KUCINICH: Good morning. When import relief was granted nearly a year and a half ago, the U.S. steel industry was in perhaps the worst condition in its long history. To fully appreciate the progress that the industry has made so far, it's worth recalling the devastating state of the industry at the time that import relief was granted.

Twenty-nine steel companies had filed for bankruptcy protection between December 1997 and March 2002, including, of course, LTV Steel Company, which was headquartered in Cleveland. Of these, a dozen eventually shut down their operations all together, idling tens of millions of tons of steel producing capacity and throwing tens of thousands of steelworkers out of work while hundreds of thousands of retired workers were facing the loss of their hard earned pensions and health care benefits.

In my district, LTV, a multi-billion dollar company that had once owned more than 30 facilities in 11 countries and employed more than 15,000 people finally shut down operations in November 2001. Since Section 201 relief was granted, we've seen an important turnaround in the steel industry. As you know, the flat rolled steel producing assets of LTV which include the Cleveland works were bought by International Steel Group in April 2002. ISG then brought back on line much of the capacity that had been sitting idle for half a year and put back to work over 1000 steelworkers.

Section 201 relief created the conditions that made acquisition and re-starting of steel production possible and brought back so many steel jobs to my own district.

I want to commend the United Steelworkers of America for the leadership that they have exhibited in forging new collective bargaining agreements with steel producers that have greatly improved the industry's competitiveness.

Back in the 10th District of Ohio, we have over 1800 active members of the USWA working to produce the finest steel products in the world. They are rising to the challenge of making the industry competitive with imports. Let's not forget, however, members of the commission, that it was the surges in low priced imports in the last several years that pushed the industry to the brink of collapse.

Section 210 relief is not only providing the industry with time to adjust to import competition, it's also providing time for our negotiators to see solutions to the massive global over capacity in foreign steel subsidies that still exist today and were the source of the import surges.

I think that any kind of reflection by this commission on the condition of steel in this country must end this whole thought about restructuring, must take into account that it wasn't the United States that created the over capacity, that this over capacity that existed in the industry is the result of flawed policies, perhaps endorsed by U.S. administrations, with respect to monetary policies and trade policies that had a cascading and adverse effect on jobs in this country through crushing our steel industry.

So when we talk about restructuring, understand that some of us see this as code. The word restructuring has actually been used to try to crush the American steel industry and eliminate good paying jobs in this country and eliminate strong unions in this country in exchange for other areas that are lower paying and a docile workforce.

There is no question that we would not be here today if it wasn't for policies like that. There's also no question that the work of this commission is very vital when it comes to creating the possibility for this country to move towards a new manufacturing policy where we recognize that as a matter of our national security that the maintenance of American steel, our automotive and our aerospace capacity is vital. Not only to our economy, but vital to the interests of our security.

And with that, as some other members have mentioned, we have to keep in mind that our ability to be able to repair our infrastructure depends on a ready supply of steel that would be made in this country and there are new programs that are necessary in that regard as well.

So there remains much to be done to deal with the human suffering this crisis has brought. Even with Section 201 relief, there are still many thousands of steelworkers who will not be returning to their jobs. The industry and, indeed our country, needs the time to deal with the human suffering. Steelworkers who years ago took early retirement as a part of earlier efforts by the industry to reduce operating costs and improve profitability are today facing the loss of pensions and healthcare benefits. It would be a serious injustice indeed if we do not now take care of the workers who carried more of their share of the burden of downsizing to make the industry competitive.

I believe the last 16 months show how well trade laws can work when they're allowed to work. The commission made a unanimous affirmative determination that the steel industry was injured by steel imports, which opened the door to the Section 201 relief. The industry is doing exactly what Congress envisioned when it amended the law in 1988. It is making a positive adjustment to import competition. I am hopeful you will be permitted to finish the job and I am hopeful that as you do that you will keep in mind those millions of families who rely on this industry for not only the security of their retirement, the security of their jobs, and for the security of America's future.

Thank you.

CHAIRMAN OKUN: Thank you very much for that testimony.

MS. ABBOTT: The Honorable Stephanie Tubbs Jones, United States Congresswoman, 11th District, State of Ohio.

CHAIRMAN OKUN: Welcome.

CONGRESSWOMAN JONES: Thank you. Madam Chairwoman, members of the Commission.

I know you didn't think this many members of

Congress were interested in these 201s come last year. But we all are here to celebrate the great result of what has happened with the 201s, and again, it's always good to see you, and see when women do thing, things get done. See, maybe when we get in charge of the House of Representatives, a lot more things will happen in the House of Representatives that will make a difference for our country.

But be that as it may, I'm just here to say that we definitely need to keep the 201 in place through the three-year period. I have this wonderful speech that my staff have put a lot of time into and I have reviewed for all the time that I have been here. But in your public interest, I'm going to ask that I have unanimous consent to submit my statement for the record.

But we all know that a number of things have happened as a result of the tariffs being in place, and it's only a part of the overall policy that we need to put in place to save the steel industry. There are steelworkers retirees who are praying that they are going to be able to get the health care benefits and the other legacy costs that come to them.

Their are communities that economically need the support that taxpaying citizens can provide.

There are communities who want to be assured that there will be a steel industry in their town, and Cleveland is lucky. As a result of the steel tariffs we have had a consolidation, a new company has bought the company. They are actually exporting steel, which is a significant thing to be happening from the State of Ohio and from the U.S.A.

But I would recommend to you an article from Business Week dated July 21, 2003. I would ask also to have that article submitted for the record. It's called "Up From the Scrap Heap," and it talks about the impact that consolidation has had on the steel industry.

In the interest of you and my colleagues that are sitting over in the room over there, I yield the balance of my time, and I thank you for the opportunity to be with you.

CHAIRMAN OKUN: Thank you very much, and your full text along with the Business Week article will be included in our written record.

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

CHAIRMAN OKUN: Welcome.

CONGRESSMAN STRICKLAND: Thank you, Madam

Chairman, and members of the Commission.

I appreciate the opportunity to appear before you today. Let me begin by saying that I believe the Section 201 relief for the American steel industry is necessary. I supported that measure during the investigation before you nearly two years ago. I supported that measure during the 332 hearing in June, and I support the measure for its full three-year period.

The Section 201 is intended to give United States producers a temporary respite from injurious imports to allow an opportunity to make necessary adjustments. The case before you is exactly the type of situation that Section 201 safeguard remedies are designed to address, and the domestic steel industry is undertaking exactly what is asked of it: a significant restructuring and consolidation.

I am well aware of the tough decisions facing the industry. Two major steel companies, Weirton Steel Corporation and Wheeling Pittsburgh Steel Corporation located in the Ohio Valley have benefitted from these tariffs, and the tariffs remain an important part of their reorganization plans to emerge from bankruptcy.

These companies are not looking for

handouts. They are working hard to improve their competitiveness and to return stability to this industry and to its workforce. The steel industry is crucial to the American economy and to our nation's security. It simply makes no sense to revoke 201 tariffs now, and to eliminate this temporary remedy that is serving this vital industry so well.

The President's steel tariffs are allowing the domestic industry to return to profitability as operating income and capacity utilization rates improves. Domestic producers have already invested over $3.6 billion to consolidate the industry and to improve productivity. The steel industry, which was overwhelmed by imports, needs the relief to carry out further investments and the restructuring necessary to respond to the drastic changes in the U.S. steel market which were caused by massive imports flooding our markets.

It is therefore critical that the Section 201 relief remains in place for the full three-year term. To cut short the relief would be devastating to the domestic industry as it has not even begun to make up for the crippling losses it saw in the three years prior to the imposition of the tariff measures.

While the tariffs have been essential to the restructuring efforts to date, they have resulted in only modest price recovery for flat-rolled steel products. For example, the latest available data shows that hot-rolled steel spot prices today are below 20-year average price levels.

Some steel-consuming industries allege that the tariffs have resulted in higher cost for them, but the facts show a different picture. Steel prices have in fact lagged price trends for the steel-consuming industries. It is true that domestic flat-rolled steel prices have increased from the unsustainable historic lows in 2001, but even with this price recovery steel prices fail to keep pace with the price changes in steel-consuming industries. Even after accounting for the increase in steel prices in 2002, steel-consuming industries have in fact benefitted from overall declining steel prices.

Equally important is the fact that prices for steel have increased considerably more abroad than in the United States since the Section 201 relief was put in place, and I repeat that because I think it's important. Prices for steel have increased considerably more abroad than in the United States since the Section 201 relief was put in place. Foreign flat-rolled steel prices have increased so dramatically that in almost all cases they are now higher than domestic steel prices.

I therefore hold that the argument that domestic steel increases resulting from the imposition of the Section 201 relief have created incentives for steel consumers to relocate their operations overseas, that that argument holds no weight.

The domestic industry cannot possibly be expected to adjust and to recover in 18 months. While it has invested billions and taken enormous risks in reliance on the President's three-year program, further investments hinge on stable market conditions.

It is unimaginable to me that we would abandon this industry and its workers now. I would therefore like to impress upon the Commission the importance of maintaining the relief for the full three-year term, and I urge you as a Commission to make such a recommendation to the President, and I thank you for the opportunity to speak with you today.

CHAIRMAN OKUN: And thank you very much, Congressman.

MS. ABBOTT: The Honorable Shelly Moore Capito, United States Congresswoman, 2nd District, State of West Virginia.

CONGRESSWOMAN CAPITO: Madam Chairwoman.

CHAIRMAN OKUN: Good morning.

CONGRESSWOMAN CAPITO: Good morning. And distinguished members of the Commission.

I know you have heard fast an furious from many other members, but I would like to say, and I want to thank you for giving me the second opportunity to appear before you to talk about the Section 201.

I would like to begin, we all know why we are here. It's the result of the anticompetitive practices in the global steel market by those who refuse to play by the WTO trade rules, who feels though they are not subject to fair market prices. As much as 80 percent of all foreign steel producers are either subsidized or government controlled with quotas, high tariffs, restrictive licensing agreements and other unfair and potentially illegal trade practices.

In fact, our domestic steel consumers have continued to benefit from more than adequate supplies of foreign imported steel which has forced the steel prices overall to decline as well.

Simply put, I think the President's steel program has three primary objects: the reduce the excess steel capacity in the global market; to address the anticompetitive practices worldwide so that normal market equilibrium can be restored; and to rehabilitate our domestic steel industry through restructuring and consolidation, capital investment and equipment, technology and reduced operating costs, and better productivity.

But let's not forget that the President's 201 program has a temporary life span of only three years in order to level that playing field and allow the domestic industry to recover, adapt and thrive.

Let us also not forget that WTO trade laws allow all nations to enact Section 201-type safeguard measures if a casual connection can be shown between foreign imports and an injury to the industry at issue.

Indeed, if you were to ask more than the 50,000 iron and steelworkers who have lost great jobs whether there has been an industry to the steel industry, or if you have simply looked at any of the recent data, I think you would easily have your answers as to the inquiry.

Madam Chairwoman, and distinguished members of the Commission, when I testified here in September of 2001, I spoke of the vital role of our top integrated steel companies, companies in West Virginia like Weirton Steel And Wheeling Pittsburgh, how much they play in supporting our local economies of scale across America. I cannot emphasize to you enough the importance of the steel industry to a small state such as West Virginia. We were born and raised in the production and a generational production of steel.

Also vital to the industry is the mini-mills and niche product manufacturers like Specialty Metals Corporation in Huntington, West Virginia, which produces high-end stainless steel products.

It is on behalf of these iron and steelworkers and their families that I appear before you to strongly urge your Commission to recommend the continuation of the President's steel program and 201 remedies until May of 2005.

I would like to reemphasize some of the points that I have heard other members say. Our national security, our transportation infrastructure, construction and building trades, downstream producers of automobiles, and so many other durables, indeed our whole economy relies on a steady and healthy domestic steel industry. We cannot afford to abandon this program after only 15 months and revert back to more closings and more unemployment.

I thank you again for your consideration and your efforts.

CHAIRMAN OKUN: Thank you very much and for your written statement as well.

MS. ABBOTT: The Honorable Rob Bishop, United States Congressman, 1st District, State of Utah.

CHAIRMAN OKUN: Welcome, Congressman Bishop.

CONGRESSMAN BISHOP: Thank you very much. Madam Chairwoman and Commissioners, it's indeed an opportunity for me as a new member to be able to join members of both Houses in a bipartisan support of the President's steel import relief program. The President was right to make this decision, and the industry does need the full three years to fulfill mandate to restructure and to consolidate.

As Commissioners, I recognize that you examine industry data, and I hope as you do you do not lose sight of the impact of hundreds of thousands of people who work in this industry. Two of those mills happen to be in my district. The Nucor Steel mill in Plymouth, Utah creates the merchant bar and rebar that is covered in the remedy. Also the Nucor Vulcraft plant in Bringham City creates the joists and the profile steel trusses that are also used.

These two plants not only consume $130 million of supplies provided by Utah companies, and they not only create a million tons of steel that is used for this country every year, and they not only create good paying jobs for 700 workers in my district, but they also are extremely important corporate citizens who have a great impact in my community.

Before January, when I came here, I was a schoolteacher in Utah. These companies provide in our districts direct support for supplies we would not have had directly to the classroom. Utah State University's indoor arena was supplied with a new roof from these two companies who supplied material as well as the money to produce that. They produce scholarship for the kids of the employees to continue on their college education.

And I am always reminded of Kelton who 15 years ago was a two-year-old in desperate need of a live liver transport at the time they are a risky procedure. The insurance companies would not pay. Nucor Steel took on this child of one of their employees. They negotiated with the hospital to maintain this procedures, and they paid for the entire procedure. That kid now is a strapping 17-year-old who graduated from Bay River High School.

Foreign companies may be able to dump a

whole lot of produce that is subsidized into our country, but they can never have the kind of community impact that these good corporate citizens that they have in our communities.

You have heard the numbers from many people and I'm sure you already know the numbers that are involved. There is no indication, as I understand, if any short supply of product nor any long lead time. If there are complaints of that, I would refer them to our plant in Plymouth that I know could fulfill every need that they have.

Madam Chairwoman, I hope that -- I know the President made the right decision to implement the Section 201 remedy. I certainly hope this Commission does not fall to political pressure to reverse that decision. In fact, I hope you fall to my political pressure to maintain that decision.

In exchange for this relief for this import surge, I understand the President had certain conditions to consolidate and improve efficiency. Nucor is investing in its bar mills to reduce cost, to increase its yield, to improve its quality. These projects will enable Nucor to maintain low costs and to remain on track for continued improvements, but the industry's work is not done. The industries and workers are relying on the President's commitment that they have this relief for the full three years, so please do not let them down, and I do appreciate very much your time and your patients.

CHAIRMAN OKUN: Thank you, Congressman Bishop. I won't comment on the political pressure. I will only note that I am Utah State Agge, so I will go check out that arena.

CONGRESSMAN BISHOP: If you had told me that earlier, I would have spent a lot more time talking about that roof. I apologize.

CHAIRMAN OKUN: I know where you're coming from. All right, thank you very much for your testimony.

MS. ABBOTT: The Honorable Edwin J. Bowman, State Senator, State of West Virginia.

CHAIRMAN OKUN: Welcome to the Commission.

SENATOR BOWMAN: Thank you very much.

Madam Chairman, members of the Commission, ladies and gentlemen, good morning and thank you for this opportunity. I just admit I believe I was deceived before I came here today as I listened to some of the other previous speakers, I was told I only three minutes to speak, and probably for very good reason because when I begin to speak about the steel industry and the assault and the effects it has on the citizens of my community, I can get carried away.

My name is Ed Bowman. I am life-long resident of the City of Weirton, West Virginia, home of Weirton Steel Corporation. I am also a retired employee of Weirton Steel where I worked for 28 years. I have served two four-year terms as the major of Weirton. I am currently serving my third four-year term as the West Virginia State Senator representing the 1st senatorial district in the state's northern panhandle, the heart of West Virginia steel industry.

It is my honor and privilege to join these distinguished members of Congress who support the Section 201 steel tariff remedy.

As a steel industry veteran and as an elected official, I possess a unique grass roots perspective of this industry's importance to our nation. The steel tariff program has been and hopefully will continue to play an essential role in the industry's survival and its improved competitiveness.

During my tenure as mayor and even today, taxes paid by Weirton Steel comprise nearly 60 percent of the City of Weirton's budget. These tax dollars are used for maintaining roads, furnishing police, fire and emergency medical services, recreation, and other services you and I expect from our communities, and let's not forget what these tax dollars also do for our local school districts.

Weirton Steel provides 3500 good paying jobs with good benefits. Wheeling Pittsburgh Steel, also in my district, provides another 3500 jobs. When including the steel-consuming and steel supply businesses within my district, the steel industry is responsible for nearly 12,000 good jobs.

Because of steel, these people invest their earnings in the community, they patronize local businesses, they build and remodel their homes, they send their children to college, and they pay taxes.

Total number of steel companies, employees, the quality of life and the direct effects on the economy, and you will discover the domestic steel industry is very important. West Virginia is not the largest steel-producing state, but it still is vital to our state.

Weirton Steel is the state's largest industrial employer. As our nation continues to lose good paying manufacturing jobs, clearly steel making must continue to exist.

The loss of West Virginia steel industry would devastate our people, our economy and our local and state governments.

Weirton Steel and Wheeling Pittsburgh Steel are making good progress in recovering from years of unfair surges of steel imports. The 201 tariff program is playing a tremendously positive role in helping these companies become more competitive. I sincerely hope and pray that the tariffs will continue through March 2004.

On behalf of the residents of West Virginia, I once again thank you for this opportunity. Thank you.

CHAIRMAN OKUN: And thank you very much for making the trip from West Virginia, and I assure you everyone else was told three minutes as well. Thank you very much.

Madam Secretary, I understand we have no other congressional witnesses here at this time, and we can proceed to opening remarks.

MS. ABBOTT: Opening remarks on behalf of the domestic industry will be made by Robert Lighthizer, Skadden, Arps, Slate, Meager & Flom.

CHAIRMAN OKUN: Good morning, Mr. Lighthizer. It's still good morning.

MR. LIGHTHIZER: Good morning.

In order to get us back on schedule I will try to get my remarks down to about four minutes and 55 seconds.

At the Section 201 hearing in November of 2001, I argued that when the history of manufacturing in this country is written, and particularly the story of the steel industry that built this great nation, your vote in this case would prove to be a seminal event.

Now almost half way into that relief we can say for certain that prediction was correct.

This case was truly unprecedented and the crisis that precipitated the investigation, in the scope and breadth of the proceedings you conducted, and in the clear and immediate and incontrovertible facts that justified the relief.

It has been repeatedly said and is unquestionably true that if temporary relief was not justified here where the very existence of a foundational industry was at stake, the safeguard law would be a dead letter and a dead promise to the workers and industries of this country.

The results of the President's decision based on this Commission's determination has been historic by any measure. With breath-taking speed and vision, the industry has invested more than $3 billion to restructure and consolidate. Steelworkers have engaged with industry leaders and made tough calls, but the right calls to forge innovative and new work rules that will make this industry leaner, more productive and more competitive for decades to come.

The industry is fulfilling its promise to the President and to this Commission, and is midstream in a restructuring that, if given a chance to succeed, will change the face of steel-making in this country and represent one of the true success stories in the history of U.S. trade policy. In short, this is exactly how the safeguard law is supposed to work.

But what about the claims of those who oppose relief? Have the tariffs in fact acted in their words as embargo on imports? Imports, of course, grew, not declined in the year after relief was announced.

Have prices skyrocketed as some have predicted, putting consuming industries at a disadvantage vis-a-vis foreign competitors? In fact, prices, have shown only the modest increases we projected, and have actually risen much less than abroad.

What about the uniform charge that the

relief would do nothing to spur restructuring? Those claims are truly laughable now in light of the most far-reaching adjustment in this industry or perhaps any industry's history.

And what do the critics say now? Well, they would have you believe that all of it, the historic restructuring, the productivity gains, the cost savings, the new labor agreements, it's all one giant coincidence that just happened to occur when the 201 measures were put in place.

Remember, two years ago they told you that it was a coincidence that during a period of record demand the industry lost billions of dollars right when imports just happened to flood this market.

Well, accidents don't always happen. The world is not a Dickens' novel or an Oliver Stone movie in which every coincidence is followed by another even less believable. At some point if it seems to be true, it just may be.

Backing down on this relief now would effectively squander a once-in-a-lifetime opportunity and constitute the cruelest of tricks on those who have risked their businesses and their livelihoods on the success of this program.

Is it reasonable to think that the industry has even begun to make up for the $3.5 billion that it lost during the import crisis? Is it possible to believe that the billions in investments made in reliance on this relief and the productivity gains they promise will be viable if imports again ruin this market?

Does it make any sense with all that the government, the industry and the steelworkers have done and are doing to make this work to pull the plug now when the program is just beginning to work?

If the answers to these questions are obvious, they are no less important and no less critical to your review.

There is good reason for all of us, particularly the President, the Commission and the companies and the workers to be proud of what we have done to save this industry. It has meant long hours in the government going over briefs and projections. It has meant even longer hours in the companies and the union halls where they have made critical and at times agonizing decisions of how to rebuild an industry devastated by an import crisis, and rebuild the future of countless communities and lives across this country.

This industry needs and deserves the time to finish this job. Now is not the time to break face with that effort. Now is not the time to snatch defeat from the jaws of victory.

Thank you.

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: Opening remarks on behalf of the respondents will be made by William H. Barringer, Willkie Farr & Gallagher.

MR. BARRINGER: Good morning.

CHAIRMAN OKUN: Good morning.

MR. BARRINGER: It is still morning, right? Just barely.

CHAIRMAN OKUN: It is still morning.

MR. BARRINGER: I am Bill Barringer. I'm a partner at Willkie Farr & Gallagher. My remarks are being made on behalf of the foreign producers that participated in the joint respondents' brief.

This no question that the U.S. industry is very different than the industry the Commission analyzed in the investigation leading to the 201 relief. The federal government has assumed billions of dollars of unfunded pension obligations, additional billions of dollars in unfunded health benefits for retirees have been shed in bankruptcy, four of the largest U.S. mills, LTV, U.S. Steel, National and

Bethlehem, have been consolidated into two giant mills, and historic new labor agreement has allowed these and other mills to operate more efficiently, and Nucor has continued to expand its flat-roll capacity with the acquisition of Trico out of bankruptcy.

In our view, the central question for the Commission in this midterm review is whether the Section 201 relief has facilitated the adjustment of the industry as a whole to import competition, and whether continued relief is necessary to facilitate further adjustment.

While the record is replete with generalizations, some of which you have just heard, about the how the Section 201 relief has been essential to the industry, there is an absence of any real evidence that this is the case, nor is there any evidence that continued import relief will facilitate further adjustment.

Perhaps the single most important event precipitating the consolidation of the industry and new labor agreements was the ability to get rid of pension and other unfunded legacy cost liabilities. This occurred in the bankruptcy process, a process which began long before any import relief and continued independent of any import relief.

Thus the first question is how the removal of these liabilities is related to import relief. The second and related question is whether there is any evidence that the industry consolidation that followed the removal of these liabilities was dependent on import relief. Would ISG not exist but for import relief? Would ISG not bought Bethlehem but for import relief? Would U.S. Steel not have bought National but for import relief? Would Nucor not have bought Trico but for import relief?

We suggest that the Commission requests each of the acquiring entities to provide contemporaneous analyses documenting that import relief figured prominently in their decisions to make these acquisitions.

A third factor has been the renegotiation of labor contracts to enhance productivity. Wasn't the key factor to the threat of liquidation, or in the case of LTV, actual liquidation, and the closure of mills in bankruptcy absent a new labor agreement?

Can the United Steelworkers documents that its labor concessions were in any way, any meaningful way related to import relief?

Equally important is the issue is whether continued import relief will facilitate further adjustment. A key element of adjustment should be the closure of the least efficient facilities, facilities that simply cannot be made internationally competitive. Yet we have seen no new closures since the 201 relief was imposed.

Gulf States and Geneva were already closed, and most of what was closed of LTV has been reopened. Yet many blast furnaces with comparably low efficiency levels to those at Gulf States and Geneva remain in operation, and there are no apparent plans to shut them down.

Does the industry not believe that closure of inefficient blast furnaces is necessary to become internationally competitive? If not, why not? If so, doesn't import relief by creating an artificial market discourage rather than encourage closure?

The combination of import relief and federal loan subsidies seem to guarantee that the weakest mills will be allowed to survive regardless of whether they are competitive with imports or their domestic rivals. This is not positive adjustment to import competition.

A related question is whether having gotten rid of the major impediments to closing and restructuring in the form of pension and other legacy costs new impediments have been substitute in the form of restrictions imposed in exchange for the new labor agreements. Are there new restrictions on the ability of companies to close facilities, to use alternative models such as supplementing or substituting imported feed stock or internally produce these stocks or to substitute EAS production for integrated production?

Finally, part of positive adjustment has to be upgrading, upgrading to make what is being imported, that is, the exclusion, and we see no plans to do this.

Thank you very much.

CHAIRMAN OKUN: Thank you.

Madam Secretary, we can go ahead and seat the first panel. We're going to take about three or four minutes to do that, to allow witnesses to take their seat, and we will resume in just a couple of moments.

(Whereupon, a short recess was taken.)

MS. ABBOTT: The first panel is seated. If the room could come to order we could start, and Madam Chairman, the panel has been sworn.

(Witnesses sworn.)

CHAIRMAN OKUN: Thank you very much. You may begin your testimony, Mr. Wolff.

MR. WOLFF: Madam Chairman, Commissioners, staff, I had hoped to say good morning but I will say good afternoon.

My name is Alan Wolff of Dewey Ballantine. This morning or rather this afternoon you will hear testimony demonstrating the President's steel program which was made possible by your Section 201 decision is working. Consolidation and restructuring have begun. Significant gains in productivity and major cost improvements are in the process of being realized. Balance sheets are beginning to be repaired, a necessary precondition for restoring capital spending depressed by years of huge losses.

Maintaining relief for the full three years is necessary to ensure success in this unprecedented and dramatic restructuring and adjustment.

Under the statute, positive adjustment is defined as the condition which enables the domestic industry to compete successfully with fairly traded imports once the relief has ended. Indeed, President's Bush's stated objective in granting relief was to enable the industry to restructure and to ensure its long-term competitiveness.

The domestic flat-rolled steel industry is in the process of doing just what was asked of it.

As you stated this morning, Madam Chairman, the Commission's task in this review is solely to report on the results of its monitoring the progress the industry is making to adjust positively to import competition. It is unlikely that there will ever be a more dramatic and positive story to report under this statute than the developments that are occurring in the flat-rolled industry since the Section 201 relief was imposed.

Flat-rolled steel producers are taking advantage of the opportunity presented by the Section 201 remedy to undertake major consolidation and restructuring. The United States Steel has recently completed the purchase of the former National Steel. ISG has been formed from the efficient assets of the former LTV Steel, Acme Steel and Bethlehem Steel. Nucor has purchased the former Trico steel mill. $3 billion has been invested in these efforts in the past 16 months. These investments will result in productivity gains and cost reductions that will benefit both the domestic industry and its customers.

As these statements of the principal parties involved in these consolidations make clear, the investments in consolidation and restructuring would not have been made, and the effort will not succeed without the 201 relief.

The company executives and the union presidents are here today to tell you how this program is permitting the industry to become more internationally competitive. The productivity gains by the domestic industry will be substantial. United States Steel's acquisition of National Steel is expected to result in cost savings of at least $200 million per year and a 20 percent gain in productivity.

Published reports indicate that ISG's transformation of LTV's facilities has reduced manhours per ton from 2.5 to less than one hour per ton, and has cut the cost of hot-rolled production in half. These cost and productivity improvements will bring substantial benefits to both steel producers and steel consumers.

As part of the process of restructuring, both ISG and United States Steel have reached innovative, new labor agreements with the United Steelworkers of America in the past nine months. In the case of the United States Steel/ USWA agreement, it will reduce fixed costs, including legacy costs, and improve productivity substantially.

The number of labor grades are reduced from

34 to five. The number of job descriptions are reduced from hundreds to just six. Employees may be assigned to perform any task that they can perform safely.

The industry is in the process of becoming both leaner and more productive. This chart shows changing capacity on a quarterly basis. Of the more than 20 million tons of domestic capacity at an annual rate that was closed from the fourth quarter of 2000 to the second quarter of 2002, only about 10 million tons of capacity have restarted. This is a different industry.

Inefficient capacity has been closed and more efficient capacity has reopened. Gulf State Steel and Geneva Steel have closed and have not reopened. The former LTV facilities at Cleveland West have remained closed. ISG has restarted the efficient portion of the former LTV Steel. Nucor has restarted production at the former Trico Steel.

Utilization of the more efficient remaining capacity is improving from about 80 percent of the year before relief was provided to almost 89 percent in the year after the Section 201 tariffs were imposed.

In fact, the remedy is working as planned.

The remedy is having the effects that this Commission anticipated by increasing the financial resources available to the steel industry. Prices have improved and profits have become slightly positive. These increased profits are making possible new investments.

The industry's recovery is occurring despite a very weak economy. The first year of relief was a period of very weak industrial activity with the index of industrial production increasing by less than one percent. Weak demand has hampered profit recovery and the cash flow available to implement the planned adjustment measures, and capital spending.

But now there is progress. Flat-rolled prices have begun to recover and stabilize. As anticipated, prices recovered in the year after relief, although they still remain below levels that existed prior to the beginning of the steel import crisis that prompted the Section 201 action.

A central factor in the recovery is that landed import prices for all the flat-rolled products increased in the first year after Section 201 tariffs were imposed. This has permitted the recovery in domestic prices to date, although this recovery is incomplete as prices are still below pre-crisis levels. The adjustment process is proceeding at a remarkable pace, especially given the huge loss position that the industry is recovering from, a total of $3.7 billion in net losses from 1999 through the first half of 2001.

Price recovery has moved the industry from a loss position in the year prior to relief to a slight profit in the year after relief. The ratio of net income compared to sales for four flat-rolled producers that report data publicly, U.S. Steel, Nucor, SDI and National Steel, improved from a negative 6.3 percent to a positive .8 percent.

The increased profitability will enable industry capital spending to reverse its downward trends that began with the decline in profit and cash flow beginning in 1999.

Summing up where we are today, the flat-rolled industry is beginning to restore capital spending that was drastically curtailed by years of losses. While most of the data is under administrative protective order, I can say that United States Steel Corporation has already approved at least $200 million in new spending since the 201 relief was announced.

This new capital investment is aimed at reducing costs and improving quality from steel-making all the way through finishing and coating operations. As profits further improve, industry capital spending should rebound to levels that existed prior to the steel import crisis.

What we are witnessing is a work in progress, but what has been accomplished has been truly remarkable. At the midpoint the remedy is working and adjustment is on track. Profits, while still very small, have replaced losses. Prices are moderate, although not fully back. Capital spending will rebound with the increased profits and cash flow. Costs are being reduced with increased profits and cash flow. Productivity is improving markedly under innovative new labor agreements.

MR. BOB LIGHTHIZER: I'm Bob Lighthizer. This afternoon --

CHAIRMAN OKUN: If you can just get to that microphone.

MR. LIGHTHIZER: I am still Bob Lighthizer.

This afternoon you will hear from consumers who will claim that they have been harmed by the 201 relief. But as we showed in the 332 investigation, 201 relief has not significantly harmed steel consumers. Let me briefly reiterate some of the key evidence on this point.

First, spot prices of flat-rolled steel products have fallen for almost a year.

Second, U.S. steel consumers have access to some of the lowest priced steel in the world.

Third, since relief was put in place, foreign producers have gone from being generally -- I'm sorry -- foreign prices have gone from being generally lower than U.S. prices to being generally higher than our prices.

Fourth, finished flat-rolled imports actually increased after the 201 relief was implemented.

Finally, each major steel-consuming segment saw its profitability improve from 2001 to 2002.

Taken together these facts clearly demonstrate that whatever anecdotes you may hear 201 relief has not significantly harmed consumers.

But while the 201 relief has had little impact on consumers, maintaining that relief is absolutely vital to domestic producers. Domestic producers plainly need more time to complete the consolidation process and they also need profits to pay for additional capital expenditures.

You have to remember, we're still very early in the process. The biggest asset purchases in this industry took place only two months ago.

Now let's talk about just what is involved in a billion dollar acquisition like some we have seen. Look at how much has to be done just to buy the assets. You have to evaluate them, meaning that, among other things, you have to study how they will fit in with what you already have; what the effect will be on your customers; and what market conditions will be in the future.

Once you have identified the assets you want, and you have put an estimated value on them, you probably have to participate in the bankruptcy process, which by itself can be enormously complicated and time-consuming.

Your due diligence efforts could go on for months. You will have to go into the debt and equity market to raise the necessary funds. You have got to satisfy the Department of Justice, and any other regulator who could block your deal; and finally, you will have difficult labor issues to work out. U.S. Steel, for example, had to negotiate an entirely new agreement with the USWA before it got bankruptcy approval for its deal with National.

To close the deal, of course, you will have to finalize all of the different contracts, financing agreements, leases, and other legal documents needed to transfer a billion dollars worth of assets.

These are enormous tasks, and no company can do them alone. You will have countless meetings and consultations with your bankruptcy lawyers, your antitrust counsel, your securities specialists, your investment bankers, your outside accountants and your consultants, and that is just the beginning.

To get the full benefit of your bargain, you will have to do more than just change the logo on the company plant. You're probably creating a completely new company, which means integrating all of your systems, restructuring and retraining your workforce, rethinking all of your customer relationships, reconfiguring your plants to make sure that each is being used in an optimal manner, deciding what rationalization steps need to be taken, and completing the capital investment you will need to achieve for full cost savings.

Once again, I cannot exaggerate the scope of this effort. It is absurd to think that such tasks can be completed in two months. They are more likely to take two years.

But that is only part of what is happening in the domestic industry. Further consolidation may be on the horizon. Major new upgrades and improvements could be made to current facilities. But these projects cannot take place if 201 relief is cut short and domestic producers have to face another import surge.

This really is a textbook case of how the safeguard law is supposed to work. Relief is stabilizing the market and giving the industry the breathing space necessary to undertake major, in this case historic restructuring. It would be the absolute height of folly to reverse course now, jeopardize all that has occurred to date, and take away hope from those working so hard to get this industry back on its feet, and make it a world class competitor for years to come.

MR. STEWART: Madam Chairman, this is Terry Stewart of Stewart and Stewart.

Our first industry witness is Wilbur Ross, the Chairman of ISG.

CHAIRMAN OKUN: Mr. Stewart, I apologize. We do have a congressional witness, so if this would be good time, we would like to accommodate him and then we will turn to you, Mr. Ross.

MS. ABBOTT: The Honorable Tim Murphy, United States Congressman, 18th District, State of

Pennsylvania.

CHAIRMAN OKUN: Welcome, Congressman Murphy.

CONGRESSMAN MURPHY: Thank you, and Madam Chairwoman, members of the Commission, I appreciate an opportunity to testify before you today on matters that are very important to the workers of Pennsylvania, in particular, southwestern Pennsylvania that I represent.

We are all aware of the fact that there are many challenges facing the American steel industry and difficult decisions have to be made. However, I firmly believe a sustainable steel industry in America is an attainable goal is clearly and defined actions are taken based on sound, reliable data, and this is exactly why these hearings are so important.

Without question, the steel safeguards have resulted in their intended outcome. Despite the speculation of critics prior to the implementation of the 201 tariffs, not only has the industry proven its willingness to adapt to changing times by increasing efficiency and productivity, reducing costs, and improving competitiveness, but perhaps more importantly the remedy has precipitated an international debate on the state of the modern steel industry.

Over the last 14 months, domestic producers have invested over $3 billion to consolidate and improve productivity. For example, in Pittsburgh, U.S. Steel has recently acquired the assets of National Steel, and reported positive operating income in three of the last four quarters after suffering losses in 2001, and the first quarter of 2002.

Similar consolidation and increases in productivity and efficiency can also be seen in other domestic steel producers. This increase in production coupled with a Section 201 tariff has resulted in the domestic industry's ability to meet demand with only modest price increases despite a weakened economy.

In addition to reorganization and restructuring, American steel producers have also begun to participate in international negotiations to eliminate the dumping of foreign steel that contributed the current domestic crisis. This initiative promotes a worldwide reduction in steel production.

It is a fact that as a result of foreign steel subsidies, total global production far outweighs demand. Although excess foreign capacity is twice the level of American consumption, many major foreign markets such as Japan, China, Brazil, and India are essentially closed to imported steel through the imposition of distribution barriers, quotas, licensing requirements, and high import tariffs and taxes. This has resulted in the U.S. absorbing much of this overproduction.

Fortunately, the global steel community has begun to address many of these issues. It is vitally important that the safeguards remain in place to allow additional time for foreign nations to make these necessary adjustments. Without these structural reforms the future of the domestic steel industry, I believe, is bleak.

While significant progress has been made, continuing the tariffs for the final year and a half will allow other steel-producing nations time to reform their own systems in such a way as to level the playing field for all steel-producing nations.

The Commission now faces a monumental turning point and historic opportunity to help this industry rebuild itself and remain competitive. The Section 201 remedies have been a tremendous success, I believe.

As the American steel industry begins to think about its future in the long term, I feel it would be myopic to discontinue the tariffs just as they have begun to provide stability for the domestic market.

The steel industry stands at the cross-roads of an uncertain future, and I strongly urge the Commission to recommend that tariffs remain in place, and again, I appreciate the opportunity to be with you this morning. Thank you.

CHAIRMAN OKUN: Thank you for your testimony.

Mr. Ross, you may proceed.

MR. ROSS: Good afternoon, Chairman Okun and Commissioners. My name is Wilbur Ross. I am Chairman of International Steel Group, and I'm here today to discuss our efforts and progress in making positive adjustments to import competition since President Bush granted temporary relief to the United States steel industry in March 2002.

ISG is today the second largest integrated steel producer in North America. Since our founding in April of last years, we have acquired LTV, Acme and Bethlehem Steel. By purchasing and restructuring these formerly high-cost bankrupt facilities, ISG saved 11,000 direct steel jobs and a multiple of that number of jobs at vendors and local service providers in the six states where we have major facilities.

The combination of temporary safeguard measures, enlightened leadership of the United Steelworkers of America, and new management approaches have created a 16 million plus ton integrated steel company that will be globally competitive by the end of the President's three-year program.

The industry will also continue to consolidate during that period by eliminating inefficient and outdated capacity. For example, companies acquired by ISG have 2.7 million tons of shutdown iron-making capacity and 3.3 millions tons of shutdown rolling capacity. Those are detailed in Attachment A to our written testimony.

We have responded to the President's call to action and we are betting more than $2 billion of investment commitment that his objectives for the steel industry will be met. Temporary relief enabled the industry to begin making a positive adjustment to import competition. In particular, there has been some relief from the death spirals of collapsing prices in 2001, when the Commission made its determination.

This current period of less depressed prices has been accompanied by substantial consolidation of the domestic industry as companies and steelworkers have joined forces to address the industry's difficulties rationally. According to your staff's pre-hearing report, no fewer than 17 steel company mergers and acquisitions have occurred since the commission issued it's Section 201 determination. As a result there are today approximately a dozen fewer steel companies operating in the United States compared to the Commission's period of investigation in the 201. Such consolidation has eliminated redundant and outdated operations, enhanced integration of production facilities, permitted overall streamlining of production and improved economies of scale with the attendant elimination of redundant capital spending on new equipment.

These cost reductions have enabled ISG to pursue new markets, including merchant sales of slab to companies that do not have hot-end capacity.

ISG's story is a classic example of the positive adjustment to import competition that Section 201 was designed to foster. The President's decision to grant temporary relief created the market conditions that made ISG's acquisitions of LTV, Acme and Bethlehem feasible.

Prior to the acquisitions both LTV and Acme were idle, and Bethlehem's operations were at risk of being shutdown. All of those assets are now operating at reasonable levels of capacity utilization.

I hope that's not an editorial comment on my remarks so far.

Each acquisition we made was part of a carefully conceived business strategy. Acquisition of LTV allowed ISG to quickly resupply the market with low-cost steel, and mitigate the supply constraints caused by the closure of so much U.S. capacity. Acquisition and restart of the Acme Steel assets, including the most advanced mini-mill technology in the industry, diversified ISG's portfolio into higher value-added mid-to-high carbon hot band. There is a typo in the report, left out the word "carbon." And our purchase of Bethlehem's assets enhanced ISG's access to the automotive industry, and to other contract industries. Acquisition of LTV, Acme and Bethlehem enabled ISG to bring back on line or keep operating capacity that is highly efficient.

Our facilities include a world class cold mill and one of the most productive blast furnaces in the world at Sparrow's Point, a state-of-the-art compact strip mill at our Riverdale facility, and several of the most powerful hot strip mills and modern coating lines in the industry.

We also eliminated a significant amount of outdated or redundant capacity. Following the acquisition of the LTV assets, we closed and are dismantling a 40-year-old hot strip mill in Cleveland. We shut down Acme Steel's old and inefficient blast furnace, and we have not restarted previously idled capacity such as the plate mills owned by Bethlehem where there is no adequate demand for the product.

Companies acquired by ISG now have 2.7 million tons of shutdown iron-making capacity and 3.3 million tons of shutdown rolling capacity.

Indeed, the U.S. steel industry as a whole has significantly contracted so much so that the United States has been and remains one of the few advanced industrial countries in the world to be a net importer of steel.

Excess capacity is not a U.S. problem. It is a global problem that stems from massive government subsidization abroad as well as major shifts in demand resulting for the events such as the collapse of the former Soviet Union.

Rationalization of global steel producing capacity is integral to the President's overall strategy to address the root problems of the industry that put 34 U.S. producers into bankruptcy in the last several years, the same strategy that includes the temporary safeguards. We should not and we do not make apologies for investing in new capacity and technology that will make our nation's steel industry globally competitive and provide our customers with low cost and financially viable sources of supply.

Critically important to the success of these adjustment measures has been the flexibility of the United Steelworkers of America, and management in collective bargaining. Both sides have made important concessions that have substantially improved the industry cost structure and productivity.

The ground-breaking new collective bargaining agreements between ISG and USWA will and are significantly improving productivity while addressing issues of importance to the company's workforce. These agreements, which do not expire until 2008, introduce a new operating culture that emphasizes individual performance and productivity through a broadened scope of responsibility and accountability at every level of the workforce.

Steel labor agreements historically had more than 30 job classifications. ISG's new agreements reduced that to five. We have eliminated previously restrictive work rules and provided other productivity-enhancing changes such as implementation of alternative work schedules. We project normalized total cost savings in excess of $500 million per year, and we project that these agreements will result in major additional cost savings when we have fully integrated the Bethlehem facilities over the next 18 months.

There have been significant workforce reductions both on the factory floor and in corporate headquarters. ISG committed $125 million to a transition assistance program, giving over 2,000 hourly steelworkers a sizeable cash buy-out to help them transition out of the company as we downsize. In addition, ISG has eliminated 90 percent of management positions, nine-zero percent.

Make no mistake, these reductions have been painful. Nonetheless, both management and all other employees at ISG recognize the necessity to adjust positively to import competition. These changes have reduced the number of manhours needed to produce a ton of steel from about 2.5 to about one. By contrast, China and Russia's steel industries each require about six manhours while Europe's industry requires more than two, and workers that the former LTV facilities have already received their first profit-sharing checks.

ISG has also made and will continue to make substantial capital investments in order to maintain production capacity, reduce costs, improve productivity, upgrade facilities to meet competitive requirements, and comply with environmental laws and regulations. ISG is helping to fund the USWA worker training in our own facilities. ISG is also engaged in important research and development critical to meeting the demands of our customers in an ever-changing market.

ISG acquired Bethlehem's Homer research facility in Bethlehem, Pennsylvania, and is continuing the excellent product development work there that has historically developed such successful products as Galvalume, a trademark steel with a zinc and aluminum coating that significantly reduced corrosion and now is the standard in the steel construction industry.

With the acquisition of Bethlehem, ISG's increased scope and scale will reduce the cost per ton of centralized research and development functions.

We are significantly reducing our fixed costs and when completed in the next two years, we will have increased our flexibility to respond to changing market conditions.

As the Commission knows, the steel industry's historically high fixed costs put great pressure on maintaining high levels of capacity utilization. Therefore, during periods of declining prices, whether due to weakening of demand, rising levels of low priced imports, or both, domestic producers often built up excess inventory as they struggled to cover fixed costs by running their mills at maximum utilization.

We at ISG believe that we will be able to avoid the inventory problems the industry has faced in the past by having the flexibility to follow market trends while still generating reasonable returns on investment.

In short, the domestic industry generally, and ISG in particular have used the first 16 months of temporary relief to make very substantial adjustments to import competition. The domestic steel industry is in significantly better condition today than in 2001.

Now, I understand that the President has not asked the Commission for its judgment or opinion about whether import relief should continue. Nonetheless, in order for your report to the President to be complete, it is critically important that you include in that report information about what remains to be done for the industry to complete its adjustment efforts between now and March 2005.

While the number of bankrupt companies have been significantly reduced through asset acquisitions, many companies are still operating under bankruptcy protection or are on the verge of bankruptcy. Other companies remain shuttered completely with production assets that await either acquisition and consolidation, or liquidation, and ISG has to complete its own integration of the companies it has acquired.

We are in the process of reducing the Bethlehem workforce by about 30 percent, from 11,500 to 8,000, and we need to pay down our $650 million Bethlehem acquisition debt. We have planned capital spending budgets totaling in excess of $300 million for 2004, assuming that relief continues, and we face significant additional outlays associated with the Bethlehem acquisition, including the previously mentioned $125 million employee buy-out program and satisfaction of other Bethlehem liabilities, including some commitments to the Pension Benefit Guaranty Corp, altogether half a billion dollars.

Our investment in the Bethlehem assets exceeds $1.5 billion in addition to the $500 million previously committed to LTV and Acme. These investments were made in reliance on substantial continuing tariff relief.

The industry also needs the remaining period of relief to enable it to deal humanely with the problem of retirees who have lost their health care benefits. ISG has committed to fund from a percentage of operating profits a trust to restore some of those lost benefits to LTV, Acme and Bethlehem retirees. ISG fully believes that if temporary relief is continued all of its productive assets will operate at reasonable levels of profitability, and that in turn will help fund those trust funds.

The domestic industry generally, and ISG in particular have used the temporary relief to adjust positively to import competition through consolidation of production facilities, negotiation of ground-breaking collective bargaining agreements that have brought about significant improvements in productivity, new capital investments and other measures. None of this would have been possible in the absence of temporary relief, none of it.

However, our work is not yet finished. ISG needs to continue to invest in its productive facilities to make them still more cost efficient. ISG needs the remaining time of temporary relief to complete its work so that we can compete with imports once relief is terminated, and I assure you we will be ready.

Premature termination or reduction of relief could lead to a resurgence of imports and adversely affect domestic producers' prices, profits and margins. This is all the more likely since the industry continues to operate in a market that weakened demand in critical sectors such as construction.

Having come half way through the three-year program the industry should be allowed to complete its task of making a positive adjustment to import competition over the next one and a half years.

Thank you for your attention.

CHAIRMAN OKUN: Thank you very much for your testimony.

Before we turn to the next industry witnesses, we do have another congressional appearance.

MS. ABBOTT: The Honorable Tim Ryan, United States Congressman, 17th District, State of Ohio.

CHAIRMAN OKUN: Welcome, Congressman Ryan.

MR. RYAN: Thank you very much. I appreciate the opportunity to address this body today.

President Bush initiated the steel tariff relief program under Section 202 of the Trade Act at the behest of the steelworkers, many of them located in my district in northeast Ohio. This was a detailed and comprehensive investigation that was made, an investigation by this commission, which determined that the U.S. steel companies were being devastated by the surging imports of illegally dumped foreign steel and measures were decided to be imposed to address this situation.

Now, my own district, which is the 17th Congress District, which runs between Youngstown, Ohio and Akron, Ohio, we didn't have to look very far to see the devastation that was being imposed on many of these families, the local governments who were losing their tax base, both municipalities and school districts. The schools were losing much revenue and having to cut back on many, many programs that they have to try to promote education in order for us to grow our workforce to compete in the 21st century. And I don't think we need many studies to be able to educate ourselves on this. I think those of us who represent areas of the country that are similar to my district recognize this first hand.

I do want to highlight just briefly one

company of many companies in my district which relied on the 201 tariff. The company is WCI Steel. This is an integrated flat rolled steel mill that ships 1.3 million tons a year. They have 1700 active employees, 500 retirees and pump over $500 million into our local economy.

