UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
STEEL CONCRETE REINFORCING	)	731-TA-873-875, 877-880,
BAR FROM BELARUS, CHINA,	)	and 882 (Review)
INDONESIA, KOREA, LATVIA,	)	
MOLDOVA, POLAND, AND UKRAINE	)	

REVISED AND CORRECTED COPY

Pages: 1 through 326

Place: Washington, D.C.

Date: May 10, 2007

HERITAGE REPORTING CORPORATION
Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005
(202) 628-4888

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
STEEL CONCRETE REINFORCING	)	731-TA-873-875, 877-880,
BAR FROM BELARUS, CHINA,	)	and 882 (Review)
INDONESIA, KOREA, LATVIA,	)	
MOLDOVA, POLAND, AND UKRAINE	)	

Thursday,
May 10, 2007

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

The hearing commenced, pursuant to notice, at 9:31 a.m. before the Commissioners of the United States International Trade Commission, the Honorable DANIEL R. PEARSON, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

DANIEL R. PEARSON, CHAIRMAN
SHARA L. ARANOFF, VICE CHAIRMAN
DEANNA TANNER OKUN, COMMISSIONER
CHARLOTTE R. LANE, COMMISSIONER
IRVING A. WILLIAMSON, COMMISSIONER
DEAN A. PINKERT, COMMISSIONER

APPEARANCES: (Cont'd.)

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS COORDINATOR
SHARON D. BELLAMY, HEARINGS AND MEETINGS ASSISTANT
OLYMPIA HAND, INVESTIGATOR
KARL TSUJI, ANALYST
CLARK WORKMAN, ECONOMIST
DAVID BOYLAND, ACCOUNTANT/AUDITOR
GRACE ROTH-ROFFY, ATTORNEY
DOUGLAS CORKRAN, SUPERVISORY INVESTIGATOR

In Support of Continuation of Antidumping Duty Orders:

On behalf of Rebar Trade Action Coalition (RTAC), TACMO Steel and Cascade Steel, Inc.:

D. MICHAEL PARRISH, Executive Vice President, Nucor Corporation
LOUIS T. MILLER, Speed Pulpit Operator, Nucor Steel Birmingham, Inc.
JIM FRITSCH, Executive Vice President, CMS Steel Group
J. NEAL McCULLOCHS, Group Vice President, Gerdau Ameristeel
MARTIN KOCH, President, Southwestern Suppliers, Inc.
SETH T. KAPLAN, Principal, The Brattle Group

ALAN H. PRICE, Esquire
JOHN R. SHANE, Esquire
DANIEL B. PICKARD, Esquire
Wiley Rein, LLP
Washington, D.C.

APPEARANCES: (Cont'd.)

In Opposition to Continuation of Antidumping Duty Orders:

On behalf of Joint Stock Company Liepajas Metalurgs (LM):

ALEX ZAHARIN, Vice Chairman, LM
KIRILL POLOVENKO, IT Director, LM
DAVID PHELPS, President, American Institute for International Steel, Inc.

WILLIAM E. PERRY, Esquire
RONALD M. WISLA, Esquire
Garvey Schubert Barer
Washington, D.C.

On behalf of Mittal Steel Kryvih Rih:

KENNETH R. BUTTON, Ph.D., Senior Vice President, Economic Consulting Services, LLC
JENNIFER LUTZ, Economist, Economic Consulting Services, LLC

JOHN M. GURLEY, Esquire
DIANA DIMITRIUC, Esquire
Arent Fox, LLP
Washington, D.C.

On behalf of Hyundai Steel Company:

DONALD B. CAMERON, Esquire
Troutman Sanders, LLP
Washington, D.C.

I N D E X

I N D E X

P R O C E E D I N G S

(9:31 a.m.)

CHAIRMAN PEARSON: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Nos. 731-TA-873-875, 877-880, and 882 (Review), involving Steel Concrete Reinforcing Bar from Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine.