WCI was a profitable company from 1988 until 2000. In 2001, they have been losing money up until today. And all we're asking for is an opportunity for this company and companies like it to rearrange their financing, to be able to deal with the workers and to make the proper investments, but they need some help from the government and I believe that the steel tariffs were an opportunity for us to do that.

Even though steel imports covered by the Section 201 tariffs account for only 5 percent of domestic consumption, studies have shown that since the measures took effect there have been increased investments in the modernization of facilities, increased consolidation and increased restructuring. We have also seen steel prices begin to stabilize and, in fact, steel prices are now rising faster overseas than they are in the United States, making our steel industry much more competitive in the global market.

Now, as we know, the WTO ruled that our

tariffs were illegal, that there were no harmful effects, and I would politely ask the members of the WTO, the judges there in Geneva, to come over to my district and tell me that there is no problem with the steel industry here and that they're playing on an even playing field. I find that they will not see that to be the case. And all we're really asking for is to give these companies a shot, give them a shot to get back on their feet. These are great workers, they're productive workers, they are extremely good members of our community. The companies have been good corporate citizens, they have been doing everything right and they're getting themselves back on their feet, they just need a little bit of help and we ask for your help and your support to continue with this program and if there's anything that I can do to be of assistance in the execution of this, I would be happy to do that, but I think as we talk about trade, and there's a variety of issues that are here, my concern is that as we liberalize trade, we're not making the necessary investments back at home which I don't think has anything to do with this body, but we're not making the proper investments in education and the kind of investments in health care and prescription drug coverage that I think would help a lot of these companies as well, that's a different issue, but we ask for your help where you can, within your scope, within your jurisdiction, to help these companies out.

We appreciate the opportunity.

CHAIRMAN OKUN: Thank you, Congressman Ryan, for your testimony today.

And now we turn to our panel witnesses.

MR. PRICE: Thank you, Chairwoman Okun. This is Alan Price with Wiley, Rein & Fielding. I would now like to introduce Mr. Daniel DiMicco.

CHAIRMAN OKUN: You need to make sure that microphone is turned on, please, Mr. DiMicco.

Thank you and welcome back.

MR. DIMICCO: Good afternoon. I'll try that again, although my voice does have a tendency to carry without one.

Good afternoon. We're back in town again. As President and CEO of Nucor Corporation, I have two important messages for the commission and for the President.

First, the domestic steel industry including flat rolled producers is using the 201 program to take aggressive action.

Second, the transformation of the industry is not complete.

Before I continue with my prepared remarks, I would like to make one response to the position of the other side, a question the other side presented to the commission earlier before noon. The question was would Trico, ISG or National have occurred, would the consolidation have taken place by U.S. Steel and ISG and Nucor's acquisition of Trico if there was no 201?

I think you just hear Mr. Ross say it would not have taken place for his company. I can tell you it would not have taken place for Nucor with respect to Trico. If we did not think that the 201 had an opportunity to be successful, we would not have made those investments. And I think Mr. Dorrance will speak to the same thing. I'd just like to answer that question right up front.

Going back to the two points, let me explain each of these points. The events of the last 16 months have been nothing short of a revolution in the steel industry. In our view, the President offered us a challenge: three years of temporary relief in exchange for a chance to fundamentally restructure the steel industry for the long term.

You know what has happened. Since March 2002, Nucor, U.S. Steel and ISG have invested more than 3.6 billion to restructure bankrupt flat rolled producers and another 1 billion plus in the long products area.

We are remaking the steel industry and we are not done yet. Don't ask me, ask Caterpillar, which said in its brief the restructuring of the American steel industry has been more dramatic and more successful than conventional wisdom anticipated. Or ask Goldman Sachs, which said that they are seeing the most significant wave of consolidation to reshape the U.S. market in at least a generation.

Even the foreign producers concede we have made remarkable strides towards competitiveness over the last 15 months. We are upholding our end of the bargain.

You have the hard evidence of how the Presidents' program has helped the domestic industry. Flat rolled production levels and capacity utilization are up, productivity is up by at least 10 percent. Some domestic flat rolled producers are now earning modest operating profits and reinvesting in their plants and equipment. I might add, however, they are still not earning their cost of capital.

Let me be perfectly clear. This relief was needed by the entire industry, including Nucor. Even today, a world class producer like Nucor is not earning its cost of capital. Moreover, for much of the industry, access to investment capital has been contingent on relief. These were important concerns for the entire industry, not just integrated producers and not just inefficient or aging mills. The claims of the foreign integrated producers and their paid experts are just not credible in this regard. They have not been involved in the restructuring itself nor the capital access, the Department of Justice reviews our acquisition details. They don't have a clue as to what we've been through, what we are in the process of doing and cannot speak to the issue period.

At the same time, the 201 remedy has not been a windfall for the steel industry. The President's program offered just enough to start the process of industry consolidation. There has been price relief as well, but it has been moderate. The 201 program halted a steady decline and allowed prices to recover from what were quote-unquote fictitiously low levels, according to former Treasury Secretary Paul O'Neill.

Today, prices are up about 10 percent from where they were in March 2002. That's true of Nucor and it's true for the industry. But global prices are up as well and current price trends on flat rolled products are essentially flat. If relief ends early, everyone in this room knows that prices will head down, restructuring will grind to a halt and some of these consolidators will be at increased risk of permanent damage because they have added so much debt.

This additional risk is compounded by the fact that the production volumes are now greater than before the 201 and the consolidation, making them much more vulnerable to import surges.

A shortened 201 will probably backfire on some of those companies who are living up to the commitments they made to the administration.

That brings me to my second point. The transformation of the steel industry is not complete. In fact, it is less than half done and it will only succeed if the President stays the course. With the continuation of the program, the viable producers will finish the process through further consolidation and more investment. We will develop revolutionary new technology, such as Castrip. We will become even more productive and more efficient. We will implement our plans to invest in the necessary new equipment. For example, Nucor already has plans to install vacuum degassing equipment at our flat rolled facility in

Berkeley, South Carolina in order to upgrade our automotive steel capabilities such as interstitial free steels. If this goes well and if the 201 relief remains in place, we will consider doing the same at our other flat rolled plants.

Some producers may not survive the changes of the next year and a half. That's okay. Nucor does not favor bailouts and handouts to companies that cannot compete in the long run. But those that can help make the industry low cost and world class competitive deserve a full three years to get the job done. It's an enormous task and success is not yet assured.

The foreign producers' brief concedes that much remains to be done, but contrary to their claims, leaving the 201 in place will encourage rather than hinder the consolidation process.

The President's program is the most efficient way to remake the steel industry. It assists all domestic producers equally in a limited way. And if the imports start surging back in, Nucor's investment program will have to be tempered. We cannot afford it when we are waging pricing wars against excess steel capacity and the trade distorting practices of the rest of the world. Many of our adjustment plans are contingent on three full years of relief.

As part of the consolidation process, it is important for Nucor and others to acquire new assets. We have a plan for doing this that can only realistically be achieved if the 201 program stays in place. It is also important for us to make necessary new investments after the acquisitions are completed.

Making our assets efficient and productive does not occur overnight. I wish it did. Although we acquired Trico in July 2002, we have been hard at work since rehiring: the workforce, completing capital investments and integrating all aspects of the operations. This effort is not yet complete. The 201 relief must remain in place for all flat rolled products which the commission and the President found to be a single like product. In particular, there should be no change or deferential treatment regarding the tariff quota on slab. Again, we are meeting the conditions put on the industry by the President and by the administration. In fact, we are surprising the entire world.

The early results are in. The industry is complying and has lived up to our end of the agreement. The President's program has sparked industry restructuring, stabilized prices and returned some efficient low cost capacity to the market. The combined result improves the competitiveness of the steel industry in the United States. It provides steel consumers with readily available low cost supply and benefits the U.S. economy as a whole by strengthening our critical manufacturing sector.

We are on the right course, but the revolution is not yet complete. Let us finish the job.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. DORRANCE: Good afternoon. I am Roy Dorrance, the Vice Chairman of United States Steel Corporation, the nation's largest producer of flat rolled steel.

We at U.S. Steel are very excited about the changes that have taken place at our company and in the flat rolled industry as a whole since Section 201 relief was implemented. We are confident that if we are given the full period of relief that the President established to complete our efforts you will see a much stronger industry in the future.

Two years ago, in the initial Section 201 investigation, witnesses representing U.S. Steel told you that we wanted consolidation and restructuring, that we wanted to make major capital investments, that we wanted to work with the steelworkers union to reduce costs. In short, we were eager, not just willing, to adjust to import competition.

As we explained at the time, however, it was simply not possible to make major investments that such adjustments would require. Wave after wave of imports had resulted in such chaotic market conditions that all major flat rolled producers had been forced into a survival mode simply hoping to make it through the devastating crisis in which we found ourselves. Indeed, many of America's oldest and largest steel producers ultimately failed to survive that unprecedented crisis.

Thankfully, this commission and the President agreed that we needed import relief in March 2002, the President implemented a three-year program that has brought stabilization to this market.

Since that time, extraordinary changes have taken place at U.S. Steel. We have made an investment of more than $1 billion to buy the steelmaking assets of National Steel, a move that will result in cost savings of more than $200 million per year.

Additionally, we have approved $200 million in expenditures to upgrade and improve our existing facilities. And we have reached an historic labor agreement in partnership with the union, with the cooperation of Leo Gerard sitting here at my side, who is a visionary leader of that union. This agreement will result in productivity improvements of at least 20 percent at all of our plants, including those formerly operated by National Steel.

Even just one of these steps would represent a dramatic development. Together, these actions prove conclusively that U.S. Steel is engaged in an unprecedented effort to adjust to import competition.

There can be no doubt that Section 201 relief was critical to each of these actions. Without the market stabilization resulting from this relief, National's assets may have been forced to permanently shut down. Without the improved financial performance we have enjoyed due to modestly higher steel prices, we could not have justified approving hundreds of millions of dollars in new expenditures. And without the prospect of an agreement to purchase National's assets, we could not have persuaded the union to agree to new terms for those workers already employed at U.S. Steel.

But while we are proud of what we have done, we know that much remains to be done. The effects of the import crisis were enormous. The entire landscape of steel production has changed and massive adjustments still need to be made.

Many of the investments that we have approved have not yet been completed and we need to make additional investments that can be justified only if our financial performance continues to improve. And, obviously, there are further opportunities for consolidation and restructuring.

None of these steps can take place, indeed, much of the progress that has already occurred could be lost if we have to face another import surge some time in the next year and a half. And have no doubt, we will have another import surge if relief is cut short. The rest of the world is still burdened by approximately 200 million tons of excess capacity, capacity that can and will be used to flood this market.

A new import surge would undoubtedly force U.S. Steel along with other producers back into a situation where we would be focused solely on surviving, not adjusting.

In conclusion, we have done everything that could be reasonably asked of us. We have raised and spent enormous sums of money on consolidation and new investments. I urge you to reject the calls of those who would seek to use this process to cut short the relief this industry needs and to support our efforts to complete our adjustment to import competition.

Thank you very much.

CHAIRMAN OKUN: Thank you.

MR. STEWART: This is Terry Stewart again. The next witness is Leo Gerard.

Leo?

MR. GERARD: Thank you very much, Madam Chairman, and members of the commission. My name is Leo Gerard, I'm the International President of the Steelworkers Union. And as has become the custom when we appear in front of this commission, we always want to remind you that this is not just a technical matter or a matter of corporate profitability, there is a human face.

We have joining with us today a number of steelworker activists from a number of the companies that have been through consolidation and a number of retirees and the Women of Steel who oversee and I want to congratulate for having such a good congressional turnout. That was part of their work. I'd like them to stand up and be recognized.

CHAIRMAN OKUN: Welcome to all of you.

MR. GERARD: I want to just say very briefly that listening to the congressional testimony and then listening to the introductory remarks, I was a bit annoyed and I'll try to be duly respectful, but to hear the representative for the often illegal foreign importers talk about what the steelworkers union would have or would have not done without the 201, I found offensive. We don't need him to speak for us. We can speak for ourselves and our members have spoken for us in place to place.

We would not have entered into any negotiations with any of the steel companies that we're now bargaining these new innovative collective agreements had there not been a 201. And the reason that would not have happened is it would have been impossible for them to put a workable business plan in front of us that would have allowed us to bargain a collective agreement that would have sustained our members livelihoods and, in fact, you may have heard us testify before this commission prior to the 201 there were steel companies where we could have worked for free or damn near for free and the companies couldn't have survived. There is more to this than just the process of your 201. There's what the 201 allowed us to do and what it allowed the industry to do and how it allowed them to access the capital markets.

So I don't need anybody in their opening briefs to speak for our union. I'll be happy to do it myself as often as I can.

Let me just say that part of what I think our union's role here today is is to try to say to the commission the role that we've played and the role that workers have played in trying to make the best use of the 201 possibilities that existed. What we said at the time of the 201, and I congratulate you for your decision at the time and now for this opportunity to review it, but what we said is that this opportunity of the 201 gave us light at the end of the tunnel. I just hope that that light wasn't a train.

The fact of the matter is that we've used this opportunity to work with those companies that were willing to work with us, we forged a basic steel industry statement in September of 2002 that laid out how we would work with the industry that was willing to work with us. And the first step forward was Wilbur Ross, a brand new company, and we forged a brand new collective agreement and we took that pattern collective agreement and we literally shopped it around to talk to other companies to see if they'd be willing to enter into that kind of a relationship.

And the most dramatic and most heartbreaking and the most gut wrenching part of that is to have to face some of the 200,000 people that lost their health care and I've testified about that last week and will probably get to do it again at some point.

We did a lot of innovation, but probably the most unique innovation that we've done is bargained from these employers a portion of their profits into a trust fund to provide benefits for retirees who were never their employees. We bargained in addition to that they had to modernize their plant and, in fact, we bargained -- the proposed agreement pledges to the company to make the reasonable and necessary capital expenditures required to maintain the competitive status of the facility. We bargained that.

Why did we do that? We did it because we need to have these companies be competitive, be profitable, because now our 200,000 retirees are relying on them if they have any chance of getting some additional leg on the stool of health care.

We changed the workplace in order to help that happen. We changed the workplace through collective bargaining.

We dealt with the wage structure and we protected the wage structure because our members had already suffered enough. What we did was we changed the job structures. We went from over 34 job descriptions down to less than half a dozen. We consolidated the wage grades and in doing that we were knowledgeable enough to know that if you take people you've got to give them training, you can't just consolidate them and leave them there with no training, so we bargained with ISG and with U.S. Steel innovative training agreements so that our members will play a role in developing and delivering the training they need in the new workplaces.

We bargained. Some executives may not like this, but I would invite them all to the bargaining table. We bargained restrictions on executive compensation. And, in fact, what we bargained in those collective agreements, which I'll be happy to find when you come to your question period, we bargained that in particular at ISG -- the problem is we couldn't figure out what low enough was -- we bargained that they had to have lower than average executive compensation for a comparable industry. We bargained how they would get stock options and we bargained how they would get profit sharing. And we bargained that they would get that after our members got theirs and our retirees got theirs.

I raise all of that because if the 201 is snapped away from us prior to our work being done and prior to the work that the companies are doing in investing in their facilities and modernizing, prior to us having the chance to train these workers that are in the back, they're going to have changed job descriptions, more lives will be destroyed, more companies will be eliminated.

We changed all kinds of terms in the workplace so that our members have more control over their work schedules. We've in fact done some innovative and risky things. We've got some departments in the former Cleveland works of the former LTV now ISG where the workers schedule their own work. So today if I need to go off because my wife is getting surgery, Wilbur will cover for me and the next day when Roy needs to go off I'll cover for him and at the end of the period we all get paid.

Somebody snaps back that 201 on us, how are we going to finish that work?

We streamlined, as I said, the job descriptions. We did the worker training. We bargained investment commitments. We bargained the transition assistance program at all of these companies and we're going to do it with other companies. If there's additional consolidation, that will be part of that.

Members of the commission, the only thing a worker generally has at the end of his or her life is their investment in their home, that's their asset. If they have to lose that home so they can pay for healthcare if their pensions are ripped out from under them, they'll lose their home. So some of these folks that are transitioning out of Bethlehem and ISG and Acme and National and others that we'll deal with, they get a transition assistance program, ranging from $40,000 to $50,000 to help them transition to retirement. In the case of Bethlehem, they get to use it for the years' additional healthcare so that they can purchase healthcare going forward until we get the trust fund built up.

These are innovative, creative, difficult, thoughtful, collective agreements. And you know what's really neat? They've been ratified at an average of 80 percent by our rank and file members because they participated in developing them, they participated in the process, and they participated in these hearings, whether it was here or in Merriville or other places. They understand. They understand how they've been tormented by illegal steel trade for the last 35 years and they understand if they don't do something about it now, it will destroy their families and their livelihoods and the next generation of steelworkers.

So if I sound a little bit more animated than I normally do, I guess I was set off by someone telling us what our union would or would not have done without the 201. We've done profit sharing. We took in some places -- I want to tell you that at one time I was embarrassed, I told Wilbur I was embarrassed. I found out that at one plant we had 200 incentive programs. Do you know what the problem with 200 incentive programs is? Nobody knows what the hell their incentive is. Plus you need 80 accountants at U.S. Steel to manage them. I don't need 80 damn accountants to tell us what the incentive is. I need one, the guy on the shop floor.

So we changed the whole incentive program, now everybody is on an incentive program targeted at 20 percent of incomes.

We targeted the profit sharing. Guess what? Profit sharing is now based on all the steel companies on profits based on cash flow before EBITDA.

We've been around now, we know what happens in some of these accounting transactions as you get the profits versus cash flow. We bargained that first with Wilbur. He understood it. And what we did was we established our credibility with our members that this had to be done.

I could go on and on about all the things that we've done but I want to come back. As proud as we are as a union of what our members have done and how they've stepped to the plate, nobody has taken it on the chin more for the restructuring of this industry than those 200,000 retirees that deserve better from the industry, deserve better from the illegal importers and deserve better from their government.

For you to now not go forward with the rest of the 201 would destroy the little chance that they have of getting some health care in the dying years of their lives. So what we're asking you to do is the maximum that you can under the law to make sure that the 201 remedies that you unanimously supported stay in place.

There will be more restructuring, we're going to make sure of it. We need to have profitable companies because our members' and our retirees' future depends on it and they have to reinvest in those businesses as a condition. They can't run off to Brazil or to China or some other place now with their cash, they've got to put it back into the business. So we need your help to finish the job.

Thank you very much.

CHAIRMAN OKUN: Thank you.

(Applause.)

MR. GERARD: That's my wife's family.

CHAIRMAN OKUN: I need to bring mine.

MR. ROGERS: Good afternoon. My name is Steve Rogers and I am Vice President of Sales and Marketing at Ispat Inland, Inc.

The goal of the President's 201 program was simple: to give the U.S. steel industry temporary breathing room to adjust to foreign competition.

As I understand your mandate for this review, we should be focused on two central issues: first, has the program helped to make domestic producers more competitive and, second, will continuing the program help the domestic industry to make the necessary structural adjustments. The answer to both questions is yes.

Before 210 relief, prices for hot rolled, cold rolled and coated sheet fell to their lowest levels in many years, causing record losses, a spate of bankruptcies, idle facilities and severe layoffs.

In the months after the President's imposition of tariffs, the domestic industry was able to introduce modest price increases. The contract prices that we negotiated for 2003 were the first significant increases in almost ten years and they were critical to the profitability and long-term viability of our company.

However, another surge in imports and the return of some domestic capacity has caused prices to fall again. Things are better, but they are not good.

To stabilize price and profit levels and thereby ensure the long-term viability of the domestic industry, the relief must run its full three-year course. One year of profitability is not enough to allow companies to make necessary investments.

Foreign producers have told you that the domestic industry hasn't made enough capital investments or closed enough inefficient facilities. Some consumers have said that large steel price increases have hurt the U.S. economy and have driven manufacturing jobs abroad.

None of these claims withstands examination.

Adjustment is not an overnight process. My own company has made a multi-million dollar investment in relining our number 7 blast furnace, a project that will increase our productivity, reduce our reliance on foreign slab, and we will close one of our less efficient blast furnaces at the completion of that project. The project itself represents 1000 new jobs in northwest Indiana.

We have more projects planned if we can afford them, but a single year of profits does not produce the funds required to achieve all of our adjustment goals, particularly when that one year followed years of losses. We recognize that the industry's long-term viability depends on becoming more competitive. We have closed capacity, but we reject the argument that U.S. producers must cede growth in the U.S. market to imports or give up making certain products like hot band. U.S. producers have as much right to meet growing domestic demand as their foreign competitors.

The price increases that have been instituted are far from unreasonable. In fact, they are less than what this commission anticipated would result from the relief it recommended. We have no interest in injuring our customers. Hurting them would only harm ourselves.

The effects of these price increases have also been grossly overstated. Steel is a very small price component in an automobile, for example, and automaker profits have remained strong. In addition, during the period of relief, steel prices have increased much faster in both Europe and Asia. U.S. prices have actually fallen since February of this year across all product lines.

There are absolutely no quality or capacity constraints on U.S. steel producers in supplying new domestic demand. Following the first exclusion request process, we went to every domestic consumer of flat products that had filed product exclusions or had opposed 201 relief. These companies simply refused to buy from us.

Some steel consumers who want access to the lowest cost steel available oppose the 201 tariffs and any price increases by U.S. producers. But three years of import relief and modest price increases are what this commission and the President believed were required to ensure the industry's long-term health. The financial impact on American steel consumers has been minimal and the claims of massive job losses and double-digit price increases are unsubstantiated rhetoric, not fact.

There is one problem area in the President's 201 program: exclusions for developing countries and individual products. The developing countries' share of imports has increased dramatically for hot rolled, cold rolled and coated sheet. Because of these country exclusions, combined with product exclusions, imports of hot rolled sheet increased by 60 percent and coated sheet by 22 percent during the period of relief.

In addition, we have seen strong evidence that circumvention is occurring. We have seen products entering the United States ostensibly from countries that do not produce them. We strongly encourage the President to revoke developing country status for countries with significant surges, to limit product exclusions and to investigate apparent circumvention.

Import relief alone will not result in a full recovery for the domestic industry. We support industry consolidation and rationalization and we are doing our part to accomplish these goals. We have dramatically increased our productivity between 2001 and 2002 and progress continues in 2003.

Although import relief has not been

seamless, the President's Section 201 program has been effective in allowing domestic producers to achieve modest profitability. If continued, the relief will encourage further consolidation and rationalization and thereby meet the President's goal.

The commission should ask where the domestic steel industry would be in the absence of import relief. Without a financially viable domestic steel industry, both domestic steel consumers and steel industry suppliers would be hostage to foreign steel producers.

Thank you for your attention.

CHAIRMAN OKUN: Thank you very much.

Madam Secretary, I understand that we have a congressional witness here, so if we can just take another slight interruption in this panel's testimony?

MS. ABBOTT: The Honorable Artur Davis, United States Congressman, 7th District, State of Alabama.

CHAIRMAN OKUN: Welcome, Congressman Davis.

MR. DAVIS: Thank you. I apologize for being a little bit tardy.

Let me first of all thank all of you for what you are doing today and let me thank you for an opportunity to speak on behalf of a steel industry in my district that has certainly had a history of vitality, but it's an industry that has been struggling, frankly, in the last decade.

I stand here as someone who will vote tomorrow for both the Singapore and Chile agreements, as someone who does not view himself as a protectionist in any sense of that word, but at the same time, I am a very firm believer that when we talk about trade, when we talk about economics as related to the global community now, we're not talking about theory, we're talking about what we can do to help American workers.

And I make that point because sometimes, and I say this to my colleagues a lot down the street, we look at a lot of issues from a very abstract, very dry standpoint, but whenever I am back in my district and I talk to people who are impacted by the policies that we make, I am reminded that the things that we do in this city do have a direct impact on the lives of ordinary people.

There have been 56,000 jobs, if I'm correct, that have been lost in this industry in the last several years. My city, as I opened by saying, was once a city that had a vibrant steel industry. It is now a city that has been reduced to a little bit more than a mini mill.

This is an industry, as I walk around the building today, where I see people here from the steelworkers, I see people here from industry, there has been a spirit of shared sacrifice in steel in this country. We have seen the unions make enormous sacrifices, we have also seen the industry make enormous sacrifices, and I think that they have done it out of a sense of the collective good, I think that they have done it out of a sense that the industry has to make changes, but when I see the sense of camaraderie, if I can use that word, that I've seen between steelworkers and steel owners, when I see the kind of cohesion that I have seen on this issue, it says something very positive to me.

This is an industry that in my opinion knows that it has not been perfect. It knows that it has made some choices that have not always been wise economically, but it understands that if labor and management can work together, that important and good things can be done.

What I urge and what I know a number of colleagues this morning have urged is something fairly basic: that the President's action in 2001 be allowed to run its course, that this three-year relief period be allowed to run its course and that the industry be given the chance to stabilize itself.

If you take a different approach, if you take a different viewpoint, I am deeply concerned that it will mean not simply the loss of American jobs, not simply the loss of a vital part of our economy, but I think that it will also mean that one of the great instances that we've seen in labor-management cooperation will have gone unrewarded.

If you fail to extend this relief period or if you don't let it run its course, I am deeply concerned that this period of labor union-management cooperation will have gone unrewarded.

So I leave you with just two basic points today, if I can. In this industry, I hope that in this commission that you will not lose sight of the fact that if we allow the steel industry to languish, it will cost us communities, it will cost us economic health, and it will mean that an industry that has been so vital to our military in years past, that's been so vital to so many communities, will have the door slammed in its face. And a very basic point: I am someone who has not been a very strong supporter of the administration in a lot of areas, but I do think that in this instance the administration did the right thing and I think in this instance an administration that believes in an unfettered global market recognizes that we cannot put theory ahead of the fortunes of American citizens and we cannot put theory ahead of the real impact that policies have on the lives of people who live in our communities.

So along with many of my colleagues today, I urge this commission to let this period run its course, to give this industry a chance to readjust itself, and I thank you for being attentive to me today.

CHAIRMAN OKUN: Thank you for your appearance here today.

MR. DAVIS: Thank you.

CHAIRMAN OKUN: We will resume with the panel's testimony.

MR. SZYMANSKI: Good afternoon. I am Steve Szymanski, General Manager of Sales and Service to Service Centers for United States Steel Corporation.

A big part of my job these days is to maximize the sales opportunities presented to us by the purchase of National's steel making assets. In this effort, I have learned two vital lessons: our adjustment efforts are far from complete and continued Section 201 relief is critical to our plans.

Let me explain each of these points.

First, you have to understand that buying the steel making assets of a company as big as National is just the beginning of a process we believe will eventually result in a fully consolidated company that will serve many more customers at much lower cost.

The process, however, is long and complicated and requires a tremendous amount of work from all of us at U.S. Steel. My sales people, for example, are selling 50 percent more steel than they did just two months ago. They also have dozens of new customers who had no prior relationship with our company up to this point. Fortunately, my people have hit the ground running, making extraordinary efforts to meet new customers, to answer their questions, and begin building relationships that are essential to our long-term success. But we have only had two months and building necessary relationships takes a much longer time. So while we are pleased with our progress so far, we still have a lot to do.

The process of keeping all of National's customers is only part of our plan for our new facilities. For example, the plant we acquired from National's Granite City plant which is close to St.

Louis, is the westernmost integrated steel mill in the United States, which gives us a much better access to new customers throughout the west.

From Granite City, we can also ship down the Mississippi River, making us a much bigger player on the Gulf Coast, a part of the country that has been dominated by imports over time.

Again, our sales people are working hard and doing outstanding work in reaching new customers, but these efforts have just begun.

So what does this tell us about the importance of Section 201 relief?

Well, if relief stays in place for the full term announced by the President, we will have a great opportunity to work with our new customers and to greatly strengthen our competitive position. But cutting relief short will pull the rug out from under us. You can't build long-term relationships when pricing is collapsing due to unlimited supply of low-priced imports. When faced with that type of market, you have to concentrate on just surviving.

And so I urge you to recognize the extraordinary efforts that we are making and not to do anything that would lead to the premature termination of relief. Let this relief continue to work and give us a chance to maximize the benefits of these new assets. Thank you.

CHAIRMAN OKUN: Thank you.

MR. SCHAGRIN: Good afternoon, Chairman Okun, members of the commission. My name is Roger Schagrin. I appear on behalf of the 201 Flat Rolled Coalition.

I would like to make two points this afternoon.

First, we all recognize how poorly reasoned the WTO dispute settlement panel decision in the steel safeguard case is and, unfortunately, the threat it poses to the continuation of 201 relief. However, one item in the decision which as a certain common sense appeal is the question of why the United States did not take action in 1999 or 2000 after the mind boggling 1998 import surge.

Why did the U.S. wait until June 2001 to institute a safeguard investigation?

As Leo Gerard reminded me during the lunch break last Thursday, I was the only Washington counsel in 1999 arguing that a 201 case should have been filed expeditiously to prevent devastation to the industry. I had faith in the International Trade Commission and in the administration and there was a close election coming in 2000. Maybe I was wrong, who knows, but 36 bankruptcies, 56,000 jobs and 200,000 retirees losing their healthcare later have demonstrated that the failure to act had material negative consequences on companies, workers and their families.

Today, the commission will hear from both the industry and labor of the tremendous strides made in their adjustment efforts and the need to continue this adjustment until the end of the relief program.

I am confident that this commission and later the President will be satisfied with these efforts, but, again, my concerns are not only for the present, but for the future.

My second point is the fear that we may emerge from safeguard relief with a new competitive steel industry but little demand for the steel that that competitive industry will produce. For the first time in post-World War II history, steel demand has not rebounded after a recession ended. Total steel demand was 132 million tons in 2000, it fell to 116 million tons in 2001, remained at that level in 2002 and amazing looks to be flat or declining again in 2003. Two years after the recession ended, we are not seeing steel demand increase.

Why? We all know that it is because of a tremendous surge in the trade deficit in steel containing products from China.

So again we face yet another import crisis, only this time it isn't only for the steel industry, it is for all of American manufacturing and agriculture.

Will this administration respond to this crisis with a China trade policy or will we have to wait until the next administration?

For the sake a revitalized steel industry that needs demand for its products as well as American companies and American workers, I hope this administration responds to this new import crisis before additional bankruptcies, lost jobs and lost health benefits occur.

Mr. Puisis?

MR. PUISIS: Good afternoon, Chairman Okun and members of the commission. My name is Ed Puisis and I am the Chief Financial of Gallatin Steel and have been for the last five years. Gallatin Steel Company is probably the smallest steel company you will hear from today. While one of the newer flat rolled mini mills, Gallatin will still be approaching ten years of age soon, which means we need in our planning additional reinvestment to continue to improve efficiency and grow our product offering.

First, let me address our adjustment efforts. Just after 201 relief was instituted, we purchased the assets for Ghent Steel Industries, a cut-to-length finishing operation near our mill, which allowed us to diversify our product range and product offerings. We also committed nearly $10 million in a variety of smaller investments in our plant. These enabled us to reduce costs and improve quality. We increased our gauge and width capabilities, while expanding into more HSLA grades, which opened up some new product applications for us.

The reason we were able to make these expenditures in 2002 is we returned to profitability after losses in 2001. We planned on increasing capital expenditures in 2003 and further increases in 2004. The commission has to understand that many of these capital expenditures take 12 to 24 months to implement and thus benefit from.

One investment that we considered but have not pursued is the installation of a mill for cold rolling. As a company that believes we are the lowest cost or among the lowest cost producers of hot rolled sheet in the United States, we believe that the installation of a cold rolling plant would enable us to be the low cost or one of the low cost producers of cold rolled sheet. However, being a low cost producer of a product does not ensure a return on investment and we calculated that with significant over capacity and weak demand for cold rolled sheet we would not obtain a reasonable rate of return on our investment at this time.

As we look at the marketplace today, we are very concerned that significantly increased imports of hot rolled sheet from non-covered countries such as Egypt, Turkey, Venezuela and others combining with weak demand have led to a significant decline in this year in hot rolled prices. In addition to the problem of downward pricing pressure, are increased scrap and energy costs for our company.

Reducing import oversupply from non-covered countries would certainly benefit our company over the last 18 months of the program. Our company and its owners remain committed to make sure that Gallatin is always viewed among the top tier of low cost, high quality producers of hot rolled sheet. Our stakeholders have committed to new investments and growth in product offerings, expecting the U.S. Government to support its commitment to the full term of the 201 program.

Thank you for this opportunity to testify today.

CHAIRMAN OKUN: Thank you.

MR. SCOTT: Good afternoon, Chairman Okun and members of the commission. My name is Michael Scott and I am the Vice President of Marketing and Sales for Weirton Steel Corporation.

After years of illegally dumped steel negatively impacting domestic steel shipments and pricing, Weirton was optimistic that relief provided by Section 201 would provide a period of fair trading during which we could continue our cost and debt reduction program.

First, we restructured our public debt, reducing the principal amount by $115 million and obtaining a three-year interest holiday, saving the company $40 million per year. We also improved liquidity by $75 million through a new vendor investment program and through a new revolving credit facility.

As Mr. Glyptis will explain next, the company and its union entered into a new agreement that froze our current pension plan, reduced wages and benefits, and targeted additional specific cost savings.

Our company, realizing the benefits of 201 and the mentioned cost reductions, was recovering in the second and third quarters of 2002. However, imports from excluded companies and of excluded products combined with the effects of a weak economy reducing steel shipments negatively impacted our productivity. And while we did enjoy some modest price increases, they were not enough to offset lower productivity and increased costs in natural gas and health care. Despite our best efforts, Weirton Steel filed for bankruptcy protection in May of this year.

As you can see from our questionnaire response, Weirton has a number of potential capital expenditures that would provide a significant return over the next five years. The first among these is a patented polymer coating process which provides a low cost environmentally friendly coating for tin mill products used in food cans.

Weirton Steel is confident that our future cost reduction efforts, our market focus, the commitment of our employees and communities, will allow for successful emergence from Chapter 11. However, our ability to attract the investment capital required for emergence will be greatly impaired if relief under Section 201 is cut short.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. GLYPTIS: Good afternoon. My name is Mark Glyptis and I'm President of Independent Steelworkers Union. I have worked at Weirton Steel for 30 years and have been President for 12 years. I'm also a member of the Weirton Steel Board of Directors.

In the year 2001, our union recognized the ongoing problem foreign imports were having a very adverse effect on our company. Our union leadership agreed to work with the company to restructure our labor agreement to change our work rules and reduce the workforce at Weirton Steel by 550 jobs. At one time, Weirton Steel employed over 14,000 steelworkers. Today, we employ about 3500.

It was not an easy or popular change, but our union membership recognized the hard times in the domestic industry and voted overwhelmingly to ratify the out-of-court restructuring agreement.

Once those cash flows began to decline in late 2002, our union leadership stepped up again and negotiated modifications to our existing labor agreement that called for an immediate 5 percent pay cut, the elimination of a scheduled $1.00 an hour wage increase and immediate freeze of our pension plan.

To my knowledge, Weirton was the only steel company that froze their pensions outside of a bankruptcy type setting. This totalled about 17 percent in wages and benefit costs.

Our union also embarked on informational meetings in conjunction with the company to urge our thousands of retirees to voluntarily agree to pay for part of their healthcare benefits. We held approximately 40 meetings with our retirees. The meetings were very well attended and we tried to convince our retirees to pay for part of their healthcare benefits in an attempt to stay out of bankruptcy. Unfortunately, we were unable to stay out.

We applauded the administration's 201 actions as a major, long overdue step to curb foreign steel imports flooding our markets and allowing the domestic industry steel industry to recover. However, there is no doubt in my mind that the administration's object failure to take action against surging imports from not covered countries led to the declines in volumes and pricings which contributed to Weirton Steel filing for Chapter 11 bankruptcy earlier this year. As was earlier testified, I believe only about

5 percent of the steel in this country is now affected by the 201.

After years of suffering with no relief from the steel import crisis, the relief offered by the administration, while welcomed, was simply not enough. The American steel industry and in particular Weirton Steel face insurmountable problems in simply surviving.

I look around this hearing room with pride and gratitude, proud of West Virginia's senators Robert C. Byrd and Jay Rockefeller for their help and support through these many years.

I also wanted to thank Congressmen Alan Mollohan, Bob Ney, Ted Strickland and Congresswoman Sherrie Moore Capito for their unwavering commitment to the working people of Weirton Steel. The Independent Steelworkers Union will never forget their hard work on our behalf.

Members of the commission, the people of the Ohio Valley are fighters. We will never give up. We will continue to fight to maintain the steel industry, not only in Weirton, West Virginia, but in this country. We will not allow the administration to force us to compete with foreign steelmakers, to use workers subject to slave labor conditions, with no health care, no human rights. That's simply not right to do that. It is wrong for us to be asked to compete against foreign competitors that do not care about the human rights of their workers and work under unsafe conditions, many times don't have any healthcare whatsoever, and are paid inferior wages.

I appear before you today to state this basic fact: the Independent Steelworkers Union will continue to fight against foreign steel imports and we stand in solidarity with Leo Gerard and our brothers and sisters of the USWA. Our fight for a decent standard of living and basic healthcare benefits for our working Americans will not cease. We remain dedicated to keeping Weirton Steel a viable steel company for many years to come and we will remain diligent in the cause of the American steel industry.

Thank you for the opportunity this afternoon to speak before you.

CHAIRMAN OKUN: Thank you.

MR. KAPLAN: Good afternoon. I am Seth Kaplan of Charles River Associates.

Less than two years ago, the flat-rolled steel industry came before the Commission to ask for temporary relief to adjust to the import surges, surges that drove much of the industry into bankruptcy.

The remedy was designed to moderately increase prices and suppress import surges over three years. Under this umbrella of relief, the industry pledged to consolidate, restructure and invest. These actions would increase efficiency and productivity and produce firms of a scale to be world leaders.

What has happened? The industry's forecasts have proven correct. The remedy increased prices modestly, about seven to 10 percent over a year. The industry has taken advantage of relief to begin consolidation, as was testified to earlier.

However, the benefits of relief are still at risk. First, consolidation is not complete. There is a broad, general consensus among analysts of the industry that there still are assets in the United States that would increase their efficiency and productivity if they were rationalized. The capital necessary to complete this consolidation would evaporate under a new import surge if the remedy were not continued.

Second, the integration of purchased assets of the three largest producers today would be hindered and could be put at risk by import surges if the remedy were removed before the three full years that the President put in place.

Finally, the cash flow to make capital improvements would be at risk if relief were terminated. We submitted a study earlier in the 332 investigation that shows the continuing remedy would lower costs and increase productivity. This benefit to the industry and U.S. consumers would disappear if the relief were terminated.

Finally, just a couple quick comments on the economic analysis of Respondents. The CITAC economists about two years ago said that the remedy would cause domestic prices to increase about two-tenths of a percent and that U.S. prices would rise faster than foreign prices. In fact, prices rose 10 percent, and foreign prices rose faster than U.S. prices.

For obvious reasons, they aren't going to be here this afternoon, nor Dr. Prusa, who said the tariffs wouldn't help the industry, but the evidence you heard this morning contradicted his testimony and projection.

Finally, Dr. Crandall is here. Dr. Crandall's estimates of the price effects were not too dissimilar to ours. They were smaller, but just a comment. His paper in 2001 was titled The Futility of

Steel Trade Protection, arguing that the remedy wouldn't help the industry. His new paper basically argues that the remedy has been so successful that continuation would hurt the industry and companies that have adjusted. Heads, I win. Tails, you lose.

I think that the Commission should look at the underlying assumptions he made. He does agree that the industry is restructured, significantly agrees that it has lowered cost, and he agrees that this has been successful.

I think the evidence today, though, contradicts the notion that the current remedy has completed the consolidation and restructuring that's needed. Thank you.

Dave Riker is going to comment briefly on the study we did looking backwards on the effect of the remedy.

MR. RIKER: Good morning. I'm David Riker, an economist from Charles River Associates. I'm going to take just a moment to summarize an economic statistical analysis of the impact of the President's remedy on flat-rolled prices.

We quantified the shares of the domestic price increases that are attributable to changes in domestic capacity, to demand, input costs and tariffs.

Our analysis shows that all the economic drivers had significant effects consistent with economic theory and common sense. We used the model then to simulate the effects of the various economic factors.

In sum, we find that during the period of peak price increases in late 2002, approximately half of the 16 percent increase in price was due to changes in capacity, while approximately a half was due to the tariff. The results of the study indicate that the President's remedy had a significant, but moderate, effect on flat-rolled steel prices.

CHAIRMAN OKUN: Thank you.

MR. MORICI: My name is Peter Morici. I'm a professor at the University of Maryland School of Business, and I'm an economist.

The outcome of the steel tariff has confounded its critics essentially because President Bush conditioned the protection on restructuring, and the industry has used the opportunity to lower its cost. As a consequence, it's cheaper to make steel in the United States today than it was 15 months ago, and the cost of steel in the United States is lower than it is abroad. This is a fact that cannot be denied.

Respondents' Exhibit 1 purports to show some substantial employment losses have occurred in steel using industries as a consequence of the remedy. However, the analysis is based on a simple trend analysis, and the analysis' results are highly contingent on which base year is selected, for example. The author, Dr. Crandall, selects a recessionary year. In both the year before and the year after his base period, employment and manufacturing was higher.

Second, steel prices have been through many ups and downs in recent years. Movements of five to 10 percent over a year are common. Dr. Crandall does not address why such a modest increase from the beginning of protection to the present should cause such dramatic changes in employment in manufacturing in steel using industries.

This is very puzzling, very puzzling to me, given that steel composes only a small component of many of the industries that he includes among steel users. For example, household appliances and electrical apparatus. Steel is about two percent of the cost in those industries, according to the Bureau of Economic Analysis. Why should a 10 percent increase from an historic low in the price of steel cause dramatic shifts of employment in steel using industries? The paper is really silent on this issue.

More appropriately, an analysis would consider the panoply of factors that are causing changes in the manufacturing industry; for example, prices abroad for steel, exchange rates, which are moving in unusual ways, China is entering into the WTO and so forth.

Going beyond that analysis, I would just like to say that the import relief opened capital markets to international steel, made them more accessible to incumbent steel producers such as U.S. Steel and Nucor, which permitted restructuring.

Removing tariffs now would lower revenue prospects for steel firms to finance new investments over the next 18 months. Removing tariffs would signal to foreign governments in capital markets the U.S. Government is weakening its commitments to address the fundamental structural problems in the global steel industry, and this would lower capital markets' estimates of future revenues for a long period to come.

This would translate into a higher cost of capital and place an unreasonable burden on the modernization and investment the remedy was originally intended to encourage. Thank you.

CHAIRMAN OKUN: Thank you. I assume that

completes this panel's testimony.

I have been conferring with my colleagues because, of course, we did not really keep to the time table that we thought, so we are here at 1:45 and haven't started our questioning, which we anticipate will probably take an hour to two hours with this panel based on what's happened in the other hearings.

My intention would be to take a half hour break at this point and come back, but I do want to confer with the industry witnesses, which I haven't had a chance, to make sure that everyone would be available for questioning, assuming we were to come back at 2:15 and start our questioning then.

MR. STEWART: Madam Chairman, this is Terry Stewart.

CHAIRMAN OKUN: Yes?

MR. STEWART: Leo Gerard has to leave by 3:15 today. He will be here in 30 minutes, but he would only be here for part of the questioning time.

CHAIRMAN OKUN: Okay. You need to leave at 3:15?

MR. GERARD: Yes. I've got to get to Dulles by 4:15. I could maybe stay until 3:30.

CHAIRMAN OKUN: I missed a flight recently. You may not want to do that.

Okay. We are going to go ahead and take a break until 2:15, keeping in mind we'll be able to question you when we get back. We will reconvene at 2:15.

(Whereupon, at 1:47 p.m. the hearing in the above-entitled matter was recessed, to reconvene at 2:15 p.m. this same day, Tuesday, July 22, 2003.)

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

(2:17 p.m.)

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

Before we begin this afternoon's questioning, I do want to take this opportunity to thank very much the witnesses for being here, in particular those members of the industry and from the unions who are here and for those who are in the audience as well.

We very much appreciate your participation, your willingness to answer questions and the material that you have submitted and that you will continue to submit for the record as we continue getting information to put in our report.

We are going to go to a slightly shortened round of questions in the beginning, Madam Secretary, a five minute round of questions, so that each Commissioner will have the opportunity to question Mr. Gerard in the event that they have questions for him. Then we will return to our normal questioning.

Two of my colleagues didn't hear that. They'll get it as they come along here. Our questioning this afternoon will begin with

Commissioner Miller.

COMMISSIONER MILLER: That teaches me a lesson, doesn't it?

Thank you very much to all the panel members for your testimony today because it's been very helpful and very useful to our overall -- I have to catch my breath here. That notebook was still out in the anteroom.

I guess because there has been a lot of discussion about what the purpose of this proceeding is, and as some of you have been here in earlier hearings, we've talked about that question a fair amount.

You know, I basically see our mission as monitoring the developments of the industry in the time frame that the 201 has been in place, and in particular with respect to the adjustment efforts made by the companies.

You know, in looking back at the legislative history of the provisions, I note in particular remembering a line about the post-relief performance is more importance than the pre-relief promises because it does strike me that the provision was intended primarily to make sure that the industry is doing what it said it was going to be doing during the course of the original proceeding.

All of your testimony about exactly what you've been doing in terms of the adjustment measures I think has been very, very relevant to our proceeding, in particular the fact that you've been able to make them public to a certain extent because we treat the information that you provided us as confidential, and to the extent that this is a public proceeding and it benefits by some public discourse, I think it is very helpful that you provided them to us in that way.

Mr. Gerard, I guess in particular because you will not be with us through a second round perhaps, I wanted to ask the industry witnesses, perhaps Mr. Ross and Mr. Dorrance, to comment in particular about the parts of the new labor agreement that you have that I think you feel are most relevant to the issue of reducing labor costs and improving labor productivity for your companies. I guess I'd like to hear that from you while Mr. Gerard is here.

Mr. Gerard, we talked a good bit about how important I feel these provisions are in our hearing last week on the tubular side, so I really do appreciate the greater detail you've submitted today and that you've been providing to us.

With that, could I ask, Mr. Dorrance, if you could talk a little bit about what the new labor agreement means for purposes of reducing labor costs and improving labor productivity?

MR. DORRANCE: I'd be happy to. Thank you, Commissioner Miller.

This agreement, as I said in my opening statement, is an historic agreement. What makes it historic is that this is the first time at least in my memory that U.S. Steel and the steelworkers union have truly gotten together as partners.

We recognize that the future of the industry is really in the hands of both of us in terms of what we do together, and we forged this agreement in view of the fact that we have to take cost out, that we have to be much more cost effective than we have in the past as part of the adjustment to import competition.

We entered into this negotiation somewhat I would say tentatively with regard to what the outcome would be, although we were inspired by what the steelworkers union had done previously with ISG and took that agreement basically as a model for the agreement that we negotiated at U.S. Steel with some important changes, but the basic structure of the agreement was quite similar.

Essentially what the agreement does is it provides a dramatic restructuring of the workplace for the represented employees and also has an indirect effect on the non-represented employees in terms of management as well.

As far as the represented employees are concerned, as Leo has mentioned and I think maybe Wilbur mentioned as well, we have much simplified the structure of our agreement from the standpoint of job classes. We've gone from 34 job classes down to five. We have relooked at the entire workplace in terms of how the work is actually done, how the work is supervised. There is a lot more self-supervision that will occur in the future. This is a much more highly empowered work force than we've had in the past.

The key to making all that happen really is training. There is a major training investment that we have to make, which will take a lot of money and a lot of time, and that's one of the reasons why this remedy really needs to continue so that we can move through that training process and basically retool the work force in the way in which the agreement calls for us to be able to do.

Essentially what our aspiration is is to by virtue of having restructured the work force, restructured the job classes, restructured how the work is actually done and supervised, that we feel very confident that we can take at least 20 percent out of our represented work force. This is 20 percent productivity improvement right off the top.

There is a lot of money involved here, and a substantial piece of the synergies which I mentioned earlier. The savings of $200 million a year has to do with this restructured work force and the 20 percent productivity improvement that we get by virtue of this agreement.

This is real. This is new. This is a major challenge. There is a culture change that has to take place inside our plants in terms of the represented work force, as well as the non-represented work force.

I think it shows the boldness and the courage of someone like Leo to lead that culture change. It's something that we are making happen now, but it is a process, and it's a process you can't turn on with a switch because culture change doesn't come that fast.

We've got some time that we have to spend here on training, and it will take us time. That's why it's extremely important that we have this remedy go full term.

COMMISSIONER MILLER: That red light is really short. I didn't even get to hear from Mr. Ross, but I'm going to have to --

MR. DORRANCE: I apologize. The red light was hiding behind the chair.

COMMISSIONER MILLER: No. It was very helpful, Mr. Dorrance. No apology necessary.

CHAIRMAN OKUN: Do you want to go ahead and let Mr. Ross?

Mr. Ross, can you go ahead and reply to that?

MR. ROSS: Surely. I think the most important symbol in the change in relationship that Mr. Dorrance spoke about is the number of suggestions we get. Almost every day we get an e-mail from some worker with a suggestion, and often a very detailed, very technical suggestion what can be done to improve efficiency.

It isn't just silly things like if you had fired that dope who's the foreman. It's really serious and well thought out. We get some of those as well, but I think it marks a new relationship between worker and management.

When the workers feel empowered to come

forward with those suggestions, then they see they're acted on. Lo and behold, they see it gets into their paycheck because as to the individual unit productivities we pay them every two weeks if they hit certain production levels, so you have immediacy of reward to the action that precipitated the rewards.

It's quite a radically different arrangement than anything that's common in American manufacturing, let alone in the steel industry. Frankly, it's part of what gives me some hope that American manufacturing can exist. I think there's a serious issue in this country as to whether it will exist, and other industries also have the import problem.

Just to put that in perspective, our gross imports now are roughly equal to the whole manufacturing output of this entire country. That's a very unusual ratio for any major industrialized country to have, particularly one that has a lot of natural resources on its own. Japan, which has almost no natural resources, gross imports are only 10 percent of their economy, not 14 or 15 like they are here.

I think we need this new relationship between labor and management to preserve the whole manufacturing base of this country.

COMMISSIONER MILLER: I appreciate that.

CHAIRMAN OKUN: Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Thank you, and I would like to join my colleagues in welcoming back almost all of you to this hearing, and a special welcome to you, Mr. Ross, since I do understand this is your first appearance here at the Commission. We very much appreciate it.

To you, Mr. Gerard, and to your many steelworkers that are in the back of the room, we also very much thank them for being with us as well and would welcome them.

I guess I'd like to also thank you for the efforts that you've made in this hearing, both in the prehearing briefs and in your testimony, to address what the statute really asks us to do, which is to look very precisely at what are the adjustment efforts that the industry has made.

I think both the information that you've given us is extremely helpful, and the substance behind them is very, very impressive. I want to thank you not only for what you've done, but for what's in the document.

I did want to state, though, with trying to understand and maybe start with you, Mr. Gerard, from your perspective. As I read a lot of not only what was presented to us from you, but as well a lot of the information that came to us in our questionnaire responses, it struck me that there were a number of things that the industry had hoped to do, expected to do, planned to do, but that were made difficult by conditions of competition, a business market that's probably not what everybody would have expected after the 201 relief was put in place.

I mean, a number of you have touched on it. I don't think we actually thought we would see an increase in the import volume, and yet we have. I think we thought we would see fairly longer term sustained price increases, but if I look at the prices that Mr. Lighthizer has presented to us and I obviously look at the confidential pricing information that we have, no doubt it would suggest that yes, prices went up, but they are now coming back down arguably fairly close to where they were at the very time the import relief was put in place.

I guess my question is to help me understand kind of what things are out there that would have, could have, should have been done had market conditions been better? When I say that, what do you think you need in terms of market conditions improving in order to make some of those further steps that are outlined in a number of your adjustment plans?

Mr. Gerard, are there thing that would have happened differently or might happen if market conditions were different on the labor contract side, or is what you presented kind of the totality of what we would be looking at no matter what?

MR. GERARD: No. I think it's a really broad question and one that I want to admit is hard to answer.

Because you put it in that context, let me just tell you. If we wouldn't have had the corruption on Wall Street and the collapse of Wall Street coming at the same time as the collapse of the high tech bubble, we might not have seen the precipitous falloff on the equity side, and all of these pension funds that went --

I'll use U.S. Steel sitting next to me. When we bargained our last contract, the one before with U.S. Steel, they had $1 billion plus surplus in their pension fund. We went to bargain this agreement. In the restructuring, they were almost $1 billion underfunded. Nothing changed, just what the market did to them. That changed our ability of what we could do at the collective bargaining table, so that's one issue.

The issue that Wilbur speaks so eloquently about about the destruction of the American manufacturing base. If you track that $500 million of trade deficit, find out how much of that was steel consuming jobs that have moved to China or to Brazil or to Vietnam or somewhere else, that's lost opportunity for us, so as we grow the steel market here and other stuff is moving offshore and off the top of that you throw in a recession, that made the cost of what we were doing more difficult.

Premature termination of the PBGC in the middle of our bargaining with Bethlehem Steel changed the complete dynamics. We almost couldn't make the deal because we had to find $125 million that wasn't there before. All of these factors have made our struggle collectively that much harder.

I think the next thing, and I feel very strongly about it, is if we don't sustain the 201 what that will tell sort of the capital markets, it will drive up the cost of capital even higher, and in our case the profitability won't return. We've structured the collective agreement so that Wilbur can't run off and get richer than he already is. They've got to reinvest back in the business. We get first dibs on the profit sharing, our retirees get next dibs on the profit sharing, and then they get to give back to their folks.

Now, in order to do that you've got to have profits, so we've structured it so that the industry has to stay competitive. I actually found the section in my stuff that says we bargained for and ultimately agreed upon below average pay for senior managers relative to similarly situated executives in comparably sized companies.

That was a very, very bold step that they took. The commitment is totally to the industry and totally to the workers. Everyone else comes next in line if we're going to save these companies.

VICE CHAIRMAN HILLMAN: I appreciate that, and I see that the red light is on.

I may come back in the next round to ask from the industry perspective again whether there were things that you would have or could have done had market conditions been better and what kind of market conditions do you need in order to do those things.

Thank you.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman.

I have got one question for you, President Gerard, but first I'm going to make this comment. Your direct presentation today and your prepared statement standing alone, and I appreciate the fact that you've brought a good number of steelworkers with you, but standing alone I would tell you that they put a human face on this proceeding all by itself.

MR. GERARD: Thank you.

COMMISSIONER KOPLAN: Now I'm going to follow up by asking you this. In the Section 204 hearing on Tubular Products, you gave the Commission an overview of the commitments that the steelworkers have made to help facilitate adjustments in the domestic steel industry and the progress that the steelworkers have made in implementing those commitments.

Today I would make the same request that I made of you during the Tubular hearing, and it's this. Specifically I would like you to tie your union's commitments and corresponding efforts where appropriate to the flat-rolled sector.

I realize that you have already done a substantial amount of that particularly in both your direct presentation and in the full text of your testimony today, including the attachments summarizing provisions in recent collective bargaining agreements. Any additional details would be appreciated both now or, for that matter, in the post-hearing. I'm just seeking to get as much detail as specifically pertains to this sector.

MR. GERARD: We'll be glad to provide it. We have ongoing work that's going on with a number of other flat-rolled producers that isn't part of these summaries, and we'll be glad to get that to you as well.

COMMISSIONER KOPLAN: That would be very helpful. That is my one question of President Gerard, and I yield my time back.

CHAIRMAN OKUN: Thank you, and again thank you to all of you for being here.

Mr. Gerard, when we had the hearing on Tubular Products I had indicated at the end of that that I wanted a chance to return to some of the interesting points you had raised in your testimony because many of them did pertain to the agreements that the union has struck with ISG and United Steel.

Let me go back. I mean, one thing that I think is clear from the record, and the statements today I think acknowledge at least from many of those both consumers and foreign producers that these agreements have been described as innovative and bringing a lot of new things to the table.

I wondered if you could focus on a couple of things for me. One is, you know, again as we look at our statutory obligation to look at the adjustment of workers and adjustment of the industries, the import competition. I wondered if you could help us focus for a couple moments on what is the most important in these agreements, and this would go both to Mr. Gerard and to the industry folks, for import competition because I think I heard the industry folks talk about really productivity and cost as being something that they thought that they got out of this collective bargaining process.

I wonder, Mr. Gerard, if you would agree in terms of adjusting to import competition whether those would be where you would place your focus?

MR. GERARD: I would say that those were two of the most important initial steps that we got. I think Mr. Dorrance's comments about a more empowered work force that has the ability to do its work differently, combined with Wilbur's comments about the immediate return of our productivity enhancements directly to the paycheck of our members, are both things that drive the process, but probably to me it's what you do with the productivity improvements, the savings that the corporations get, that drove our view of how we would restructure the workplace.

We didn't want to restructure the workplace so that companies could be more profitable and then go buy iron ore from Brazil and go make steel in Mexico and ship up slabs, so we had some very animated discussions about commitments to modernization of the plants, commitments to running the facilities, commitments to keeping the plants competitive, and then what you do after you get those rewards and productivity, you put it back in the business.

Then what do you do when the business is being profitable? Well, we're going to return it to our members, we're going to return it to our retirees, and then we're going to return it to the other folks that are stakeholders in the process. That allows our members, through the transition, to see that they're a meaningful participant in the well-being of this industry, and their work is not going to make companies profitable so that we can shift investments offshore. The companies have to commit to American manufacturing.

We believe, Chairman Okun, that in the case of ISG at LTV's operations, which was unique because we started a place from scratch. Our partnership started that partnership from being shut down to running at about 10 percent of what engineers were predicting it would cost. I think that convinced Wilbur that our people knew how to make steel, knew how to run the plants.

We had 229, and I may be a bit off. We had about 229 shift supervisors in Cleveland. By the time we finished the restructuring, we had 23. Our folks went to work to use their backs and arms before. Now they go to work, and they use their brains and their creativity.

CHAIRMAN OKUN: So in light of those comments I'd ask for your response. And I think one of the points that Mr. Barringer made in his opening was I think he indicates that perhaps some of those investments back or however you're describing them may not increase the ability to, of the industry and labor to adjust the import competition. And that's what he said and then you can just reply to that.

MR. GERARD: I'm sorry, but I missed who made the comment?

CHAIRMAN OKUN: Mr. Barringer in his opening remarks. And in his opening --

MR. GERARD: Oh, the illegal importers,

okay. I know what you're saying.

CHAIRMAN OKUN: I'm just giving you an opportunity to --

MR. GERARD: I understand.

CHAIRMAN OKUN: -- argue with him on the ability of companies to close facilities, to use alternative models such as supplementing or substituting imported feed stock for internally produced feed stock or to substitute to EAF production for integrated production.

MR. GERARD: He doesn't know what he's talking about. The fact of the matter is that the companies can do that. But they need to go through a number of previously committed-to events first so that the stuff that we have bargained they have to meet those commitments first.

And take, for example, I'll use ISG. If we're running those facilities and there needs to be an increase in production and we can't do it of course we're going to let them do it. But the commitment is to the people who saved the plant first. So what this person, I forget his name already, did is he took something out of context and pretended that was the policy when it isn't.

And, in fact, we want to work with both of these companies to see if building an EAF at the right time when they're sufficiently large makes sense. We're not hiding from that. We told our members that.

CHAIRMAN OKUN: I think perhaps just in terms of understanding that if you could, if there is anything for the post-hearing on details that you could provide, you know, if you provide something that's confidential.

MR. GERARD: I don't know if we provided, did we provide the document that I've been referring to is the September of '02 basic steel industry document. We will provide you with that. That lays out the framework that is our guiding principal. And we did it first with Wilbur and then with U.S. Steel. And it goes right to the issues of what you're talking about. We'll get that for you.

CHAIRMAN OKUN: Okay. Thank you very much.

And let me turn back to Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Thank you. And I guess if I can on the industry side come back to this issue of, you know, like I said, market conditions were probably not what anybody would have expected or not exactly what people would have expected in light of the 201, particularly on the import volume side.

But I would also say that prices went up but they started to come back down.

Were there things that you would have expected to be able to have done already or to have ben in process that you were not able to do due to market conditions? And what kind of market conditions do you think you need in order to pick back up again on any of those efforts?

Mr. Dorrance, do you want to take it?

MR. DORRANCE: I would say in general terms that our expectations as to what the impact of the 201 remedy would have been were not entirely met. And it's really a function of really two factors.

One is that the economy continues to be weak. We really expected there to be an economic recovery, certainly in the second half of last year. That didn't happen. We thought it might happen the first half of this year. That hasn't happened. Maybe it will happen the second half of this year. We'll see. But certainly the weak economy both here and internationally was a factor that basically retarded market growth and is a factor that certainly reduced the relative attractiveness of our overall financial performance from what it could have been had the market been stronger during that time period.

The other issue I think that is very important is that the 201 remedy was really largely reduced, the impact was reduced because of the exclusions that were granted during the first two or three rounds of exclusion hearings process. And as Senator Rockefeller said earlier, only about 20 percent of the steel coming into this country is impacted by the 201 remedy tariff. And that's something also that has, that certainly has had an impact.

So we are recovering as a company but we're recovering more slowly than we had hoped we would be. And certainly had we been able to recover faster in terms of operating cash flows and net incomes and so forth we would have been able to accelerate our investment program over and above what it's been.

But we still are recovering. We're grateful for the help that the 201 remedy has provided even though it's been more modest than we had expected. And we certainly think that there is a need to continue it. Certainly in terms of this whole process of integration when we talk about buying National Steel, two months ago we closed on National Steel, there is a long process that has to do with integrating National Steel's assets into U.S. Steel

Corporation. There is a lot of systems work. There is a lot of manpower training. There is a lot of work on the customer side, on the business planning side to understand how to best load the new operation with the old. There is a lot of work with customers on requalifying customers on new production assets which takes time when you're producing high value added products to the automotive and appliance business and that sort of thing.

So the integration process itself takes time. And that's one major reason why we think we need the extension in the second half. But certainly we could have moved faster had the 201 remedy been more robust and had economic conditions been stronger than they in fact turned out to be.

VICE CHAIRMAN HILLMAN: Mr. Ross?

MR. ROSS: Yeah, I think that there's a second factor. The steel industry because of the prior losses is essentially all junk bond rated companies, all below investment grade rated. Were there better pricing, better economic conditions the cash flows would have started to come in better, they would have de-leveraged some, gotten to a higher investment rating, and that would facilitate their future capital plans because capital expenses, cost of capital is very, very high right now.

Many steel companies have more than $10, even $15 a ton in interest expense, let alone depreciation, let alone repayment of principal. So there's a noticeable fraction of the total selling price consumed without any production. So lowering that cost by piling up equity, retaining earnings or having a stock attractive enough for people to buy and therefore put new equity, some combination of those two would really help the industry longer term because interest expense is just as punishing as labor or any other expense.

VICE CHAIRMAN HILLMAN: Okay. Mr. DiMicco? Oh, I'm sorry, Mr. Gerard, go ahead.

MR. GERARD: No, I was just going to make the point that I was handed a note to remind me that we didn't give you our Wheeling Pitt summary because it's being voted on as we speak, should get ratified in a few days. But at Wheeling Pitt we did bargain the replacement of a blast furnace with an electric arc furnace. That's going to be part of the collective agreement and we'll send you that.

VICE CHAIRMAN HILLMAN: I appreciate that.

Mr. DiMicco?

MR. DiMICCO: Thank you.

We talked about the market and how the market is tied to the economy and a lot of things. This normal business cycle that the market has gone through longer than I've been around. And when you make your long-term decisions at the company as a business you take into account and you expect that there's going to be ups and downs in the business cycle.

What was so frightening and terrifying and destructive about what took place in '98 through 2000 was the fact that here we were in a period of the up portion of the business cycle, very strong demand, yet the flood of steel brought about by massive trade distorting practices totally destroyed the ability of the industry to make a profit during those very good times.

When you say that, you know, what would have happened if the WTO hadn't been around or my concern is if it did that kind of damage to us in an up market for all the reasons that those trade distorting practices were there, what would have happened to us in the recessionary period that we've seen? And, believe me, manufacturing and non-residential construction haven't come out of that recession yet. That's not new news on the economic pages. What would have happened if that massive flood continued?

Maybe imports are up, okay, but they're not up to the point they could have been if we hadn't introduced this. And this is a long-term fundamental issue with respect to world trade that has to be dealt with. And a 201 timeout safeguard measure was not only to get the restructuring done but also to provide an opportunity to deal with the longer-term fundamental issue facing the industry of overcapacity and trade distorting practices. So.

VICE CHAIRMAN HILLMAN: Mr. Rogers, anything? Again, I'm trying to understand whether there were specific projects or adjustment measures that were not undertaken as a result of the fact that the business conditions may not have been as positive as people might have expected. Anything on your end?

MR. ROGERS: Certainly, Commissioner Hillman. We have several projects and I referred to it very generally in my testimony. One is a replacement electric arc furnace for a vintage blast furnace, the one that we're not going to shut down. That is being held in abeyance until market conditions improve.

There are also considerable improvements to one of our galvanizing lines that has been fully engineered and is basically sitting on a shelf waiting for an improvement in top line revenue before we can justify it.

And, of course, we are continually discussing new projects with our joint venture partners Nippon Steel. Those are also being held in abeyance right now.

So we have at least four fully engineered major capital investments that we are not going to undertake simply because the market conditions are not sufficient to justify it.

VICE CHAIRMAN HILLMAN: Either Mr. Scott or Mr. Puisis, would you have any projects that you would mention?

MR. SCOTT: Yes, Commissioner Hillman. We've got several. I mentioned in my testimony the polymer. We've got the equipment sitting in boxes in Weirton, West Virginia, waiting to be installed in a building that quite frankly we just can't afford nor can we finance right now.

We have caster improvements that we have put off since the end of 2002 and are now projecting that to be hopefully sometime in the first quarter of 2004.

And, again, we've got some galvanized line improvements that are engineered, that are ready to go, that quite frankly we don't have the money to invest in them. The later two are cost reduction along with some quality improvements.

And the first one, polymer is something that we haven't talked a lot about customers. Our customers are very interested. This is something that is environmentally very good for them. It's a lower cost alternative. It's better for the food. It makes a lot of sense, we just can't get it done right now.

VICE CHAIRMAN HILLMAN: Okay. Mr. Puisis, anything on your end.

MR. PUISIS: Yes. We also had caster improvements that are on the drawing board that we would have been executing had profits been better and the investment been there.

Our rolling mill is under utilized today because of the fact we can't get our caster up even faster than it's running today.

We also have precision, to increase the precision within our rolling mill operations. We also have projects awaiting when our investment is high enough to fund those as well.

VICE CHAIRMAN HILLMAN: Stepping back from this testimony I'm trying to understand. Obviously there's always this link between what's going on in the supply side of things and what's going on in the demand side of things. But, again, as we look at it we're starting in this period of prices coming down. And Mr. Szymanski, I mean not all of you have commented on the demand side but obviously we have, you know, we can look at our numbers and this clearly has not been, you know, a tremendous surge if you will in demand.

I'm curious what do you think it's going to take to get to the kind of market conditions, Mr. Ross, from your perspective to try to help bring down these financing costs or, you know, to get companies to the point where they're not junk debt, I mean that they're in a better position at least than that.

I'm trying to get a sense of what market conditions do you really need to see improvements in and what the prospects might be? I mean are we likely to see price increases, demand increases?

MR. ROSS: Well, as to what it would take to get companies not to be junk bonds, for the most part somewhere between 50 and 100 percent increase in pre-interest earnings is what the industry would need to have proper ratios so that it could become ultimately investment grade. I don't think that would become investment grade right away but if it were at that kind of level it would overturn perhaps get there. So I think that's a fairly measurable item.

I think in my prior response to you I hadn't fully understood your questions. We at ISG cut back our capital spending this year by around $50 million from what we would have liked to have spent simply because the market was not evolving in the way that we would have liked it to have done so. So we too had very specific projects which we'd be happy to supply supplementally that were cut back.

VICE CHAIRMAN HILLMAN: Okay, I'd appreciate that.

MR. DORRANCE: I might just add because I think I misinterpreted your question at the beginning, Commissioner Hillman, but we also had a larger capital spending plan for, for example, 2003, than in fact we are executing for the same reasons that Mr. Ross just mentioned.

There is no doubt that the overall tone of the economy is definitely having an impact on what's happening. But having said that, I do believe, this is just my opinion, I think most of my colleagues at U.S. Steel would agree, that the effect of the 201 remedy has been to stabilize the market, there is no doubt about that. And even though the price curve that you just held up and Mr. Lighthizer showed us earlier showed prices coming down. Prices are coming down at a level which are still modestly above where they were prior to the 201 relief being applied which is a big help to us, there is no doubt about that.

Had we been at the levels that we were prior to 201 relief we wouldn't be able to have access to the capital markets and we would not have done what we did in buying National Steel because that required access to the capital markets in terms of both debt and equity capital. So the price stabilization is important. And if we stay at least at this level then the adaptation process can continue during the next 18 months.

VICE CHAIRMAN HILLMAN: Appreciate those answers. Thank you.

CHAIRMAN OKUN: Commissioner Miller.

COMMISSIONER MILLER: Thank you. I just want to make sure everybody had a chance to respond to Vice Chairman Hillman's question because the statute does tell us to look at adjustment efforts in the context of the economic conditions that exist. So I found your answers very helpful and I just want to make sure that I think we pretty much -- did we get everybody? Mr. Gerard?

MR. GERARD: I would just add one thing for the smaller companies that aren't here that we have relationships with. For a large percentage of them the 201 and the price stabilization that occurred slowed down if not stopped their imminent slide into bankruptcy.

We, much to the chagrin of the illegal importers, ended up with only 30 bankruptcies when that year we were thinking we would end up with 35. If the 201 remedy was to be stopped in midstream a lot of those smaller operations that may or may not form part of a future consolidation may end up going either to Chapter 11 or to 7. And liquidating and bulldozing more steel mills is only going to make America more dependent on foreign steel. We've lost 25 million tons since 1998.

COMMISSIONER MILLER: So part of your point there is that the economic conditions were sufficiently bad that, well --

MR. GERARD: My point is really without the 201 the bad economic conditions that existed before for the steel industry and the manufacturing industry would have been compounded by the ongoing recession that we're in now and there would not have been price stabilization. And at the price levels that we were at at the time of the 201, those companies were on their way to bankruptcy within that year.

A number of them have been able to pull back from that. and maybe they're not the big ones we're dealing with at this table but they also employ tens of thousand of our people. And they have managed to stay out of bankruptcy and they're finding their way through now they will follow the pattern and we will bargain innovative agreements with them that reflect their conditions in those smaller companies that will save them from bankruptcy. They're not here today but --

COMMISSIONER MILLER: Right.

MR. GERARD: -- they're part of this as well.

COMMISSIONER MILLER: While you are still here I wanted to ask a general question of the company representatives for those that aren't as well, to what degree since the 201 measures have taken, have been put into place there have been companies or workers petitioning for trade adjustment assistance and whether there have been certifications of those petitioning groups? I think it would be useful to our record for post-hearing purposes to have the details of what petitions have been submitted and what certifications have been issued, the number of workers they may cover, you know, whatever information.

I don't know if you want to speak generally to that.

MR. GERARD: We can round that up for you. With the new TAA legislation that was passed following the 201 that information is easier to gather. But someone in their presentation pointed out that I think it was Pete Visclosky that there's 51,000 folks that can apply for a portion of that TAA who are no longer employees but lost their healthcare.

So that's a good measure that you can apply for trade adjustment assistance for the 65 percent tax credit for healthcare if you're between the age of 55 and 65. We're now up to 51,000 eligible people in that category. We're still holding meetings and may find some more. And Treasury is helping us. A number of the state legislatures are helping us. We've had to work to get legislation passed in all 50 states so we can collect the money.

COMMISSIONER MILLER: Okay. Anybody else want to comment about specific experience related to the TAA program or did we get the, what, the previous question? Please.

MR. DiMICCO: I'm still struggling a little bit with the question but let me try it this way.

If I take a look at when you consider the economy and what it's been like the last several years, the industry's efforts to live up to its commitment to the President to restructure the industry have been truly herculean in size.

I think the fact that we've had these difficult economic times and the industry has still moved forward with these major, major restructuring efforts and people working together like they've never worked together before I think is evidence of the commitment of the industry to live up to its commitment.

And I think it's quite astonishing that we've seen as much take place as we have in the light of that general economic situation.

I don't know if that's helping or not. I'm still struggling a little bit.

COMMISSIONER MILLER: Well, no, I think you've got the idea. I mean the legislative history of the provision says, you know, look and see whether the workers and firms have lived up to their commitments. You use that phrase several times in your testimony.

But it also recognizes that in difficult economic, in economic conditions you have to look at what the firms and workers are doing in the context of current economic conditions.

MR. DiMICCO: Okay.

COMMISSIONER MILLER: And, you know, those it strikes me have made it harder for the companies. They may have actually pushed, been responsible for pushing the companies as well to a certain extent because times were so difficult it made it all the more imperative perhaps that the adjustments occur.

MR. ROSS: Well in our case were the economy better we might not have had to spend the whole 125 million to buy people out of their contracts. Because it's one thing if you have low unemployment people would feel they had a good shot at getting another job.

So while we made offers to people at all the different levels of seniority, very few people with fewer than 25 year seniority took the offer, even though 24 years is not a materially different amount they would get. And I think the reason is the people a little bit farther from normal retirement were frightened they wouldn't get another job for the four or five year period.

So I don't think there's any question that it made it both more difficult and more expensive to effect the changes that were needed in the manning. Because the manning levels needed are not a function of the economy, they're a function of trying to make an economical production.

So that's one point. The second point that I would make is that if this were a booming economy and if there were 1 percent unemployment and steel demand and all kinds of manufacturing demand were soaring and looked that way for the future, then I could see where you might give some thought to, well, do you still need the whole three year period? But in the context of the horrible economic environment that we're in now I think it would be totally aberrant to truncate the period of relief. Because, while I wasn't here when you made your decisions, but I can't imagine you envisioned as poor an economic environment at that time as we are experiencing.

So unless you're about to totally recant your whole prior decision it would be really illogical in the context of the economy now and your mandate to consider the economy to go along with truncation.

COMMISSIONER MILLER: Okay. Mr. Gerard, do you want to add to that?

MR. GERARD: Yeah. I would just add to the experience we've had with both ISG and U.S. Steel that the union has additional desires with regard to consolidation of additional smaller companies that we think have to move out of the fragmentation and move under the umbrella of the larger company. The amount of cash that we had to talk them into spending for those two have taken that piece out of the equation as well.

And we've had a couple of discussions where the timing because of the amount of cash that had to be spent just wasn't right. And that slowed down, I don't think it stopped but it certainly slowed down the consolidation. And we then have to go further to keep these companies that were in the parade to bankruptcy alive so that they can be considered for future consolidation.

COMMISSIONER MILLER: Okay. I wanted to go back or say again with, this is go back, my goodness, with the labor issue a little bit more recognizing you're going to be leaving, Mr. Gerard. But it was really to ask the companies that weren't involved with the new agreements that you negotiated talk a little bit, elaborate a little bit about any specific efforts made by their workers to contribute to this effort to make a positive adjustment.

Mr. DiMicco, I'll just start with you because you're in the front row. And we haven't talked too much about what contribution workers from Nucor may be making to that effort as well. There are others. I know the red light's going to go on but you're in the front row so we'll let you go first.

MR. DiMICCO: Well, the best way I can answer that would be to say that Nucor's workers have been doing this for 35 years working together in a very efficient operation, very lean organization. Man hours per ton is better than any producer in the world or equal to the best in the world. And the profit sharing programs and the teamwork and the reduced job class, all those issues have been with Nucor forever. They're part of our basic culture.

And what our people do every day is to continue to work to drive our costs down to be efficient producers in this environment. And so we don't start out with the same issues that the integrated sector has started out with. So it's not a situation I'll say to our people, okay, we've got to muscle down and we've got to compromise and we've got to give things up, it's a totally different situation.

And I welcome Leo and the rest of the industry to that type of teamwork environment throughout their organizations.

MR. GERARD: We're going to be glad to be there when we get there.

CHAIRMAN OKUN: Mr. Gerard, you had the microphone on.

MR. GERARD: I really want the record to show that DiMicco just invited us in. He welcomed in fact.

MR. DiMICCO: What I congratulated you on was what you're doing with ISG and Bethlehem, not with Nucor.

CHAIRMAN OKUN: Have you finished, Commissioner Miller?

COMMISSIONER MILLER: I have, with that.

CHAIRMAN OKUN: Commissioner Koplan, before you begin as I understand it you don't have any further questions for Mr. Gerard?

COMMISSIONER KOPLAN: Well, just one if I could.

CHAIRMAN OKUN: Okay.

COMMISSIONER KOPLAN: I'd be happy to yield my ten minutes if the two of you want to work that out while I'm here. It's already worked out.

Is that your answer too, Mr. Gerard? No, it's not. Okay, that's been answered.

CHAIRMAN OKUN: Okay. Mr. Gerard, given I really did miss a flight going out there so I think you ought to go. Not because of that last statement but because I missed a flight.

MR. GERARD: Listen, I'm always happy when I'm here. I'm just happy never to have to come back.

CHAIRMAN OKUN: Okay. We very much appreciate your being here.

MR. GERARD: And the one thing I really would appreciate is that you're letting me here but keep DiMicco here till I get my work done.

CHAIRMAN OKUN: And Mr. Stewart will be here. So if we have any further questions that come up I'm sure he can relay those and make sure they get answered in the post-hearing.

Commissioner Koplan.

COMMISSIONER KOPLAN: That's a great way for me to start; right?

Let me come back if I could to the question that Commissioner Miller raised about trade adjustment assistance. My understanding is that in terms of firms' petitions such as she was asking about they go through the Economic Development Administration of the Department of Commerce. And with regard to workers, those petitions go through the Employment and Training

Administration of the Department of Labor. That's how I understand that those petitions work.

And if I could pick up on that, if for the post-hearing you could give us any specific information you have as to the dates such requests were filed, the plants and number of employees affected and whether certifications were issued in each instance I'd appreciate it as well.

And if you could provide as attachments to your post-hearing briefs copies of any such requests and any certification responses from either the Department of Labor or the Department of Commerce.

Is that question understood?

MR. DEMPSEY: Commissioner Koplan, Kevin Dempsey with Dewey Ballantine. We will supply whatever information we have in our post-hearing brief on that certainly.

COMMISSIONER KOPLAN: Okay. Can I hear from other counsel on that as well?

MR. SCHAGRIN: If there's any -- this is Mr. Schagrin -- if there's any companies that we're representing that have either EDA or TAA we'll supply that to the Commission.

COMMISSIONER KOPLAN: Thank you.

Yes?

MR. PRICE: We do not believe that any, that Nucor would have any workers for TAA but we will supply any information if there is.

COMMISSIONER KOPLAN: Okay.

MR. SCHWARTZ: Commissioner Koplan, this is David Schwartz with Thompson Coburn.

COMMISSIONER KOPLAN: Yes.

MR. SCHWARTZ: We'll supply that information if there is anything to supply in our post-hearing briefs.

COMMISSIONER KOPLAN: Thank you very much.

Mr. Stewart.

MR. STEWART: The same.

COMMISSIONER KOPLAN: Thank you.

Let me if I could come back to you now, Mr. Ross, and this is a housekeeping matter from our standpoint. First of all I, too, want to welcome you to the Commission and very much appreciate both your direct testimony and the answers to the questions that you provided thus far today.

I have a housekeeping chore and I want to walk through this with you if I could. You have recently supplied the Commission with trade and financial data for LTV for April 2000 through March 2001, for April 2001 to June 2001 and trade, financial and pricing data for April 2002 to March 2003. While we are aware that LTV was shut down from November of 2001 to April of 2002 we are still missing trade, pricing and financial data for July 2001 through November 2001.

We are glad to get the data. However, because it is incomplete I am told that staff will not be able to incorporate it into our report. Considering ISG's size in the industry this seriously compromises or could compromise the quality of our data for flat products.

So I'm asking whether you could please estimate the missing data for the four to five month period using whatever data is available to you and provide that to us.

That's the first part of my request.

MR. ROSS: Should I address that, sir?

COMMISSIONER KOPLAN: Yes, if you would.

MR. ROSS: First, let me explain why we've had difficulty providing you with the data. Among the assets of LTV that we did not acquire were many of their detailed books and records.

COMMISSIONER KOPLAN: I see.

MR. ROSS: So we simply don't have the information.

We will try our best to provide you with the estimates but they will just be estimates because, unfortunately, we truly don't have the data. We would obviously be thrilled to give it to you if we had it. And we've had a terrible time getting it from the bankrupt estate of LTV because they don't have too many people left there.

COMMISSIONER KOPLAN: No, I appreciate your saying that and I was aware of that. And that's why I'm asking that in the event that it's not possible, and I hear you saying that, that estimates should be provided as best you can.

MR. ROSS: We will do so. Thank you.

COMMISSIONER KOPLAN: Thank you.

Let me stay with you on this. In your July 18 response to the Chairman's letter you indicated that your firm does not have LTV's data for the period July through November of 2001. While I understand that LTV was in the process of closing down its operations over this period, LTV still had significant production operations at this time.

In your post-hearing brief could you please provide a time line, perhaps even based on publicly available information, concerning the closure of LTV's production facilities and the impact that these closures had on LTV's capacity, production, shipments, inventory and employment over the second half of 2001?

MR. ROSS: We will do the best we can to estimate or to reconstruct. Again we just don't have the records.

COMMISSIONER KOPLAN: Again I do appreciate it. I'm just trying to get as complete a picture as we can.

MR. ROSS: We share your desire, sir.

COMMISSIONER KOPLAN: Thank you.

In addition, to the extent that pension expenses, Byrd funds and other post-employment benefits have not been supplied could you please provide these and indicate where these are classified in your profit and loss statements?

MR. ROSS: In ours or in LTV's?

COMMISSIONER KOPLAN: I'm sorry. In LTV's.

MR. ROSS: We may very well have to make estimates again. But we'll do the best we can.

COMMISSIONER KOPLAN: Thank you.

MR. STEWART: Commissioner Koplan, if I could interrupt you for a second on the CDO, CDSOA monies, is that what you're referring to?

COMMISSIONER KOPLAN: I can't hear you, Mr. Stewart.

MR. STEWART: You're referring to the CDSOA monies for LTV?

COMMISSIONER KOPLAN: Yes.

MR. STEWART: Yes, we will supply that. That's publicly available and we can identify that for the time period.

COMMISSIONER KOPLAN: Okay. Thank you very much for that.

Now then, there are a number of other areas that involve data. But I can't get into it in the public session because to get as specific as I was with regard to what I've already asked for would be a problem with business proprietary information. So the request I'm making is if you or Mr. Ross could coordinate with Elizabeth Haines of our staff after this hearing to best provide the additional information that I feel is necessary for our record.

And she in turn can coordinate that with, as I understand, Mr. Fry and Mr. Levy, our accountant auditor and economist. And so that could all be pulled together.

So I would make the request that you get together with Ms. Haines after the hearing.

MR. ROSS: We'll do the very best we can, sir.

COMMISSIONER KOPLAN: Thank you, Mr. Ross, I appreciate that very much.

Now, let me turn to another area. On page 1 of their prehearing brief on tin mill product EUROFER, Arcelor and certain Japanese respondents argue that the safeguard relief imposed on covered tin mill imports, and I quote, "has not resulted in any significant adjustment by U.S. tin mill producers." They go on to claim that domestic producers have not closed any tin mill facilities since imposition of the 201 duties but none has significantly upgraded existing facilities nor extended its product line.

In addition, they state at page 2 of their brief that, and I quote, "in fact, the only significant move that any U.S. producer has made to adapt global competition is to purchase tin mill facilities in Slovakia and Serbia."

I note that Mr. Scott of Weirton mentioned a patented polymer coating process that I believe relates to tin mill production. Just this afternoon he talked about that. I'd like you to respond if you could to this claim by joint respondents because I know I'll be hearing it later this afternoon.

Mr. Dorrance?

MR. DORRANCE: Thank you very much. I'll be very pleased to respond to that.

First of all, with regard to the first part of your question, Commissioner Koplan, we have in fact engaged in adaptation behavior with regard to tin mill products since the 201 remedy was implemented. And in particular, this has occurred at our East Chicago facilities which were acquired from LTV prior to Mr. Ross buying the balance of LTV.

And these are tin mill products facilities which we have done a lot of work on to improve the overall quality of the product being produced to improve the overall efficiency of the assets that are operating there. So at the first instance I would take issue with the statement that we have taken no steps since the implementation of the 201 remedy.

Certainly it is true that the tin mill products industry has been one that has been also weak. The overall demand for tin mill products in this country have been, has been weak. It's actually down in 2002 compared to 2001 and we think it will be down again in 2003 compared to 2002. So while we have not seen the price, modest price improvements that we have seen on other flat rolled products in sheet products in particular in tin mills we have seen a stabilization there, we have seen a reduction of imports. And I think that had not the 201 remedy been put in place the tin mill products price level in general would have been much much lower, for example, in 2003 than it was in 2002.

Almost all of this product is sold under contracts. And we did not have the opportunity of renegotiating our contracts until late 2002 in anticipation of our 2003 business.

Do I still have time to address the Slovakia points?

COMMISSIONER KOPLAN: Madam Chairman?

CHAIRMAN OKUN: Go ahead and finish.

MR. DORRANCE: Okay. With regard to that it is true that we are investing in tin mill products production at our U.S. Steel Kocice operation in the Slovak Republic. But this is exclusively for the central European market, that is a market that's growing for tin mill products, unlike the market here. And our USSK operation from the standpoint of investment really stands alone. Those investments are self-funded on the basis of the cash flows that U.S. Steel Kocice is generating. And none of the product that is being produced there is destined for this market, that will all stay in European markets.

COMMISSIONER KOPLAN: And Serbia?

MR. DORRANCE: Serbia. Serbia is an operation that we don't quite own yet, we're just managing it. And all of those tin mill products also stay in the European market and in that close-in area and none of that product is destined for the American market either.

COMMISSIONER KOPLAN: Thank you very much. Thank you, Madam Chairman.

CHAIRMAN OKUN: Thank you. And again thank you to all of you. And I would just remind the witnesses if you can to remember to identify yourself when you answer a question just so we can help out the court reporter. There's a lot of you sitting out there.

One of the things that I have been, we've had a series of hearings and so I think we've spent a lot of time on, you know, what are we supposed to be doing in this 204 monitoring process. And I think as the hearings have gone along it's become clearer in my mind what we should be focusing on.

And so I wanted to ask the parties, one of the things Vice Chairman Hillman asked which I think is, you know, of course very relevant to this monitoring process is this idea of what were you able to accomplish during the period? And I think she asked the larger part of the question which is because of the economic circumstances what were you not able to do? And I think that is information that we need to have in this report.

But the other thing that strikes me is the information that we currently have in what is our Appendix D which is the information you provided in questionnaires regarding your adjustment plans and then the Appendix F which is the efforts that you've made which asks things about the capacity reductions, investments made, mergers, consolidations, new products. But of course everything that is currently in our report is confidential because it was submitted with your questionnaires.

Now, you've provided a lot of information in your testimony today and also I think in your briefs, some of which is public and some of which is not. And so I'm trying to get a sense, and I don't know if counsel is in the best position to answer or not, which is how much more could we make in the public record from Appendix D and Appendix F if what we were trying to focus on is you, Mr. DiMicco, made, I don't mean to single you out, but you made commitments in the original adjustment and here's what you've been able to do, here's the things you haven't been able to do.

I was curious from the industry's perspective, can that be done in a public setting? You're conferring with you counsel.

Other counsel have a sense of that? Mr. Hecht?

MR. HECHT: Commissioner Okun, we would certainly be happy -- this is Jim Hecht of Skadden Arps -- we would certainly be happy to endeavor to speak with our clients about that. But a number of the projects certainly would be things that would not necessarily be items we could get into publicly. But we'd be happy to make the effort to see what things we can further divulge for the public record.

CHAIRMAN OKUN: Okay. Mr. Schagrin?

MR. SCHAGRIN: For companies that are public I think all their major expenditures or actions, I mean for example the out-of-court financial restructuring at Weirton Steel that because they're a public company that's already on the public record. It's not public in your report but it's public because public companies have to state for SEC reasons any major restructurings.

I think as Mr. Hecht just referred to, a lot of the smaller investments or the plan for investments going forward during the remainder of the relief, those are generally confidential and would have to remain confidential. But we'll be happy to look at those items. And we might just be able to discuss with staff, you know, the items that are already in the report. And we can say, well, these are already in SEC 10-K reports so you can make them public.

MR. DEMPSEY: Chairman Okun.

CHAIRMAN OKUN: Yes. Mr. Dempsey?

MR. DEMPSEY: Kevin Dempsey from Dewey Ballantine.

The material that's in the appendices focuses principally on specific capital expenditures for plant upgrades. And that's obviously one part of the adjustment plans that were presented to the Commission back during the 201. And I agree with my counsel, my co-counsel that we will endeavor to speak with our clients as to what of that could be made public. Although that tends to be very plant specific and therefore gets into business confidential information.

I would point out that I think it's important for the Commission to remember that in the adjustment plans at least that the integrated producers presented back in 2001 that the capital investments were part of that but there was a broader perspective presented about the need to engage in market-oriented restructuring and consolidation and to look for opportunities to renegotiate labor contracts to improve productivity. And all of that information, of course, we have gone into in much greater detail in a public setting.

And I would hope that that would be referenced more fully in the Commission's report because that can be discussed publicly and was a central part of the adjustment plans put forward by the integrated producers during the 201.

CHAIRMAN OKUN: Mr. Price?

MR. PRICE: Thank you. For Nucor we will review the plan that we have in the appendices and see what can be made public and what cannot at this point.

I would also say that what you have going on in this industry is obviously a radical transformation going on with a lot of mergers and acquisitions. And in that type of environment that occurs the plans actually are going to change as the assets available, that you have available for your production equipment change. And so what may seem like a rational investment decision 18 months ago as something to be looked, something to look at may not be the optimal use of capital today when you have a whole different set of facilities.

CHAIRMAN OKUN: Right. And I think that goes directly to Vice Chairman Hillman's point in the question she raised which is, you know, where a company sought to do something but has been unable to do it because of economic circumstances that we should try to identify that as well. And you could help us with that.

Mr. Schwartz?

MR. SCHWARTZ: Yes. Ispat Inland will review the appendices and determine what all, if any, we can reveal.

CHAIRMAN OKUN: Okay. And, Mr. Stewart?

MR. STEWART: Chairman, I guess my question to you would be would it be perhaps equal or more helpful for us in our post-hearing brief to try to provide a public statement that the clients feel comfortable with about the types of investments because they may choose to use less specifics versus trying to simply say this line you can put in the public and this line you can't put in the public?

CHAIRMAN OKUN: Right. And I think that would be very helpful. And obviously with regard to Mr. Ross and ISG there was not an adjustment plan but certainly the efforts undertaken would be included in that as well and we'd want to see that summarized as well.

I think that will be helpful if you will continue to work with staff.

The other general point that was discussed in some detail what were demand conditions during the period and how did those impact your adjustment efforts?

And I guess the other question I had with that in terms of the general section we would do on economic conditions is to try to get some sense, I mean you've talked about demand and what impact that had. You've also talked about import levels or what import didn't do, what happened to prices, the exclusions. How do you rate those in terms of what impacts those other factors had you ability to carry out your adjustment plans? Was demand, was the state of the economy the biggest issue that we should be looking at in terms of evaluating your efforts?

Mr. Ross?

MR. ROSS: I think it certainly is a very big one. Not having thought of that question before I'd like to come back to it with a better reasoned answer. But for sure the economy is a very big factor.

CHAIRMAN OKUN: Okay. Mr. DiMicco?

MR. DiMICCO: I would agree with that. I think it affects more going forward over the next year or so than maybe it did over the initial part of the period where we were all very active in doing things. But the continued slowdown in the economy is, you know, making everybody think twice about, okay, can I make the next step and how I go about making that in an efficient manner.

CHAIRMAN OKUN: Okay. Mr. Dorrance?

MR. DORRANCE: I would agree with that also. Although I would say that a close second would be the sort of reduced impact of the remedy by virtue of the exclusions that were granted and the fact that only 20 percent of the material coming into this country was covered by the 201 remedy. That certainly was a factor too.

But I would agree that a larger factor would have been the state of the overall economy during that time period.

CHAIRMAN OKUN: Okay. Yes, Mr. Scott?

MR. SCOTT: I would agree the economy is the overall driver. Excuse me, this is Mike Scott with Weirton Steel.

CHAIRMAN OKUN: Thank you.

MR. SCOTT: But I think it's hard for us to shortsheet the exclusion process. I mentioned earlier we were prepared to invest some capital on the line, a galvanized line. That line is fast and makes a product called GALFAN. We're the only producer in the U.S. We took exception to the requests for exclusions by the foreign producers and by some domestic customers. In fact, those exclusions were granted over our objections.

So we plugged into the market plan that says we're now going to invest in a line for a product that has an exclusion, we're not going to do that.

CHAIRMAN OKUN: Mr. Puisis?

MR. PUISIS: Yes. This is Ed Puisis from Gallatin Steel. I agree the economy was probably number one. I also agree with the exclusion. The only thing I would add is I don't think any of us anticipated imports coming back as strong too. And obviously if demand is soft and you're increasing supply that also had an effect on it.

CHAIRMAN OKUN: Okay. Mr. Rogers?

MR. ROGERS: Steve Rogers, Ispat Inland. We would echo what has been said, particularly that developing nation and particular product exclusions if not number 2, they're 1B.

CHAIRMAN OKUN: Okay. Well, I wanted to go back on exclusions just to get a better handle on the statistics that I have heard. But my light's going to come on so I think I will turn to Vice Chairman Hillman and I will have the opportunity to come back to do that.

VICE CHAIRMAN HILLMAN: Well thank you, Madam Chairman. Actually, this is exactly the question that I wanted to understand which is the impact of the exclusions. Because obviously, you know, looking at the data there is no question that, you know, imports in total were up. They were obviously up much more significantly from the non-covered countries.

And I'm trying to get a sense from listening to your testimony about whether the concerns that you're expressing on the exclusion side are they mostly the issue of the developing countries and the NAFTA, in other words the entire country exclusions, or are your concerns more as Mr. Scott has just mentioned with the product-specific exclusions? And to the extent the concerns are on the product-specific exclusions if you can help us understand kind of what were the major ones, what were the most significant product-specific exclusions that in your view have really undermined in your perspective the effectiveness of the relief?

Mr. DiMicco?

MR. DiMICCO: I think number one has been the exclusion granted to developing countries who have for the most part increased significantly their surges of imports as a result of being given that exclusion. And the fact we have not as an administration, as a government gone out and said, okay, guys, you're breaking rules here, you need to back off in a more forceful way, I think those exclusions related to developing countries has been the number one industry for the entire industry. There may be specific exclusions for specific companies. But for the entire industry the developing countries has been the biggest issue.

VICE CHAIRMAN HILLMAN: And perhaps to counsel, I don't know whether any of you have written or been in touch with USTR in terms of the surge mechanism that was included in the president's initial proclamation. There was obviously language there that there would be a specific monitoring of imports from the developing countries, any of the excluded countries. And to the extent that there was a surge in imports that was I think the language is undermining the effectiveness of the relief that USTR would be responsible for taking a look at those and determining what to do about them.

And I'm just wanting to make sure I understand for the record have there been any applications made to USTR for any of the flat rolled products to claim that the developing countries have surged under the terms of the surge mechanism? And if so, what has been the response from USTR?

MR. SCHAGRIN: Vice Chairman Hillman, this is Roger Schagrin. And I'm sure this will come as a real shock to you. But I think unfortunately I was alone amongst counsel to the flat rolled producers in making numerous written filings with USTR. And we can share those with you.

However, I would also point out that Mr. Gerard also to my knowledge has a number of letters. And I think that Mr. Stewart can probably supply those or I can supply those from my files. But it was one of those circumstances where similar to where we were prior to the 201 program we didn't all kind of pull with the same oar all the time. But it's been a horrible problem for the industry. The increase in hot rolled, and I think the Commission analyzed when you looked at like product just how important hot rolled sheet is as a building block for the flat rolled industry. And when you have a 60 percent increase in hot rolled sheet from uncovered countries at prices which really were underselling the market they just had a devastating effect on pricing. And I would say they were probably, that was the number one reason for the decline in prices of all flat rolled products from the end of 2002 to the present time was just the huge surge in hot rolled from uncovered countries.