The purpose of these five-year review investigations is to determine whether revocation of the antidumping duty orders covering steel concrete reinforcing bar from the previously named countries would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Notice of investigation, list of witnesses and transcript order forms are available at the public distribution table. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

Parties are reminded to give any prepared testimony to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary prior to presenting testimony.

Finally, if you will be submitting documents that contain information you wish classified as business confidential your requests should comply with Commission Rule 201.6.

Madam Secretary, are there any preliminary matters?

MS. ABBOTT: No, Mr. Chairman.

I will note for the record that all witnesses for today's hearing have been sworn.

(Witnesses sworn.)

CHAIRMAN PEARSON: Very well. Let us begin with opening statements.

MS. ABBOTT: Opening remarks in support of continuation of orders will be by Alan H. Price, Wiley Rein.

CHAIRMAN PEARSON: Good morning, Mr. Price.

MR. PRICE: Good morning, Mr. Chairman.

CHAIRMAN PEARSON: Please begin.

MR. PRICE: Thank you. Good morning. I am Alan Price of Wiley Rein, here this morning on behalf of the Petitioners.

In considering the effects of removing the antidumping orders, I would like to point out five major facts. First, the subject producers have large quantities of divertible and excess capacity, and this amount is expected to grow in the foreseeable future.

Second, there has existed a large and persistent gap between higher U.S. prices and lower third market prices as evidenced by the Respondents' own questionnaires.

Third, in this price sensitive commodity market, subject imports will have large negative effects.

Fourth, the orders have been successful and effective in eliminating the dumped imports and providing material benefits to the U.S. industry.

Fifth and last, a significant number of the Respondents have refused to cooperate with the Commission's investigation.

There is no question that there are large quantities of rebar produced in the subject countries available for shipment to the United States. Since the original investigation, the Chinese industry has experienced explosive growth as capacity, production and exports have all skyrocketed.

China alone has about 50 million tons of excess and divertible rebar capacity. China has proven incapable of reigning in its export volumes, and all indications are that the growth of Chinese exports will continue unabated for the reasonably foreseeable future. The case against China apparently is so obvious that not one Chinese producer has bothered to participate in this proceeding. Not a single one.

The Latvian and Ukrainian producers participating in this case recognize the overwhelming problems that China present and thus stake their case on arguing for decumulation. This is a tough sell since rebar is a highly fungible commodity steel product.

Further, Latvia and the Ukraine, along with the other countries, except for Korea, are export oriented and have large amounts of divertible capacity. The former CIS producers in particular operate as export platforms with no significant home markets.

Making matters worse, many of these export platforms, particularly Ukraine, are adding massive amounts of new export oriented capacity. This is compounded by their imminent loss of non U.S. export markets as their customer countries are also adding large quantities of new capacity.

The combined excess and divertible capacity of the subject producers has grown substantially since the period of investigation and is many times U.S. apparent consumption in 2006.

These factors we've whittled out that if the subject imports are allowed to freely dump here again, supply will quickly swamp demand. This is what happened in the original investigation in a strong U.S. market and is exactly what will happen again.

The motivation for these subject imports to come back is clear. The U.S. is an attractive, open market with prices that are starkly above those of many third countries. Here the Commission has nine years of AUV data demonstrating beyond question that there is a consistently big price gap between the U.S. and foreign producers' export prices and one that is now larger than the original case.

In fact, the AUV data is conservative because the export prices that are most relevant are the lowest price sales, not the average price sales. Those are the export volumes that the foreign producers will quickly redirect to the U.S. market.

In light of these factors, revocation of the orders is likely to cause material injury. While even a modest adverse change in the conditions of the industry satisfy the materiality threshold, given the enormous amount of export and divertible capacity, the adverse change will far exceed the materiality threshold of the statute.

These adverse changes, both within the region and nationally, will lead to declines in profit, employment, wages and other factors.

Thank you.

MS. ABBOTT: Opening remarks in opposition to continuation of orders will be by John M. Gurley, Arent Fox, and William E. Perry, Garvey Schubert Barer.