VICE CHAIRMAN HILLMAN: And what has been the response from USTR?

MR. SCHAGRIN: We got some -- I know all of you worked on Capitol Hill and you know when congressmen and senators get those letters that nobody wants to give a definitive answer to that we're looking hard at this problem, we're talking to people where we're allowed to but unfortunately there's a lot of folks we can't talk to.

I'll be happy to supply that. I'll be happy to talk to Mr. Stephens or someone from Commerce to make sure those letters from the Secretary of Commerce and from Trade Representative Zoellick are considered confidential in reply or maybe they could supply them to the Commission if they consider them confidential. But they were kind of papering over type of answers.

VICE CHAIRMAN HILLMAN: Okay. From the industry perspective again this issue of how important the exclusions are either on the product specific side, what are the ones that in your view are hurting you the most and how do they relate to the overall country exclusions? Mr. Dorrance?

MR. DORRANCE: Roy Dorrance, U.S. Steel.

I might have to just add that in our opinion the 125 product exclusions which were granted have been damaging. And the reason why they've been particularly damaging to us is the fact that these products have been generally focused in the higher value added products like some of the automotive steels and that sort of thing which we can produce in this country. And these are exclusions which were granted over industry objections.

And the reason why we objected is because we can produce these products here.

So I would like to perhaps review that and maybe we can provide you with some priority ranking as to what we think was the most harmful with regard to these exclusions in a post-heraing submittal.

VICE CHAIRMAN HILLMAN: I'd very much

appreciate that.

MR. DORRANCE: Okay.

VICE CHAIRMAN HILLMAN: I think it would be very useful information for the Commission to have.

Mr. Ross, do you have any concerns?

MR. ROSS: We'll try the same approach as Mr. Dorrance suggests.

VICE CHAIRMAN HILLMAN: Okay. Mr. Rogers?

MR. ROGERS: We will also adopt the same approach on a product specific basis. We believe that the developing country exclusions are a major factor. And one illustrative sidebar from this exclusion process has been discovering where steel gets made that we had no idea even produced steel. And in the process of some of the anti-circumvention issues that we've seen, some of these countries don't make it.

So there has been the developing nation factor is a major one from our standpoint.

VICE CHAIRMAN HILLMAN: Okay. I very much appreciate those. I don't know whether anyone else in the industry has another response?

(No response.)

VICE CHAIRMAN HILLMAN: Okay, thank you very much.

I guess the other thing I want to make sure that we have clearly on our record is your sense of kind of what has gone in terms of demand for flat steel products in the past year and sort of your sense of what's going to go on in the future?

I mean if I look at what we've gotten in response to our questionnaires in terms of what do people perceive I would say the overall perception is that demand for flat rolled product was basically down a bit over the past year or at best flat. And yet I have to say when I look at our actual data in terms of what it's showing me for consumption it would have shown an increase in consumption.

So I'm just trying to make sure I get a sense from you since I've obviously got conflicting numbers out there in terms of what do you think demand did in the last year and what is your sense of what it's likely to do in the next year?

MR. DORRANCE: Roy Dorrance, U.S. Steel.

I guess I'd have to say this situation in terms of analyzing what happened over the past year and maybe looking forward to the balance of this year really it's kind of a two-faced story I would say. In general terms in line with sort of the common understanding of what's been propping up the economy as we have known it over the past year or so has been consumer spending. And in the industries that are more tightly related to consumer spending like automotive, like appliance and so forth, the overall activity level with regard to flat rolled products has been okay. It hasn't been robust, it's essentially okay.

And that's something we expect to continue in 2003 as long as this economic recovery starts to get started at some point in the second half of the year. So in that sense for those industries that we service the last year has been I would say flat but flat at not a bad level.

The problem is that the other face has been extremely weak in terms of construction, in terms of anything tied into business investment, in terms of tubular products, pipe and tube products, any type of construction products. This market is extremely weak. And so far we haven't seen much signs of recover there. So we really have kind of a bifurcated view of the market that I would say would characterize our view of what the past year has looked like and about what the near-term looks like, although we still hold out the hope that the business investment will improve in the second half of the year which will start those other markets into a stronger track.

MR. SZYMANSKI: This is Steve Szymanski from U.S. Steel.

If I understand correctly apparent demand would include primarily shipments domestically and from imports and would probably not represent consumption per se.

VICE CHAIRMAN HILLMAN: You're correct.

MR. SZYMANSKI: And if you look at the statistics just recently published by MSCI although there's a couple different versions out, the unaudited numbers I guess or unadjusted numbers show that inventory actually peaked at 5.2 months in December and only now has worked its way down in May to two or to three months on hand. So the apparent demand could jump up as a result of increased inventories from imports.

VICE CHAIRMAN HILLMAN: Okay. And then if I look just real quickly across the products in terms of imports, imports overall are up, but if I look among the flat rolled products, you know, imports of slab went down, plate were basically the same, hot rolled way up, cold rolled way down, you know, coated up, tin down. I mean is there something other than -- I mean I hear you point on the consumer products. Is that what's driving these different patterns in terms of imports among the flat rolled products? Is this just an issue of whether it's a consumer oriented product or whether it's more on the commercial/construction side?

MR. DORRANCE: I would say -- Roy Dorrance, sorry -- I would say that on the import side it's not likely that that kind of industry differentiation would be really pulling those kinds of differences across the product line as much as the issue is of where the source of material is, whether it's a country that's excluded or not, whether it's a country that is able to access this market with a tariff arrangement that's maybe less punitive than somebody else. And it's more driven by that than it would be an industry difference vis-a-vis the import sector.

I mean there isn't a whole lot of steel that comes in from the import sector that is servicing these higher value added consumer related applications like automotive and like appliance. There is some. And in fact, some of the product exclusions I referred to earlier were in the automotive area and they were quite of concern to us. And we will talk about that later.

But in general I would say those are not the industries that are really generally serviced from the import sector as much as the broader industry as a whole.

VICE CHAIRMAN HILLMAN: That's very helpful. thank you.

MR. JONES: Bob Jones with Nucor. I'd like to answer that as well. Because if you look at where the particularly hot rolled, galvanized come in from, very specifically the surges have been from excluded developing countries, India, Turkey, Egypt, places like that come to mind. And you will see a very clear pattern there.

VICE CHAIRMAN HILLMAN: I appreciate that. Thank you.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: Thank you. I just wanted to go back to my question that drove Mr. Gerard out of the room and see if any other industry folks, any company folks want to speak to the issue of specific efforts by their workers.

Mr. Glyptis, I just want to acknowledge your testimony originally addressed this issue in terms of your union. I just don't know if any of the other company folks, do you want to elaborate or do any of the other company folks want to speak specifically to efforts by their workers to contribute to the adjustment process?

MR. GLYPTIS: Yes, I can. We've opened our contract up three times in the last two years. And we've broke down barriers within the work force where it took maybe four people to do a job on the line but now they're doing it with three, sometimes with two. Our operating people picked up maintenance duties, a significant amount of maintenance duties. Our maintenance personnel picked up significant amounts of operating duties.

We have started a process of self-directed work teams. We're empowering our employees. Quite frankly we looked at what I see that as well and incorporated many of the cost savings ideas that ISG is going. We looked at the contracts with the USW.

We are trying to get down to man hour per ton actually under two. So we're not close to ISG's at under one so we have a ways to go. But our product line we have, we make about 25 percent of the domestic tin market today we own. And that's labor intensive. But we're in, our contract's open up right now. We are continuing to find ways to reduce costs and make it cheaper and so we can compete.

But primarily most of our thoughts are that we have to still get done is self-directed work team concepts, empowerment of employees and trying to get the ratio of worker to management at a much different level. And so although we've done quite a big we need to do quite a bit more.

COMMISSIONER MILLER: Okay. Mr. Scott, do you want to add anything from Weirton's perspective.

MR. SCOTT: Well, I guess we're all learning as we go through this process. Mr. DiMicco made it clear, this isn't rocket science. I mean a lot of people have been doing this for a long period of time. We need to change our work rules and we need to be more efficient.

So it's not just on the represented side but the salary side. We need less people making a ton of steel. We still need to do it better than we're doing it today. I mean we're going through a process over the next week we're going to lay off over 10 percent of our salaried folks. And the reason is we're just going to do the same thing they did and more efficient, we're changing process. It's not just getting rid of people.

So eventually if you want to be, as Mr. Ross said, there are people that USWA would like to assimilate into the larger consolidation. If you're one of us that don't want to be part of a larger consolidation you need to figure out how to do it as well as they do it and continue to address the customer in the marketplace.

COMMISSIONER MILLER: Thank you. Mr. Puisis or Mr. Rogers want to? Mr. Puisis?

MR. PUISIS: Ed Puisis, Gallatin Steel. We're similar to Nucor in the fact that we have very low labor to each ton of steel. But we obviously have programmed on a continuous basis, and that's part of our culture, to continue to improve and get incrementally more tons out per man hour every single day. And that's actually embedded in all our, on a daily basis our employees actually see what they're contribution to their production incentive which directly impacts their pay. And they actually see it on an hourly basis.

So we have incorporated that into our culture where it literally drives them and everything they do and everything all our employees do. So where maybe we haven't had the dramatic need because we are only ten years old and started out with that kind of culture we may have an advantage there.

COMMISSIONER MILLER: Okay. Mr. Rogers?

MR. ROGERS: Steve Rogers, Ispat Inland.

In 2001 the average Inland employee produced about 650 tons of steel. In 2002 that grew to 850 tons per employee. This year we expect that to approach or surpass 900 and that is in a period when we are shutting down one of the world's largest blast furnaces for a period of almost three months. It's sort of like stopping your heart and trying to start it again after a three month period of time.

We have a very good working relationship with Local 1010 of the United Steelworkers. We have worked within the framework of our agreement which is due for renegotiation in 2004.

COMMISSIONER MILLER: Okay. One of the reasons I keep coming back to this question, one of the things that I am struck by in our record, and it's among the data that's confidential but I can characterize it is you do show, and there have been some statements about this, a big increase in productivity in the years since the president's action was implemented. Now, frankly, you know probably in part that's due you also see a big decline in the number of workers in the steel industry. So the tons per worker have gone way up.

Now, I'm looking at that and going is this, how do I think about this in the context of the adjustment effort? I mean making the same amount of tons with fewer workers the productivity rates have apparently gone up considerably. And so I'm kind of looking at that thinking, okay, how much, is this just because of large layoffs? Is this because of changes? You know, what does this reflect? And that's part of the reasons I keep asking some of these questions.

Mr. DiMicco?

MR. DiMICCO: Maybe to help put it in perspective a little bit, Nucor for years now has been running between 2,000 and 3,000 tons per employee at our steel mills. It's not new that those kind of really high productivity numbers are there with the right technology and the right organization and the right culture.

And I think what you're seeing is people over time recognized that there is a more efficient way to work together in a team in organizations and they're moving from the model that existed 40 years ago that didn't change a whole lot to today they're moving to a much more efficient organization. So it's culture, taking advantage of the technologies that are there and the teamwork environment, self-directed work teams and the empowerment that's given to the employees on the shop floor.

And I think, not trying to tout these other companies, SDI, Gallatin, they all have very high productivity levels but they started with that kind of culture. What you see happening in the integrated is a massive move, and that's why I give Leo and the leadership at the Integrated Steel Producers so much credit for basically totally changing the way that they work together. It's a major, major change.

I don't know if that helps put it in perspective.

COMMISSIONER MILLER: I just wanted to sort of put some of the reasons I'm asking these questions into context a little bit.

Mr. Dorrance?

MR. DORRANCE: Roy Dorrance, U.S. Steel.

The notion of working together with the representative work force in our company in an effort to improve quality, to improve productivity, to improve safety, to improve environmental performance is something we've been doing for a long, long time. This is not something that just happened over the past year, this is something that's been a part of our culture for a long, long time.

We have continuous improvement programs in all of these areas that involve everybody. So the kinds of improvements that you've seen over the past year or so would just be a continuation of a sort of a gradual improvement process that we've been able to achieve of the last eight or ten years since we've really focused on this intensely.

What we've done that's really a breakthrough though in this new labor agreement that we have with the Steelworkers Union is it enabled us to really take a whole fresh look at the entire process, at the way the work is done, at the way the work is supervised and hopefully will allow us not to just make gradual improvements but to make stair step types of improvements in all of these areas by empowering the work force and doing it with fewer people.

So I would anticipate that as we further adjust in the early stages and medium stages of implementing this labor agreement which we've just negotiated you will see even more improvements along these lines. But what you've seen over the past year is something though that U.S. Steel is engaged in in all of these areas for a long time.

COMMISSIONER MILLER: Okay. I appreciate that.

My yellow light's on. I just wanted to join or share the Chairman's interest in finding ways to make public whatever information we can about the companies' efforts in making a positive adjustment.

To the extent that you can do that, Mr. Dempsey, I take your point, I mean we know that there are some big picture things that we can describe publicly. Whatever we can do beyond that I think is important to this process.

So I will look forward to the ways that you can help us do that.

Thank you. I have no further questions.

CHAIRMAN OKUN: Commissioner Koplan.

COMMISSIONER KOPLAN: Thank you, Madam Chairman. I too join in what Commissioner Miller just said, anything that we can get on the public record would be very, very helpful. I know you'll make that effort.

I closed on the last go-around with a question with regard to tin products. Let me touch on slab with you if I could.

Several domestic flat rolled steel producers including A.K. Steel, California Steel Industries and Duferco Farrell argue that the safeguard relief on slab should be terminated. The treasurer of Duferco Farrell is scheduled to appear late tonight to probably expand on that.

They state that the relief has not resulted in any investments to increase production for the American market. Specifically they argue that, and I quote, "the restrictions on slab imports did not result in the building of even one new coke oven, blast furnace or basic oxygen furnace in the United States."

In addition, at page 46 of the joint respondents' brief they argue that, and I quote, "slab is only imported by the domestic steel industry. Thus, at any volume imports of slab are not detrimental to the domestic industry as a whole." They identify, but in brackets, those domestic producers who import slab.

I'd like to hear from you on that. Mr. Ross?

MR. ROSS: Well, ISG is actively soliciting business where we would provide slab to people. So it may not be that there has been a new furnace built. I can't imagine anybody would build a new furnace just with the speculative idea that he might get into the merchant slab business. But any of these folks who think that they are hungry for slab and are willing to pay a halfway reasonable price we'll sell it to them.

COMMISSIONER KOPLAN: I hope those three companies heard what you had to say.

MR. ROSS: Well, we'll be here real late tonight if they want to buy some slab.

COMMISSIONER KOPLAN: I'm sure you will.

Mr. Dorrance, do you want to add to that?

MR. DORRANCE: Roy Dorrance, U.S. Steel.

We also sell slabs from time to time. One of the companies you mentioned is actually a slab customer of ours from time to time. But -- I hope he's a satisfied customer. But this is a situation I think that is one that has a number of different forces kind of impinging upon it. But the fact of the matter is slab has been available in this market. And in spite of the tariff rate quota arrangement on slab as part of the 201 remedy slab is available and slab is available at price levels that apparently appear reasonable to the people that are actually importing the slabs and using them.

And there is also slab available from some of us from time to time. We have been a major supplier of slabs to some of our fellow companies in this market. It isn't a regular steady business of ours, I do admit that, although we have been a fairly consistent player in this market.

I guess the most important consideration as far as this hearing is concerned vis-a-vis slabs is it's very hard for us to imagine how we can basically uncouple what happens on slabs with what happens on flat rolled products because if slabs are not part of the remedy then there would be the effect of basically undercutting and undermining through lower cost slabs, lower priced slabs coming into the market that are not part of the 201 remedy because --

COMMISSIONER KOPLAN: It's upstream.

MR. DORRANCE: Right. Right. The flat rolled products prices are downstream prices that were subject to it. So it just seems illogical to try to uncouple one from the other. And if that's what the intention is here we would certainly be in opposition to that as being not consistent with the spirit of what the 201 remedy is for in the first place.

COMMISSIONER KOPLAN: Thank you. Mr. DiMicco?

MR. DiMICCO: I may be wrong and I don't think so. I don't think that any of the people that were mentioned as purchasing slabs even got to the point where they've exceeded the quota to incur a tariff up to this point in time. So part of me is saying what's the problem?

The quotas are set very high. They changed every year for three years. And they haven't exceeded it. And if they want to make some convoluted argument that, well, people aren't exceeding it because they're afraid they're going to have to pay the tariff that's a bunch of bologna. The fact is they haven't and to the best of my knowledge and if they have they haven't exceeded it by much. So I don't see what the point of the argument is.

COMMISSIONER KOPLAN: Thank you. Mr. Lighthizer?

MR. LIGHTHIZER: Yes. Commissioner, I would just add to what Mr. DiMicco said. First of all, they weren't met.

COMMISSIONER KOPLAN: If you could move your microphone a little closer.

MR. LIGHTHIZER: First of all, the quotas weren't met. Secondly, they go way up in any event. And, thirdly, the public statements are that at least some of the people that have signed that brief are to the effect that the 201 remedy has had no negative effect on them. In fact, the CSI 10-K filing from December 31, 2002 states specifically we believe our ability to purchase steel slab on the international market has not been materially affected by the Section 201 decision.

And there are press reports to a similar effect I think about Oregon Steel.

So their public statement is contrary to what they're saying here, that they're not being seriously affected, at least with respect to those two companies.

Also, I guess I would just make the statement that we entered into this endeavor to preserve the steel industry of the United States not the rolling industry of the United States. I think we have to remind ourselves of that all the time. The fact is that making steel, as you all found, is an essential part of that industry.

COMMISSIONER KOPLAN: Thank you.

Any other domestic witness who wanted to make a comment? If not I'll go to my next question.

At this point I want to make a request of counsel. And I brought this up at earlier hearings on the 204 and it comes up again. As I've listened to testimony today and about stainless and tubular hearings it appears to me that a significant number of witnesses assume that the Commission's mandate in this investigation includes passing judgment on the possible economic effects of reducing, modifying or terminating relief. However, Section 204(a) related to our monitoring functions includes the following language in (a)(4): "upon request of the president the Commission shall advise the president of its judgment as to the probable economic effect on the industry concerned of any reduction, modification or termination of the action taken under Section 203 which is under consideration." That's the quote.

The president has not made such a request of the Commission. For purposes of the post-hearing I'd appreciate counsel briefing for me whether in the absence of such a request you can point to authority in the legislative history or otherwise that the Commission can do that on our own. In the meantime, I would appreciate any response you are prepared to make now.

I note that the joint respondents' prehearing brief at page 5 relies on 204(b)(1). However, I do not agree with that. And I will get into that later tonight when they're before us. But if you have a response now I would appreciate it.

Mr. Lighthizer?

MR. LIGHTHIZER: Yes, Commissioner, we certainly agree with your interpretation and disagree with the respondents' position. It seems to us quite clear that the Commission in this context has two responsibilities. One is to monitor developments with respect to the industry and then two is to give a report on that monitoring. And that's what you were requested to do in this case.

We've seen a lot of different arguments, a lot of --

COMMISSIONER KOPLAN: That's an automatic. I mean we're required to do that even without a formal request.

MR. LIGHTHIZER: Absent being requested by the president to give some kind of a judgment we believe you do not have the statutory authority to do it. And we will certainly brief that but that is our strong position.

COMMISSIONER KOPLAN: Thank you. Mr. Dempsey?

MR. DEMPSEY: Commissioner Koplan, Kevin Dempsey from Dewey Ballantine.

Just to follow on what Mr. Lighthizer said, I agree, the Commission does not have any legal authority to be addressing the question raised in 204(a)(4) absent a request from the president. And I would note I think the comments cited by joint respondent to various provisions of the president's proclamation and his memorandum at the time of the -- at the issuing of the 201 relief did not request the

Commission to make any type of a report on this question.

And this president knows how to make a request of the Commission. As you will recall, after the original report of the Commission in the 201 investigation the president made a request for supplemental information from the Commission which the Commission provided. And so certainly if the administration needed more information they would know how to present a request. And I think it's notable that they have not made such a request.

COMMISSIONER KOPLAN: Thank you for that, Mr. Dempsey.

I do have more questions but I see my yellow light is on. Thank you all for those answers. Thank you, Madam Chairman.

CHAIRMAN OKUN: Thank you. Let me turn if I could to ask some questions about capacity and what's happened during this period. And I guess maybe let me just start if I could, I will raise the respondents' point that if the industry were going to adjust to import competition that should include -- well, I'll use their language, "does the industry not believe that the closure of inefficient blast furnaces is necessary," that's on blast furnaces. I'll come back to that.

They also talk about they ask whether or not to adjust import competition the industry would have to close inefficient capacity and it would be their argument that that has not happened. Now, I know that there were in your overheads that you provided both, Mr. Ross, in your statement as well as in the overhead provided from -- that Mr. Wolff and Mr. Lighthizer went through there was a discussion about capacity. And by that would look like some capacity remains shut.

And I would like the industry just to comment on that. Just wanted to make sure that I understand, you know, where you believe capacity is. And then, two, to address the respondents' argument for the industry to adjust to import competition or to continue efforts that they would need to in effect shut down inefficient capacity.

And, Mr. Ross, you look like you're ready to answer that.

MR. ROSS: I am ready to answer it.

We did shut down the capacity that we felt was inefficient in the companies with which we are involved. And to the extent we are involved in any additional ones in the future we will do the same thing.

I think part of the reason why more time is needed is it takes a very long time for companies to go through the bankruptcy process and to get to the point where they either do shut down and liquidate or they're acquired in all or in parts.

So I think that they're correct that the process is not finished. If it were finished we wouldn't need so much the tariff extensions for the 18 months. The fact that so many are still in bankruptcy, and I believe not all of them will ever emerge from bankruptcy, but some will, some will be salvageable and I think that, as I said in my direct testimony, is a good part of the reason why we need the tariffs to stay in place so that that process can be accomplished in an orderly fashion.

So it's not complete. It has begun. There has been some capacity knocked out and there will be more.

CHAIRMAN OKUN: Okay. And from ISG's purposes that would be included on your chart that said the LTV, Acme, Bethlehem total iron making capacity shut down 2.7 million tons a year and the total rolling capacity shutdown is 3.3 million tons a year?

MR. ROSS: Yes, that's correct.

CHAIRMAN OKUN: Okay.

MR. ROSS: Then if you compare that to our totals of around 16 million tons you will see relative to us those are meaningful numbers.

CHAIRMAN OKUN: Okay. Mr. Dorrance?

MR. DORRANCE: Roy Dorrance, U.S. Steel.

We also have had shutdowns on capacity. I'm not sure whether it made it within the window of the period that you're looking at there on our submittal. But we shut down a fair amount of finishing capacity at our Fairless works where we had a full-fledged sheet and tin operation where we now only operate one automotive galvanizing line.

But having said that, I agree with Mr. Ross, the process of understanding what the rationalization opportunities are really have to wait until you complete the integration that is required by virtue of the consolidation activity that has occurred. We just bought National Steel on May 20 so we're very, very early in the process of integrating National Steel into U.S. Steel.

But I would expect that once we get through with that integration and fully understand how best to optimize that set of assets with the set of customer requirements that we have that there will be some rationalization that will occur from that. It will take time though for us to understand exactly what that is. And that's, again, another reason why we need to have the full three year term to be able to understand that and make those adjustments prior to the end of the 201 remedy.

CHAIRMAN OKUN: Mr. DiMicco?

MR. DiMICCO: This goes back to an issue that's always the first go-around, you know, what's inefficient? I object strenuously to some of our foreign competition saying that, implying that there is a lot of inefficient capacity that needs, that hasn't already been shut down that needs further shutting down. It's not in anybody in our industry's self-interest to keep inefficient operations running. And as we come across those operations through acquisitions and mergers and what have you those operations will be shut down.

But the direct implication that they have is that somehow the majority of the U.S. industry is inefficient and should be shut down. And I take strong objection to that.

And the second thing I would like to say is that, you know, there is plenty of evidence of that actually having taken place, even in some of the acquisitions that Nucor has made. Nucor acquired, it's not flat rolled, we're talking about shutting capacity down, acquired long products producer, and there's a million tons of its capacity we have not brought back.

Likewise we've made other acquisitions that at this point in time have not been brought back into the marketplace because they were high cost and inefficient by Nucor's standards which is equal to those of the global standards of the best in the world.

So there has been a lot of this already done. To imply that it hasn't is just ignoring the facts. And then to imply that maybe the majority of the industry is inefficient is also an exaggeration of the extreme kind.

Thank you.

CHAIRMAN OKUN: Do other producers want to -- Mr. Stewart, you wanted to comment on it?

MR. STEWART: Well, since Mr. Gerard is not here, he did raise the fact that at Wheeling Pitt part of the labor contract that was negotiated called for the shutdown of the operation and the commissioning of an electric arc furnace.

CHAIRMAN OKUN: Okay, there was some discussion on that and I want to make sure I understand those.

MR. ROSS: Madam Chairperson, could I add one thing to that?

CHAIRMAN OKUN: Yes, Mr. Ross?

MR. ROSS: I note that in the prehearing brief that was filed by the Motor and Equipment Manufacturers Association they put in a chart of different countries and where they stood. And it appears to me that some of the parties who are here who are complainants are to the higher cost side of ISG. So I wonder if U.S. high cost capacity should be shut down why that shouldn't be equally applicable to foreign high cost capacity.

CHAIRMAN OKUN: Okay, take your point.

Were there other producers who wanted to comment on the capacity. Mr. Rogers, was there anything you wanted to add?

And then just so that I understand, the chart that you provide in your overhead which talks about capacity cites your Roscoe capacity. Is that, I mean is this equivalent to data that's in the staff report? I'm just trying to make sure that as we look at the staff report and what we say about capacity that I understand the data that you presented in that context.

MR. NOELLERT: Commissioner Hillman this is -- I mean Chairman Okun, this is Bill Noellert from Dewey Ballantine. The data in the overhead was AISI data so it's total steel industry capacity. And the data in your staff report is confidential so we could not use it in the overhead.

CHAIRMAN OKUN: Okay. Okay, then I understand what you did. Well, then if you haven't done this already if you can be sure that you comment on the capacity data that we are presenting in the staff report so that I could be sure that it reflects accurately what the companies have testified to with regard to their capacity closure or where they are with capacity.

Okay, the other just with regard to again going back to what our report should indicate, I noticed in the U.S. Steel brief that there was some discussion of items that you thought were left out of the staff report. I wonder if there was anything that you haven't covered today that you wanted to comment on? And as well as I note that the Nucor brief raised the issue that in the staff report as it currently was set up we did not have the flat rolled product combined and we will have that done before the final report is issued.

But is there anything else, either Mr. Dempsey or Mr. Hecht, that you wanted to comment on in terms of the staff report, additional information that should be included?

MR. DEMPSEY: Chairman Okun, Kevin Dempsey. I don't believe there's anything that's of a public nature. We'll check our records, there may be some more details that would be confidential that we could provide in the post-hearing brief but nothing at this time.

CHAIRMAN OKUN: Okay. Mr. Stewart?

MR. STEWART: Madam Chairman, I believe there's two items that would be helpful to the public and helpful to both Congress and the administration. One would be if in addition to the tables that you have that show covered and non-covered on the import statistics, those were broken down by countries and percentage of total imports were provided for the three time periods covered as well as for non-covered, what the total would be for anybody that was under 3 percent. That obviously would facilitate having a common set of discussion points.

Secondly, at the moment, and this may simply be because you have a preliminary or prehearing staff report, there is nothing that is public in terms of the foreign producer capacity or pricing. I think it's the Section 6 in the -- throughout the report. And that obviously would be helpful not only if it could be made, parts of it could be made public but if it could be disaggregated onto a country or customs union basis where appropriate.

CHAIRMAN OKUN: Okay. I will look into both of those. I may have a question about the last one. But let me turn to Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Thank you. I hope just a couple quick follow-ups.

One, just in your response to Commissioner Koplan with respect to slabs raised for me the question of what is the industry's view of why the slab quota was not utilized? I think the numbers are pretty clear that, you know, something in the order of 4.5 million short tons came in over a quota of 5.4 million short tons. So it's clear that the quota was not remotely fully utilized.

And I'm just curious from the industry's perspective why do you think that's the case?

MR. DiMICCO: Dan DiMicco. It was more than generous.

VICE CHAIRMAN HILLMAN: Mr. Ross, do you want to add something?

MR. ROSS: Well, I think if they needed it they would have used it. So it's pretty clear that it was at too high a level relative to their actual need for it.

VICE CHAIRMAN HILLMAN: Okay.

MR. DORRANCE: It's a general indication in my opinion of the just bubbled economic activity in terms of the steel market. I think that had something to do with it. Certainly the hot import market in China which existed for most of 2002 may have drawn some of that material away for example from some of the flat exporting countries because they had a more attractive market in China. But in general I think the overall for the soft market probably had a lot to do with it.

VICE CHAIRMAN HILLMAN: Okay. And secondly perhaps to you, Mr. Ross, and to you, Mr. Dorrance, I just want to make sure I understand what happened to the companies that you purchased out of bankruptcy in terms of their benefits to retirees other than pensions. And here I presume that we're largely talking about healthcare benefits or health insurance. But if there are others I would be curious for you to mention it.

Is the only way -- again, I'm trying to understand what happened -- did all of the contracts with respect to, again, non-pension benefits were all of those eliminated and replaced by the trust fund that Mr. Gerard mentioned? And is that trust fund applicable to all of the companies that you purchase that came out of bankruptcy?

MR. ROSS: Okay. A whole lot of questions there. I will try to answer the ones I can remember.

As to what the principal benefits other than pension are the healthcare benefits, that is correct. In the case of each of the ones that we acquired they had terminated retiree healthcare benefits prior to our coming on the scene. So those were finished.

The question then became two things. One, we had no legal obligation to do anything for those people but we felt a moral obligation to do something for them. And we also felt it was important to send a message to our active employees that we would treat as best we could people who had been part of their community. And the implication obviously being we'd be decent to them when their retirement came.

So we had those two reasons for putting in a VEBA which is, as you know, a voluntary trust.

As to the active employees we have a healthcare program and one that will continue on with them subsequently. We have essentially the same programs in all of our entities that we've bought. And it's a good healthcare plan. It's fully comparable to the one that I have in my own office. And I think I'm in reasonably good health despite that plan.

So we have not had big problems with it at LTV which is where we put it in first. And as you heard from Mr. Gerard, the overwhelming majority of the employees at Bethlehem voted for the new contract which involved some changes in their healthcare benefits. And they did that after very extensive consultations between the local presidents at Bethlehem and our local presence at LTV and Acme and even worker level interactions. So it went through with full understanding.

Essentially the differences are we have somewhat more co-pay features than they had had. And we think that that's an essential ingredient of a well-run healthcare plan. For one thing, it discourages frivolous use of medical service and, second, it's a little bit of an impediment to the fraud that unfortunately is so endemic in the healthcare community.

The other thing we put in was some caps on outlyers because that's another thing that can really severely damage the plans.

But other than that the benefits were quite similar, other than those two features the benefits for the active employees were quite similar to what they had before. And we felt that while it was -- and so that's the way that we dealt with those issues.

Now, we introduced these profit sharing plans which they did not have before. They did not have meaningful profit sharing. LTV had had theoretical profit sharing plans but since all that LTV had to share were losses they were not particularly useful to the recipients.

And that's one of the things I think we shouldn't lose sight of. Part of the reason why morale is very good at our organization and I think at Dan's is that the profit sharing has worked. If we go through a protracted period, say if you prematurely took off the tariff and that took away the profitability it would undermine the whole quid pro quo of the arrangement with labor. Someone like a Nucor who has had a long history, the workers know that over time it works, that's fine. A new company like ours that has put in this whole radical new system in effect trying to put a mini-mill corporate culture onto an integrated steel technology, because that's really the essence of what our company has tried to do, until the workers have had enough experience with that that they know that it's trustworthy it could all backfire and it could undermine the whole essence of the agreement.

So it's part of what we meant when we said it's particularly critical this next couple of year period to assure the workers that they really get what they thought they were getting when they agreed to all these new work rules and different job classifications and lower benefits and all that. It can't be a one-way street.

VICE CHAIRMAN HILLMAN: That's an extremely helpful answer. I very much appreciate that.

MR. ROSS: Thank you.

VICE CHAIRMAN HILLMAN: Appreciate what you've done on that point.

MR. ROSS: Did I answer all of your questions?

VICE CHAIRMAN HILLMAN: You did, every one of them.

MR. ROSS: Thank you.

VICE CHAIRMAN HILLMAN: And I thank you.

MR. DORRANCE: Roy Dorrance. I'm very glad you went first, Mr. Ross.

MR. ROSS: I yield my time to U.S. Steel.

MR. DORRANCE: Thank you. Thank you.

The arrangement that we have for the former National retirees and the former National employees or active employees of U.S. Steel now with regard to what Mr. Ross just went through are totally parallel with what Mr. Ross discussed. The one thing that we have not done yet is we have not although we have a profit sharing plan that's quite similar, the profit sharing plan hasn't paid off yet. So we're just two months into the integration process. So we have not had the impact of that yet, but that's something that we look forward to hopefully in the not too distant future.

VICE CHAIRMAN HILLMAN: But it's the same sort of voluntary employee benefit trust?

MR. DORRANCE: Yes. Yes. Yes.

VICE CHAIRMAN HILLMAN: Okay.

MR. DORRANCE: Yes.

VICE CHAIRMAN HILLMAN: That's extremely helpful.

And I guess my last question to some extent piggybacks a little bit on the Chairman's question because obviously what we're going to hear from the folks on the other side is that while all of these efforts are arguably long on consolidation, in their view they're short on rationalization, if by rationalization we use that as a bit of a euphemism for closure. And the argument being that consolidation in and of itself by just putting lots of entities under one corporate roof doesn't really produce, you know, greater efficiencies, it just puts the same companies under one corporate roof.

I think you've all testified, you know, very eloquently to why you think consolidation means more than simply changing the name on the door and the roof. But I'm trying to understand from your perspective why that is and sort of how you get there. Is it mostly the issue of the labor contract and changes on the labor side coming out of bankruptcy or is it more on this issue that as you go through the process you can choose either not to purchase at all or not to start up out of bankruptcy the less efficient pieces of the company that you buy?

MR. ROSS: Well, it isn't just the legacy cost by a long shot. If the only changes we had been able to make were the legacy costs we would still be an unprofitable company. So the notion that it's just changing the healthcare and getting rid of the pension is a straw man. That simply is not the case with any of the ones that we have acquired.

It is a fact that it took two-and-a-half hours before and it is a fact it only take one hour now. That's a big change. Why is there anything intellectually better about shutting a factory rather than making it so it's productive and, in fact, is a more efficient one than those people who are complaining about it? I don't follow the logic to shutting down capacity that is more efficient than people who wish to import it.

VICE CHAIRMAN HILLMAN: I appreciate that answer. Because I wanted that on the record.

And I don't know whether you had anything you wanted to add, Mr. Dorrance?

MR. DORRANCE: I would agree with that. And I think that when it comes to rationalization that's something that will take time to understand. And really think the market will dictate when, how that happens.

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

CHAIRMAN OKUN: Commission Miller?

COMMISSIONER MILLER: Thank you, Madam

Chairman.

Recognizing the many witnesses yet to come I have no further questions. And I appreciate all your testimony today. Thank you very much.

CHAIRMAN OKUN: Commissioner Koplan?

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

First, if I could follow up on Commissioner's Hillman's follow-up to my initial question on slab, let me come back if I could to the brief of King and Spalding on behalf of AK Steel, California Steel and Duferco Farrell and read this part to you and see what your comment would be as a follow-up. And I'm quoting.

"Unfortunately, however, the TRQ has imposed a large cost on the domestic carbon steel flat products industry even though the TRQ threshold was not exceeded in the first year of relief and even though virtually no tariffs were imposed on slab imports. To an extent that even AK Steel, California Steel and Duferco Farrell did not expect, foreign producers used the slab TRQ and the prospect of tariffs being imposed toward the end of the first TRQ period to orchestrate an artificial spike in demand and an artificial spike in slab import prices as soon as the TRQ was imposed. In fact, the average landed value of imported slab jumped from 155.95 per short ton during January to March, 2002 to 236.53 for a short ton during January to March 2003. The increased prices that AK Steel, California Steel, Duferco Farrell and other members of the domestic carbon steel flat products industry paid for slab increased their production costs and reduced their profitability. Because the TRQ reduced their profits it also impeded the ability of domestic flat product producers to undertake new adjustments to import competition by investing retained earnings in newer and more efficient assets and equipment."

And I see you all reaching for the microphone. Mr. Rogers?

MR. ROSS: I think I drew first. I have two responses. One, to the extent that their complaint is price fixing among the foreign supplies the ITC is not the right forum, anti-trust law is the right forum. And I would heartily recommend that if they mean what they said there that's the route that they follow.

Second, as to domestic producers not creating new capacity we have tons of capacity. We've quoted everyone that, we've quoted at least two of those parties that signed the brief what we feel are very competitive prices. And we found, frankly, relatively little interest on their part in buying our slab.

So our experience is a little different. We are quite happy to sell people slab. So those would be the two -- I can only respond for us but we have rather a lot of capacity so I think we can satisfy them if they do wish after testifying to deal with us.

COMMISSIONER KOPLAN: Thank you.

MR. DiMICCO: Dan DiMicco. I would hazard a guess that if anybody really looked at what caused pricing other than this possibility of price fixing, which again this is the wrong arena to discuss that, but I would be interested in knowing what the price of slab was throughout the rest of the world. And I think what you would find is that in general the price of slab responded to global demands not to the fact that there was some grand conspiracy because of the TRQ here in the United States.

COMMISSIONER KOPLAN: I thank you both.

Oh, go ahead, Mr. Ross.

MR. ROSS: I didn't realize Mr. DiMicco would be defending the anti-trust action. So I will withdraw my recommendation.

MR. DORRANCE: If I could place a comment to, please?

COMMISSIONER KOPLAN: Yes, Mr. Dorrance.

MR. DORRANCE: The slab market is an international market. Most of the slab suppliers that have been supplying this market are also supplying slabs to various other parts of the world. I think if you look back at the record if you have it, and if you can't maybe we can help you with this, but there was a rather marked I would say impact during the course of 2002 on the part of the Chinese import situation. The Chinese were importing a lot of slab as well as a lot of flat rolled material during 2002.

Things cooled off a bit as we neared the end of the year and now they seem to be picking up again. But I would suspect at the time that the 201 remedy was put in place the slab exporters, for example the Brazilians and others, had other options for their slabs. And I'm sure they chose the options that gave them the most attractive price and that was the end of that story.

COMMISSIONER KOPLAN: Thank you.

Mr. Price?

MR. PRICE: Thank you. I'd like to just point out a couple of issues. First of all, while we can't address it in this public forum a lot of the claims about financial harm I think are fairly dubious. And we will in our post-hearing brief present information about the financial performance of these entities and any harm or lack of harm that may exist.

Secondly, a lot of the claims being made in the briefs presented are frankly contradicted by the public statements of these companies. And we provided some information about that in the Nucor brief. So we just want to draw the Commission's attention to those contradictions.

COMMISSIONER KOPLAN: Thank you.

Mr. Dempsey?

MR. DEMPSEY: Commissioner Koplan, Kevin Dempsey. I think there are probably a number of factors that played into, you know, the impact on slab prices. And we heard some of those mentioned. I think clearly the TRQ on slab has played a role in terms of at least providing a backstop because there would be a limit to how much in terms of slab imports were going to come in. And that had some impact.

But another important factor that actually was raised by the economists for the slab importers back in the original 201 investigation, as you will recall they did an analysis and suggested and their point that the price of slab is a function of the price for the downstream finished products. And so as prices for the downstream finished products went up in the U.S. market because of a variety of factors, partially because of the 201 tariffs on the finished products, also partially because of the LTV shutdown had an impact on prices, but as prices for the finished products went up, as their own economist analyzed it back in the original investigation, that's going to increase demand and then cause an increase in prices for slab.

So that's another part of the reason that's not directly related to the TRQ but more part of the impact of the 201 tariffs on flat, finished flat rolled products. Because as you all remember, we spent a great deal of time in the original 201 investigation --

COMMISSIONER KOPLAN: I remember that.

MR. DEMPSEY: -- discussing the interrelationship between the various flat rolled products, including slab. And I think is partially a manifestation of that equation.

COMMISSIONER KOPLAN: Thank you, Mr. Dempsey.

Mr. Stewart, are you going to sum up?

MR. STEWART: Just going to add one comment which is the price that they would appear to believe that they are entitled to is a price that has never been seen in the United States other than the middle year of the period that you're looking at. And the price that they are paying is below the price that they paid the year that you found serious injury to the domestic injury.

So this would hardly seem to be a hardship for the slab purchasers.

COMMISSIONER KOPLAN: Thank you very much. I thank all of you for your responses to my questions.

And this is my last question. At each of these hearings I have stated, and this is a follow-up to the Chairman's discussion about the appendices, at each of these hearings I have stated that I believe this 204 hearing is a critical part of the process for the Commission to gather information on the effectiveness of what you've done thus far to facilitate a positive adjustment to import competition and what remains left to be done if the relief continues. In other words, beginning with your adjustment plan, which was referred to by the Chairman, in Appendix D, the plan submitted to USTR prior to the relief granted, I need to gather as much information as available to understand exactly what each of you had accomplished since March 20 of 2002, whether each of you are on schedule, what each of you plan to do between now and the time relief is scheduled to terminate.

I realize that your briefs address and your direct presentations for that matter and your answers to our questions address these issues to a very significant degree with respect to the entire flat rolled industry, but I would appreciate to the extent possible your carrying the discussion a step further by addressing those questions to the specific flat rolled sectors the Commission's been looking at such as, and we've been talking about slab, plate, hot rolled, cold rolled, coated and tin.

I'm also aware that Appendices E beginning at page 3 that describes what's being looked for in that appendix, at pages 5 through 16, which is the comments of U.S. producers on the significance of the president's 203 relief on their operations, and Appendix F, again the introduction on page 3 and also in that appendix on pages 5 to 16, comments of U.S. producers on their efforts to complete more effectively in the U.S. market to our staff report contains detailed confidential summaries of such information that you've already provided.

I am interested in what more you can provide for us in the post-hearing, picking up on what we already have in there and, of course, as much as can be put into the public side of the record that would be welcome as well. I think it's probably more appropriate for you do it post-hearing than to respond to me now.

And I don't see any disagreement on that. So with that's my last question. And I want to thank each of you for your detailed responses to our questions all day, this morning and this afternoon. Thank you.

CHAIRMAN OKUN: Thank you. I have one last question for the witnesses which is there was some references to submissions that were made to the Department of Commerce as part of their ongoing review. And I wonder if any counsel is in position to comment on this whether those are, whether that information is anything that is relevant to the inquiry we're making here and whether it could be provided to us?

MR. HECHT: Commissioner.

CHAIRMAN OKUN: Yes, Mr. Hecht?

MR. HECHT: Are you referring to the

president I guess had asked for interim updates on adjustment steps?

CHAIRMAN OKUN: Right.

MR. HECHT: Yes, we will endeavor to provide those to the extent we can.

CHAIRMAN OKUN: Okay. I'm not trying to make anyone, you know, recreate the wheel here. It just seems like if it's in a format where it's relevant to our query here it would be helpful.

MR. HECHT: We will do so.

CHAIRMAN OKUN: Okay. Mr. Schagrin?

MR. SCHAGRIN: Yes. Roger Schagrin.

Chairman Okun, in the case of the members of the flat rolled coalition that was provided directly by the company executives to Trade Representative Zoellick and Secretary Evans. We can endeavor to obtain those and submit those to you. The ones I saw I think you would find that there is less detail in those responses to Evans and Zoellick than the information the Commission has received on adjustments in terms of your questionnaires and the information in the briefs. But we can endeavor to try to get those for the companies if you'd like them for your record.

CHAIRMAN OKUN: Okay, thank you.

Mr. Stewart or Mr. Price?

MR. PRICE: We will provide them for the Commission. Thank you.

CHAIRMAN OKUN: Okay. Mr. Schwartz?

MR. SCHWARTZ: David Schwartz representing Ispat Inland. We will review the progress reports and determine how much of it we can make public.

CHAIRMAN OKUN: Okay. Okay, I appreciate that very much. With that I have no further questions.

And let me turn to staff to see if staff has questions for this panel.

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

CHAIRMAN OKUN: Do counsel for respondent parties have questions for this panel?

(No response.)

CHAIRMAN OKUN: Deafening silence back there?

Okay. Well, before I let this panel go I do want to again thank you very much for all the testimony. You've been very patient and helpful and we will look forward to the post-hearing submissions as well.

We will take five minutes to get the second panel before us.

(Recess, 4:35 p.m. to 4:43 p.m.)

(Panel two sworn en banc.)

CHAIRMAN OKUN: All the witnesses for panel two, foreign respondents, have been sworn.

MS. ABBOTT: Madam Chairman, all the witnesses have been sworn.

CHAIRMAN OKUN: All right. WE are going to go ahead and proceed. We recognize that we are having some technical difficulties. We will continue to try to get someone down to help you, Mr. Crandall, to get that going. But let's go ahead and start the testimony please. Mr. Pierce.

MR. PIERCE: Thank you, Madam Chairman, and good evening. I am Ken Pierce from Wilkie Farr & Gallagher, counsel for the Japanese and Brazilian respondents.

This panel of steel producers focuses on industry adjustment while consumer interests will be addressed in the second panel. I start this panel's presentation with a discussion of the legal framework.

Section 201(a) directs the president's action to "facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs." This is the statutes linkage between restraints and adjustments. Obviously there must be some causal nexus between restraints and adjustments or the cost benefit analysis would be meaningless.

This linkage is consistent with Article 7.1 of the safeguard agreement, "A member shall require safeguard measures only for such a period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment." Counterproductive import restraints are by definition not facilitating positive adjustments and should be terminated.

As stated in the 1988 conference report regarding the House bill, safeguard measures are "subject to review and termination when no longer necessary to remedy injury and to facilitate adjustments." If the Commission does not find a linkage between the restraints and adjustments in our view it should so advise the president.

Questioning of respondents in the stainless and tubular products hearings and earlier today centered on defining the Commission's role in the midterm assessment. The House report clarifies that the Commission's monitoring is "designed to promote adjustment during the period if import relief so that protection from import competition is not a free ride."

The Senate report explains that the president's midterm decision occurs only after "receiving advice from the ITC regarding its judgment of the probably economic effects on the industry of extending, reducing or terminating the import relief." The Commission's judgmental role therefore is recognized in the legislative history.

The president had his eye on this proceeding when he restrained fairly traded steel imports for three years and a day back in March 2002. Indeed, without that extra one day the Commission would not be conducting this hearing. The president has since had the statutory authority to reduce, modify or terminate the restraints at any time in his discretion. He is now looking for the Commission's advice on how this discretion should be exercised.

His need for this analysis from the federal agency most knowledgeable about the domestic steel industry is not just theory. It will become a hard reality if the WTO appellate body upholds the panel's ruling, a decision expected before year-end.

As stated in the president's proclamation and reiterated in his March 5 memorandum, "If I determine that further action is appropriate and feasible to facilitate efforts by the pertinent domestic industry to make positive adjustments to import competition and to provide great economic social benefits than costs or," and this disjunctive is important, "if I determine that the conditions under Section 204(b)(1) of the Trade Act are met I shall reduce, modify or terminate the action established in this proclamation accordingly."

With this disjunctive the president has recognized two broad conditions for taking further action. First, with further action to reduce, modify or terminate the restraints, facilitate adjustments to import competition and benefit the economy as a whole. In other words, had the restraints become counterproductive to making the domestic industry more competitive at a net cost to the economy? If so, the safeguard measures will be ended. This is pursuant to the executive's independent statutory authority under 203(a)(1)(b).

Second and separately, the president may alter, reduce, modify or terminate the restraints if the conditions of 204(b)(1) are met. This midterm review is intended to assist the president in making this determination. Specifically, 204(a)(1) directs the Commission to report on its "monitoring of development 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."

The Commission's statutory purview encompasses all developments with respect to the domestic industry, not just collecting data for the president on adjustment efforts that may have been made for whatever reasons by the domestic industry. Reporting on the monitoring of developments must include analysis and commentary if it is to have meaningful purpose.

The president cannot alter the restraints under 204(b)(1) until he receives the Commission's report on developments with respect to the domestic industry. The statute allows him to make changes under 204(b)(1) only "after taking into account any report or advice submitted by the Commission on these developments." The statute does not contemplate only a mere recitation of monitoring data. It says "any report or advice submitted by the Commission."

Advice means a recommendation regarding a decision or courses of conduct according to Webster's. The expectation is for the Commission to provide the president with its best judgment, that is advice. However, it's analyses of developments warrant that the restraints be reduced, modified or terminated. And we submit that the president expects the same according to his proclamation and memorandum.

Now, Section 204(a)(4) allows the president to request the Commission to "advise him of as to the probable economic effects on the industry concerned of any reductions, modification or termination of the restraints."

The any report or advice referenced in 204(b)(1)(a) is not limited to responding to an explicit 204(a)(4) request by the president. This is clear by the statutes modifier "any" and its coupling of "any report or advice." If the Commission's advice could only be given when triggered by a formal 204(a)(4) request the statute would say so, there would be no broad reference to "any advice." And "any advice" illogically would have to be limited to the economic effect of the change on the domestic industry.

Midterm reports are sometimes avoided providing fulsome advice, but not always. In Lamb Meat the Commission reiterated benchmarks provided for USTR evaluation and assessment but did not answer them qualitatively in most instances and reported the parties' arguments in a noncommittal he said/she said style. Nevertheless, in terminating lamb meat measures early based on his determination that the effectiveness of the relief had been impaired by changed economic circumstances the president expressly relied on the Commission's report.

In Wheat Gluten Commissioner Bragg advised the president to terminate Poland's exemption, which he did, and the Commission discussed and rejected arguments that profitability improvements were due to factors unrelated to the import restraints. The president apparently agreed as the wheat gluten measures were not terminated early. In Wheat Gluten the Commission also addressed circumvention allegations.

In Lines and Wire Rods the Commission referred to the parties' arguments but seldom engaged them other than where data issues were implicated. In Wire Rods the Commission analyzed problems with the global quota and Commissioner Bragg recommended that the president change its operation, which he did.

Relying on 332 report in Broomcore and Brooms the safeguard measure in Broomcore and Brooms was for three years not for three years and a day so no midterm report was triggered. The president terminated the measure early because the domestic industry had not made adequate effort to make a positive adjustment to import competition.

So while the Commission's past efforts to comport with the statutory expectation that it advised the president have been less than vigorous the expectation has been recognized. Moreover, the statutory provision for the Commission to advise the president remains as explained in the Senate report, "If the president determines based on reports from the ITC that the domestic industry and its workers have not made an adequate effort to make positive adjustment he may reduce or terminate the relief." And history shows that when the Commission's advice has been given the president has followed it.

Counsel for the domestic mills collectively share the view that the Commission's midterm report should be advisory and not merely a compilation of data. For example, several have raised the Commission to advise the president that country exemptions should be terminated and product exclusions closed. Where is the statutory authority for the Commission to make these requested recommendations to the president if not 204(b)(1)?

The statute sets forth broad and subjective changed circumstances to focus the Commission's advice under 204(b)(1) that are twofold. One, the domestic industry has not made adequate efforts to make positive adjustments to import competition or, two, the effectiveness of the restraints has been impaired by the changed economic circumstances. The breadth of these two factors is apparent.

For example, positive adjustment encompasses the closure of non-economic capacity under 201(b)(2), thus "a positive adjustment takes place when an industry experiences the most orderly transfer of resources to other productive pursuits," according to the Senate report. Domestic flat rolled steel industry's efforts are not adequate when necessary closes of outmoded capacity have not occurred but instead the import restraints are facilitating the restarting of non-economic capacity by some domestic mills and they're frustrating its closure by others.

Adjustment efforts are not adequate if new labor agreements have been adopted that prevent such market-driven closures or other rationalizations of the industry. The Commission should advise the president on these failures by the domestic industry and the unions to make adequate positive adjustments.

The change economic circumstances that the Commission may consider are extremely broad. The conference report does not limit them but instead gives two examples, exchange rates and circumvention. Other changed economic circumstances in this case include potential restraints on rationalization under the new labor agreement, federal loan guarantees that frustrate necessary closures and artificial import pricing premiums that dilute healthy competitive market forces. There is no basis for concluding that the statute intends changed economic circumstances to be only those that require more restraints.

The president's memorandum looks at factors he will consider in making his determination under both 203(a)(1)(b) and under 204(b)(1). "In making this determination I shall consider the pertinent factors set out in 203(a)(2) of the Trade Act." The president specified the factors that he will most consider which are, one, changes in capital labor productivity; two, actual and planned permanent closures of inefficient steel production facilities both here and abroad; three, consolidation of steel producers; four, capital expenditures; five, prices and; six, the overall effect that maintaining the measure will have on consuming industries, workers and the United States economy as a whole.

The president has already said that the

restraints will not be continued if they are counterproductive to achieving positive adjustment to import competition under these factors. The most important factor today for improving the competitiveness of the domestic industry is the permanent closure of non-economic capacity. And the safeguard measures today are delaying these inevitable and positive closures.

Respondents' briefs and testimony both from this panel and the consumers panel addressed the president's factors. In its sound judgment the Commission should advise the president that the restraints on fairly trade flat rolled steel imports have become counterproductive and are preventing adequate positive adjustment with net national economic costs.

You will next hear from Dr. Robert Crandall on the negative effect of the restraints on the overall domestic industry and why they say it could delay positive adjustment to import competition.

Dr. Crandall will be followed by Charles Blum to present the view of the European steel industry and describe Europe's adjustment process.

Jeff Hoye of Corus America and Richard Cunningham, counsel to Corus, and Chris Dunn, counsel to the Japanese mills, will describe why continuation of restraints is particularly inappropriate for tin mill products.

Kevin Horgan, counsel for certain German mills will discuss why the import restraints fail to facilitate positive adjustment in the domestic plate industry. And on behalf of other German mills Gunter von Conrad will address problems with respect to certain cold rolled products subject to the restraints.

Finally, Don Cameron, counsel to Korea, will bring the discussion back to the major issues crosscutting all flat products, especially those related to labor.

All of us sitting at this panel will then be happy to answer any questions the Commission or staff may have. And if the Commission deems it appropriate, members of this panel will also be available to answer any questions following the testimony by the consumer panel the commissioners may wish to direct to us.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. CRANDALL: Madam Chairman and members of the Commission, it's a pleasure to appear before you today for the joint respondents. My name is Robert

Crandall. I am a senior fellow in economic studies at The Brookings Institution. I'm an economist who has studied the steel industry for many years, published a couple of books on it, including one on how the mini-mills would take over from the integrated companies back in the mid-1980s. Both were Brookings Institution books. However, my testimony here does not reflect the viewpoint of The Brookings Institution or any of its staff members or trustees. My views are my own and expressed on behalf of the respondents.

Actually, as I appear here and after listening to the petitioners argue their case before, I think you will there are not that many differences between at least my views and their except for one, and that is the specific impact of continuing tariffs on the process that they have quite accurately and eloquently described.

I mean everybody knows that this is an industry in which there's been a need for substantial rationalization, closure of capacity, improvements of labor practices, lower labor costs and improved productivity at the integrated plants with continuing closures of the most inefficient of them. This process has bene going on for many years. And the reason why you have such large increases in productivity in this industry is not that U.S. Steels sales force suddenly became productive but rather that it closed and a mini-mill replaced it, replacing perhaps 10 or 12 man hours a ton with one man hour a ton.

Now, in the past there have been substantial obstacles to this restructuring because of the difficulty of doing this in the face of the enormous legacy costs and the labor agreements present and even the management structure present at the front at these firms. I will start in my testimony which has this explained in much greater detail I will start with a slide, the first slide which shows you the current structure of the industry and where we've come.

If you look at that green part of the chart it's the share of the shipping capacity, shipments capacity of the flat rolled industry accounted for by the integrated consolidated companies. Those essentially are two, ISG and U.S. Steel. They have done all the consolidating, all the rationalizing in this last year or two in the process while the tariffs have been in place and even before the tariffs were in place.

They have acquired failed companies, acquired the assets of failed companies and have begun to restructure them. Though I think as you heard, they have not necessarily completely finished that restructuring.

In addition there's some hybrid companies which would include AK Steel, it would include Inland Ispat because they're hybrid in the sense that they use electric furnaces in addition to the integrated process. AK imports some slab.

There are also the re-rollers, the next group in the white there who are for the most part formerly integrated companies that closed their hot end and import slab. AK Steel, of course, also has reduced its hot end capacity and is using imported slab to feed its rolling mills.

At the bottom you see the mini-mills which now account for about 22 percent of flat rolled capacity, about half of the total United States steel in in toto, with 22 percent of flat rolled capacity, shipping capacity, shipment capacity. And these companies are efficient. I mean there have been some -- not everybody can run a mini-mill. Three integrated companies tried it that are called Trico. They failed immediately. And, of course, as you heard from Mr. DiMicco, Nucor acquired it. They know how to run a mini-mill, they have put it back up again and apparently it is running successfully.

Gallatin Steel, for example, a mini-mill company and an integrated company had some troubles at first but it is now apparently operating successfully.

These are efficient companies, as Mr. DiMicco told you operate with very low man hours per ton, very high productivity.

What is left is that red pie. That red pie is comprised of the companies that are still struggling, Rouge Steel, WTI, Wheeling Pittsburgh and Weirton. Two of those are in bankruptcy. WTI just announced that it didn't meet a debt payment this month. It's in financial trouble. Rouge has had all kinds of operating trouble. These are companies that are candidates for some type of rationalization, not necessarily closures entirely but probably some closures, but some acquisition.

As Mr. Ross said, the reason why he would argue for continuing the steel tariffs was that the bankruptcy process takes time. Keep in mind that this entire rationalization, consolidation process even by Mr. Ross' assumptions requires first that you put the struggling company through bankruptcy. Well, two of those four are already in bankruptcy. Of course their assets could be purchased outside of bankruptcy but because of the legacy costs that's difficult and because of the existing labor agreement. Only when they are put into bankruptcy and perhaps face the reality of maybe having to close are the legacy costs, can they do something about the legacy costs and can they do something about the labor agreement, negotiate a labor agreement with substantially fewer man hours per ton.

Now, if we want to look at what has happened during this period of, immediately preceding and during which steel tariffs are in place -- the next slide -- this is some numbers on the integrated steel industry and what happened to their sales and profits and net income and bottom line in the bottom half of that chart.

What you can see is in general. Large losses are realized in 2001 when prices are very low. Prices began to recover in 2002 aided in part by closure of some facilities and of course by the tariffs. The losses narrowed. But in some cases the losses continued and some of those companies with very large losses like Bethlehem and National Steel of course went bankrupt and have now been acquired.

The next one shows you what happened to the mini-mills. The mini-mills despite the fact that they may not be making as much money as they would like have been profitable throughout this period. Two of the three publicly traded flat roll companies in the United States, IPSCO is a Canadian company with two plants in the United States, were generally profitable. Only IPSCO showed some losses in two quarters. And, in fact, their profits, the profits of everybody have grown as a result of tariffs, the depreciated dollar of course, and some rationalization of capacity.

So what you see here is the mini-mills being profitable all along and becoming more profitable during this period. The integrated companies still struggling for the most part although their net losses have been reduced.

During this period, in years past the reason for engaging in the 201 relief and some form of interim trade protection would have been to protect employment. But we know we have an industry in which excess employment is its basic problem. And what you can see here is that during 2001 and early 2002 employment fell rather dramatically, even when production picked up. Because the companies are being reorganized, ISG is buying Acme, LTV, now Bethlehem.

This antedates USX's purchase of National. But there are some closure of facilities, there's new labor agreements, more efficient operations and employment is falling.

In my testimony I point out and in reports appended to the joint respondents' brief I point out that there's going to be more employment reductions in this industry because there's still a lot of inefficiency left in the industry.

It isn't that employment declines are new to this industry. You heard some numbers that suggested employment at some plant at some company was one-fourth of what it used to be. Well, employment in the United States steel industry today is approximately 25 percent of what it was back in the late 1960s and 1970s. This shows you that just from 1980 forward that there has bene a continuing decline. And this decline will continue regardless of what happens in this room because there is still substantial amount of inefficiency to be shaken out in this industry, there's natural productivity growth and technical change, and there's very little net growth of output. There's some growth of output. Flat rolled shipments have been rising over time. But there's not enough to offset the improvements in productivity that comes with shaking out the inefficient capacity and adapting some new technologies.

The next slide shows you what's happened to those companies which produced flat rolled steel in the United States and principally that's the source of their income and have a market capitalization more than $100 million, that is they're consequential. AK Steel and USX are clearly the two majors on the integrated side. ISG is not a publicly trade company so I can't put them up there.

And this shows you what happened to the value of their equity prices net of what happened to the S&P 500, that is their excess returns how they did relative to the S&P 500 between June 2001 and June 2003, the date at which the investigation was announced to the end of June of this year. And you can see that AK Steel suffered substantial decline. USX is about the same. IPSCO is down a little bit. But the two big gainers are Nucor and Steel Dynamics.

Not surprising Mr. DiMicco is a big fan of higher prices and trade protection, he has benefitted substantially from something during this period and undoubtedly higher prices is part of the story.

Now, this slide shows the financing that various companies have obtained during the period of approximate period the tariffs have been in place. Note that this is financing for the companies. These are not capital expenditures.

And there was a lot of questions and discussion about adjustments and what the companies are doing. Keep in mind that there is a difference between spending money on acquiring someone else's assets and new capital expenditures. Most of the adjustment that has taken place is the kind that ISG has undertaken and recently U.S. Steel has undertaken, namely the purchase of assets from bankrupt companies or the purchase of the entire company itself in some cases. These are not capital expenditures.

If you were to look at capital expenditures for the entire United States steel industry for those who report publicly through the Securities and Exchange Commission in 2002 capital spending is probably down a little bit relative to 2001 and maybe flat again. We can't get numbers for ISG because they are not a publicly traded firm.

So most of what is required here is not new capital expenditures. I was amused at the discussion of why in the face of protection of slab there hasn't been investment in coke ovens, blast furnaces and BOF. There's a simple reason for that, there will never be investment in blast furnaces, BOF and coke ovens in the United States again. The last blast furnace was built in the last 1970s in the United States. There's only been one large blast furnace in the western world since that time and that was by Tissen in Germany. They are uneconomic to build today. No one is going to build blast furnace, BOF, coke oven capacity.

What history has shown is that electric furnace mini-mills are replacing the BOF, blast furnace, coke oven combination. So you should not think that anything that is done here today will have any effect on capital expenditures on the hot end of integrated companies. It may have a marginal effect at delaying the closure of a blast furnace but it will not have any effect on building new blast furnaces, new BOF or new coke ovens.

Now, it is certainly true that more remains to be done. This just simply lists some of those companies that were troubled companies along with the plan of AK Steel which sits down there in Kentucky, a not fully integrated process, shipping slab back and forth and various processed product back and forth to Middletown, Ohio. But the others are the plants of those struggling companies I listed at first.

Also in my testimony I refer to the fact that there are about 12 blast furnaces that are of very small scale that will be coming up for relining fairly soon and they comprise about 30 percent of hot metal capacity. Certainly these are candidates for closure.

Now, the question arises, how will we get a rationalization of this capacity? How will we get the closure of this capacity? If in fact, as Mr. Ross says, it requires first that they go through bankruptcy, be in some kind of difficulty and therefore be willing to sell after some period of time to people like Mr. Ross or U.S. Steel, certainly keeping prices artificially elevated through steel tariffs is not the way to get there. The protection will slow this process. It will give the managers of those firms some hope that they can hang on, they don't have to renegotiate their labor contracts extensively, they don't have to give up their management prerogative to some other management, they don't have to put their assets in the hands of some other company.

So while there is a great deal that remains to be done, a lot has been done already, it's important that this process continue. Elevating process artificially and keeping prices artificially high simply slows the process of closing the marginally inefficient companies and the very inefficient facilities and companies as well as the inefficient facilities at some of the other companies. For instance, I doubt that Mr. Ross is finished with his acquisition of Bethlehem. He has some assets in Pennsylvania and maybe even Maryland that he has to decide what to do with.

If price are high that can delay those decisions. If prices are low, if prices are not elevated artificially by tariffs then perhaps those decisions will come more quickly.

So I end up concluding that continuation of the tariffs will not help the rationalization of this industry. And, indeed, the witnesses for the petitioner suggested that the way rationalization takes place is through bankruptcy now. We're not going to restore these companies to financial health without putting them through this process. As I say, two of the four companies at the bottom of that chart are already in bankruptcy. And it's necessary perhaps to put their operations in the hands of others, to close some of their facilities, to renegotiate the labor contracts. That will happen sooner if the tariffs are lifted than if they are not.

Thank you very much.

CHAIRMAN OKUN: Thank you.

MR. BLUM: Thank you, Madam Chairman and Commissioners, I'm Charles Blum of International Advisory Services Group here again for the European Confederation of Iron and Steel Industries. EUROFER counts as its members all of the flat rolled producers of the European Union.

Seated at my left is Mr. Christian Mari who is the Director of External Relations and Social Affairs of EUROFER.

We would like to comment on issues relating to adjustment based on our own experience, both positive and negative, with some of the same problems as the American flat rolled steel industry has been facing.

In terms of tons produced the European steel industry is the second largest in the world after China. It is also among the best worldwide in terms of manufacturing skills, equipment performance, product quality and innovative capacity. As a flexible and high quality supplier it enhances the competitiveness of its customers in Europe and around the globe, is now leading the process of globalization of the world steel industry.

However, we have not reached this position through gradual and evolutionary changes, merely by adapting to a continuously evolving environment. On the contrary, through the past two decades tremendous changes in all dimensions of our business were needed to move beyond the battle for shear survival to become skillful players in the continuous search for sustained competitive advantage.

The changes came in two ways. The first was launched with the declaration of the state of crisis by the European Commission under Article 58 of the European Coal and Steel Community Treaty. That phase ended in 1993 with the approval of the last restructuring plans for Ireland, Italy and Spain. This crucial first phase entailed a radical industrial restructuring, a drastic downsizing of the European industry that averted the collapse of the European steel industry and secured its orderly adaptation to new market structures.

The goal was to ensure survival in an open market environment and to do so in a socially acceptable way. State support in this phase was of considerable importance. However, we soon found that as impressive as those changes had been they were not adequate to ensure our competitiveness for the long run. That necessitated a second wave of changes that began in the early 1990s and continues to this day.

The second wave expresses the European steel industry's acknowledgement that permanent effort is needed to maintain and enhance international competitiveness and to realize our ambition to be a major player in the world steel market. Besides constantly lowering costs this has involved a profound cultural revolution -- a phrase you've already heard today -- a cultural revolution to switch our orientation from production to the consumer and to offer consumers the ever increasing quality of products and services they demand and deserve.

The impetus for the second wave has come from within the industry itself. Fueled by a strong entrepreneurial drive and motivated by the knowledge that change and innovation were there to stay. It also signaled the definitive departure from state intervention in the management of the steel industry and a shift from a political to a strictly business logic.

Specifically the European industry has been presented with a challenging new environment. I will just highlight three big changes.

First, the subsidies became a thing of the past. At the same time as those last restructuring programs were approved in 1993 the decision was taken to put a definitive end to any further exceptions to the legal prohibitions on steel subsidies within the European Union. That commitment was based on the consensus of the European Commission, the member states and the steel industry. And that decision has stuck, eliminating a major source of distortion to competition within Europe.

Second, as of the 1st of January 1995, import protection was dismantled. All quantitative restraints were terminated except those involving the non-WTO members Russia, Ukraine and sometimes Kazakhstan. At the same time, January of '95, tariffs were immediately eliminated on the central and eastern European countries that had association agreement with the EU. Despite a near doubling of imports into the EU, since that time the EU has today a far less extensive antidumping and countervailing duty protection than the U.S. Our members have had to compete with imports as well as with one another.

And, third, the state-owned portion of the steel industry was privatized. In 1990 the industry was half owned by governments, today that figure is negligible. This process was really the logical outcome of the decision to end the government's role in directing the steel industry in some of the member states, never in all of them.

The net results of these and other changes was to transform the rules of the game in Europe and to expose European steel producers to a full impact of internal and external market forces. Competitiveness now must be secured through permanent efforts to reduce costs, increase productivity, capitalize on synergies, re-engineer production processes and concentrate production on the best facilities while closing the less productive ones. We have redefined strategic priorities, streamlined and simplified organizational structures and based human resources management on confidence building and empowerment -- in other words what you've heard today.

Crucial to this development was the growing awareness across the European industry that there was no longer any solution to be found in doing more of the same. We had to do things differently. And the results thus far, the cumulative effects lets say thus far of this adjustment process are impressive. The work force has been continuously and drastically rationalized. Since 1975 600,000 jobs have been eliminated bringing our employment level to date to

260,000. That's an annual average change of over 21,000 jobs.

Two hundred and sixty smaller and older blast furnaces were closed over that same time span. Today in Europe there are only 72 blast furnaces remaining. Those substantial closures allowed us to thoroughly modernize our iron making and to expand the use of electric arc furnaces in steel making. Over the last five years 14 million metric tons of crude steel capacity have been permanently and definitively closed as well as another 16 -- as well as 16.5 million tons of finished steel capacity.

As we pointed out in our prehearing brief this process of rationalization and concentration of production is continuing. More closures are in the works. These closures have been facilitated by the process of consolidation by which we mean merger and acquisition in Europe. Thanks to that process we now count as our members some of the world's largest companies. Arcelor, Thyssenkrupp Stahl, Corus, the Ispat Group and the Riva Group, all headquartered in Europe. As they have consolidated they have been able to raise the private capital needed to upgrade and modernize some capacity, close other capacity and expand their operations in North and South America, Asia and Eastern and Central Europe.

Our escape from the looming disaster of the early 1990s and the consequences of the twin crises in the CIS economies and the Far East in 1997-1998 stemmed from both improvements in public policy and timely changes in the structure of the EU steel industry. We do not claim to have discovered some magic formula or a panacea for all that ails the world steel industry, on the contrary, our past experience, our failures as well as our provisional successes seems to underscore the basic truths that adjustment is a competitive process and that no one approach fits all companies.

Beyond that, we would offer these five observations.

First, adjustment is a continuous process; one can never stop. As soon as the process of constructive change is halted the firm is likely to find itself falling behind its competitors around the world.

Second, timely closures are essential to profitability and to the ability to invest. Putting capital into sub-optimal facilities is throwing good money after bad.

Third, subsidy prohibition is the key to success. It creates a condition for capacity closure, privatization and for a more rational allocation of capital.

Fourth, import protection is not necessary to the process. Indeed, it can be positively unhelpful if it keeps suboptimal capacity in the market. Only by competing with the best mills in the world can a steel producer anywhere gauge its own strength and worth.

And, finally, the flat rolled steel market is increasingly global and so too much our industry be. We are following our customers around the world, trying to concentrate our production on the best facilities wherever they might be located. That is the best way, it seems to us the only way for steel mills and steel customers to cooperate -- sorry, to operate successfully and profitably over the long run.

Thank you, Commissioners. We'd be pleased to respond to your questions later.

CHAIRMAN OKUN: Thank you.

MR. CUNNINGHAM: We now turn to the separate order on tin mill products. I'm Dick Cunningham. I represented the entirely legal not illegal responde Corus Group. With me is Troy Cribb, my colleague at Steptoe & Johnson.

Also with me today is Jeffrey Hoye. Mr. Hoye is the president of Corus America, Inc. He will not be making a presentation. We have him here today because we wanted to have for you a market participant, a businessman who is familiar not just with tin mills but with all aspects of the flat rolled market other than slabs. I would invite you to ask him the same sorts of market trend questions, prices, import volumes, market conditions that you went over with the U.S. industry.

When you look at tin mill products you are going to find in many ways the opposite of what you see in flat rolled products in the other category of flat rolled products. There in flat rolled products certainly there was much to applaud about the adjustment efforts, the restructuring efforts that some but not all of the domestic producers have made. But there are problems, as Mr. Crandall stated, about the continuing effects of the relief.

And there is also I suggest to you a very great gap in what you heard today because there was no effort made in any credible way with any evidence to explain that the relief, the 201 relief, had in fact facilitated this adjustment. I suggest to you, and I would like to walk through the statute with you on this later, that it is your obligation to analyze that relationship.

In tin mill, on the other hand, there is no doubt whatsoever that the relief measures have had a massive effect on imports. Subject imports, covered imports are down more than 60 percent, overall imports are down more than 40 percent. But there has been no corresponding effect on prices in the marketplace, prices have risen by a minuscule amount. The industry remains unprofitable.

What has happened here is that what three of the four of you found in the original investigation has in fact been confirmed, that imports really don't have much to do with the health of the tin mill industry. What has to do with the health of the tin mill industry is structural decline and demand. You heard that, the fact that that is continuing confirmed by domestic industry testimony today, structural concentration of the purchasers and a consistent overcapacity which is dramatically revealed by your staff report figures.

What you have here in fact is an industry, is a market, the U.S. market for tin mill products as opposed to the European market which is a growing market for tin mill product, a U.S. market that's just not very attractive to put money into and not very attractive to do investment and as to which there are no substantial attractive restructuring prospects. As a consequence you're going to look at what happened there and you will find a little bit done but not much done in the United States on tin mill product adjustments.

And for details on that let me turn to Chris Dunn.

MR. DUNN: Madam Chairman, in assessing 204 hearings on stainless still Commissioner Miller made the following statement: "The assumption is the relief goes on for three years. They have three years and a day unless they're not adjusting or the effectiveness of the relief has changed. In other words, if the industry is not adjusting from competition from imports there's no reason to continue the relief."

So let's ask the question, what has the domestic tin mill industry done to adjust to competition from imports? The only answer possible from the record in this case is in the words of George Costanza, nothing.

Let's look at the specifics. Since the tariff went into effect has the domestic tin mill industry closed down any of its inefficient or outdated facilities? No.

Has it closed down any facilities? No.

Has it invested in any new facilities? No.

Despite the fact that there are major tin mill products that the U.S. industry simply cannot produce such as 42-inch wide tin mill sheet needed to produce 2-piece cans, U.S. producers have not so much as announced an intention to build any new facilities.

Has the domestic industry then upgraded any existing facilities? Yet again no.

In fact, in the year following the Section 201 tariff the industry as a whole actually reduced its capital expenditures to substantially less than what they were before the tariffs were imposed. The very protection provided to the domestic industry by Section 201 may have frustrated tin mill improvements. One domestic producer said that its plans to upgrade its facilities were contingent upon a reduction in domestic capacity. However, thanks to the Section 201 relief no U.S. tin mill facilities were closed. So that particular mill's upgrading project was shelved.

Of course it's at least theoretically possible the domestic tin mill industry just hasn't gotten around to implementing any adjustment plan but that it will do so in the future. The fact is, however, that the domestic industry has apparently decided that upgrading its tin mill facilities is just not a good use for its money. In fact, the only investment that the domestic industry has made in purchasing, upgrading and building new tin mill facilities has been U.S. Steel's investment in Eastern Europe. U.S. Steel alone has committed hundreds of millions of dollars to tin mill facilities in Eastern Europe, a multiple of what the total industry's capital expenditure is in the United States.

Given the massive protection afforded by the Section 201 tariff U.S. producers have chosen not to upgrade their tin mill facilities in the U.S. but rather to vote with their feet, putting their efforts into improving foreign facilities. It would be hard to find a clearer example of the U.S. industry thumbing its nose at the Commission and the president.

The U.S. tin mill industry does not have any intention of making a positive adjustment to import competition, it would rather invest overseas. Pursuant to Section 204(b)(1)(a) the Commission should recommend that the president terminate the tariff on tin mill products.

CHAIRMAN OKUN: Thank you.

MR. HORGAN: Hello. My name is Kevin Horgan and I am here on behalf of Dillinger and DTS Industries, S.A., German and French producers respectively of cut to length plate. In addition, Marty Lewin is here on behalf of Azovstal Iron and Steel Works, the Ukrainian plate producer and Leman Commodities. Mr. Lewin is joining me in these remarks and he'll be here available to answer questions when needed.

In the current review monitoring developments in the industry and the progress of the industry's efforts to make a positive adjustment to import competition the Commission should recognize that conditions in the domestic plate sector are distinct from other flat product sectors and, accordingly, the Commission should address developments in this sector and the question of whether continued import relief on plate facilitates positive adjustment to import competition in that sector.

The case for plate provide the Commission and the president with an opportunity to tailor the steel safeguard measures in a manner that is consistent with both the letter and the spirit of the law without risking serious harm from imports and in a way that is likely to prove beneficial to the rationalization process that began in the U.S. plate industry even before safeguard measures were imposed.

Given the steady decline of plate imports since 1996 it is abundantly clear that the problems suffered by the domestic plate industry were never about imports. Instead these problems resulted from uneconomic domestic overcapacity and from the introduction of a substantial amount of new mini-mill capacity by IPSCO and Nucor who have entered the plate market with the express intention of capturing market share from the domestic integrated producers, using the considerable pricing power they enjoy due to their significant cost advantages.

During the POR alone min-mill plate producers put into operation three Greenfield plate facilities, increasing the collective capacity of the domestic plate industry by as much as 2.5 million short tons according to reports, published reports. As this excess capacity placed downward pressure on prices integrated producers whose high cost structure left them vulnerable to price competition, saw their position in the market erode. So intense was the competition from the mini-mills that between 1999 and 2002 four integrated plate producers filed for bankruptcy and two of those ceased operations altogether.

While the introduction of this new capacity has intensified domestic competitive pressured within the U.S. plate sector, particularly on integrated producers, this fundamental restructuring has made the domestic plate sector more efficient overall. Every measure of productivity points to the same conclusion, the cost of goods sold declined significantly during the POR as did the unit labor costs to produce a ton of plate.

When productivity is measured by the number of short tons produced in 1,000 worker hours the gain is most striking. The result of this restructuring is that the domestic plate industry as a whole has made a significant positive adjustment to import competition. But the plate sector today faces a fundamental problem. On the one hand it has undergone a profound restructuring through the introduction of efficient new capacity and the closure of uneconomic capacity, a process that preceded imposition of import relief.

On the other hand, it was confronted with the same problem of excess capacity that preceded the Commission's original investigation and it has not undertaken the capacity reduction needed for a strong plate sector to emerge. The question the Commission therefore must address is whether continued import relief on plate will facilitate further industry adjustment to import competition by encouraging the elimination of excess capacity or whether it will actually inhibit that adjustment.

The record before the Commission shows that the imposition of import relief on plate has done nothing to promote the reduction of excess capacity and petitioners have offered nothing to suggest that the continuation of import relief will do so moving forward. On the contrary, the case can be made that import relief has had no impact on the issue of capacity reduction and it has actually inhibited capacity reduction by creating a false sense that capacity reduction is not needed.

Maintaining the current duties will only prolong the period when the operation of uneconomic domestic capacity will continue to suppress prices for efficient U.S. producers. The Commission should recommend termination of Section 201 relief with respect to plate because those measures are not helping the domestic industry to make a positive adjustment to import competition.

Finally, the petitioners have suggested in their testimony that continuation of current safeguard measures is necessary to prevent another damaging surge in imports. This is clearly not the case in plate. Plate imports have been declining since 1996 so there is no reason to believe that the removal of safeguard remedies on plate will lead to a surge in plate imports. Also, there is no reason to believe that a removal of safeguard measures will lead to price deterioration in the domestic plate market since the domestic plate industry is protected from unfair pricing by extensive antidumping and countervailing duty relief on plate imports.

To summarize, there's no threat of a new surge in plate imports. There's no threat of unfair pricing by imports. Rationalization of the domestic plate industry was already underway before remedies were imposed. The import imposition of safeguard measures has stalled the rationalization process by discouraging the closure of uneconomic domestic capacity. Removal of the safeguard measures on plate is consistent with the goals of the president and the spirit of the law to tailor the remedy so that it remains in place only so long as it promotes a positive adjustment by the domestic industry.

Thank you.

MR. VON CONRAD: Madam Chairman and members of the Commission, I am Gunter von Conrad. I am here today with my colleague Stephen Brophy. We are representing SAGA, a group of German midsize companies that are making very highly specialized flat product and they are very highly priced as you know from your original investigation.

The president has excluded two-thirds of our products from the remedy and the other third that is not excluded was objected to by some companies who said that we think we can or we want to make those products. Now, that argument is the prevention of establishment argument that comes from antidumping and countervailing duty law but which has no application in a 201 case because that criterion is not present in the law.

We therefore believe that these products as well should be excluded, particularly because their reply would apply to our other products, namely that they are twice, three times, ten times as highly priced as anything on the market.

I would also like to refer briefly to something that has changed since the time of the imposition of the remedies. The exchange rates have gone through the roof. And as you know there is a differential now between the dollar and the Euro of about 30 percent. Now that is as much if not more than the remedy itself. Add that on top of the problems and you are pricing the product of clients out of the market whether or not they have been excluded by the president.

We believe that this remedy for these products is no longer needed and we respectfully suggest that that be reflected in the Commission's advices to the president.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. CAMERON: Don Cameron, Kaye Scholer, on behalf of Korean respondents.

There is no question that this industry has taken significant steps to adjust. Yet serious questions remain. Legacy cost burdens have been substantially reduced, in fact eliminated for acquired assets through the miracle of the PVGC and bankruptcy proceedings.

Significant cost savings have occurred through the consolidation of assets by U.S. Steel, National Steel and by the consolidation of LTV, Acme and Bethlehem by ISG, consolidations made possible not by the 201 relief but as a direct result of legally acquired assets from the legacy cost burden. Clearly, labor costs have been substantially reduced through the newly negotiated labor agreements.

Contrary to the assertions of U.S. Steel and other members of the industry the above actions, as significant as they are, had nothing to do with import relief and everything to do with the ability of companies to purchase low cost assets freed from crushing liability. We stand by that analysis. However, the next step, i.e. rationalization in the form of capacity reductions of the consolidated entities, has yet to occur in a significant way.

This raises an important question: does the new lower cost base resulting from consolidation and revised labor agreements mean that closure of inefficient capacity is no longer necessary because the lower labor costs makes these facilities "efficient"?

This question is not so hypothetical. It was the approach of Geneva Steel through three bankruptcies. Recently we've been told that the union has negotiated a new deal with Wheeling Pitt, similar to the arrangement that the union negotiated with U.S. Steel and ISG. Is it the position of the industry that Wheeling Pittsburgh is now, solely by virtue of the labor concessions, efficient and competitive?

Again, suitors don't appear to be lining up to purchase the assets and this really is the question is whether or not we're talking about a corporate entity or we're talking about individual assets and whether or not the continuation of relief helps or hinders that adjustment process?

The question therefore arises what does adjustment mean for the inefficient and outmoded capacity that cannot be made efficient? The president's proclamation seems to suggest that answer: closure. The question, however, is whether continued import relief will contribute to closure or contribute to the continued maintenance of that same capacity. Right now it appears that it may be the latter, and that is not adjustment if that's so.

With respect to labor there's no question that labor has borne is share of the adjustment process, we fully agree to that contention. Yet when we are told that the union has reduced the number of shift supervisors to 220 to 23 as a result of the revised labor agreement it does raise a question as to why import relief was the necessary precondition for this to occur. Nevertheless, labor as well as the retirees from bankrupt companies have clearly contributed to the restructuring process, retirees possibly disproportionately so.

Yet when we listen to the description of the new labor contract there is a question as to whether the AK Steel re-rolling model is all but foreclosed as part of this deal. This appears to be the implication of the investment commitment part of Mr. Gerard's summary. If so, that deal may ultimately require that inefficient blast furnaces be kept in operation. If so, this is a problem.

We encourage the Commission to closely review the revised labor agreement and the investment commitment provision of that agreement.

MR. CAMERON: The President's proclamation clearly contemplated the closure of inefficient capacity was fundamental to the restructuring of this industry. Without closure, domestic prices will be artificially depressed with or without the continuation of import relief.

Contrary to statements this morning, we are not asking the U.S. industry to cede growth or anything of the sort, nor have we stated that the majority of the injury is inefficient and needs to be closed, but closure of inefficient capacity is part of the necessary restructuring that must occur.

It is not growth of the steel industry to maintain an efficient capacity, and that is the position of joint Respondents here today that continuation of import relief will delay further adjustment, i.e., the closure of inefficient capacity.

Thank you for your time.

CHAIRMAN OKUN: Thank you.

MR. PIERCE: We reserve the balance of our time, Madam Chairman, and that completes this panel's presentation.

CHAIRMAN OKUN: Thank you, Mr. Pierce, and thank you to all the witnesses for appearing here this late afternoon. We know it's hard to be on a panel that we're going to start questioning at 5:45, but in light of the schedule that the ITC has had this summer and the schedule that we have to maintain to keep these reports out, we have found it necessary to squeeze all of this into one day, so we will have a long night together.

Again, we appreciate you being here and your willingness to answer questions and all the information that you have already provided through your briefs and other written submissions.

We will start our questioning with Commissioner Miller.

COMMISSIONER MILLER: Thank you, Madam

Chairman, and thank you as well to all of you for being here to participate in this proceeding.

As I think indeed Mr. Cameron and Mr. Blum in particular know, we've spent a fair amount of time in the first two of these hearings, our time with Respondents, sort of discussing and exploring the legal parameters of Section 204 and the ITC's role and the President's role and such.

Mr. Pierce, I'd say you've made some novel arguments regarding your view of the ITC's role and the President's authority under 204. Frankly, it was one occasion in which I will tell you I wished I had had a written copy, and I will have in the transcript, because I need to follow all the twists and turns that you had there on Section 203 and Section 204. I'll look at it closely. I know you had some novel thoughts there that I do want to look at.

You know, that said, I think I have a fairly clear view of what my role is here. It's at this point in the 201 relief to look at the state of the industry, the development since the President's action took effect and particularly to look at the efforts that the industry has made and the workers have made to make a positive adjustment to import competition, to do so in the context of the general economic conditions that have been in place in the last year or in the last 18 months with an eye, frankly, to the statutory framework that suggests a quid pro quo. If you're going to get relief, you've got to live up to your end of the bargain.

As I said earlier, I look at the legislative history. It tells me this proceeding was meant really to make sure the industry was doing what it said it was going to do -- keep their feet to the fire, make sure they're doing their side, have been meeting their side of the bargain. That's my framework, and I'm going to be true to it.

Mr. Cunningham, you haven't had the opportunity.

MR. CUNNINGHAM: Can I just demur very slightly on that?

COMMISSIONER MILLER: Sure. Sure. I said I wasn't going to go down that road tonight, in all honesty.

MR. CUNNINGHAM: No, but I would like to take just a brief walk through the statute because it does seem to me that everything you say is absolutely right, but when you say that you are to analyze what the industry has done it seems to me it's also incumbent upon you to analyze the relationship between that and the relief that was imposed.

If you were to find here that relief had done nothing and had no effect on imports and no effect on the industry whatsoever, you should tell the President that. Let me tell you why I say that the statute directs you to do that.

I do not refer to Subsection (a)(4). I think many people have focused on that. I think that's a case of the right string, but the wrong yo-yo. That deals with whether you should tell the President something about the future, what you think would happen if he modified the relief in the future.

What I'm saying is you have I think quite clearly in the statute an obligation to look at what the industry has done in the context of the relief provided. If you find that the relief has not had any relationship to, has not facilitated adjustment, you are to tell the President that.

Let me tell you why I say that. I read Section 204(a)(1) in conjunction with Section 204(b)(1). Section 204(a)(1) does not just say that you are to monitor the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment. It says you are to monitor developments with respect to domestic industry, including their efforts to adjust.

In other words, your analysis is broader than just their efforts to adjust. In what way is it broader? It must necessarily, I suggest to you, be broader in the ways relevant to the judgment that the President makes, the decisions the President makes, which he makes after taking into account any report or advice submitted by the Commission.

One of the judgments he makes is whether the effectiveness of the action taken under Section 203 continues. That is something you must give him advice on; not necessarily recommendations, but you must give him your judgment as to the effectiveness of the relief.

If you were to find that the relief had no effect on imports, no effect on import prices, no effect on import volumes, you should tell him that, but that's what you heard today. You heard an industry come in here and say imports have increased. You heard an industry come in here and say prices haven't improved significantly. The price increases have been modest. You heard Mr. Ross say quite clearly that the principal effect on price was not the imports. It was the closures and the reopenings. You need to tell the President about that.

COMMISSIONER MILLER: I also heard those witnesses say that they would not have taken the steps that they have taken to consolidate and adjust if the Section 201 import relief had not been imposed.

MR. CUNNINGHAM: I heard that too, and that may well be the case, but I have always thought of this Commission as a Commission that doesn't accept just unsupported assertions as to what we would have done and would not have done without some rationale as to why the relief had an effect which made it possible for us to do this.

MR. PIERCE: For example, does their financing change if the relief is not extended? What do their financing agreements look like? Were they dependent on this relief? Were they dependent on the relief being for three years? Do the labor agreements stay in effect? Do they change if the relief is terminated? Are they dependent on the three years?

If those adjustments were truly causally connected to the import relief, one would think in the financing agreements there would be some reference to them. Those haven't been put on the record. One would think in the labor agreements there would be some reference to them. There's one labor agreement on the record. I don't see any such connection in there.

We're saying we heard the same thing. We heard everything before coming into here, and I think Mr. Cunningham's point is correct, except verify. Check it out. Where's the documentation that backs this up? We haven't seen it. Maybe you'll be able to get it if you request it.

MR. CUNNINGHAM: And might I add one thing about that? When they say we wouldn't have done this without the relief being in effect, I suggest that you need to find out what that means. Does that mean that we could do this because we had a more favorable borrowing climate when the President publicly supported our industry in the way that he did regardless of whether the relief had an effect on imports? If so, that's what you ought to tell the President.

If what they mean is there was some statistical analysis that you could do that would show you how the relief worked to support those actions that they took, you should get that analysis from them, but I can tell you you haven't got it yet. The most that they have said, again assertion unsupported, is that the import relief stabilized the market. Stabilized in my dictionary means that it brings to a halt a trend that has been going on.

We all know what trend was going on at the time the relief was granted. Imports were trending rapidly down. Do they really mean that what they really were helped by was we stabilized imports to prevent them from falling further? I mean, obviously that's not right.

If that's not what they meant, what stabilization did they mean? Certainly it didn't stabilize imports in the sense that it prevented them from rising because, as they complained vociferously, imports of overall flat-rolled products increased; contrary, I might add, to tin mill, but we can get into that at some other point.

COMMISSIONER MILLER: I know Mr. Crandall is anxious to have an opportunity --

MR. CUNNINGHAM: Sure.

COMMISSIONER MILLER: -- to add his thoughts to this question.

MR. CRANDALL: Yes. The question that should have been asked -- both Mr. DiMicco, Mr. Ross, even the people from U.S. Steel -- is would they have gone ahead absent relief? What does going ahead means? It means purchasing those assets from bankrupt companies in a bankruptcy proceeding.

The purchase by ISG of LTV and ACME was well underway. I don't recall the exact date of closure. I think they closed on LTV very soon after the imposition of the tariffs, if not about the same time. The decision to purchase National by U.S. Steel and Bethlehem by ISG followed the tariffs.

However, in every one of the cases, including Mr. DiMicco's purchase of Trico, the only way in which that transaction or one similar to it would not have gone forward is if the price of those assets had fallen to zero.

Now, Mr. Ross paid a lot of money I think for each one of those purchases -- for Bethlehem, for LTV, for ACME. Is he saying that the price would have fallen to zero?

Is Mr. DiMicco saying that Trico today would not be operating, that he or some other mini mill would not have purchased it, that the price would have been zero of a newly opened mini mill that simply was badly operated and designed by its builders? I doubt it.

COMMISSIONER MILLER: Okay. I'm sure I'll have further questions, but I'll hold them for now. Thank you.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman, and I want to thank the panel for its presentation. I want to stay with 204 if I could.

I started by looking when your briefs came in at the two pages in your brief -- well, the page and a half in your brief -- that deals with this question, okay? You make the statement: "The President was clear in his announcement of the Section 201 measures that the Commission should now provide its advice to him on the probable economic effects of their reduction, modification or termination," and then you footnote it to 204(b)(1).

I went down and looked at what you say about 204(b)(1), and it says: "The President may reduce, modify..." You cite 204(b)(1) and go on and say that it provides the President may reduce, modify or terminate the steel safeguards, but only after taking into account the report and advice from the Commission in this proceeding.

Okay. I went to 204(b)(1). I looked at it. It doesn't say report and advice. It says report or advice. Not the same. I noted today in your statement, Mr. Pierce, you refer to it in the disjunctive rather than the conjunctive, so I'm going to assume that that was a typographical error for openers.

MR. PIERCE: I think you can assume that your questioning in the earlier hearings improved our thinking and analysis.

COMMISSIONER KOPLAN: That's a good first step, but we're not there yet. Okay. Now, let me stay with you because I like the way you're going right now.

If I stay with 204(a)(3), staying with subsection (a), that deals with monitoring, okay? I'm just trying to walk through this with you because I hear so many witnesses coming in in these hearings assuming that we're going to make findings here. I don't have a problem giving gratuitous advice, but the question is whether under the statute I'm supposed to be doing that, I'm supposed to be giving advice.

Under (a)(1) it says: "So long as any action taken under Section 203 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific evidence made by workers and firms in the domestic industry to make a positive adjustment to import competition." No mention of a report at that point or advice.

Subsection (2) says: "If the initial period during which the action taken under Section 203 is in effect exceeds three years...", and I can just stop right there and say this does, okay?

Then it says: "...the Commission shall submit a report on the results of the monitoring under paragraph 1 to the President and to the Congress not later than the date that is the midpoint of the initial period and of each such extension during which the action is in effect."

The is only a reference to a report there, and nothing triggers that except the fact that this relief is in effect for three years and a day. That's where we are at this point in subsection (a).

Then under subsection (a)(3) it says: "In the course of preparing its report under paragraph 2, the Commission shall hold a hearing," which we're doing here, "at which interested persons shall be given a reasonable opportunity to be present, to produce evidence and to be heard." This is where we are today.

Subsection (4) says: "Upon the request of the President, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of any reduction, modification or termination of the action taken under

Section 203 which is under consideration." I say to you that the Commission has not received a request from the President to do that. That takes me through subsection (a).

Then when I go to subsection (b)(1), Reduction, Modification and Termination of Action, (b)(1) says: "Action taken under Section 203 may be reduced, modified or terminated by the President, but not before the President receives the report required under subsection (a)(2)(A)." No mention of advice there. "If the President, after taking into account any report or advice submitted by the Commission...", and then it goes on

When I read all of that together, I come to a different conclusion. That's how I get there. If you can point to anything in the legislative history in the post-hearing or Commission precedent to the contrary, I would appreciate it greatly.

I hear your arguments. I see your hand, Mr. Cunningham. I'm certainly open to receiving something, but at this point in time I'm just not with you on that analysis.

MR. PIERCE: Fair enough, and I really appreciate this exchange because it clarifies exactly what you want and what we're talking about.

The difference really comes down to, in our view, that (b)(1), any advice, opens it up for the Commission in its discretion to give advice. (a)(4) allows the President to force you to give advice. I request it. You must give it.

Alternatively, you can give advice as you wish under the monitoring section, in our view, and the legislative history's view, which I mentioned in my statement, but I'll also detail in our post-hearing brief, and also in previous Commission midterm reports where advice has been given. I'll cover that also in the post-hearing brief, as I mentioned in my statement.

COMMISSIONER KOPLAN: I appreciate that. Let me say this to you. I come back to what I read in your brief where you say the President was clear in his announcement of the Section 201 measures that the Commission should now provide its advice to him.

Okay. I looked at the proclamation. I looked at the memorandum, all the accompanying materials on March 5, 2002. I don't see it there, and I don't read 204 that way.

MR. PIERCE: Okay.

COMMISSIONER KOPLAN: As I say, I'm very open to receiving whatever you would provide.

MR. PIERCE: Our argument is not -- wasn't then and isn't now -- that what the President did was a request under (a)(4).

COMMISSIONER KOPLAN: Okay. Thank you for that. I appreciate it.

Mr. Cunningham?

MR. CUNNINGHAM: On the issue of advice, I guess I'm sort of more in your camp, although there is an odd situation here because the President has said in his proclamation that he is going to do something, which the statute says he will do after taking into account the advice that's in that sort of report, the (b)(4)(A)(4) type of advice. It's an odd construction in the proclamation.

One of the things I don't want to let slip here or fall in the cracks is in what you report to the President there is a question of what you analyze, and I think it's really important that the Commission understand that it's incumbent upon you to analyze the extent to which the past -- not recommendations for the future, not advising what to do, but analyze the extent to which the relief has been effective in promoting adjustments because that's something the President needs to know.

It is particularly important in this case for the President to need to know it because he's likely to face some difficulties in balancing should I comply with a WTO determination or not, and it's very important for him to know whether he would be rejecting a WTO determination to continue a measure which was not effective.

That you need to, it seems to me -- whether advise in the sense of inform him in the facts, but you don't necessarily advise him in the sense of our advice to you is to do this. Do you understand my distinction there?

COMMISSIONER KOPLAN: Yes, I certainly do.

MR. CUNNINGHAM: Okay.

COMMISSIONER KOPLAN: Thank you.

Mr. Cameron?

MR. CAMERON: Commissioner, very briefly. I realize that the position of the parties is not precisely on point to statutory interpretation, but I would note that the domestic industry this morning, while agreeing apparently with the view that's being espoused by the Commission that you should simply limit your report to monitoring, is also asking this Commission quite boldly to make specific recommendations with respect to imports, with respect to developing countries, with respect to a number of things.

Frankly, I think that as a legal matter it comes down to the same thing. This is an important case.

COMMISSIONER KOPLAN: Let me just stop you for one second, okay?

MR. CAMERON: Yes.

COMMISSIONER KOPLAN: I agree with what you're saying in this sense. I feel the same way about passing judgment on country explosions and non-covered products.

MR. CAMERON: Fair enough. I understand that.

COMMISSIONER KOPLAN: Okay.

MR. CAMERON: That was exactly where I assumed that you were coming from.

COMMISSIONER KOPLAN: Right.

MR. CAMERON: I think that's fair enough, and that's all I'm pointing out is that yes, we do understand this, and we also understand it's a big case. We understand that the importance of this case today is no less than it was when we were all here at this party a year and a half ago.

Okay. All we're saying is that you have expended an enormous amount of resources. You aren't asking these questions and asking witnesses for data just for kicks. We understand everybody is working hard on this, including you and including us and including those guys. Fair enough.

All we're saying is fine. You collected the data. You collected the information. The statute does not tell you no, I want you to collect it, but I don't want you to tell anybody about it. We don't think that the statute is limiting. We think that the statute does not put the artificial limit on what your obligations are, and we think that, yes, you are a competent body and have the ability to make intelligent decisions on that.

You heard my spiel on this the other day, although I was within time the other day, but I'll cut it off. Thank you.

COMMISSIONER KOPLAN: If I could have one second? Well, it might take five seconds.

CHAIRMAN OKUN: You're on Don Cameron's time now.

COMMISSIONER KOPLAN: Thanks. I appreciate everything you're saying. I don't consider monitoring, so you understand, as a simple exercise. I consider monitoring our task to get as much relevant information from both sides on both sides of the issue as we possibly can and present that in a report to the President. That is not a simple task.

The other thing I will say to you is that's the kindest way anybody has described the proceedings of a year and a half ago as a party, and I appreciate that.

With that, I have no further questions on this round.

CHAIRMAN OKUN: Okay. Obviously we have spent some time with this, some time with the staff, some time with the legislative history and obviously a lot of time going through your briefs, and the questions that have been posed by Commissioners Miller and Koplan with regard to how you would argue the statute could be read, and I guess I'll probably still end up where Commissioner Miller started, which is I feel like I still have a pretty good view of what our role is and what our report should look like.

Having said that, I mean, and again I referenced this in the earliest hearings, which is I think an individual Commissioner could decide, as Commissioner Bragg did and other ones, to comment on something in the record that ought to be called to the attention of the President.

No one is prohibited from doing that, but, you know, obviously I've kind of started my opening statement at each of these in saying, you know, what I think the Commission's role is in the Commission's report.

I guess the one thing that brings me back is just going again and looking at what has been argued with respect to what the industry has done and with respect to flat-rolled. I guess the one thing I don't see is that there's this causal nexus anywhere in the statute saying that something, you know, what they're doing, we have to be able to show that it was because of the import relief, that we have to, you know, have labor show us an agreement that says but for the 201 we wouldn't have done that.

It struck me, and, Mr. Blum, I'm going to go back to you. I know you were here the other night. When I read through what you were talking about, the Europeans and competitiveness, there's a sentence in your statement that says:

"Competitiveness now must be secured through permanent efforts to reduce cost, increase productivity, capitalize on synergies, re-engineer production processes and concentrate production on the best facilities while closing the less productive ones."

I guess my question would be, given what I heard from the Petitioners this morning, would you agree that they are focused on all those same things? I would put this to all of you.

MR. BLUM: Commissioner, let me start. Of course, this question comes up in each hearing, and actually our answer is a little different in each hearing because the facts are quite different.

No. The issue is the performance of the domestic industry, and the industries in these four sectors are quite different, and the situations in which they've found themselves are quite different. I think in this case you see an industry that has made overall some remarkable -- Mr. Lighthizer I think called it breathtaking -- steps in a short period of time. I think there's a lot of truth to that.

I think our basic point is, however -- well, two. One is that in the mining world, this process is not something that has a beginning and an end. It's continuous. If that's the justification for import relief, then that's the justification for permanent relief, and we can't see how that really can be anybody's position.

Quite frankly, our experience, we believe, shows that as the whole idea is to ensure your competitiveness with the best producers in the world in your business that in fact import relief has a deadening effect, not a helpful effect.

I think those are two perspectives that we would offer to the flat-rolled case. Thank you.

CHAIRMAN OKUN: Okay. Do others want to comment on that? Mr. Barringer?

MR. BARRINGER: Yes. I think we were just, and I hate to get back to the law, but we were just discussing the ability of the President to terminate or modify the relief, and it seems to me that that implies not only that, you know, the relief may not be working or that the industry may not be adjusting, and that in and of itself implies a linkage between the two.

More importantly, why would you have import relief which exposes the United States to a possible adverse WTO ruling or, leaving that aside, if you extend it beyond three years it exposes the United States to providing compensation? Why would you have that if there was no relationship between the import relief and the adjustment process which that import relief is supposed to promote?

CHAIRMAN OKUN: I guess my only response, and I'm going to go back and ask whether you think the industries are doing now, but the causation requirement was under 201. I mean, once you make the causation requirement there and the industry receives import relief, this temporary import relief, we are then judging has it taken the steps it said it would to adjust.

To me, I'm reading this and saying well, what steps would any company do to try to be competitive? Whether it was under the import relief or not to me is not the key point here. It is the industry sitting back and saying we've got three years. We're going to sit, and we'll gouge customers. We'll try to make money in three years. Or, are they doing steps that actually I think would last longer than the import relief, but they shouldn't be penalized for that or not?

Mr. Cunningham has his hand up, but I want to come back to Mr. Barringer --

MR. BARRINGER: Sure.

CHAIRMAN OKUN: -- on whether they've made these steps.

Everyone has their hand up. We'll start with Mr. Cunningham. Mr. Cunningham?

MR. CUNNINGHAM: You're only focusing on one of the two decisions that the President is explicitly directed to make after taking into account your report. You're focusing only on (b)(1)(A)(1), whether the domestic industry has made adequate efforts to make a positive adjustment.

Under (b)(2), he's also supposed to assess the effectiveness of the relief and whether that's been impaired by changed economic circumstances. You have to report to him. You have to give him analysis on the effectiveness of relief. He does that on the basis of your report. It says so right there in the statute.

CHAIRMAN OKUN: But again, I think the legislative history was referred to before. I mean, the changed economic circumstance. Again, I think that is part of our report that we look at what the economic circumstances were during the period of relief, and we report on it. I think that is important.

To the extent that there's something that's happened there, we ought to be reporting on it so that the President can determine whether it meets that part.

MR. CUNNINGHAM: But you need to report on its relationship to the effectiveness of relief specifically.

CHAIRMAN OKUN: Again, I think it's -- I don't want to use a technical term, but I'm just trying to understand in terms of effort.

MR. CUNNINGHAM: How do you deal with the word effectiveness of relief then? Are you reading it out of the statute?

CHAIRMAN OKUN: Not at all. Not at all. Again, I don't think it has to be that the -- we're looking at what steps the industry and labor have taken. That's one part of it.

MR. CUNNINGHAM: That's one. That's subsection (1).

CHAIRMAN OKUN: Exactly. That's one part of it.

MR. CUNNINGHAM: Then subsection (2).

CHAIRMAN OKUN: So for that part, and let's start on that first part.

MR. CUNNINGHAM: Right.

CHAIRMAN OKUN: For that part, have the steps that the flat-rolled industry has taken -- the consolidation, the labor agreements, the other things cited thus far -- do they fit in your mind on efforts the industry and labor has made as an positive adjustment to import competition? Do you, Mr. Cunningham?

MR. CUNNINGHAM: You and I agree entirely on what sort of report you make under that subsection.

CHAIRMAN OKUN: But do you agree they have?

MR. CUNNINGHAM: Where we disagree is what report do you make that the President is to take into account in subsection (2).

CHAIRMAN OKUN: I'm going to make you answer that question first, and then I'll come back.

MR. CUNNINGHAM: I'm sorry. What?

CHAIRMAN OKUN: You don't get to ask the questions. I'll come back.

On the first part, have the efforts they've made to adjust to import competition? I'm saying for a minute that I'm only on (1) just for me. Just tell me.

MR. CUNNINGHAM: They've made some significant -- parts of the flat-rolled industry, as opposed to the tin mill industry, which has not, but significant parts of the flat-rolled industry have done some substantial things to adjust. I agree. There are some that have not.

CHAIRMAN OKUN: Okay. Fair enough, and I take your point on tin mill.

Mr. Mari, I think you wanted to comment on that.

MR. MARI: Christian Mari, EUROFER. I have a very clear answer to your last question, Mrs. Chairman.

We really commend and welcome the effort that has been made in particular under the dynamics created by ISG and the USWA, but I think it's actually unambiguous and we certainly wish that in the near future the U.S. steel industry becomes as competitive as the European steel industry has become. We need this. I think the world steel industry needs this.

What we are concerned with is the system of recurring crisis that we have been attending for many years. There is some kind of comfort effect in protection that tends to make this a vicious circle.

Our approach is that what has been done is extremely constructive and useful, but it's not sufficient to succeed.

CHAIRMAN OKUN: Okay.

MR. MARI: It's essential that timely closure of non-economic capacity takes place to avoid the fold back in this vicious circle.

CHAIRMAN OKUN: Okay. Mr. Pierce?

MR. PIERCE: To the extent you take it into account, Article 7.1 of the safeguards agreement is very clear. The relief shall not stay in effect any longer than necessary to facilitate adjustment. If the relief is not a facilitating adjustment causing the adjustment, it should be terminated.

Secondly, the President's other part of his determination has to be on a continuing basis whether the remedy is facilitating adjustment and there are greater social and economic benefits than cost provided by the relief. Provided by the relief means caused by the relief.

If you don't have a causal nexus there, then you don't have a cost/benefit analysis because there's nothing provided by the relief. It falls off the table.

CHAIRMAN OKUN: Okay. My red light has come on. I know other people wanted to comment. I'll have a chance to come back to this and to the other question that Mr. Cunningham raised.

I will turn to Vice Chairman Hillman.

COMMISSIONER HILLMAN: Thank you, Madam Chairman. And I want to thank this panel for their testimony. I'm trying to struggle with whether I want to keep going down this legal exegies on Section 204(b), but maybe just -- I will say I've tried to follow all of this discussion and I think it is important that we at some level be clear on how we read the statute so that to the extent that you --

Mr. Cunningham, whether I want to take you up on your offer to try to go down this road of convincing me, I guess the answer is in your post-hearing brief you're welcome to, but I have to say very clearly, I read the statute as saying the relief stays in place for three years and one day unless two conditions are met: one is the industry has not made any positive adjustment to import competition and so let me start with that. I mean, I want to start with sort of taking a sense -- I mean, I heard from everybody except Mr. Dunn on the tin mill side at least what I thought was an affirmative answer to that, that you all agree. Again, it could be more, it could be less, it could have been better, could have been something, but fundamentally, would you say there is agreement that the flat rolled industry, except tin mill, has taken/has made positive steps to adjust to import competition?

Would there be consensus on that issue? I looked at Mr. Crandall's charts and they're showing production going up even when employment is going down. To me, that's an indicator of some adjustment. You've obviously heard all the testimony. Just so I can get a sense of it, would you say the answer to that fundamental question, has the industry made positive adjustment? Yes or no?

Mr. Crandall?

MR. CRANDALL: Well, if you mean by positive adjustment, has something changed? I mean, this industry has been making adjustments for 30 years.

If you go back 25, 30 years, the integrated industry had 140 million tons of raw steel capacity. Going into this proceeding, it had less than half of that. So it had been shedding capacity, reorganizing, closing facilities. U.S. Steel sold off some of its assets to a Washington lawyer, he then bought assets from a failed Chicago company and shipped them out of Geneva, Utah. This sort of process has been going on for a long time. There's nothing different.

What is new, if anything, is the formation of a new company bigger than Geneva Steel, ISG, which has bought some assets. But this process is an ongoing process, not caused by adjustments --

COMMISSIONER HILLMAN: Again, you should ask the question why didn't we ask for this evidence in terms of the relationship and the truth from my perspective I don't think that's relevant. I don't think it's a relative inquiry. I don't care why they did it, I'm trying to just get an assessment of have they done it, have they made a positive adjustment. So would your answer would be yes since the --

MR. CRANDALL: No. It's a continuing adjustment. Yes, certainly there continues to be adjustments.

COMMISSIONER HILLMAN: Mr. Blum?

MR. BLUM: Thank you, Commissioner. We attempted to address this in the EUROFER brief up front when we suggested that one of the analytical problems for the commission here and for the President ultimately is to distinguish between the positive adjustment efforts of individual firms and the positive adjustment of the industry overall. And I think what you see in the flat rolled is some dramatic change. I mean, the strong companies in the flat rolled industry today are far stronger today because of their own efforts than they were a year or two ago. That is certainly true.

The issue I think is more or less the steps not taken, the closures which I think by any reading of the legislative history should be taken as a positive adjustment. If you are not competitive, then the positive adjustment thing to do is to close. And I think there you will see in this sector, as well as in other parts of the industry that you're looking at, that's the part that hasn't been done and I think that's why we tried to argue ourselves about the counter productive nature of the continuation of this relief.

I don't know if that helps you or not, but, for me, this is a very hard issue. I don't know how you exactly you can look at the industry as a whole versus the last company which is making sincere efforts. I mean, these are very hard questions, but I think that's exactly why we were urging the commission to be as analytical as possible in assessing these things.

COMMISSIONER HILLMAN: Okay. And that's exactly why I'm asking this question. I'm trying to get people's read on just this issue of, you know, again, has the industry -- and, again, maybe this also raises a little bit of a sub legal issue that maybe I should direct to you, Mr. Horgan, since you addressed the plate issue.

Again, as I read the statute, we are to decide this on the basis of has the domestic industry that got the relief -- and in this instance, this commission decided that the industry was the industry producing all of the like products of slab, plate, hot rolled, cold rolled, coated, separate industry tin.

That was how the commission's determination came down.

So it's not clear to me under the statute that we really have the authority to look at the plate industry and make any kind of decisions with respect to plate. Again, tin I would leave aside because the commission had treated it differently in its original determination, as did the proclamation. So part of it, again, I'm trying to get everybody's sense, do you think the industry has made an adjustment to competition and do you think separately we can look at anything other than the domestic industry taken as a whole, which to me would mean defined as the commission defined it, the producers of this range of flat rolled products?

MR. HORGAN: This is Kevin Horgan responding. I think first of all, if you look at plate, most of the adjustments they made were before the period, all the closures of Geneva and Gulf States, those occurred before the period. I think the only reference to plate made by Mr. Ross this morning was that he didn't reopen the plate mill at Bethlehem, so as far as we know there really hasn't been much of an adjustment at all in plate since the remedies were put in place.

The second question is can you look at

something less than the entire flat products group and I think you can because the President certainly made a distinction between slab and other flat rolled products when he prescribed the kind of relief he wanted, so I think you have to give him the information that would allow him to make a distinction between the products within the flat rolled group. He did that in the original investigation or in the original 201 and I think if he's going to evaluate the remedies or make any modification to those remedies he has to have the information that would allow him to do that on something less than the entire group.

COMMISSIONER HILLMAN: Okay. If there is -- again, if I could ask you for purposes of the post-hearing, to tell me whether you think there is anything within the legislative history or commission precedent that points to -- again, the statute very clearly says the effect on the domestic industry, and for good or ill, for purposes of this investigation, that was defined this range of producers of this range of flat products. So if there is anything or if there is any precedent where, again, in a 204 type proceeding there were distinctions made, subsets of the domestic industry that was determinated initially, I would welcome any analysis at that point.

Mr. Lewin?

MR. LEWIN: Commissioner Hillman, I look to the language of Section 204 itself and I think you can and you must look at subsectors to the degree that they are relevant in terms of looking at the overall industry because the language of the statute says that you're 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.

How can you look at specific efforts of firms in the industry unless you say this firm is producing plate? Is it making a positive adjustment to import competition?

So I think that as Mr. Blum was talking about, the dichotomy between dealing with an individual firm and with the industry as a whole is actually addressed within the statute itself because you have to look at the developments with respect to the domestic industry, but you also have to look at the efforts, the specific efforts, of the workers and the firms. And I don't think you can do that in the absence of looking at relevant subsectors.

In the case of plate, as Mr. Horgan was

saying, the restructuring of the industry for the most part preceded the investigation. The critical restructuring occurred with the introduction of two and a half million tons of new capacity. At that point, what constitutes positive adjustment?

You have a situation of over capacity, so positive adjustment requires a reduction of that over capacity.

And so what are the specific efforts to deal with that, I think you can't avoid addressing it.

Thank you.

COMMISSIONER HILLMAN: Well, all right. Like I said, at the end of the day, I read the statute as saying that we have to develop a report that speaks to the domestic industry as a whole. Mr. Blum is exactly hitting on one of the difficult tasks we face, which is we in theory are looking at the industry as a whole and yet obviously the industry is made up of lots of very different parts that have had very different reactions. It's not at all clear to me that the statute even under 204(b)(1)(a)(1) doesn't use the exact same language. I mean, the President's determination, again, it's two bases for him to modify the relief. One is if the industry -- the industry, the domestic industry -- hasn't taken steps.

And to me, Mr. Cunningham, we can get into it on the next round, I think I read the second clause quite differently than you do, but given that the red light is on, we'll come back to that.

Thank you.

MR. BLUM: I'll take that as a promise.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: Thank you.

Mr. Hoye, Mr. Cunningham invited us to question you about market conditions for the flat rolled industry. I would love to hear your testimony about that, your view of U.S. demand for flat steel products, what's been going on, what you see in the future. Give us your industry perspective on what's going on.

MR. HOYE: Like what period would you want to know? I mean, currently or where we've been or what?

COMMISSIONER MILLER: I'd say since the President's 201 import relief went into effect. So over the last 18 months or so and going forward.

MR. HOYE: Okay. I guess if you would start with the fourth quarter 2001, you had capacity utilization around 65 percent, roughly. You had domestic producers selling at below their cost of production. You had really, I guess, industrial production went into negative numbers in August of that year, so manufacturing was technically already in a recession. You had roughly 13 million tons of capacity that was idle, which drove the, I guess, supply side or tightened the supply side or squeezed the supply side, but because demand was so bad, it really wasn't realized until pretty much the end of the first quarter, which was right about the time that the President initiated the 201.

So you had mills that reacted to an increase in an inventory rebuild, which created an extended lead time which created an artificial build up in the market and the mills took advantage of that when things tightened up and raised prices.

So the initial reaction to what looked like the 201 or the protection that was the remedy that was put in place, it looked like the mills reacting to it was really probably just a short blip in the market which really proved out because the prices peaked by the end of the third quarter, at least by the end of the third quarter, at least on hot rolled and I'll use that as sort of a base line product, at just below the $400 price range, around 380, 390, they were trying to test the 400 range. So you saw prices that were around 10 cents in the fourth quarter 2001 end up at around 20 cents, just shy of 20 cents in the third quarter. So in a period of six months, eight months, you had a real run up in price.

Their inventory rebuild stated demand never recovered, prices began to deteriorate again and pretty much rode out through the end of 2002. And when you get into the seasonal periods of time where the service center sector runs its inventory out because it's taxed on inventory, so at the year end they run their inventories down, you had no buying going on or very little buying and so the mills became desperate again and started to reduce prices, which rolled over into the first quarter of 2003. So you saw really a complete cycle in the market as far as price.

That's just now started to recover to the point where you've got a base line price of hot rolled and the mills are trying to push it at about 14 cents, which is about $280 a ton.

What else can I add?

COMMISSIONER MILLER: Well, what do you see going forward?

MR. HOYE: I don't see things improving that much, to be honest, in terms of demand, and I think that's the key driver. I think what you've seen is a stratification of pricing in a market. Because of these different labor agreements and different cost structures, you've got even with the integrated producers different cost bases. And so ISG has different costs and U.S. Steel has different costs and when you saw Dr. Crandall's slide of the struggling integrateds, they're affectionately called in the industry the Ws, Wheeling-Pittsburgh, WCI, Weirton, Rouge -- I don't know how that gets in there, but -- reading and writing -- but what you have -- and the other thing, I guess, that really ties into this is that the knack of selling in the market, there's no one price in the market. So the real success, I think, in business is trying to determine what the market price is and I think when you see that you're a market leader and ISG is trying to put themselves in that position, what they're really doing is reacting to the weak links in the market who don't really necessarily care about profit, they're struggling for cash flow because they're trying to stay alive.

And it's the Ws that are really impacting the integrateds right now because going back to the inefficiencies that the domestic producers were so offended that was talked about this morning, it wasn't them necessarily, it was more the struggling integrateds, but there is inefficient capacity in the market that if that is removed you get back to more competitive prices like Christian Mari is talking about. You need a competitive industry, you need to be the best that you can be, you need to be driven for profit, not for cash. And I think that what does is that just brings everybody down in terms of their profitability.

And when this 13 million tons of capacity came back on line during the course of the year, the six months that ISG was out allowed them to break all of their labor agreements and break all of their contracts, which you have to be closed for six months, and then come back with no obligations whatsoever. And, as a result of that, they were very, very competitive. And when the market prices went up to, say, 380, 390, they were below the market. They were filling their mill and that's what happens with a lot of these struggling companies or the new re-entrants if you want to call it that, the capacity that never leaves, it ends up chasing the market prices down and it makes everybody suffer.

And so going forward, I think demand is going to be soft through the balance of the year and I think that the domestic producers are going to continue to struggle.

Now, there's also a conspiracy in the market, you know, that the domestic integrateds want to see this happen because they want to see these Ws fail and because who do you think is going to acquire those assets? The ISGs, the U.S. Steels. And that's what's ongoing in the market right now. U.S. Steel is looking at Rouge, Union Exhibit, ISG is looking at who knows -- Weirton, Wheeling-Pittsburgh, WCI. And, you know, these mills are circa 1950, 48-inch wide hot strip mills, which the domestic producers today that are integrated have 80 and 84-inch wide hot strip mills and all the European producers have 80 and 84-inch wide hot strip mills and they're not competitive.

COMMISSIONER MILLER: Thank you.

MR. HOYE: I've rambled on too long here.

COMMISSIONER MILLER: No, no. That's exactly what I was looking for, so I appreciate it.

MR. CUNNINGHAM: That's why we brought him.

COMMISSIONER MILLER: Mr. Blum, you were shaking your head through a lot of that and I appreciate your testimony today about the European experience. Is there anything you want to add because

I know you follow U.S. market conditions very closely as well. I just want to give you the opportunity to talk a little bit about industry conditions as opposed to these other things that we keep debating.

MR. BLUM: Yes. Thanks very much. I mean, I wouldn't add much, but just to underscore that for the stratification of pricing, this is such an analytical problem, when you try to determine where the market is going, the truth is at any one time it could be going in quite different directions and we saw that in the period that Mr. Hoye described.

When prices peaked in more or less August, hot rolled prices August of 2002, of what I hear from service center sources was that most of the integrates were trying to sell at 380, 390. One importer integrated, ISG, was selling at 320 to 330, which is more or less the level of Nucor at that time. Imports were at about that same level. The contract prices for automotive were quite different because in fact the steel mills agreed to a price cut for 2002 of two and a half percent, I think, compared to the year before. That doesn't affect everything. The contracts are not strictly annual, they're multi-year, so some of them are renewed, so the new contract prices were actually lower in 2002. They're higher again this year.

And then you had about that time in the summer when the conditions Mr. Hoye talked about came together and people realized that in fact they didn't need all the steel and buyers started to look for bargains. Well, what happened was the weakest company defected, you might say, and started rather aggressive price cutting to keep up the cash flow. At that point, Bethlehem was one of those. And as soon as that happened, there's intense pressure on everybody else to match it. And I think that's why we have seen this very volatile price history over the past couple of years and why -- I think this answers partly the commission's questions as to why relief doesn't have the predictable effects on prices -- you have all of these other conditions going on and they're very powerful.

COMMISSIONER MILLER: All right. I have a couple more questions, but the yellow light is on, so I'm going to hold them for now.

Thank you.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER MILLER: Thank you, Madam Chairman.

Thank you all for your answers so far and let me pick up on how I view our task with regard to the domestic industry.

To me, the domestic industry, for me to look at that, it's the sum of its parts and that's how I get to my examination of the domestic flat industry, okay?

Picking up on that, we have in our Appendix F a request of U.S. producers to comment on their efforts to compete more effectively in the U.S. market, okay?

Almost all of you at the table have access to the business confidential information that's in Appendix F, as you do with regard to Appendix E, which I'll come to in a moment.

On page F-3, and this part is not business confidential, the commission asked U.S. producers to indicate whether they had undertaken any efforts to compete more effectively in the U.S. market for the subject steel products. We didn't ask for that in the abstract. We asked the firms to identify (1) any efforts which have been made by firms and/or their workers since March 20, 2002 to compete more effectively; (2) the period, months and years, in which the efforts were made; (3) the expenditure or savings involved as applicable; and (4) the effectiveness of their efforts including any competitive advantage acquired, that is, increased production, cost reduction, quality improvements, increased market share of sales, et cetera.

And then the categories that we asked them to comment on were as follows: investments made, cost reductions with existing equipment, diversifications, expansions, mergers and consolidations, new products developed and new applications for existing products, organizational changes, changes in production practices, marketing changes in U.S. and foreign markets, changes in pension liabilities, health care and union contracts and all other efforts made by a firm or workers to compete.

And if firms felt that any of these efforts have been made primarily to compete with sales of imported subject steel products, they were instructed to so indicate and to give the reasons in support of their beliefs.

To the extent possible, they were asked to furnish the commission with memoranda, studies or other documentation which indicate that such competitive efforts were undertaken primarily against imports of subject steel, in this case, flat.

Now, then, on starting on page F-5 and running to page F-16, there's a very detailed summary of what we got, company by company, in response to that request, okay?

What I would like you all to do for purposes of the post-hearing is go through that summary and provide your critique of what's there because that's how I'm trying to go about gathering information on both sides of this issue, okay?

I would like you to do the same thing with Appendix E, which relates to the comments of U.S. producers and the significance of the President's Section 203 relief on their operations.

And I credit Mr. CAmeron for suggesting the other day in another hearing that I include Appendix E along with F in making this request.

So that's the kind of information that I would like to get post-hearing. It's specific to what we asked them to give us and I'm asking you to take advantage of the opportunity to comment on that as specifically as you can.

I see a lot of heads nodding. For the record --

MR. PIERCE: Commissioner Koplan, Ken Pierce. We'd be obviously happy to do that for you in the joint post-hearing brief.

COMMISSIONER KOPLAN: Thank you.

Could I have that kind of acknowledge from the other counsel?

MR. BLUM: This is Charles Blum. We're happy to contribute to that.

MR. HORGAN: This is Kevin Horgan. We'll be happy to do that.

MR. CAMERON: Sorry. Don Cameron. Yes.

MR. CUNNINGHAM: Dick Cunningham. Yes, we will. We'll focus particularly on tin mill, but we'll do that.

COMMISSIONER KOPLAN: Sure. I understand that.

MR. VON CONRAD: We will be looking specially at the specialty products.

COMMISSIONER KOPLAN: I appreciate that, Mr. Conrad. If you could identify yourselves for the record as you do this.

MR. LEWIN: Martin Lewin. We'll do it on plate and slabs.

COMMISSIONER KOPLAN: Thank you very much.

Does that cover everyone?

MR. RYAN: Chris Ryan of Shearman & Sterling, Commissioner. We'll be happy to contribute to the joint brief as well.

CHAIRMAN OKUN: Could you repeat that? You'll be happy to what?

MR. RYAN: Contribute to the joint respondents' brief as well to answer your question.

COMMISSIONER KOPLAN: Thank you.

Okay. Moving on. On page 2 of your pre-hearing brief --

Thank you all very much for your affirmative response to my request.

On page 2 of your pre-hearing brief on tin mill products, you argue that while tin mill imports from countries subject to 201 restraints have dropped by a bracketed number of tons and imports from all sources have dropped by a net number of tons that is also bracketed, and I quote, "Prices in the U.S. market have not budged."

However, given your view that there has been a long-term decline in consumption of tin mill products, isn't it likely that the 201 relief has prevented price declines that otherwise would have occurred?

And I note that this morning I heard testimony from Mr. Dorrance of U.S. Steel to the effect that that was the result. So I would give you an opportunity to comment on that.

MR. DUNN: Mr. Chairman, two points.

COMMISSIONER KOPLAN: I'm not the chairman.

MR. DUNN: I'm sorry. I remember the old days.

COMMISSIONER KOPLAN: So do I, but those days are gone.

MR. DUNN: And I apologize to the current chair.

Commissioner Koplan, two points in response to that. First of all, there is no doubt a long-term decline in the tin mill industry as tin products, tin cans, principally, are being replaced by other things such as plastics. However, if you look at the apparent consumption figures during this period, you see virtually no decline. You see, in fact, less than 1 percent decline in total apparent consumption, comparing the year before the tariffs to the year after.

So if there is a decline, I don't see it right now. If there is a long-term decline in demand, then what you would expect to be seeing would be some significant closures of facilities and we haven't seen that.

MR. CUNNINGHAM: Mr. Hoye would like to add something to that discussion.

COMMISSIONER KOPLAN: Certainly.

MR. HOYE: Before this period, U.S. Steel had purchased LTV's Aliquipa plant in Pennsylvania and actually closed it down with no impact on the market. You've since seen other consolidation with Bethlehem and with LTV, but it's just stabilized the decline, but it didn't see any positive increase in terms of price in the market.

COMMISSIONER KOPLAN: Does that complete everyone's --

MR. DUNN: I guess, Commissioner Koplan, what I wanted to say there was with that lack of any significant decline in the market, the fact that the prices have been basically the same is consistent with the apparent domestic consumption over the period. So I wouldn't have expected to see a huge price decline over this period, given that basically stable consumption.

MR. CUNNINGHAM: Might I add just one point to put this in context?

COMMISSIONER KOPLAN: If you can keep identifying yourself.

MR. CUNNINGHAM: I'm sorry, Dick Cunningham.

COMMISSIONER KOPLAN: I'm just thinking of the reporter.

MR. CUNNINGHAM: I'm sorry. Yes. Dick Cunningham. Might I just make one point to put this in context?

What this whole exercise has been about is to achieve a change in the marketplace through restriction of imports that would be sufficient to promote adjustment in the U.S. industry.

The point here is that has not happened in tin mill in prices as a result of the action by the President. Even if one supposed that tin mill prices might have fallen somewhat further, an increase necessary or sufficient to promote adjustment has not occurred and in that sense the dramatic reduction of imports has not achieved what is supposed to happen as a result of 201 relief.

COMMISSIONER KOPLAN: Thank you very much for that, Mr. Cunningham.

I see my light is coming on, so I'll wait for the rest, Madam Chairman.

CHAIRMAN OKUN: Okay. At my last round of questioning, I was asking you to comment on whether you thought the industry had taken steps to facilitate adjustment to import competition, and some of you may have already commented on this, but I also wanted to just ask that about labor as well, to get your comments.

And maybe, Mr. Barringer, I'll start with you. One of the things you had said in your opening statement which I raised with Mr. Gerard was you had noted a fee things in your opening statement: are there new restrictions on the ability of companies to close facilities, to use alternative models such as supplementing or substituting import feedstock for internally produced feedstock or to substitute EAF production for integrated production.

I raised this with Mr. Gerard, I assume you heard his response and then I am also aware now that we at least have one of the agreements to review, although I've not had the time to do that yet, but I wondered if you wanted to comment any further on that in light of his response.

MR. BARRINGER: Well, I thought Mr. Gerard's response was extremely artful. I think that if you first of all look at the chart at the back --

CHAIRMAN OKUN: Did you say heartening or artful?

MR. BARRINGER: Artful.

CHAIRMAN OKUN: Artful? Okay.

MR. BARRINGER: If you look at the chart at the back of his testimony, I think it will give you a hint -- the section on investment commitments, I think that gives you a hint of what is in the agreements and I would suggest that you look into it because while it all sounded very nice and very flexible, the fact of the matter is that I think you can interpret what is going on here as closure, substitution of feedstock from elsewhere, and possibly even changes from flat furnace based to EAS based as being the option of last resort when all of the other criteria demanded by labor are fulfilled.

Now, I'm not -- if I were in Mr. Gerard's place, I probably would have tried to negotiate something along those lines myself. The point that I was making was that we've just gotten rid of legacy costs, pensions, the things that blocked the industry moving ahead to what it needed to do. And now we have sort of half a loaf, okay? We've dealt with the labor problem, that is inefficiency because of over manning, we've dealt with the legacy cost problem, but steel is made in physical facilities and a 1 million ton blast furnace does not compete with a 3 million ton blast furnace. A 42-inch hot strip mill doesn't compete with an 84-inch hot strip mill. So at some point we have to get to where we're going.

Now, I think it's interesting, you know, we heard this morning about all the subsidies in Brazil, the 24 subsidies. Of course, Commerce hasn't found the 24 subsidies, but it's very interesting. Who is investing in Brazil in the hot end? Nucor, Arcelor and Bow Steel. Now, why are they doing that? Why is Nucor doing it? Nucor is the low cost producer in the United States. There most be some advantage of their doing that in Brazil.

One of the things you saw this morning was iron ore up there. They don't have to process and do all of the things in Brazil with iron ore that they have to do in Minnesota. Maybe that's why Nucor is going there. But the point is, and it's a point that Mr. Blum was making, this is not a static world. You don't build a blast furnace in 1910 and continue operating it in 2010 and think you're competitive just because you've cut your labor costs or you've gotten rid of your legacy costs, okay?

We've seen that before. You know, Weirton was created because National Steel didn't want it. Then National Steel became a basket case, so we have Weirton who National didn't want, National is not exactly the best mill in the world, and now National goes into bankruptcy and is taken over by U.S. Steel.

There has to be a progression here. This is equipment, it's not just workers.

CHAIRMAN OKUN: I want do come back, but I do make sure that I hear everyone on the labor commitments and I can come back to that.

Mr. Cameron?

MR. CAMERON: First of all, I believe that Bill is correct. I don't believe that we over stated the case. We will analyze it in the post-hearing brief, but there are specific provisions in the agreements. I think that Mr. Gerard's statement was artful. The question then becomes with respect to reconstituted mills. We heard this morning from Mr. Lighthizer that the quote-unquote re-rollers, which I gather means UPI, Steelscape, Deferco Ferro, CSI and about half of AK Steel are quote-unquote not steel producers, they are processors.

Well, I thought that was very interesting given the like product definition of this commission because I thought they were all producing the same like product and I believe that that is the determination not only of this commission but that's the way we've analyzed it.

Fair enough. This is another business way of dealing with these issues. You're going to hear tonight from AK Steel, for instance. Or tomorrow. So why do they make these commercial decisions, all right?

Part of what they do is they've decided we want to maximize flat rolled finishing capacity and not have to worry about the overhead of the hot end.

Query: If you're going to be using integrated steel slabs, and that is different -- Mr. DiMicco continued to chime in on the question of slabs, but as far as I know, he doesn't make slab and he doesn't sell slab, he's got mini mills. All right. Slabs are still an important part of this industry and the ability -- and Mr. DiMicco says he's making some technological -- looking at it --

CHAIRMAN OKUN: Are you talking about my labor question?

MR. CAMERON: But it is the labor question because it is the agreement and that's the question. Because -- and this is exactly what Bill is saying, too. The question is does the agreement put in another barrier to trade and another barrier to adjustment? It is important for you to look at it.

CHAIRMAN OKUN: I understand. Yes, I understand that, but other than that, can you comment on the other? I think what I heard industry describe were the reduced costs that came out of these collective bargaining agreements and productivity --

MR. CAMERON: Oh, we applaud those. We applaud the --

CHAIRMAN OKUN: All right. I was just trying to make sure I understand --

MR. CAMERON: Oh, no. That's fine. I think that number one -- those commitments were serious and they were important, but, again, I guess what you've heard from this panel, I don't think that the story has changed, is that, yes, we do question whether or not it was the 201 relief which was integral to that decision. They say yes. Well, that's interesting. We don't understand why you needed the 201 relief to go from 226 shift foremen to 20. That doesn't make any sense.

CHAIRMAN OKUN: Well, I don't know, but, you know, I'm back to the other point, I'm not sure that's our inquiry either. Is it an adjustment that helps labor adjust to import competition? The answer is yes, I think --

MR. CAMERON: Yes, fair enough. It was a good thing. Sure.

CHAIRMAN OKUN: Okay. I don't know who had a hand up first, I know Mr. Mari and then Mr.

Cunningham and then I'll come up to you, Mr. Pierce.

MR. MARI: Just one thing to note on this subject, that one of our companies, as we simply announced the closure of seven or eight blast furnaces from now until 2010, 2011. These are decisions that companies should be able to make according to economic circumstances, location of plants, et cetera, easily and quickly in order to optimize their results.

The concern we have with the agreement referred to here is that according to the interpretation given by Mr. Gerard it seems that this would now only be permissible in exceptional circumstances where the survival of the company would be at stake.

CHAIRMAN OKUN: Okay. Mr. Cunningham?

MR. CUNNINGHAM: I just have one personal viewpoint on this. I was counsel for the old British Steel when it went through and its unions went through the gut wrenching, painful change that comes in steel industry restructuring. And I remember the great fights and strikes and fist fights literally between management and labor and the intransigence of British Labor on this.

I must say that everybody here at this table really ought to have admiration for the extent to which the American steelworkers here have bitten really huge bullets.

Yes, there may be things that they put in the contracts that save this or that for them and it may somewhat slow down adjustment. On balance, though, labor has done much more to get out of the way by biting their own real personal bullets to do so and everybody in this room ought to have tremendous admiration for that. And it's a big help to labor adjustment. One must feel particularly for the people who have lost their health benefits and things like that. They have sacrificed for the good of the continuing workers.

But the labor part of this adjustment, the pure labor part of this adjustment is really a tremendous thing to see. There may be some bells and whistles on it that will somewhat retard certain parts of the industry's adjustment, but that's the compromises that you make doing this sort of thing and labor has more than gone its fair share of the road.

CHAIRMAN OKUN: Okay. My red light is on, but, Mr. Pierce and Mr. Crandall, if you wanted to comment on that just for a moment?

MR. PIERCE: Just very briefly, I would just point out, your questionnaires requested that the labor agreements be submitted. It took a push from the staff to get ISG to submit the labor agreement with ISG. You do not have on the record the new labor agreement with U.S. Steel. This is an extremely important issue, I would think you would want to have those new labor agreements on the record. You did ask for them in the questionnaires, they have not been provided.

CHAIRMAN OKUN: We will follow up on that.

Mr. Crandall, is there anything?

(No audible response.)

CHAIRMAN OKUN: Okay. All right.

Vice Chairman Hillman?

COMMISSIONER HILLMAN: Thank you.

Dr. Crandall, I guess if I can come back to your testimony a little bit and just try to make sure I understand the argument. I mean, I understand it, but I want to make sure I explore it a little bit with you on prices and this issue of -- I mean, you kept saying in your testimony that you think one of the difficulties here is that the relief is holding prices artificially high. And, obviously, we've look at all this data in terms of what the prices are doing and they've obviously peaked at some point and it's been coming down.

So I want to make sure I understand your definition of artificially high. Is it your sense -- again, how do you measure that? Whether it's just inherent in the fact that there is 201 relief, that prices are higher than they would be in the absence of it or is it, again, looking at the sort of numbers of where steel prices are that your sense is in relation to other places in the world or other things going on that you think prices are high?

MR. CRANDALL: Well, I don't believe I ever said that currently prices are high or low. What I suggested was that the purpose of putting tariffs in place is to raise prices. To the extent that they do not succeed in doing it, then there's no issue here and I can't believe the petitioners would waste their time being here. So there obviously is an effect of some sort.

We can all try to estimate it and I took a stab at that, but a lot of things are changing, as you've heard in this room. The price of the dollar is changing, there's enormous shifts going on in China which affect world prices. There's a lot of shifts in the domestic market, there's shifts of imports to other parts of the world and so forth. So it's hard to tease this out of the numbers.

My estimate was that in late 2002 tariffs probably raised prices by five to seven and a half percent, but the real issue here is why keep them in place?

Presumably, it is to insulate the domestic industry from price movements in the world market in the future. That is, to keep prices above where they otherwise would be at some points in the future. Otherwise, there's no purpose of having them at all.

COMMISSIONER HILLMAN: Well, again, I'm not sure I want to go to how we read what the obligations are in terms of this notion of an ongoing requirement to show the need. I just want to make sure, is your sense now that are prices are, again, artificially high? I mean, do they continue to be higher, in your view, than they would be or should be?

MR. CRANDALL: At this very moment, I don't know because the impact of the dollar, there's a sharp decline, the dollar has been so strong, I don't know. What I said was that in late 2002 it struck me they're about 5 or 7.5 percent above where they otherwise would be due to the tariffs.

It may well be that it's less than that now. It's very difficult and I don't think anybody could with the data available tease out the effects of tariffs from everything else at the present time.

COMMISSIONER HILLMAN: Okay. And then terms of just this general notion of are they high, have you looked at prices and perhaps even, Mr. Blum and others could comment, have you looked at them vis-a-vis prices elsewhere in the world and how would you describe them in relationship there?

MR. CRANDALL: That's indeed what I did in the Appendix 1 to the joint respondents' brief. My report, which showed that in fact they had risen relative to world spot market prices, particularly European spot market prices, but then fell back down late in 2002 to about equivalent to those superintendent market prices.

COMMISSIONER HILLMAN: Okay. All right. I appreciate that.

And I guess if I can stay with you, Dr. Crandall, if that's all right. On this issue of inefficient capacity, we've heard a lot of discussion about whether there has or has not been a sufficient amount of rationalization which I take always to mean closure of inefficient capacity. And yet, again, I heard Mr. DiMicco on a number of occasions say how do we measure that and I guess I'm wanting to get your sense of that.

I mean, to the extent that we think we should be looking at this, how do we assess what is inefficient? Is it manhours per ton and is there kind of some standard out there? I mean, what would one look at if one was trying to make a determination about inefficient capacity? What constitutes inefficient?

MR. CRANDALL: Well, the best measure would be costs. Even when prices are rising, some of these companies that I showed in my slide were still not earning profits and, in fact, one of them went bankrupt, Weirton, during this process and WCI has already defaulted on an interest payment. Their costs are very high and that's what you want to look at, is unit costs at these facilities.

Now, what you don't know is how much those costs could be brought down by more efficient labor agreements and more efficient management. I mean, the process you've been watching is one of someone else taking those assets, eliminating a large part of the legacy costs and renegotiating the labor agreement. It's hard to tell until someone else takes those assets and tries to rationalize them whether they should close or not.

What we do know now apparently is that, for instance, Wheeling-Pittsburgh wants to put in an electric furnace to replace its hot end capacity, but it appears to need a government subsidy to do it, apparently it cannot raise the money in the capital market, even with 201 in place. That would suggest under its current management with its current labor agreement that plan is extremely inefficient and probably needs rationalization of some sort.

COMMISSIONER HILLMAN: And then I guess -- if I can do just one more question and then I'll come back to you, Mr. Barringer. This whole issue, as Mr. Ross put it, of what did the 201 relief do in terms of providing access to the capital markets for the industry that did want to make these purchases?

I mean, in some of the testimony we've heard, there's been this distinction between whether something was a capital investment as opposed to simply a purchase, but nonetheless, the industry seems to be making it very clear that in their view the capital, the access to the capital markets was to some degree related to the 201 relief. Do you have a view on that?

MR. CRANDALL: I don't doubt that it was to some extent, but the extent depends on how much capital they want and what I pointed out to you in an earlier question I guess to Commissioner Miller was that if import relief was artificially raising prices in late 2002 and throughout 2003, as I think it was, after the imposition in March, then, sure, it provided access to more capital in order to purchase assets because the price was higher.

Had the import relief not been in place, those assets of Acme and LTV were not going anywhere, they weren't going to be moved anywhere. Someone was either going to buy them or just close them down all together. There was a substantial price paid for the LTV assets, the price would have been lower, he wouldn't have had to raise as much capital. The same for Mr. DiMicco with Trico. Had the import restrictions not been in place, he might not have had to pay as much for Trico, although I think Nucor could probably raise capital anyway because it has such a track record of efficient operation of mini mills.

COMMISSIONER HILLMAN: Mr. Blum, did you want to add something there?

MR. BLUM: Yes, thank you, Commissioner. Just one thing about costs and how to measure this. It really seems to me that the only fair test of competitiveness is your bottom line profitability over a business cycle in the absence of subsidies, in the absence of import protection. That's the only real true measure.

One of the difficulties with doing this on a cost basis, as you can see, for example, if you take Peter Marcus' famous cost curve, some very high cost producers happen to be profitable. That's because of the nature of the product mix that they're selling. One of the difficulties with the flat rolled industry as a single industry is that there's a huge difference between the cost and the value of the slab and the cost and value of tin mill or between hot rolled and coated sheets.

And it's a relationship. If you're trying to be an automotive producer, automotive sheet producer, if you're trying to be a high class appliance sheet producer, that's one thing. If you're trying to make the under panels for automobiles, it's totally different. So it's a relationship of your cost to the value of your product, that shows up in your bottom line and if you can look at that over a business cycle in the absence of artificial costs and penalties, that gives you some idea of who is competitive.

COMMISSIONER HILLMAN: Mr. Barringer, you had wanted to comment earlier.

MR. BARRINGER: Yes. I just wanted to make a brief comment again. I think Mr. DiMicco's statement was quite artful. I think if he wanted to look through the American Metal Market at the periods of time coincident with when Wheeling-Pitt got their loan and when Weirton got their loan, I think that you will see if he does not say it directly, he certainly says indirectly that government subsidies should not be keeping uneconomic capacity open. So I think probably Mr. DiMicco has an idea of what is and what is not uneconomic capacity. It's not a complete mystery.

COMMISSIONER HILLMAN: Given that the yellow light has come on, I will come back for my question that I have promised to Mr. Cunningham.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: I think I have two questions, only one of them was the question that Vice Chairman Hillman is going to pose to Mr. Cunningham, so I'm going let her do it, I think, if I recall her question.

So, Mr. Dunn, let me ask you, I want to make sure I understand your testimony regarding the tin mill industry and its failure to take adequate steps to adjust.

Were you only looking at adjustment efforts that were specific just to tin mill lines? Is that what you think our analysis should be? Or do broader steps that the company may have taken across the board, for example, the labor agreements we've talked about, are they not relevant to our consideration as to whether not the tin mill industry is adjusting as well?

MR. DUNN: The short answer to your question, Commissioner Miller, is I was looking only at the tin mill facilities. The problem when you get into the broader is trying to determine was any of this really -- were any of those broader adjustments changes in hot rolling substrate manufacturing, were those driven by the tin mill market at all. And you have a very difficult time saying that they were and so I felt that we had to look at the tin mill industry specifically.

COMMISSIONER MILLER: Okay. All right. I just wanted to make sure that I understood what the parameters were that you were looking at.

Mr. Cunningham, you have been pointing us in part in one of your exchanges earlier to the part of the statute that talks about the President modifying the relief because the effectiveness of the action has been impaired by changed economic circumstances. Right?

MR. CUNNINGHAM: Correct.

COMMISSIONER MILLER: I remember in one of your discussions --

MR. CUNNINGHAM: Correct. Which he does on the basis of the report you send him.

COMMISSIONER MILLER: Right. Right. And our report -- I will agree our report -- you know, our report has a fairly wide -- I mean, developments with respect to the industry, I can read pretty broadly, our staff would probably be appalled at how broadly we might read it, or at least everybody would like us to read it, but when I look at the legislative history of that provision that you're talking about, it cites things like changes in exchange rates and it cites things like circumvention.

Mr. Crandall just referenced the potential impact of exchange rates on the tariffs. Those things seem to be more aimed at the idea that the effectiveness has lessened because of the changed economic circumstances and suggesting that the President should do something to restore it to its previous level of effectiveness.

MR. CUNNINGHAM: Well, I don't think the

President can do that.

COMMISSIONER MILLER: I didn't think you would think that.

MR. CUNNINGHAM: No. No.

COMMISSIONER MILLER: And I'm not necessarily -- but anyway, you know, the kinds of things cited here seem more aimed at -- it talks about the effectiveness of the action being impaired.

MR. CUNNINGHAM: Right. I agree. And to determine whether they've been impaired, you have to advise the President as to what the effectiveness of the action was and then look at the various cross-currents of which there were tons of them here. I mean, capacity that had been taken out of production coming back into production. Exchange rate swings. All of the things we've talked about today. And in the process of that, the baseline is what was the effectiveness of the action and how has it been impaired.

It's very rare you will get a case like this where the action had no effect, as the industry essentially acknowledged. Indeed, they complain of it having no effect. They complain of it having no volume effect, they complain of the price effect having been moderate and then explain the changes in price as having predominantly been due to the changes in capacity in the industry. And therefore the President needs to know that.

I'm not telling you you should say to the President, look, you dummy, what you did was ineffective. I'm simply saying you should lay out the facts for him. You shouldn't tell him what to do, you just need to lay out the facts on the basis of which he can make not only the determination under sub 1, but also the determination under sub 2. And that necessarily requires you to tell him the extent to which the relief was effective and then the extent, if any, to which that effectiveness was diminished. If he finds on either basis that the relief is no longer effective, then it seems to me what he does, he says, well, why keep the relief in place.

COMMISSIONER MILLER: Okay.

MR. CUNNINGHAM: It does have a certain logic to it, doesn't it? Think about it. We'll talk about it a little more in the post-hearing brief, but think about it. I just don't see how you can write the effectiveness out of the statute. I just don't see how you can do that.

COMMISSIONER MILLER: All right. All right. Thank you.

MR. PIERCE: May I comment briefly?

COMMISSIONER MILLER: Mr. Pierce.

MR. PIERCE: Just really briefly on that.

COMMISSIONER MILLER: Yes.

MR. PIERCE: The report you're talking about does mention those two issues of exchange rates and circumvention. Circumvention, of course, is taken care of under different provisions, so you really only have exchange rates mentioned.

COMMISSIONER MILLER: Right.

MR. PIERCE: To take that single example and expand it to mean changed economic circumstances impairing the effectiveness means that it has to be a recommendation or an action by the President that tightens the relief. I just think it's taking a single example from the legislative history and just running out of control with it, frankly.

I understand where you're coining from with that single example, but that's what you're resting it on, is a single example.

MR. CUNNINGHAM: Can I clarify one thing there?

COMMISSIONER MILLER: I think there is more in the legislative history than just a single example in the conference report that suggests that as well, but I also think -- well --

MR. CUNNINGHAM: Can I just add one thing to this? This is Dick Cunningham.

COMMISSIONER MILLER: I'll think about it. We have a whole another panel.

MR. CUNNINGHAM: The whole purpose of this, it says impaired -- you're supposed to find out -- you're supposed to give the President information upon which he can determine whether the effectiveness of the relief has been impaired. The logical thing of that is if he finds the relief no longer effective then there's no point in continuing it. That's the way you have to modify it, under the principles of degressivity, okay?

It's crazy to say that if he finds that the relief was originally effective but has been sufficiently impaired that it's no longer effective he should stop it, but then say, ah, but it was never effective at the start, then he should continue it in effect, isn't that kind of odd?

CHAIRMAN OKUN: On that note, thank you.

Commissioner Koplan.

COMMISSIONER KOPLAN: Thank you.

I think you've done an exhaustive -- I think you've -- never mind.

Let me pick up on the flip side of your discussion with Vice Chairman Hillman regarding inefficient capacity, if I could.

I note that in the March 5, 2002 presidential memoranda accompanying is proclamation, the President stated in determining whether to reduce, modify or terminate the safeguard measures, he would consider a number of pertinent factors which are listed in the memoranda, such as actual and planned permanent closure of inefficient steel production facilities and in countries other than the United States as well.

My question to you all is this: could you tell me what steps, if any, your clients have taken to reduce their own inefficient steel production facilities since the relief went into effect?

I can take whatever you would like to say now, but what I would really look forward to getting from you is a more detailed business proprietary response in the post-hearing similar in format to what's in Appendix F. So can you provide that to me post-hearing?

MR. CUNNINGHAM: We'll be happy to do so on behalf of Corus.

COMMISSIONER KOPLAN: All right. That's

Mr. Cunningham.

Mr. Blum?

MR. BLUM: Yes, sir. For EUROFER, we'll elaborate on what's already in the pre-hearing brief and the several appendices that we put in there, we'd be happy to do it just as you asked.

COMMISSIONER KOPLAN: Mr. Cameron?

MR. CAMERON: We'll do it on behalf of the Koreans. Don Cameron.

CHAIRMAN OKUN: Thank you, Mr. Cameron.

MR. RYAN: Chris Ryan. We'll be happy to provide in on behalf of Arcelor.

COMMISSIONER KOPLAN: All right.

MR. BARRINGER: We will provide it on behalf of Japan and Brazil, but I would note that Brazil is not cutting capacity. Brazil is recognized by most as the low cost producer in the world and is expanding capacity, all financed by foreign entities.

COMMISSIONER KOPLAN: Mr. Horgan?

MR. HORGAN: This is Kevin Horgan. We'll respond on behalf of our clients.

COMMISSIONER KOPLAN: All right.

MR. CONRAD: GUnter Von Conrad. On behalf of the SARGA* group, we will put forward what they have done to consolidate some of their operations.

COMMISSIONER KOPLAN: Thank you.

Mr. Lewin?

MR. LEWIN: Yes. I will try to get the specifics in terms of the timeframe you've talked about. Of course, their timeframe is not geared to the 201 and so I have some information on reductions that have been leading up to this, as well as going forward, but I'll try to get some specifics in terms of a narrower timeframe.

COMMISSIONER KOPLAN: Have I missed anyone?

(No response.)

COMMISSIONER KOPLAN: Thank you. I really appreciate that and I'll look forward to getting it.

I have one other question. In your brief, you assert that the U.S. steel industry has, and I quote, "Undertaken significant efforts only with respect to consolidations" and that the industry, and I quote, "has taken no significant steps towards meaningful production, upgrades, installation of new facilities, or closures of non-economic capacity." I'm referring to the joint pre-hearing brief on flat rolled at page 7.

However, Ispat Inland in its brief on page 29 states, and I quote, "The steel industry will require at least two years following mergers and other consolidations before it can truly reduce capacity in a meaningful way."

They also testified to that effect this morning.

They note that consolidations and mergers, which were bracketed, have occurred very recently and all of these companies have committed to closing additional capacity.

Assume that that is correct. Why doesn't that constitute a persuasive argument for continuing relief for the balance of the period?

MR. BARRINGER: Could I just address that in two ways?

COMMISSIONER KOPLAN: Certainly, Mr. Barringer.

MR. BARRINGER: First of all, and I will go back and see whether the staff report has been significantly or substantially changed. I will also go back -- I visited the website of every one of the integrated mills and I saw no plan to do any of this. Now, it may take -- let's assume it takes two years to shut down a blast furnace. You would assume that there would be some evidence of a plan. Or let's assume you're upgrading your hot dipped galvanized line, you have to order some equipment for it. And what I found rather remarkable was how thin the information either on closures or on upgrades was across the entire industry. So that's number one.

Number two, it's my recollection that you can build -- you can go from zero to an operating mini mill in 18 months and there may be others that know a little more about that than I do. If you can go from zero to operating a mini mill in 18 months, I'm not sure why it takes you two years to close a blast furnace which probably at the time that you bought the facility was -- you had experts go in and they said this is the least efficient blast furnace here and we're probably not going to make money with it, but, well, let's keep it going as long as we have protection and go from there. So I'm not sure it should take that long.

COMMISSIONER KOPLAN: Thank you.

Mr. Cunningham?

MR. CUNNINGHAM: Just one very quick point on that because it does seem like something of a non sequitur to me. If they were able to do step one under conditions where the import restrictions did not produce a reduction in imports, did not produce any significant increase in prices, then it doesn't seem to me that there is any evidence on the record that suggests that the removal of the import restrictions would in any way inhibit them from moving aggressively for their two-year period to do step 2. All they have said is their constant paranoia that, well, if you remove the import restrictions there will be a flood of imports.

Well, the record today doesn't substantiate that. Imports were going down at the time relief was imposed. Imports have been kept down by the relief. The relief seems irrelevant to the import level here and so it seems to me that it's hard for them to argue that, well, just because we need another two years you have to keep the import relief on for that period.

This is why you have to get into whether the import relief is effective. To be able to analyze an argument like that, you need to analyze whether the import relief is effective.

I'm a stuck record today, aren't I?

COMMISSIONER KOPLAN: Let me just pick up on that for a second before I call on you, Mr. Cameron, on what you said at the end, Mr. Barringer, about checking as to whether there have been any changes to the staff report. I would just note that on July 21st, in fact there were revised tables that cover flat and, for that matter, long products and so I assume that you were aware of that and that you would factor that into your response.

MR. BARRINGER: Actually, I went home early last night, so I didn't catch it.

COMMISSIONER KOPLAN: That's more information than I needed.

Mr. Cameron?

MR. CAMERON: I can't follow that up.

Look. Two things. First, I read that same statement in the Ispat Inland brief. It's based upon the affidavit that they attach to the brief. The affidavit contains no reasoning behind the bald assertion that it would. I mean, it's convenient. But most of the testimony we heard this morning was the preliminaries before those assets were purchased.

Finally, we did hear after things got rolling that, yes, the company's value, ISG specifically, Mr. Ross was referring to the fact that he values very much the fact that with the lower cost labor agreements that he's got he now has a very efficient cost base.

Well, this gets to your question and to Commissioner Hillman's question about inefficient facilities. Is this adjustment going to be purely on the backs of labor and the retirees? I mean, that really is the question to ask. That's the reason that, yes, we're critical of the labor agreement, but that's not to say that there labor hasn't done a lot. That's not what the statement is.

But Geneva Steel did do this before. A number of the companies did do this before, that's part of the reason that we're here today is because the idea of labor in and of itself was the total problem. Well, no. I mean, if we look at Dr. Crandall's chart that was the last chart up there, it's on page 24 of his statement, you're talking about blast furnaces with capacity of a million tons. Well, blast furnaces with capacity of a million tons are not efficient and there are empirical studies, there are studies by a number of steel experts, he being one, who have said, yes, those aren't efficient. That's where the interplay starts to come in, with respect to labor, with respect to capacity.

Thanks.

COMMISSIONER KOPLAN: No, thank you.

And I thank all of you for your responses to my question.

I have nothing further. Thank you, Madam Chairman.

CHAIRMAN OKUN: Thank you.

I think I just have a couple of things because Commissioner Miller was kind enough to raise the issue of the effectiveness of the remedy that Mr. Cunningham had raised and I listened to your answers, but I guess, to me, our report is going to report on demand, it's going to report on prices, it's going to report on imports, so to the extent those were all things you were talking about that you have to be able to see what went on, the President needs to be able to see that, I think we will be sufficient in doing that. It's the tie-in that I still don't go down the road to, but I think we do have to have a report that does illustrate what went on during this period with respect to the domestic industry, with respect to import prices and I hope it will be sufficient in that.

MR. CUNNINGHAM: You're making me a happier man.

CHAIRMAN OKUN: I still think we're not seeing the same part of the provision, but I'm just going to leave that because it's time to move on.

I did want to see -- I know there's been a lot of material already submitted in your pre-hearing briefs but there are three issues that go to, I guess, the undermining relief type of question. One would be exclusions, two would be non-covered sources, and I guess three would be circumvention, which was raised at least by Ispat in a brief, although in looking at their brief, it seems like much of that information is confidential, so I don't know I'm going to open this up because I think some parties may have different views or have particular views.

Does anyone want to comment on either the exclusion issue, non-covered sources or circumvention? And, if not, if you think you've done everything you want to do in your briefs, that's fine, too.

Mr. Barringer?

MR. BARRINGER: I'll just comment briefly on the product exclusion issue. There was a fairly high hurdle to qualify for those exclusions. Essentially the product either could not be made in the United States or could not be in sufficient quantities. Some of the product, like interstitial free steel, is very high value and very crucial to some manufacturers as well steel companies that are buying the slab. So we have this big complaint, but the answer is if the domestic producer can produce the product, I can't imagine he can't go back to Commerce and USTR and say, hey, I'm producing the product now, take away the exclusion.

But the fact of the matter is I'm not aware of anybody that has stepped up to the plate and said, hey, this is a really good product, I should get into this market, and started producing the product. And that goes to large volume products like the interstitial free steel that I was talking about.

So to me, that complaint is meaningless and I can't see that it has had any adverse effect on the domestic industry or the effectiveness of the relief.

CHAIRMAN OKUN: Mr. Hoye had his hand up and I'll come you, Mr. Pierce.

Mr. Hoye?

MR. HOYE: I'd definitely like to comment on this because we did a tremendous amount of work on exclusions and I would say that, first of all, the request for exclusions were really driven by the end users in the market specifications for the products and a lot of what we as a company have established our reputation on is doing the difficult and the impossible. And a lot of the products that we produce in the high end of the value chain, we guarantee 100 percent utilization of the steel and there isn't a single domestic U.S. steel producer that will guarantee that. They will cover the cost of the difference between what they can do and what the customer may need, so, for example, if you've got a 97 percent yield, they will guarantee to cover your 3 percent loss.

We work back from a cost base production and utilization and therefore we've got a premium price for our product in the market.

MR. HOYE: -- above the domestic, you know, producers, and there is a lot of applications that I can name, like the Slim Fast cans that are produced by Ball Corporation, 100 percent of the steel comes from The Netherlands, because they make better steel and better parts than the domestic tin plate industry.

The battery quality hot-band, which got a lot of attention, and you know, Commerce and the USTR were the ones that went through this whole process of qualification. We spent a lot of time and a lot of effort, and really demonstrated our case, and we came up short, and many of the instances on the flat-roll when the domestic producers could not make the parts. So we were just shut out or limited by caps.

And then I heard testimony today where the domestic producer is saying that, you know, they want to make the parts or they waited almost, you know, 12 months or more to go back into some of these customers. America Ispat was the one that said it.

They said we went to every single one of the customers who said that, you know, those parts couldn't be made by domestic producers, and they worked on, you know, the qualifications.

And I know if I were a domestic sales manager, I would make sure that my guys got in to see every single one of those accounts, whether I had the intention of trying to qualify or not. But I can tell you that there is customers out there that can't get the steel that they need domestically, and we're not allowed to bring it in without the tariff, you know, on it.

So I mean, it's a very touchy subject. It's a very difficult subject on both sides, but you know, it was Commerce and USTR were the ones that really, you know, moderated it or facilitated it, and I think they made some good decisions and they made some bad decisions.

CHAIRMAN OKUN: Mr. Pierce.

MR. VON CONRAD: May I add -- oh, I'm sorry.

CHAIRMAN OKUN: I'm sorry.

MR. VON CONRAD: I wanted to add a footnote to that because that is a significant part, of course, of what we said today. There is two-thirds of our products out. That raises the question whether or not the President with his very high standard of granting exclusions, you know, h ad a different view of that particular part of the specialty strip industry than the Commission had in its original investigation.

We went in and we worked on exclusions, and that is why I said earlier in the testimony, and that's why I put it on the record, the pernicious idea there is that you could object to this on the basis of "but I want to make it," not "I am making it," but "I want to make it," and that is not a proper criterion here, and this needs to be looked at at this stage of the game, because it is not -- not only does it belong into a different world of unfair trade. We're talking fair trade issues here. But you also need to take a look at whether or not something is properly included in relief and whether relief could be proper.

I have recently had occasion to go and look at an objection which I was unaware of, the whole exclusion application, because it was not made to us, it was made directly by a domestic consumer.

CHAIRMAN OKUN: I think that's a slightly different question of what you are answering because, again, I mean, the exclusions have been handled by Commerce and USTR. You have gotten your exclusions, and it seems like the question that has sometimes been addressed in the Commission is has that amount of the exclusions undermined the relief, and I think you are arguing something slightly different.

Let me hear from Mr. Pierce.

MR. PIERCE: On your question about the imports from the covered and non-covered countries, I think you will find it informative in two ways, to look at the, you know, not just the prices at the two bookends of the relief period. As you all well know in between the prices shot up very high, and then came back down.

I suggest you look at Exhibit 4 of our joint pre-hearing brief. What it does is it tracks the different flat products by month in volume, split by covered and non-covered against the price levels, and what you see from that, especially considering import lag time, is that when the prices were through the roof in the U.S. market imports were ordered at that time and started coming in at those very high prices. As prices dropped, the import levels went down dramatically, and you will see that in Exhibit 4 for each of the different products when you track it on a month-by-month basis.

So when you're thinking about what are import levels now, it's important not just to think year to year, but to look at those price trends against monthly import levels, but by covered and non-covered. You'll come to a different understanding, I think, of what was going on in the market.

On the first part of your question or your statement, again, you know, how you read the statute, and it's obviously your prerogative. I think it would be informative if you're not going to make a causal analysis, if you will, connecting the two, it's important that the President be informed that you haven't made that finding.

We haven't determined whether 201 is connected to any of these adjustments, so that the misimpression is not left that all these adjustments have been caused by the 201 relief.

CHAIRMAN OKUN: Mr. Cunningham.

MR. CUNNINGHAM: I would very strongly urge the Commission to include in your report the domestic industry's position on the country exclusions which they said, (a) were the big problem; (b) that they even went so far in at least two instances that I heard to say they made the relief ineffective; (c) they said they had gone to the administration, asked for those country exclusions to be changed, the administration did not change them, and I think it's important for the administration to know that the domestic industry thinks that the relief is ineffective because of the country exclusions which the administration granted, was asked to change, and did not change.

CHAIRMAN OKUN: Okay, thank you for those comments.

Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Well, thank you.

I will say, Mr. Cunningham, in fulfillment of my promise that Commissioner Miller basically asked the question that I would have asked, so I will put only two twists on it, and in doing so I wanted to give you the runner-up artful award for the evening as one of the more artful answers that we have heard.

But since you have been asked to brief this issue, I do want to ask you to sort of take into account two things, and one of it I will say is sort of the irony that I find sitting here listening to this panel of witnesses tell this Commission to give the President what I guess I regard as somewhat gratuitous advice just strikes me as sort of ironic.

But in any event I say gratuitous because if I look at the sort of the legislative history of this whole changed circumstances provision, it came out of the House side. It originally started out as something that had to be requested by the parties, I mean, initially, again as it started out. And at least I -- it was interesting your last comment to Chairman Okun. I'm not sure I heard, you know, at least the interested parties on this side saying they are requesting, you know, such a finding if I didn't go on to look at what was the House talking about when they put this provision in.

I mean, very clearly reason for change. Why did they put this in? And again, this issue of that the effectiveness of the import relief may be undermined by subsequent events, exchange rates, et cetera, and they go on to say, you know, in these types of situations there is a need to provide for some modification of the import relief originally provided to account for such changed circumstances. The committee intends that such modification may be greater than, less than, or different in form than the relief in effect.

I think that has obviously been changed subsequently in the, you know, sausage-making process it then goes on. But no doubt to me that informs the intent of this provision, and that's what I want you to take a look at.

I mean, I heard your response that in order to figure out whether the change has been, you know, detrimental or not, has impaired it, we have to start with the baseline. It's that piece of advice that I'm not sure we really, again, in the absence of a sense that there really has been an impairment, whether we really are asked to do even that baseline. I mean, that's what I am trying to understand given that the legislative history suggests that we only do that, I mean again, originally. The notion was that was one of those issues also done upon request, not necessarily just always provided in a Commission report.

It's not referred to in 204(a). It only appears in what the President can do. So it's that kind of disconnect, along with, you know, the response that you gave to Commissioner Miller that I was looking for.

And I will close only with, and I'm going to give Don Cameron the artful -- not the runner-up but the absolute artful comment of the entire proceeding in describing this process as a party. And with that, I --

MR. CAMERON: You are absolutely welcome, Commissioner, and it's been a pleasure.

MR. CUNNINGHAM: We'll do that in the brief. I would only caution you as my old law professors used to caution me not to give any weight to legislative histories of versions of a bill that were superseded by other versions.

MR. PIERCE: Ken Pierce, just to add. The one time that's been applied, that provision has been applied as far as I'm aware following something similar to a midterm review was broom corn brooms, which terminated the relief by the President basically because there was retaliation by Mexico.

CHAIRMAN OKUN: Check with my colleagues, have other questions? Seeing none -- Commissioner Koplan.

COMMISSIONER KOPLAN: I just wanted to say, and maybe it's my Massachusetts accent, but I haven't heard the word "artful" I have been hearing "heartfelt".

(Laughter.)

COMMISSIONER KOPLAN: Now maybe that's just a difference of interpretation, but you know, I've been missing that.

No, I have nothing further. Thank you very much.

CHAIRMAN OKUN: Does staff have questions for this panel?

MS. NOREEN: Bonnie Noreen with the Office of Investigation.

Staff has no questions.

CHAIRMAN OKUN: Do counsel for the domestic producers have a questions? I see Mr. Hecht and other counsel all shaking their head no.

Well, very well, then, I want to thank all of you very much for your testimony, for all the answers you have given us, and we will look forward to your post-hearing submissions.

We are going to take a seventh inning stretch here to get ready for panel three, so we will take 15 minutes to let the panels get together.

(Whereupon, a short recess was taken.)

MS. ABBOTT: Madam Chairman, the third panel is seated and all members have been sworn.

(Witnesses sworn.)

CHAIRMAN OKUN: Thank you very much, Madam Secretary, and thank you to all the witnesses for being here. We will go ahead, Mr. Liebowitz, and start with Mr. Knappenberger?

MR. LEIBOWITZ: Yes, that's correct.

MR. KNAPPENBERGER: Thank you. I'm John Knappenberger. I'm Vice President of DURA Automotive

Systems.

DURA Automotive Systems is an automobile supplier, component supplier. We're about $2.4 billion in sales. We were here to testify in a previous hearing, and today my purpose is to help you understand what is important to us in the way of results from a supplier.

DURA competes with suppliers not only based in the U.S. but also in Europe, Asia, the Middle East and Africa. When this tariff hit us last year, it hit is for $10 million, real dollars.

With all that as a backdrop, my message today is a very simple one. After 16 months living with the steel safeguard actions, DURA has seen very little, if any, progress on key supplier measures. All DURA suppliers are measured on four key elements. The first is quality, the second is lead time, the third is delivery performance, and the fourth is price.

Believe me, we know the difference between action and progress. What we did was we went back two years of our records to take a look at all four matrix. Let me tell you where we are with those, and then take a look at the last six months snapshot. Let's begin with quality.

Two years ago we were running at a two percent reject rate. In the last six months we have had a two percent reject rate. Let me draw my conclusion.

Quality of products produced today is very similar to what was produced prior to the steel safeguard action. It should be noted that the overall quality deterioration of the early months of the steel safeguard action has only recently been reversed and we have regained the former position prior to them.

Let me move to two, lead times. Lead times two years ago were six weeks. Now, when I talk about this steel I talk about hot-rolled steel is our primary product we product, hot-rolled steel. This is not elaborate steel. So two years ago we had a six-week lead time. In the last six months it's back to six weeks.

I will tell you during those early days of the steel safeguard we were as high as 12 weeks and we were going to the spot market to make sure we could meet our shipments.

Let me move to item three, delivery performance. Delivery performance is stated within the lead times. The capability of a supplier to deliver either from an FOB point, that is freight outbound from the supplier's dock if the contract is that way, or X-works if it's from our -- if it's through the purchase order on our dock, two years ago, two years ago the on-time delivery performance was 65 percent on-time delivery performance. Today, that is, within the last six months it's improved to 75 percent, certainly not a sterling performance when one shipment out of four is late.

Pricing, pricing on hot-rolled contracted purchased steel, this not spot market, contracted, at the peak pricing in 2003, we have a 30 percent increase. Today, we are 12 percent below, that is, it's dropped 12 percent off that peak price. DURA is significantly disadvantaged in steel and the buy we have over other suppliers is not subjected to this.

Let me give you my overall conclusion. In all four areas that we measured suppliers, not just steel, but any suppliers, there has been little or no improvement in the last 15 months.

I'll go back to my point. We're very good at measuring action. We understand that. But I've got to tell you I need results. I don't see them.

I was interested in listening today at all the action that's taken place. I would only hope that you would inquiry many users of this steel industry the results, not just the actions.

Now, we have a saying at work, believe me, you cannot just rearrange the deck chairs on the Titanic. You have got to know where the icebergs are and the problems. You have got to steer around them.

The steel safeguard action was provided, was to provide time for improvements. Customers like DURA have suppliers who -- we have suppliers who can and will provide quality products on time with industry required lead times at global pricing.

Steel safeguard action has increased steel pricing, and in our minds with little or no effect on the results that we have to live with and deal with every day.

I would ask you to understand, take this into account, and the same kind of matrix into account from other steel-consuming customers. Thank you for your patience.

CHAIRMAN OKUN: Thank you very much for your testimony, and I understand that you need to go to leave to the plane, so I'll let you go.

MR. LEIBOWITZ: Madam Chairman, with your permission, Mr. Knappenberger does have to leave.

MR. DORN: Good evening, Madam Chairman. My name is Joe Dorn. I'm with King & Spalding. I am here tonight on behalf of AK Steel, California Steel, and Duferco Farrell.

These three domestic steel producers employ almost 12,000 workers in their U.S. steel plants. They shipped almost 9 million short tons of finished steel products in 2002. They are part of the domestic flat products industry as defined in the Section 201 investigation.

California Steel and Duferco Farrell have no hot ends and are entirely dependent on purchased slabs as their essential raw material. AK Steel must purchase intersticial free slabs to utilize all of its rolling and finishing capacity to make special grades of high-quality sheet used primarily for exteriors of automobiles and appliances.

Together these three companies imported over 3.7 million short tons of stabs during the first year of Section 201 relief.

To begin with, our clients are very grateful to the Commission for recommending a TRQ rather than a straight tariff on slab imports. A straight tariff would have been a serious blow to these companies and their employees who rely on slab imports as an essential raw material for their production of finished flat products.

As explained in our pre-hearing brief, however, the cost of the TRQ far outweighs any benefits to the domestic flat products industry. As Mr. Miller of Duferco Farrell will explain, the TRQ has caused a substantial increase in the price of slab.

If domestic producers sold a lot of slab into the merchant market, then the price increase might be viewed as a benefit to the industry. As you found in the Section 201 investigation, however, domestic producers typically do not sell slab. Their business model is to roll all of the slab into finished steel products. The only exception was Geneva Steel, which is no longer in business.

Even when Geneva was operating, commercial slab shipments were less than one percent of domestic slab production.

For every ton of slabs that is sporadically sold by the domestic flat products industry over 20 tons are purchased as a raw material to make flat-rolled products.

Given this ratio of the industry's slab sales to slab purchase, any boost in slab prices from the TRQ necessarily represents a substantial net cost to the U.S. industry. As a result, the slab TRQ does not facilitate adjustment to import competition, it makes that adjustment more difficult.

For companies that rely on unrestricted access to slabs, the TRQ increases their cost of goods sold and exposes their business model to additional risk.

Bob Miller will now discuss the impacts of the TRQ on Duferco Farrell.

MR. MILLER: Good evening. My name is Bob Miller. I am the Chief Financial Officer of the Duferco Farrell Corporation, and I also serve as the company's treasurer, a position I have held since 1999. From 1995 to 1998, I worked for Caparo Steel, the previous owner of the mill.

Duferco Farrell is a U.S. producer of carbon steel flat products located in Farrell, Pennsylvania. We ship about 1.2 million tons of flat-rolled steel products per year. Duferco Farrell has no hot end and would not exist were it not for slab imports. We require over one million tons of slab imports every year to produce hot-rolled and cold-rolled steel products.

The slab TRQ has restricted our access to imported slabs and caused substantial harm to our business. We buy slabs because it makes economic sense. Duferco purchased the rolling mills assets at the former Sharon Steel Works from Caparo Steel in 1999. It did not purchase Caparo's gutted EAF facility or the land on which it sat. Caparo could not make the equipment work efficiently and neither could we.

The mini-mills that have entered the flat products market have done so using a continuous thin slab casting process that requires the melt shop to be located next to the hot strip mill. This is the competitive standard because it allows the hot slabs to immediately enter the hot strip mill and avoids the expense of reheating cold slabs in a furnace. This type of configuration at the Farrell works is impossible. The land and plant location will not permit it. So we adjusted.

We developed a business plan that was based on purchasing imported slabs as the essential raw material for Duferco's hot strip mill. We invested $100 million in our facility and hired over 500 people to run it. These investments were predicated on the availability of imported slabs.

The TRQ on slab has hurt our operations. It has made it more difficult and costly for Duferco Farrell to compete with imported flat-rolled products and reduced our profitability.

First, even though the TRQ threshold was not exceeded in the first year of relief, we were not able to import all of the slabs we needed from our affiliate in Belgium because the in-quota amount allocated to the EU was quite small, fewer than three boat loads. The EU's allocation filled up during the first year.

In addition, we were forced to increase our purchases of slab from Mexico because we could not get slab at a reasonable price from one of our traditional suppliers in Russia.

Second, the TRQ increased the cost of imported slab. Foreign suppliers in Russia, Brazil and Mexico used the slab TRQ to orchestrate an artificial spike in demand and an artificial spike in slab import prices. When the slab TRQ was imposed at the end of March 2002, the landed duty-paid value of slab imports immediately increased from $156 per ton during January to March of 2002 to $176 per ton during April to June of 2002.

As shown in the bar graph attached to my statement, the unit value continued to increase every quarter thereafter. It jumped from $156 during the first quarter of 2002 to $237 during the first quarter of 2003, an increase of 52 percent.

Slab importers started buying as much slab as they could early in the year in order to avoid paying higher tariffs on above quota imports toward the end of the year. Increased working capital was required to build up this inventory. The increased costs and difficulty in obtaining imported slabs negatively affected our profitability.

The slab TRQ has also affected our adjustment efforts. Because it has increased our costs dramatically, we have not been able to invest retained earnings in new productive assets. In order to complete adjustment measures in the future, Duferco must have unrestricted access to slabs. If the slab TRQ is continued, we anticipate that our employment, profitability, and competitiveness with foreign suppliers for flat-rolled steel will decrease.

What really bothers me about all this is that the risk and uncertainty resulting from the slab TRQ harms mills like Duferco Farrell that have already begun the adjustment process. It also harms other mills that at one time or another must import slab to feed their rolling facilities.

The only domestic companies that benefit from the slab TRQ are the mini-mills. Companies such as Nucor and Steel Dynamics do not purchase slab. Their raw materials are mainly steel scrap, pig iron and DRI which they import in large quantities.

The TRQ facilitates the ability of the mini-mills to compete more effectively with their domestic competition, not their import competition.

Ironically, the biggest winners in all of this are probably the foreign slab suppliers. For companies like CST and Imexsa, the TRQ has been a bonanza. They have been able to raise their prices and profits at our expense.

I thought relief under Section 201 was supposed to help domestic steel mills. I suppose that can be said of the tariffs imposed on flat-roll products like cold-rolled and galvanized, but it sure can't be said said of the TRQ on slab. Terminating the slab TRQ will help the domestic flat products industry, not hurt it.

At my company, for example, we will be able to import slab at lower cost, hold less slab inventory, and increase our margins on all slab products.

When the President issued his proclamation a year ago last March, he said he would reduce, modify or termination the action taken if it did not provide greater economic and social benefits than costs. From where I sit the slab TRQ imposes far greater costs than benefits on the domestic flat products industry.

Please make that clear to the President. Thank you.

CHAIRMAN OKUN: Thank you.

MR. LEIBOWITZ: Good evening, Madam Chairman, members of the Commission. I am Lewis Leibowitz. We will have a panel of consuming industry representatives before you tonight to talk about their views concerning the adjustment of the steel industry, the global competition. I am Lewis Leibowitz, of course, and I represent CITAC's steel task force.

We are not here to rehash the testimony in the 332 investigation you will be pleased to know, but as we will explain, that information on that record is clearly relevant to this proceeding.

Manufacturing by steel-consuming industries in the United States is seriously threatened, and you will hear elaboration of that by our other panelists.

The statute requires the Commission to monitor developments with respect to the domestic industry and to report those developments to the President in the midpoint review report. The threat to flat-rolled steel producers' customer base is clearly a development with respect to the industry making flat-rolled steel products.

The President must get the report and then decide whether changed economic circumstances impair the effectiveness of the remedy.

And there are several causes for the crisis in manufacturing. For purposes of this proceeding, the causes are not important. The fact of the continuing decline of the steel industry customers base is that development with respect to the industry. There are very few of these factors that can easily be remedied. The steel safeguard measures is such a factor. It can be remedied by the President by the stroke of a pen.

Now, we also think that the damage to steel-consuming industries impairs the effectiveness of the remedy for obvious reasons. The ability of steel producers to compete in the absence of the safeguard measures will be impaired by the loss of many viable steel consumers, a loss that will get worse the longer these tariffs remain in effect.

A major adjustment of the steel industry consolidation is irrevocably in the process we've heard. Other adjustments will require greater attention to efficiency, customer service, and quality control. We believe the tariffs won't aid in these adjustments. Indeed, they will inhibit them.

Now, our next panelist will be Bill Gaskin, President of the Precision Metalforming Association.

MR. GASKIN: Good evening.

PMA is the trade association of metalforming companies in North America. Metalforming companies account for a large percentage of the flat-roll purchased in the U.S. market.

There are two realities in the steel marketplace in the United States. First, United States steel producers do not produce enough steel to satisfy domestic demand. This market needs 20 to 30 million tons of steel imports every year, and if our manufacturing economy recovers, it may need even more imports to keep up with demand, especially on a cost-effective basis.

Second, steel is not a fungible commodity. Metalforming companies require steel of a particular grade with a specific chemistry and mechanical properties. Certain high performance steels are not produced in the U.S. Also, uniformity in the quality of steel is critical from coil to coil. If metalforming companies do not get this reliability, then they cannot use the steel cost effectively. In other words, steel is not just steel. It is a complex, highly individual product.

Imports from India, for example, may not be able to replace imports from Europe. The displacement of imports from sources that our customers require is a critical concern to our industry.

There are two other basic points I would like to emphasize. The first is that flat-rolled steel producers in the United States have already adjusted such that 18 more months of tariffs are not needed to stimulate additional adjustments. A critical mass of adjustment has been reached and it will continue due to market forces.

The second is that there are several changed economic circumstances which militate in favor of termination of tariff relief. Flat-rolled steel producers have adjusted through consolidation. Two years ago LTV, National Steel and Bethlehem Steel were independent companies. Today they don't exist.

Two major integrated steel companies, U.S. Steel and ISG, are of world class size and scope. Continuing the tariffs 18 more months is not likely to add to that list. Nucor and other mini-mills are already low-cost producers. They don't need tariffs to be competitive in the global market.

In addition to this significant restructuring through consolidation, steel companies have also adjusted in a number of other significant respects to the realities of global competition. They have reformed their collective bargaining agreements, achieving productivity improvements that were long overdue. They have significantly reduced their legacy costs due to bankruptcy processes. They have removed retired workers from their exclusive dependence on future revenues of steel producers as pension shifted to the guaranty board.

201 process and tariff may have helped them do this politically, but these were inevitable adjustments that the market would have required regardless of tariffs.

The economic downturn and slow recovery have impacted the metal manufacturing industry, which is the primary customer of steel in the United States. Continued erosion of the steel industry's customer base due to plant closing and the shift of work to China and other low-cost countries will continue.

We believe these are all developments with respect to the steel industry and should be addressed in the Commission's midpoint review. Thank you.

MR. ZAWACKI: Good evening, Madam Chairman and Commissioners. My name is Jim Zawacki. I am Chairman of GR Spring and Stamping located in Grand Rapids, Michigan. I am also currently serving as chairman of the Precision Metal Association which represents over 1300 companies in the United States. My theme this year as the chair of PMA is manufacturing is vital to our economy.

The United States manufacturing does not need subsidies to be competitive. The steel tariffs, unfortunately, subsidize steel companies. Most U.S. steel producers falls short of being globally competitive, and they do not respond adequately to customer needs.

GR Spring and Stamping is an example. My company employees 220 workers in custom manufacture of progressive dye metal stamping, slide stamping, wire forms, and value-added assemblies. Our customer base is 90 percent automotive, five percent appliance, and five percent other, which includes office furniture.

The imposition of steel tariffs have hurt us financially and in lost jobs. The tariffs have created uncertainty in supply, and price of steel we need. They have also cost us significant business and placed us in a price/cost squeeze with our customers and GR S&S is not alone.

Average profitability in the metalforming industry is less than two percent in 2002 with rising debt-to-equity ratio, and nearly 30 percent of the companies have reported losses. Since the imposition of the steel tariffs in March of 2002, tool shops have been closing at a rate of one a week, and five stamping companies have closed in west Michigan alone. The crisis in metal stamping also impacts tool and dye makers as the Commission reported in Investigation No. 332, reference tool, dyes, industrial molds, competitive conditions in the United States, October 2002.

For example, Progressive Automation closed their door in May of 2001.

We have just completed the list of metal companies that have either gone out of business or declared bankruptcy in the last year, which is attached to my testimony. I emphasize that this is only a small sample based on auction notices that my company and one other PMA member have received. If there is a way to develop a comprehensive list of these companies that have gone out of business, the list would be considerably longer.

The loss of significant portion of domestic steel industry customers base as a result of steel tariffs will make it all the more difficult for the domestic steel industry to achieve global competitiveness.

In this respects, the steel tariffs have been counterproductive and will continue to be counterproductive as long as they remain in effect.

Manufacturing in this country is as in as much trouble as it has been since the end of World War II. I am scared for our 220 employees, their families, my six children and grandchildren. The tariffs make a bad situation worse, which will not help the steel companies. We can't wait 18 months for relief.

Thank you for allowing to testify.

MR. CANN: Thank you. My name is Dale Cann, and until recently I was the president and owner of Nesco Container Corp, which is a new steel drum manufacturer in Fenton, Missouri. Because of the tariffs, I lost my company. I am out of business today because of the steel producers and their failure to respond to my needs.

The steel industry lacking its response, eroding the customer base, and the market -- and the domestic market steel consumers shrinking because of the steel industry's jobs will go offshore and customers will revert to other items.

Eroding the customer base will weaken the steel industry, enabling them to compete internationally. Based upon my experience, however, the industry does not seem to understand this point.

You have to excuse me. I have made many changes in my statements here.

For years, I bought all of my cold-rolled steel exclusively from domestic mills. Over time I became disappointed in the quality of the steel that I had purchased as well as the domestic mills' failure to deliver material to me on a timely fashion.

Given these problems with the domestic mills, I began exploring other options. In 1999, I began purchasing steel from Korea. I was amazed at the difference in the quality of the steel in comparison to the domestic mills.

My company became more reliable, higher quality of steel drums even though the Korean steel was more expensive. I was upset with the response that I received from the domestic mills and the response I received from the Korean mills was entirely different in regard to the quality of their material. The drums I produced, I had less problems with the equipment as well as with the end product. End result, the Koreans still became much better than the domestic.

The steel safeguard tariffs changed all that. The 30 percent tariffs on the cold roll combined with the pending antidumping cases made it impossible for me to effectively acquire the Korean material. My former company applied for a product exemption but two domestic mills objected to the exemption. The mills opposed me and I was not able to get my exemption.

The end result was that I was setting with a lack of raw materials which in turn caused me to lose my company and 29 years of my life.

I ask you to please consider this as you are making your decision that 18 more months of what we have now is only going to make it harder on other people such as myself. Thank you for your time.

CHAIRMAN OKUN: Thank you.

MR. WILKEY: Thank you, Madam Chairman and Commissioners. I admire your stamina for being able to pay such great attention to so many testimonies.

Anyway, I am very passionate about this issue because it goes right to the heart of our company. We make products, a lot of product for a lot of companies, and steel is the heart -- the blood of our company. It's very, very critical to our survival.

I founded Fisher-Barton, our company, almost 30 years ago. As a matter of fact, in October I have been in business for 30 years completely, and we have grown to a 550-person shop, and you know, the fact that we might go out business is a moral issue. It's a moral issue. I've got a whole lot of people that I have committed to. They have committed to me, and I don't want this to happen. I don't want this to go away.

Frankly, we can compete with anybody in the world. All we need is a level playing field. Today the field is tilted to offshore steel tariffs -- because of the offshore steel tariffs, but there are a couple undesirable ramifications.

The first is that jobs move offshore, and the second is that inefficiencies in the steel industry will just continue. Continuation of the tariffs will not solve the problem of our steel companies. On the contrary, it only exacerbates the problem.

I think it is incredible that a steel firm could argue with a straight face that the continuation of tariffs are going to be necessary to attract capital investment. The fact is it's illogical to assume that any lender would do that on a long-term investment for 18 months of tariffs.

You want me to just shut up.

(Laughter.)

The red light is on.

CHAIRMAN OKUN: I was just checking. If you are just ready to wrap up, what's your last point?

MR. WILKEY: Okay, I have only got a couple of points to make.

We have got to keep in mind why we came here in the first place. Remember when this tariff was put into place we had very high value of the dollar. Today the dollar is down 25 - 30 percent from what it was. We're still taking about inefficiencies in the steel industry, legacy costs. Those are going away because of bankruptcies. Those things, the bankruptcies were here when we started this parade.

Efficiency is critical. Today -- 10 or 15 years ago we made lawn mower blades, we make 1500 different lawn mower blades. Ten or 15 years ago we made them, we took us four or five weeks to get a lawn mower blade out. Today we do it in two hours. We do it, and we do it in the smaller quantities, we deliver it right to our customers' production line, it's got to be there, it's got to be right, it's got to be on time, and it's got to be at the right price.

I mean, it's just something that we had to do because we had to listen to our customers in order to get this pricing down to where we needed to be. Otherwise, we wouldn't be in business.

Anyway, the continuation of tariffs are going to be disastrous for all of us. You know, 40 cents of every dollar that I get I have to give to a steel company. Now, if you increase the cost, it's just going to go crazy. We're going to go out business, 550 people.

Thank you very much.

CHAIRMAN OKUN: Thank you for your testimony. Thank you to all the witnesses. I believe that completes the testimony of this panel.

MR. LEIBOWITZ: And thank you, Madam Chairman, members of the Commission, for your indulgence for a couple of extra minutes.

CHAIRMAN OKUN: That's fine.

I do just again want to thank all of you again for being with us tonight. We know the hour is late, but we do want to receive your testimony and have the opportunity to ask some questions.

And Commissioner Koplan will begin those questions this evening.

COMMISSIONER KOPLAN: Thank you, Madam Chairman. I too want to thank the witnesses for their testimony.

Before I start the questioning, I would just comment, Mr. Cann, that I appreciate very much your coming from Missouri to share with us your personal experience. And although I don't have any questions of you, I thank you for your testimony.

If I could turn to you, Mr. Miller, because you're the witness for AK, California Steel Industries and Duferco all rolled into one, so I would like to ask you some questions with regard to slab if I could.

Earlier this afternoon I asked domestic producers to respond to arguments that are made in your pre-hearing brief at pages 2 and 3 regarding the negative impact that the slab TRQ is alleged to have had on your companies. In response to your claim that the TRQ has not resulted in any investments to increase the output, and I'm quoting, "the output of slabs for the merchant market," both ISG and U.S. Steel testified that they are willing and able to meet your slab needs, but that in their view you have not expressed great interest in purchasing slab from them.

I would like you to respond. Can you

provide documentation or communications supporting your belief that you cannot purchase needed slab domestically?

I heard them say this morning that they are ready, willing and able to satisfy your needs. What is your response?

MR. MILLER: I think my initial response would be the answer is yes, we have purchased slabs from both ISG and from U.S. Steel.

COMMISSIONER KOPLAN: When was that?

MR. MILLER: Within the last six months.

COMMISSIONER KOPLAN: Within the last six months.

MR. MILLER: And as recently as last week.

COMMISSIONER KOPLAN: Last week.

MR. MILLER: Yes, but I think I need to explain the issues surrounding that a little further.

COMMISSIONER KOPLAN: Sure. But let me just before you do that, can you submit the documentation and any communications back and forth that relate to those purchases for the record?

MR. MILLER: We can do that.

COMMISSIONER KOPLAN: You can do that as business proprietary if you so desire, but I would like to get the backup on that. Go ahead.

MR. MILLER: That will not be a problem.

COMMISSIONER KOPLAN: Yes, go ahead.

MR. MILLER: As a slab reroller, there is a lot of development that goes into rolling practices when you're relying on purchasing slab as your raw material. It's a little bit different than the process of being able to make your own steel and then roll it into a coil.

In our case, we tend to look for a reliable slab supplier, somebody that's in it for the long haul, somebody that can provide to us the adequate volumes that are needed to make our product.

COMMISSIONER KOPLAN: Okay, now, they said they are in it for the long haul.

MR. MILLER: Okay. I would seriously disagree with that. I think we have years and years of history that supports the fact that the integrated mills do not make slab to sell slab. They make slab to reroll them into a coil.

If you look at the current market with the depressed pricing that's out there, we're actually in a situation where, and I'm going to use my company as an example, we're in a position where we would rather not take hot-rolled coil orders because there is just not enough spread between the costs involved with the slab and the selling prices of the hot-roll coils right now.

I guess the integrated mills are in the same position. I can guarantee you one thing. As soon as we see rising prices with hot-roll coils in the marketplace, they will want to take those slabs, and they will want to convert them into a coil. It's as simple as that, and I think all the years of history supports that.

COMMISSIONER KOPLAN: Thank you for that response.

Now, as a follow up, in response to your claim that the slab TRQ has negatively affected your ability to adjust by driving up prices to slab even though slab imports have not exceeded the TRQ. Domestic producers testified that any increases in slab prices are reflective of an overall increase in world steel prices and not due to the TRQ.

Could you respond to that?

MR. MILLER: Yes, I think the analysis needs to be done as it was also brought up earlier. There is a relationship to hot-coil selling prices and slab prices. Slab prices tend to lag.

If you look at the analysis, slab prices have gone up higher since the TRQ was put in place than selling prices in the marketplace. I think when we look at that there has to be some effect of the TRQ on slab prices other than just the ebbing and flowing of the marketplace out there in the world slab market.

COMMISSIONER KOPLAN: Okay, thank you for that response.

And I'm not going to miss you, Mr. Dorn. I just have one last one.

You argue on page 19 of the pre-hearing brief that, and I quote, "Early termination of the slab TRQ would not adversely affect any domestic producer of carbon steel flat products." Your reasoning is, and I quote, "Domestic producers typically do not sell slab." And you note that, "During the Section 201 investing only one company, Geneva Steel, complained that it had lost sales of slab to slab imports, and that Geneva is no longer in operation."

Yet domestic producers testified earlier today that the TRQ implicitly benefits them because slab is an upstream product for what they do sell in the market, and it is a result, improvements in slab will assist in improving downstream products.

In light of this, I would like to hear your comments about why lifting the TRQ would not adversely affect any domestic producer.

MR. MILLER: I think, first of all, it would be any domestic producer other than the mini-mills because the domestic producers also from time to time utilize slabs and they from time to time imports slabs as well.

So the TRQ on slabs has just raised the prices from the standpoint of reducing the overall competition on the world slab market. As you are aware, the Russian allocation and the Brazilian allocation took up pretty much most of the TRQ. Companies like the Ukraine, for example, were kind of left out with small quantities and their effect of being able to compete for the slabs that we need was reduced in the marketplace.

I think the big slab producers in the world use this as leverage to drive the prices up.

COMMISSIONER KOPLAN: Thank you. I appreciate your responses to my questions, and I look forward to receiving documentation from you as to those purchases that you did make, and the period I am particularly interested in is the period since the relief went into effect. Okay, that's March 20th of 2002 to present, which would include the six-month period you were talking about when you did make some purchases, and any other purchases that you have made, you know, from them during that period of time. Is that clear, though? And you will submit that for the record?

MR. MILLER: I will.

COMMISSIONER KOPLAN: Thank you very much.

Now, Mr. Dorn.

MR. DORN: If I may just add a few supplementary comments, Commissioner.

COMMISSIONER KOPLAN: I thought you might want to do that.

MR. DORN: We are not denying that ISG and U.S. Steel have sold very small quantities of slab in this recent period of very weak demand. It's an anomalous situation. If you if you look at it in an historical perspective, there have been other periods where there has been very weak demand for finished products where integrated mills have made some slab available in small quantities for short periods of time, and that is happening right now. We do not deny that.

But I would ask the Commission to look at the production of slab by ISG and U.S. Steel, and look at the percentage of their overall slab production, which has been sold -- is being sold in the merchant market, and as a negligible fraction, and the quantities that Duferco Farrell have purchased from these suppliers is a very small fraction of its slab needs.

Mr. Ross has stated that no one would build a furnace to sell slabs. That's not the business model for integrated producers. The business model is to internally consume all of your slabs, and the fact that you would have to sell some slabs is an indication that demand is very weak for your finished products, which is the purpose you build the mill to begin with.

Also, I would point out that Mr. Dorrance admitted that U.S. Steel is not a regular supplier of slab. He mentioned that in response to a question this afternoon.

COMMISSIONER KOPLAN: But they both said they would be happy to sit down with your clients and try to work out to satisfy their needs.

MR. DORN: And our --

COMMISSIONER KOPLAN: They said they were ready, willing and able to do that.

MR. DORN: Yes, and our clients are certainly willing to do that as well. I would point out that when we were here two years ago Geneva Steel said that it was going to take care of our clients' slab needs going forward, and of course that didn't happen.

COMMISSIONER KOPLAN: Thank you for that. I won't keep pushing you on it, but I --

CHAIRMAN OKUN: Because your red light is on.

COMMISSIONER KOPLAN: Oh, no. But I didn't realize from your brief that your client had purchased from them during this period until I asked. So thank you. Nothing further.

CHAIRMAN OKUN: You know, it's late. Well, I guess let me just continue with a couple of questions on slabs just to help me understand how the TRQ is working, and I'm probably going to have to, Mr. Dorn, ask you to just remind me again exactly how they ended up setting it up because I think in Mr. Miller's testimony one of the complaints was that you weren't able to import all the slabs you needed from your affiliate in Belgium because of the quota allocated to EU was quite small.

They did, I mean, if I remember this correctly, it was a historical allocation for the EU, for all the -- for the countries; is that accurate? I mean, was that based on your -- is that accurate? I'm just trying to figure out how the allocations worked.

MR. DORN: Well, the allocation was based on, I think, a share of sales for either 2000 or 2001, I can't remember which. The European Union was allocated 165,000 short tons based on the allocation. Seventy-five percent of the allocation went to Brazil and Russia.

CHAIRMAN OKUN: Okay. And your suppliers were Russia and Belgium traditionally, Mr. Miller?

MR. MILLER: Traditionally, Russia has been the largest supplier.

CHAIRMAN OKUN: Okay, and it was Russia who you were unable to, according to your testimony, unable to get your --

MR. MILLER: At the quantities we were used to purchasing, yes, that's correct.

CHAIRMAN OKUN: And the price that you had -- okay.

Well, one thing with regard to the TRQs, and of course it's come up in other cases is just trying to understand what's going on, that you noted kind of the rush to sale, and I'm just trying to understand because I don't think, although at this point I have seen an update, I may have missed it. I don't think we have the quarterly data for slab imports.

You have provided a 2002 chart, but if I look at that I don't see -- I mean, it doesn't seem like the quota was -- it looks like, you know, quarter one, two-one, and then, you know, a little bit down in quarter two, and then quarter three, and quarter four not that different.

I'm just trying to understanding. Is this -- do you think this is an issue where you really did have the TRQ not working properly or just it was with regard to your historical suppliers where you had problems as opposed to the TRQ as a whole?

MR. MILLER: I don't think the TRQ was working properly.

CHAIRMAN OKUN: Because for you your traditional suppliers filled their quota as opposed to the -- because the quota obviously hasn't been filled for the whole TRQ for any of these years.

MR. MILLER: Yes, that's correct, and there is a couple of reasons for that, first of all.

I think with the uncertainty that surrounded the 201 investigation there was an increased effort to purchase slab in the domestic marketplace up to the point in time that the relief began, so that reduced the overall level of purchases throughout the first TRQ year.

I think that, coupled with just the fact that there was low demand in the marketplace, which resulted in the comparison between the quota level and the actuals being less. We don't think that's going to be the case in year two of the quota.

CHAIRMAN OKUN: You don't think that's going to be the case?

MR. MILLER: We do not think that's going to be the case because any increase in the market is going to drive people back out into the slab purchasing mode.

Also, there is some information in the marketplace, in particular with Oregon Steel Mills, they have shut down their hot end, and they are resorting to a slab buying position. This could increase their purchases from year to year somewhere close to half a million tons.

There is also restructuring efforts going on in the marketplace. If you will recall, Wheeling Pittsburgh testified last year that they wanted to take out their hot end and put a new EAF furnace in, and supplement their rollings with imported slab, and then who knows what other restructuring is going on in the market right now as well.

CHAIRMAN OKUN: Okay. And then, Mr. Dorn, I will put this you because one of the things I wanted you to comment on relates to, you know, our data which is confidential, and that is, with respect to Mr. Miller's testimony about what they were paying for slab, I wanted you to address post-hearing just what you think of the staff report because obviously we have pricing on slab along with the C tables on slab, and it would be slightly different if I look at that versus the tables that are public here.

Is there anything you could comment on publicly?

MR. DORN: Well, I will say that what we did in our pre-hearing brief was attach the excerpts from the 332 purchaser's questionnaire for AK Steel, California Steel and Duferco Farrell. And the purchaser's questionnaire in the 332 investigation was very specific in asking about the impact of the relief on prices paid for various products.

So we have detailed information in the record with respect to the prices paid for slabs before and after the TRQ went into effect, and that is, I think, the best specific pricing information you have with regard to the impact of the TRQ on the slab prices.

CHAIRMAN OKUN: Okay, I appreciate those

further comments. I may have one other one other once I look at this data, but let me turn, if I could, to the consumers, and maybe I will start by going back to you, Mr. Wilkey. I know you were trying to hurry to get through your testimony. But the last two paragraphs in your written testimony went to your asking to comment on the issue of adjustment which is, you know, the focus of our hearing today, and you note in there that you buy exclusively domestic steel, and that's accurate as of today, I guess. If you can just get your microphone, please.

MR. WILKEY: There is a good reason for that, because we make a product that could break and hurt someone. It's a lawn mower blade, and it rotates at about 17,000 feet a minute, and it's been known to come apart. So we can't run off and just buy steel from just anyplace. We have to get steel, we have to find a source that makes what we want, and then test it, retest it, get there, look at their process, you know, delineate precisely how they make their raw materials, where they get them from, and how they are doing it, and it takes a long time for us to change sources.

We have four sources in this country, and all of them are either in bankruptcy or just been purchased out. So it's National and WCI, Rauge, and Bethlehem. Those are the only four people that we could buy the steel from.

Now, we're still getting it, depending on what happens to those companies, so it's a critical issue for me just to maintain a steel source. But maintaining a steel source, I've got to have a steel source that's at a competitive price. You know, our products -- I make all the John Deere stuff. If you go into a Home Depot store, you will find all of our lawn mower blades.

Now, Home Depot, if I walk into Home Depot and say I want to increase my prices, they are going to throw me out. There is no option about changing your price. You have to just absorb that. And when this tariff came in our price went from 21 cents a pound to 28 cents a pound, seven cents, a three-pound blade, 21 cents. I don't make that kind of money. I have never made, if you look in my testimony from the 332, and we have never had a five percent, more than a five percent before tax profit. We have to pay taxes on it. So we get a couple of cents on a dollar, and when we are giving away seven cents of a dollar essentially for steel prices, we're losing money.

CHAIRMAN OKUN: Okay. Well, one of the

things i was interesting in having you comment on more was, you know, not the prices at which I have heard in your 332 testimony, but the other points that you make in here saying that, I guess, in your impression the steel companies aren't adjusting to import competition because they have not offered better products, not provided more consistent quality, and not become more responsive to their customers' needs.

And I wondered if there was anything specific you could talk about there. I mean, is there something specific you have been trying to get from --

MR. WILKEY: Yes.

CHAIRMAN OKUN: -- the domestic producers that you are not --

MR. MILLER: We are trying to find new sources. We're looking at our sources, they are all in bankruptcy. Well, we're looking for somebody that's not in bankruptcy that can provide the quality we need, and we have not been successful in finding one.

We did get one shipment of steel from Nucor that met our standards, but it was only one out of two, and so we haven't approved them yet as a long-term source.

I'm hopeful that Nucor will be able to get to the standards that we need for our products, but so far today we have yet to find another source other than the four I mentioned that have the capability of getting good steel.

And if you notice, all four of those are integrated companies, and typically the products that we have come out of a blast furnace.

CHAIRMAN OKUN: Okay.

MR. MILLER: Rather than a Volkswagen or an Oldsmobile that was melted into our products.

CHAIRMAN OKUN: Okay. And then just if I could quickly, the other thing that you had commented on in your written testimony was talking about management, and I believe labor issues, and I wondered if you could comment at all on your impression, I mean, having heard, if you were able to hear what Mr. Gerard and the Steelworkers testified to in terms of what their new agreements do, whether you would see that addressing the plight you have seen related to the management issue, you know, some of the things they talk about in terms of cost cutting and innovative approaches to labor/management collective bargaining agreements.

MR. WILKEY: If I was Mr. Gerard, I would have been absolutely totally mortified to suggest what he suggested. That is so antiquated. He is going to --

CHAIRMAN OKUN: More specific for me, Mr. Wilkey. What part?

MR. WILKEY: Management, management and labor are going to talk. What a concept? If we wouldn't be doing that, you know, he said we're getting e-mails. We get e-mails on suggestions. This guy has had 30 implemented suggestions from every employee the last year.

CHAIRMAN OKUN: And who are you referring to here? MR. WILKEY: Jim Zawacki.

CHAIRMAN OKUN: Okay, my red light has come on. I will have a chance to ask the other folks on this front row here about that as well and to go back to you, Mr. Wilkey, but let me turn to Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Thank you and I would join my colleagues in thanking you for being here and for your tremendous patience in making it all the way until nearly 9:00 in the evening. We very much appreciate it.

Mr. Miller I guess if I can start with you, I just want to make sure I understand your testimony in terms of this issue of the TRQ or perhaps, Mr.

Dorn, for you.

I just wanted to make sure I understood the answers to the chairman.

The TRQ was allocated according to historical shares, correct? So in trying to purchase product from Europe, were you switching? Were you changing your sourcing or basically others were purchasing more from Europe than had been purchased in the past? I'm trying to understand why their allocation wasn't sufficient.

MR. MILLER: We have made purchases from Europe, particularly our Belgian affiliate, in the past.

VICE CHAIRMAN HILLMAN: And, again, if you had done it in the past, presumably that would have been covered in the allocation because the allocation would have been higher as a result of your historical purchases. So --

MR. MILLER: That's correct. I think there were other entrances into the European market that chewed up the EU allocation that we didn't get to.

VICE CHAIRMAN HILLMAN: Okay. I understand now.

Are there other countries whose allocation was fully utilized?

MR. DORN: I believe Australia's was fully utilized.

VICE CHAIRMAN HILLMAN: But not Russia?

MR. DORN: But not Russia.

VICE CHAIRMAN HILLMAN: And yet you testified that you were not able to get product from Russia. Correct? You said you had been sourcing, Mr. Miller, from Russia but you were not able to get product from Russia?

MR. MILLER: Yes. And I think that would be more recent purchases from Russia.

VICE CHAIRMAN HILLMAN: But if the TRQ was not fully utilized for Russia, the allocation for Russia was not utilized, I'm trying to understand why it is that you were not able to get product from Russia.

MR. MILLER: I think because of price. The price is now too high.

VICE CHAIRMAN HILLMAN: Okay. It's price. I'm sorry. I had heard it as a quota problem. Okay. All right. I understand that.

And then I guess the last question for you, Mr. Miller, you had commented on the issue of the 201 relief and its effect. Just so I understand, has your flat rolled production, your output as opposed to your slab input, has your output of product been positively affected by the 201 relief? Presumably you're selling hot rolled products or cold rolled products, I'm not sure exactly what products you're selling downstream products from slab.

MR. MILLER: Right.

VICE CHAIRMAN HILLMAN: How's that end of your business?

MR. MILLER: Certainly we did see a benefit in our business from the tariffs that are in place on our finished goods which raised selling prices. We did get a benefit from that. I guess our position, though, is the full benefit we were unable to realize because of extra cost that the quota affected our raw material and that would be slab. So we didn't receive the full benefit of the tariff.

VICE CHAIRMAN HILLMAN: Okay. I appreciate that answer.

I guess if I could come forward to the consuming side. If I can start and make sure I understand for each of you what steel products you're using primarily, just so I understand it terms of looking at some of the data. I realize you've all touched on it a little bit, but I want to make sure I understand it.

Maybe, Mr. Wilkey, I can start back there with you. What is the nature of the steel product that's going into these lawnmower blades?

Just for the reporter, you have to use a microphone.

MR. WILKEY: It's a medium carbon steel, strip steel.

VICE CHAIRMAN HILLMAN: Strip steel?

MR. WILKEY: It's hot rolled and we buy products that are typically two and a half inches wide, we buy it in a big coil.

VICE CHAIRMAN HILLMAN: Okay.

CHAIRMAN OKUN: I'm having trouble hearing him, Commissioner.

MR. WILKEY: Excuse me. We buy hot rolled, medium carbon steel that's heat treatable. All of our product is heat treated and so we need the carbon for that purpose. It's typically slit, it's rolled in wide bands and then slit down to, say, two and a half inches wide or three inches wide, whatever we need. And then we fabricate that into a lawnmower blade. And we make a lot of stuff -- other than lawnmower blades, we make a lot of stuff for agricultural companies, but it's usually the same kind of product. Everything we do gets heat treated. That means it's got at least a medium carbon content to it.

VICE CHAIRMAN HILLMAN: Okay. I appreciate that.

Mr. Gaskin?

MR. GASKIN: Of course, I represent the trade association, so our members buy cold rolled, hot rolled, all sorts of chemistries, all sorts of formulations, so it's across the gamut.

VICE CHAIRMAN HILLMAN: In largely flat rolled products?

MR. GASKIN: All flat rolled. Primarily.

VICE CHAIRMAN HILLMAN: Mr. Zawacki?

MR. ZAWACKI: Yes. Cold rolled, hot rolled, up to 36-inch width coils. We buy all domestic, always have. We couldn't file for any exclusions because we use so much steel, we're not a high volume as such, and the first question they ask is can it be made in the United States? Well, we buy it in the United States.

VICE CHAIRMAN HILLMAN: Okay. Okay.

Mr. Cann?

MR. CANN: Yes. I purchase only cold rolled material, a variety of different gauges, a variety of different widths and that was the material that we purchased.

VICE CHAIRMAN HILLMAN: Obviously one of the things that we've got to look at in our report is the economic conditions for the flat rolled industry and we've obviously heard a lot of testimony about the degree to which prices went up pretty significantly after the 201 duties, but that they've been coming down recently and I guess I just wanted your sense as consumers of what do you see going on in the market in terms of prices for the flat rolled products that you consume and then, secondly, what do you think demand is going to look like going forward for those types of flat rolled products?

Go ahead, Mr. Wilkey, I'll start back there with you, but you need to turn your microphone on. Like I said, for the court reporter's purposes in particular, you need to use the microphone.

MR. WILKEY: After the tariffs were instituted, our price went up 7 cents a pound. They're coming down. Right now, the product that we will use in the month of August and September are 26.5 cents a pound in house. We've committed to that. However, after that, we've got a commitment for 24 cents a pound, which is a significant drop. It's gone from 7 cents up, now only 3 cents up. If it had gone up 3 cents in the first place, I probably wouldn't even be sitting here, but with 7 cents a pound and we've gone on -- 7 cents a pound costs us about $110,000 a month in just extra costs. It's an enormous amount for a small company. But pricing has moderated a bunch. There is no question about it.

VICE CHAIRMAN HILLMAN: Okay. Okay. That's very helpful.

Mr. Zawacki?

MR. ZAWACKI: Our prices went up about 30 plus percent and they're down maybe 15 percent, so it's overall right now, about 15 percent higher than they were in March 2002.

We're still in a recession and that's what's happening to the steel industry the United States. The domestic market is hurting because of goods and services that are being imported but what we've done, every one of my customers has told me that they are -- in fact, my largest customer was in a month ago, a mult-international company, to tell me that they're going to open a buying office in China and you think these imports or stamped assemblies in there hasn't affected the steel companies? They're losing customers. We made a list, I think there's 50 plus names on it just from two of our members that have closed their doors.

Now, it wasn't just the tariffs that did it, was a combination of a lot of things, but by the time we change this, we're just going to lose a whole lot more jobs. It's scary.

Right now, I quote, you know, 220 employees, my material cost is 68 percent and I'm not getting the business and yet I'm being told that they're opening a buying office in China because they want 30 percent reductions in the next three years.

Another one of my appliance manufacturers, I used to do $4 million worth of business, better than 10 percent of what I do, is now buying everything in China. And their only market is in the United States. So they're running away from what happened here and they certified nurse's assistant import the completed assembly or the complete vacuum cleaner or an assembly with virtually no tariff coming into the United States. So the jobs will never come back. And it's going to hurt the steel industry in the long run.

VICE CHAIRMAN HILLMAN: Okay. Mr. Cann?

MR. CANN: Yes. I was purchasing material from Korea, so I was paying the tariff, so I was at better than 27 cents a pound. The domestic material was down around 22 cents a pound, so that put me at a tremendous disadvantage and the result was I was losing money and blew my loan covenants with the bank and that's what caused me to lose the business that I had.

VICE CHAIRMAN HILLMAN: Now, were you purchasing directly from the Koreans or through a trading company?

MR. CANN: Yes. I was purchasing through a trading company in Portland, Oregon.

VICE CHAIRMAN HILLMAN: Okay. Because you testified about the increased responsiveness, in your view, of the Koreans and I'm just trying to understand how that worked, coming through a trading company. Was the trading company handling solely Korean product?

MR. CANN: Yes. What happened was that we started trying some of the Korean steel, actually, a year and a half ago, two years ago now, and there was a tremendous difference in the quality of the material, the consistency. Because before that, I had always purchased domestic material, I didn't know anything else but domestic materials. And, unfortunately for me, I made a business decision and started buying 100 percent from Korea and the tariffs came in and that put me at a tremendous disadvantage and I lost the company.

VICE CHAIRMAN HILLMAN: Okay. Thank you.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: Thank you, Madam Chairman.

Let me also thank all of you for being here and being willing to share your testimony with us and for your long patience during this long day of the hearing.

I want to just follow up on some of the question that Vice Chairman Hillman was just posing to you because you talked a little bit about some of the pricing pressures having moderated recently. You all did talk also about availability problems.

Obviously, Mr. Cann, you did, but your situation at this point, I don't know if you can speak to whether the availability issues have moderated at all as the pricing pressures have somewhat moderated.

MR. CANN: Well, unfortunately for me, April 4th was the last day I was in business, so I can only tell you prior to that that I tried to buy domestic material because of what I was facing with the tariffs and I was not able to get the domestic material. I mean, quite honestly, what occurred was that they said to me, since you haven't been buying from us in the last several months that they were taking care of the customers that had been purchasing from them, so I was caught in a Catch 22 where the only place I could get material was basically on the spot market, service centers and et cetera, and, of course, the material was much higher at that point, so when I had to present my financial statements, et cetera, to my bank and explain to them the circumstances where I had months of material coming from Korea that was much higher because of the tariffs or the alternative was buying from service centers and et cetera wasn't a very good alternative, so in my own particular case I was not able to get material in a timely fashion and the end result means that I simply was out of business.

COMMISSIONER MILLER: Your comments I want to sort of couple with my question about availability, whether you're purchasing from mills or service centers. Now, you've just said you tried to go to the mills, that didn't work, basically you would have had to purchase from the service centers. The product that you buy, you could have purchased from the service center?

MR. CANN: I had no alternative because of the price difference on the Korean steel because of the tariffs, so when I couldn't get it from the mill, then I had no alternative but to try to get some from service centers, which I was able to get some, but I wasn't able to get enough material to keep myself going in order to meet the customer needs, et cetera, so it was a very desperate move to move from a mill that I had consistent material and buying from a service center which simply means that they sell you just whatever it is coming in from whatever mill they get it from. So I did buy some at the very end, but it was just in order to keep the doors open until the plant was actually closed.

COMMISSIONER MILLER: I'll ask Mr. Zawacki and Mr. Wilkey to also respond. And in doing so, just tell me a little bit about your perception of the role of the service centers in this.

MR. ZAWACKI: We buy from both service centers and a mill and you've got to know we went through hell for the first six to eight months last year on availability, longer than 12 weeks. And when you have to go out and buy on a spot market, we were paying more than 30 percent and in my business, being such a high automotive supplier, I can't change the steel mill even though I'm buying from a service center. So you've got to go through the network to find if another service center has that type of steel.

You just can't change steel or the source of steel because of the PPAP and the submittal process that we have to go through. So I would say today, yes, availability is better but, again, it gets back to this demand. I don't think it will ever get back to -- they say this morning that it's a flat market, it's going to stay flat. Automotive is having a hell of a time selling cars. They're going to start giving away washers and dryers with every car pretty soon. The housing market is going down, construction is going down and more and more of my customers are moving overseas. So I would say they're losing -- our counterparts at PMA, we're not going to China or India. It's our customers that are going. And 99 percent of the time they don't ask us to come along.

COMMISSIONER MILLER: Yes, Mr. Gaskin?

MR. GASKIN: On the price issue, industry averages now probably are 15 to 20 percent higher than they were a year ago. One of the myths of the steel industry that I heard this morning is that -- and they have a number of myths, I think, but one of them was that tariffs have stabilized the market and in fact the record is just so clear that tariffs destabilized the steel market in terms of price horribly. A year ago, when tariffs came in, they had already gone up by

15 or 20 percent based on capacity issues with LTV closing and then prices went nuts and quality was lousy and everybody was in trouble, as these guys have already described.

So we had huge price spikes in the summer. Dick Wilkey mentioned his cost of raw material was about 40 percent, Jim's is 68 percent. Industry average is at 37 or 38. So when you have that kind of 15 to 20 percent increases between January and February of '02 based on the market and then another 20 to 30 when the tariff came in last March, you have disruption in the market for six or eight months. It's stabilized now to a degree, but I think that's because of what Schagrin said earlier, the demand in 2000 was 132 million tons. Today, the last two years, it's been 116 million tons. We have a poor economy. In our industry, sales dropped from 2000 by an average of 18 percent to 2001, dead flat in 2002, it stayed 18 percent below the 2000 peak and today we're running just about a percent year to date below. So there's no demand. That's why prices have come down.

If there was demand, if we had any kind of an economic recovery at all in manufacturing, we'd be looking at prices that are crazy.

Mr. Zawacki commented on the 68 percent and he's losing jobs to China, but I'm hearing from the steel industry today that prices in China, elsewhere in the world, are now higher than they are in the United States. He's got 68 percent raw material content in parts that he's losing to China. I mean, there's not that much labor in those parts. That doesn't make sense. That's not what prices really are.

MR. ZAWACKI: Let me just qualify one thing. I just quoted a package which is rather large for us at 68 percent. I don't want to say my average material cost is 68 percent, so it depends on the size of the package, but it was a $5 million package and we don't think we're going to get it.

COMMISSIONER MILLER: Mr. Leibowitz and then Mr. Wilkey.

MR. LEIBOWITZ: Yes. I just wanted to add one thought to this mix. The lack of demand has caused another ripple effect. A lot of companies and a number of our members are in this group. Purchased steel last year when prices were skyrocketing because they weren't sure when they weren't going to get the steel, those companies are still working off that inventory, so their raw material costs are based on steel that they bought last year and they're still using because they bought in anticipation of higher levels of demand than currently exist. So the moderation of prices is more complicated than it sounds at first glance. A lot of companies are still suffering from those high prices.

COMMISSIONER MILLER: Mr. Wilkey, do you want to add anything to my question about availability?

MR. WILKEY: Your conversation about service centers versus the big companies, typically, the integrated guys don't have the slitting facilities that we need. They like to roll it in big rolls, ship to a service center who has the slitters, they have slit it up and ship it to us. So often we deal with the service center, but we know -- we specify which mill that they have to get their product from, so that's essentially what the difference is in our case, the difference between a service center and a mill, it's just the last guy that touches it before we get it.

And what Mr. Leibowitz said is that we're going through that slide now, so we'll have to wait until October before we see the 24 cent a pound material because we have to make these commitments 12 weeks in advance so that the mills roll it, it gets to the service center on time, who will then get it to us on time. So it's a fairly lengthy process even when we know what's going to happen, you're still talking about 3 months.

COMMISSIONER MILLER: Okay. I appreciate those answers. The yellow light went on just as I was going to ask Mr. Miller a question.

I think I'll defer for now and if no one else raises the question I want with you, I'll do it the next time around.

CHAIRMAN OKUN: Commissioner Koplan?

(No audible response.)

CHAIRMAN OKUN: Let me go back, if I could, because I'm not sure if the rest of my question got answered. I think, Mr. Wilkey, you had a chance just to talk about whether there were particular products or different things you were looking for from the domestic industry or you were unable to get and I think I heard your testimony on that and, Mr. Cann, I guess I understand your testimony with regard to that as well.

Mr. Zawacki, is there anything else you want to say in terms of whether you've seen any changes with the domestic industry in terms of product availability or customer responsiveness or anything in particular to your company?

MR. ZAWACKI: Availability has improved in the last six months. As far as service from the mills, there is none, as far as I'm concerned. Improvement in quality, there is none. I remember stories going back -- when I bought the company in 1985, we got very big into the world class movement. Richard Schoenberger wrote some books and got all excited about it. And, of course, our customers were pushing us then, too, and so we invited all our suppliers in. Of course, the big companies, the steel companies, I've only got two types of suppliers, they didn't want to come. They don't need that. It just amazed me today that Dan DiMicco could say we've been doing these practices for 35 years. Well, where the heck have the rest of the guys been not keeping up? There was a book written by Swartzky, Swartzkopf -- help me out here -- but there's a whole chapter on steel that lays it all out why they've lost ground. They haven't got modern technology, they've got poor labor practices, poor management practices, and here Nucor took 30 percent of their business away in 35 years. How? Just the practices he's talked about.

And, of course, Mr. Gerard stands up and says we'll come and visit your plant. Well, they don't want him to because if you look at the things they've given away, it sounds great, but the cost -- there's increases here and there's some things that are so antiquated in the concept -- sure, they made revolutionary -- they've had to. You want a job, that's what it got down to. The days of when Chrysler had problems.

They still improved hospitalization, they get a full eight hours pay if they show up for work. Some of these are pretty antiquated in what you're doing and they're still going to have problems on the cost side of it because labor is such a small part.

Dan DiMicco also said, just amazing, we get 2000 tons plus per employee. U.S. Steel is fighting to get to 850. What does that tell you?

We've had to be world class because we haven't had a price increase in almost 14, 15 years. In fact, we've given price reductions of 3 percent or better per year to keep the business we've got. Now they're asking for 30 percent over three years.

And so this argument about getting back to our average cost -- I'd love to have my 20-year average sales price. I'd love to. I'd be making all kinds of money. And we're making under 2 percent. So when we quote at 68 percent, it's to keep the jobs.

Basically to keep -- I hope I'm the one to turn off the light switch when all the jobs go overseas. That's what I tell my people. All I want to do is survive for our employees' sake and if we can keep getting business in, but I keep getting these threats of customers that want to go overseas, it's very scary.

CHAIRMAN OKUN: Mr. Gaskin, did you have something you wanted to comment on?

MR. GASKIN: Well, I'd like to reference Mr. Knappenberger's testimony. He addressed your question, which is what's happened in the steel service industry to him and his experience for customer service and he said quality was 2 percent, today it's 2 percent; lead times were six, now it went up to 12 but it's back to six weeks, you heard his testimony, so there's no difference, was his testimony.

CHAIRMAN OKUN: I'm glad you reminded me of that because I heard that testimony and I was just trying to put that in perspective, which is the things we're looking for for the 204 and evaluating adjustment to import competition, you know, I mean, I heard what he said on all those points, but I was trying to figure out how does that relate to you out there looking at these companies and what they might be able to offer? Does it matter that you now have a situation where you've seen consolidation, some fairly big companies bringing -- I mean, I guess, their testimony this morning, does that matter on kind of the broader issues again? Because I think what I heard Mr. Knappenberger say is we had kind of this spike up here but everything is kind of back to the bottom line, which I guess he was trying to say that means they haven't adjusted the import competition, but those weren't the factors I was looking at or that we've been talking about, so that's kind of where I was going with that.

It's very late, so I'm probably not very coherent.

MR. GASKIN: I don't think they've adjusted very well. The reason there was a price spike is because there was market disruption. All it would take is one steel company closing of decent capacity right now and we'd have market disruption. You know, the fundamentals haven't change. ISG and U.S. Steel with their acquisitions, they've gotten their cost per ton down, way, way down, not as much as Nucor or mini mills, but they've got it down on the backs of labor, not on productivity improvement and in investment in plant and equipment.

There's been zero essentially investment in plant and equipment during this period and all we heard from the steel industry today is that they've delayed all that, hundreds of millions each, because of the poor economy.

Well, you know, the using industries have had to make these productivity improvements in spite of poor business conditions. The profitability of our industry, Jim mentioned he was under 2 percent. U.S. Steel's testimony this morning on page 25 showed that fabricated metal products had between 6 and 8 percent profitability. Wow. Would we like that kind of profitability. That's not true. It was 1.6 last year, in 2002, it was 1.8 on average and 30 percent of the companies lost money this year, 37 percent in 2001. The reason 2001 was worse than this year in spite of higher raw material prices is that 2001 was the first year of recession and it takes time to get your costs under control.

So the steel industry is reacting but it's so fragile because the tariffs have disrupted the marketed. Imports are flat. The spike was in '98. The solution of tariffs came two years too late, The spike was in '98. It's been stable since.

CHAIRMAN OKUN: Mr. Leibowitz?

MR. LEIBOWITZ: Yes, Madam Chairman. I wanted to try to put your question into a little bit of perspective from our point of view. On the adjustment side, clearly we heard this morning and I think we don't have any argument that there has been adjustment. We could argue about whether it's been caused by the tariffs or not, but that's another point.

The main adjustment has been in the form of consolidation and there obviously has been that. But there needs to be more kinds of adjustment and the other kinds of adjustment are the ones that our witnesses tonight referred to: better customer responsiveness and improved lead times, higher quality, consistency and so forth.

We heard from the pane just before ours, those many hours ago, concerning the adjustment of European companies that really was focused on customer responsiveness. And that's what is not happening in this country. Our belief is that it will not happen as long as there's protection, that the only way to become competitive is to compete. And until that happens, there will be inadequate adjustment.

Couple that with the changed economic

circumstances we've detailed, the loss of the customer base for a variety of reasons, including the tariffs, and you have a situation where those changed economic circumstances, the maturity of the adjustment in terms of consolidation, you're not going to get a lot more consolidation with 18 more months of tariffs, and you will not get adjustment in terms of customer responsiveness with the tariffs remaining in effect.

That combination mandates a termination of the tariffs at the midpoint review. That's our argument. I just wanted to put that in perspective.

CHAIRMAN OKUN: Okay. I understand the loss of a consumer base, I understand how you relate that into economic circumstances that are part of this period that we're looking at. I guess I have a little bit harder time understanding they won't make the adjustments with regard to customer satisfaction with import relief on. I guess my question is if you see consolidation as a positive move, and at least some of what labor has done you've described as positive, why isn't that the first step in what they described earlier this morning of you need more than two months to make all the changes and so you give us 18 and you have a company that's in a better position to do the things it needs to do to compete, but they can't all happen at the consolidation phase, it has to flow down from it.

MR. LEIBOWITZ: Well, I guess our view is that the other kinds of adjustments that we've referred to are not part and parcel of the consolidation. I think it's a change in attitude and that attitude, as Mr. Zawacki referred to, is of such long standing that it is not particularly credible to assume that the steel industry under protection will change its attitude. It will only change its attitude when faced with global competition.

CHAIRMAN OKUN: Okay. Thank you for those comments.

Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: I guess I just had one question relating to the issue of demand and, as I think you may have heard my asking, I'm trying to understand our data versus the things that we're hearing. Because if I look at the data that we have, it would clearly have shown that in the last year there has been across the board in every one of these products an increase in consumption measured as shipments plus imports. I heard the point earlier today about inventories, but nonetheless, if I look at our numbers it's showing me an increase in consumption.

If I on the other hand look at what our purchasers are telling us, when I say purchasers meaning purchasers of steel, it gives me a very mixed picture. I mean, in other words, some folks are saying demand was flat, some are saying demand was down, others are saying demand was up over the last year. Obviously, you heard the answer I got this morning, which went, as I heard it, to the effect of depends on who you are. If you are a consumer on the consumer product side of the equation as opposed to commercial or industrial, you may well have seen an increase, but for the commercial industrial side probably not.

I wonder from your perspective what your sense is of what demand has done over the last year. I hear your broader point about a long-term structural decline. If your customers move, there will be a long-term structural decline. I hear that point. I guess I'm now looking more in the short term, what have we seen in essence over the last year and what do you see in the near term going forward in terms of demand?

MR. ZAWACKI: I think automotive just had the second or third best year, okay? And housing has had a great year also. And interest rates are -- I don't think I've ever bought -- my children are buying at interest rates lower than I bought 35 years ago or whenever we bought our first home. The point is going forward, automotive is predicting a downer. Housing starts and construction, office furniture in my territory, western Michigan, they're off 40, 45 percent. They've laid off half their people. It's rather hard on our community where we were used to 2 or 3 percent unemployment, now we're above the national average and it's still not bottomed out.

Automotive, the only reason they're selling cars, my wife has a Ford Explorer and she just got a letter in the mail saying we'll give $5000 off. How long can they keep doing that? They're offering these incentives and at the same time Ford has made a commitment to buy $10 billion worth of parts in China. GM is building an engine factory in China and you talk to them and they say, well, that's to serve the Chinese market. How many cars, new Buicks, do they sell in China? At a per capita income of less than $700, I don't think many. Them parts are coming back here, that's going to take away from the steel industry, that's going to take away from me also.

So I think going forward, the demand for steel is going to go down. I thought I heard this morning from the experts that it was a flat market right now. It wasn't us that said that. Businesswise, our industry is very flat. If you talk to -- I think 20 percent may say they're up, of the 1300 members, the other 80 percent are down and a high percentage of them are in financial difficulty.

I heard you mention the bankers. I had an appraisal done last September for other reasons, I'm scared to show my banker. It came in at 40 percent lower than what I have my assets on the books for. If he saw that, I'd be out of covenants so fast. I thought I could use an appraisal to get more money to buy more capital equipment. Unfortunately, it backfired.

VICE CHAIRMAN HILLMAN: Mr. Gaskin?

MR. GASKIN: The average sales that I mentioned a few minutes go was that year to date through, I guess it's May now, the average company in our industry is down 1 percent compared to last year. That's their sales. Raw material is more expensive, so their actual purchase of tonnage is significantly below that. I don't know how to quantify it exactly, but it's down. It was flat last year, 2001 was down 18 percent.

VICE CHAIRMAN HILLMAN: Okay. I appreciate those answers and I think with that I have nothing further, but we thank you very much.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: Thank you.

Mr. Miller, let me ask you that last question. It was really just to ask you to elaborate on your statement about -- you talked about there not being enough spread between the price of slabs and the price of coils, hot coil, right? To justify conversion?

MR. MILLER: That's correct.

COMMISSIONER MILLER: And yet at a later point when you were talking about the effect of the 201 relief on the products that you sell generally, you said it's been favorable. I just kind of wanted to put those two things together.

Now, your products that you're selling are further down than hot rolled products, right?

MR. MILLER: That's correct. We've produced cold rolled still also.

COMMISSIONER MILLER: But just help me understand that point about the spread between slab and the hot rolled coil and why do you think the relief on hot rolled didn't raise both products more in tandem, raise the prices of both products more in tandem? Does that make sense?

MR. MILLER: Yes, I think so. Let me take a shot at it. When the tariffs and the TRQ went in place, we immediately saw pricing in the marketplace increase and that would be pricing on finished goods that we would sell and that's hot rolled coil and cold rolled coil. We also immediately saw raw material costs increase as well. And the raw material is slab, okay? The reason why the raw material costs went up is very simple. When we're sitting down at the table with the producers of slab on the world market, they had leverage because they knew they were limited by the amount of tons that domestically could be bought from that particular mill. So it was a buy now or buy later position. They used that leverage to increase prices.

If you look at where pricing has gone, because typically they travel together, although the slab pricing tends to lag hot rolled pricing, if you look at the overall effect over the past year, hot rolled pricing has increased less than slab pricing. Why is that?

And it's our position that the TRQ is acting to artificially spike up raw material costs in the form of slab.

COMMISSIONER MILLER: So are you saying that you think the TRQ in some ways is a more onerous barrier or whatever?

MR. MILLER: It's a restriction --

COMMISSIONER MILLER: Than the 30 percent tariff was?

MR. MILLER: I'm saying it is still a restriction. When you listened to the testimony this morning, they're saying, boy, there are so many tons out there on the quota, and what was brought into the country fell so short of that quota level that what are these guys crying about?

What I'm saying is there actually is a restriction and there was an impact by that quota on the world slab prices. There is an effect that raises world slab prices higher than what we've seen the finished goods pricing go.

Now, to further elaborate, when we do our analysis, our analysis is very simple. We take a slab, we convert a slab, meaning we re-roll it in a hot strip mill and we have a hot rolled coil. There's a cost involved with that re-rolling, so it's very simple for us. We look at our raw material cost plus our conversion cost and then we make a decision can we sell a hot coil and make any money. In the current marketplace, we've chosen to back off of the hot coil because we can't sell it and make any money. The more orders we take in this marketplace the more money we'd lose.

So what I was kind of trying to get at, the integrated mills, yes, they're offering slab out there right now because they're in the same position as we are. And they would lose less money if they would sell the slab. As soon as that reverses out, then I guarantee you they're going to be out selling hot coil where they can achieve higher margins when the market conditions exist.

COMMISSIONER MILLER: But to the extent it sounds like you're blaming the narrowing of the margin on the TRQ. I guess I want to say are you saying that you would be better off with a 30 percent tariff rather than the TRQ?

MR. MILLER: No, I'm not saying that at all.

COMMISSIONER MILLER: I didn't think you wanted to say that. I just wanted to make sure.

MR. MILLER: Be very clear on that: we are happier with a quota than with a tariff. But I think the points I'm trying to make is that there is a restriction and there is a detriment to the buyers of slab. And it's not just the Deferco Ferros and the California Steels, the re-rollers out there, but it's anybody who would ever buy a slab and I'm talking about the integrated mills as well. There are increased costs out there and what typically happens in the flowing of the market and through that cycle and that increase in cost is brought on simply by the leverage that the slab producers have.

COMMISSIONER MILLER: Okay. All right. I appreciate that. Thank you.

CHAIRMAN OKUN: Let's see if my colleagues have questions.

Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman.

I have been listening with interest, I do want to try and tie something together for myself if I can.

I'm looking at your statements and I've listened to your testimony.

For example, Mr. Zawacki, in your statement, you say most U.S. steel producers fall short of being globally competitive and they do not respond adequately to customer needs.

I see in Mr. Gaskin's statement that United

States steel producers cannot produce enough steel to satisfy domestic demand.

And, Mr. Leibowitz, you have the statement that many adjustments -- and you just talked about that -- that domestic steelmakers must make to become globally competitive and they include aside from consolidation such things as greater attention to efficiency, customer service and quality controls.

And what I would like to ask of you all is the same thing I asked of Mr. Miller. These are broad, general statements. What I would like is specific information. I'm interested in the period from March 20th of 2002 until now, I'd like to know which steel company you're referring to, what was the quantity, what were you seeking to get and what was the problem and I'd like documentation for these things. So, I mean, I've heard these things, but I can't quantify what I'm hearing and these are very general statements and I'd like the companies that are present to provide supporting documentation for those allegations. Which of the domestic producers are you talking about, when did you have a problem and how did you respond to them and, for that matter, I'd like to hear from them as to what kinds of complaints like that they were getting.

So I see Mr. Stewart and Mr. Hector here.
Yes?
MR. ZAWACKI: Mr. Commissioner, could I just add a point? I think some of that might have been in our 332, but we'll be glad to supply whatever --
COMMISSIONER KOPLAN: Well, I'm looking at today's statements.
MR. ZAWACKI: Okay.
COMMISSIONER KOPLAN: I'm not going back to the 332.
MR. ZAWACKI: This goes back -- let's go to October of 2002, that falls within your category.
COMMISSIONER KOPLAN: Yes, it does.
MR. ZAWACKI: This is a survey by World Steel Dynamics that rates the steel mills around the world --
COMMISSIONER KOPLAN: No, no, no. I'm asking for your personal experience.
MR. ZAWACKI: I'll be glad to do that.
COMMISSIONER KOPLAN: I can read the article, okay?
MR. ZAWACKI: Okay.
COMMISSIONER KOPLAN: That is not what I'm asking for.
MR. ZAWACKI: Okay. I'll be glad to share

with you.

COMMISSIONER KOPLAN: Thank you.

And I'd like to hear that -- I mean, Mr. Cann was very specific. I'm not questioning Mr. Cann. I'm asking as I read these statements for specifics, okay? Because that's the kind of information we were asking the domestics for, that's what goes into our appendices. I'd like to see the backup for that.

Can I have an acknowledgement for the record that I'll get it?

If you could identify yourself for the record.

MR. WILKEY: Dick Wilkey. I'll get that for you.

COMMISSIONER KOPLAN: Thank you.

MR. WILKEY: Today, we had Steve Rogers from Ispat today. We wanted him to melt the stuff, they used to melt our material, and they said, no, they didn't want to do it.

COMMISSIONER KOPLAN: I hear what you're saying and what I'm looking for is who, what, where and when and how much.

MR. WILKEY: Okay.

COMMISSIONER KOPLAN: Okay? And it's a narrow period I'm looking at, since the relief went into effect.

Thank you very much.

CHAIRMAN OKUN: Seeing no further questions from my colleagues, let me turn to staff and see if staff has questions of this panel.

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

CHAIRMAN OKUN: Do the petitioning parties have questions for this panel?

Counsel are shaking their heads no.

Then I want to thank this panel of witnesses very much for your testimony, for the information you have provided in pre-hearing briefs, for the information you will be providing and for bearing with us through a very long, long day and night.

Let me go to the time remaining.

The petitioning parties have a total of five minutes left, which is for their closing remarks.

The respondents have a total of seven minutes left, which includes five minutes for closing.

I assume everyone wants to get finished. Mr. Stewart, will you be ready to go?

All right. We'll let this panel of witnesses step back and we will hear from Mr. Stewart.

Thank you again.

(Pause.)

CHAIRMAN OKUN: You may proceed, Mr. Stewart.

MR. STEWART: Madam Chairman, I feel a bit like I'm back in law school. I don't think I have been up this late in a long time.

First, to you and the commissioners and the staff, on behalf of the domestic producers and workers supporting the continuation of 201 relief and to the various purchasers who took the time to come here to express their views to you, allow me to express our appreciation, particularly to obviously the commission and the staff for your close attention during what is truly a very long hearing and for the exceptional work that the staff has been doing on the compilation of the pre-hearing staff report.

What is unusual about today's hearing on developments in the flat rolled steel industry is that in fact there is no serious disagreement that tremendous adjustments have been started by the workers and the companies in the last 16 months. In the words of the pre-hearing brief of the joint respondents, the industry has made remarkable strides towards competitiveness over the past 15 months. That's a quote on page 3.

Through the extraordinary efforts of the workers and the companies, the industry has achieved first a significant start on the consolidation that is necessary as witnesses by the 17 mergers and acquisitions since relief came into effect.

Second, a significant start on rationalization, despite the comments of our opponents, as millions of tons of capacity have in fact been shut down with much of that being dismantled.

Third, there's been a significant start on improved productivity and reduced cost structure in producing steel.

Fourth, there's been a significant start in finding a humane solution to the problems of the disenfranchised retirees that we've heard a lot about.

Neither is there a serious question that the adjustment efforts are only at the beginning and not at the end. Indeed, even our friends the joint respondents acknowledge that "while much has been accomplished, much more remains to be done," page 32 of their brief.

So one would think that with that agreement it ought to be a pretty easy report for you to prepare. The domestic producers and their workers completely agree with the position that the respondents took in those two quotes I made and that, of course, is the reason we believe continuation of the relief is so critical.

Despite the agreement on these key issues, respondents claim that relief either has been inefficient or that no adjustment has occurred in certain subsectors or that the industry and workers didn't really take any action in response to the 201 relief. These arguments either are not credible or are not relevant.

The staggering financial losses suffered by the industry during the years leading up to the commission's 201 determination, the capital intensive nature of this industry as you've repeatedly found, the limited access to capital markets from the sustained injury to domestic producers and the sworn statements of the senior officials from major producers and the USWA confirm what you and the staff already know. The sea change that this industry is pursuing to adjustment to import competition can't possibly be completed in 18 months and obviously isn't complete as we meet today.

The adjustment being undertaken is almost certainly the most dramatic of any industry which has sought and obtained relief under Section 201 in the history of the law. With time, it will provide the industry and the workers the ability to complete the adjustment process. We are confident that all that the industry and workers have done and all that they have identified as still needing to be done will be reflected in your report to the President in mid September.

Similarly, while causation is not required by Section 204 of the act, the claims by our opponents that there is not a causal link between the decisions that have been made by the industry were flatly contradicted under oath by the chairman of ISG, the vice chairman of U.S. Steel and the president and CEO of Nucor and the international president of the USWA. They had an opportunity to ask all the questions that they rambled off in their statements to the people under oath and they chose not to take advantage of that opportunity. So you have sworn statements that the only reason this consolidation and this effort has occurred is because of the relief.

We anticipate that your report will reflect the extraordinary effort and we anticipate that the President will do that which he has promised and keep the relief in place.

Thank you very much.

CHAIRMAN OKUN: Thank you.

All right, Mr. Pierce, close it out here.

MR. PIERCE: Thank you. First, we appreciate the varying views and the roles of the commission in this process, that there are varying views and we know that this commission and every member will review the briefs closely, will review the arguments closely and make an independent judgment and we very much appreciate that and I'll leave it at that.

We also appreciate you staying very late tonight to get through everybody. The congressional testimony ate up an awful lot of time, but still you stayed here, you gave the consumers, the purchasers panel, the time to not only testify but answer a lot of questions and respond to you.

You gave both sides extra time to make it a lot easier in this particular hearing to sort out who was going to say what when and when you're organizing a panel with a lot of diverse interests, that extra amount of time helps a lot and you gave us flexibility in allocations and we just wanted to say thank you for that. As you know, it is very difficult to organize these types of proceedings in groups and without that flexibility it couldn't be done.

Finally, we appreciate the extra five pages that we get in the post-hearing brief to respond to Mr. Usher from U.S. Steel who will be testifying on Friday. We don't like the decision, but understand the reasons for it now and we appreciate the extra space.

And, lastly, we wanted to thank the staff in particular. This problem with ISG submitting their questionnaire late was a huge problem and it's a huge hole in the record and the staff worked very hard to get that done, to get the data done the best they could to get us the re-compiled information yesterday morning and it all is very much appreciated.

So on behalf of the joint respondents, I thank you for your time and attention today. Thank you very much.

CHAIRMAN OKUN: Thank you for those comments.

Post-hearing briefs, statements responsive to questions and requests of the commission, and corrections to the transcript must be filed by August 1, 2003.

With no other business to come before the commission, this hearing is adjourned.

(Whereupon, at 9:40 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 22, 2003

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

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