CHAIRMAN PEARSON: Good morning, Mr. Gurley. You're taking the first shot at it?

MR. GURLEY: Yes, I am, Mr. Chairman.

CHAIRMAN PEARSON: Okay. Please proceed.

MR. GURLEY: Good morning, My name is John Gurley of Arent Fox. I am counsel for Mittal Steel Kryvih Rih, the dominant producer of rebar in Ukraine.

Now is a very good time to be a U.S. rebar producer. In fact, you can say that about many rebar producers around the world, especially those in and around Ukraine.

One of the biggest myths that you will hear today relates to Ukraine's capacity and its alleged unquenchable thirst for the U.S. market. The reality is that Mittal Steel Kryvih Rih is the Ukrainian rebar industry, and its thirst for the U.S. market is that of a teetotaler.

Mittal Steel Kryvih Rih is located amidst one of the most vibrant construction markets in the world. CMC, one of the Petitioners, shares our view and has enthusiastically bought a rebar mill in Poland and is bidding for another one in Croatia. The U.S. market, while strong, is simply not as attractive to Mittal as the markets in Europe, the CIS, the Middle East and Africa.

In 2005, Mittal purchased the previously state owned Kryvorizhstal and is now operating that mill under normal market economy principles. Importantly, Mittal Steel Kryvih Rih is also affiliated with four separate rebar mills in North America, one in the United States, two in Canada and one in Mexico.

Mittal Steel Kryvih Rih will behave like any other member of the Arcelor Mittal group. It will follow corporate interests with the best interests of its North American affiliates very much in mind.

Later today my colleague, Dr. Ken Button, will try to dispel some myths for you. One myth is that the U.S. is today the only attractive rebar market in the world. A lot has changed since this case was originally filed in 2000.

Of course, the construction booms in the U.S. and in most foreign markets are the first to come to mind, but prices have also changed. Foreign market prices are now comparable to or even better than those in the United States.

The U.S. industry itself has also changed. Nucor now dominates the U.S. rebar industry in an almost unprecedented fashion, and with the acquisition of Harris Steel Nucor now controls one of the biggest rebar fabricators in North America. In other words, its best customer will likely be itself.

Given the dynamics of the construction markets in and around Ukraine and the fact that Arcelor Mittal has four separate rebar mills in North America which can and do service the U.S. rebar market, we cannot envision a fact pattern, at least a convincing fact pattern, where imports from Ukraine could actually injure the U.S. market. The order on Ukrainian rebar should be revoked.

Thank you very much.

CHAIRMAN PEARSON: Good morning, Mr. Perry.

MR. PERRY: Good morning. My name is William Perry of the law firm Garvey Schubert & Barer, and I am here representing the Latvian producer and exporter of rebar, Liepajas Metalurgs.

We want to talk here about the elephant in the room. The elephant in the room is that Latvia is now a member of the EU. The Petitioners did not even mention this in their brief. This is a significant condition of competition. It is so significant I might even call it a changed circumstance to provoke a 751 review.

Alex Zaharin of Liepajas Metalurgs will explain in detail in his testimony how Latvia's entrance into the EU significantly changed LM's marketing plans because it allowed unfettered access to the EU market. LM sales to Europe were no longer export sales. They were and are domestic sales. Now approximately 80 percent of LM's capacity is shipped to Europe.

Meanwhile, the lat, which is tied to the euro, and the euro itself made sales to the United States much less profitable because of the weak dollar. In addition, prices for rebar are higher in the EU than the United States. These are significant conditions of competition that should result in no cumulation for imports from Latvia and a negative determination in this case.

LM is also operating at a 100 percent

effective capacity, and, in direct contrast to the U.S. industry, LM has not increased its capacity and has no intention of increasing its capacity for rebar production in the future.

One good example of what LM's intention is is Canada. Canada has already looked at the antidumping order on rebar for Latvia, and LM's exports to Canada after revocation of the antidumping order are zero.

David Phelps of the American Institute for International Steel will explain in detail how well the U.S. rebar industry is doing. It is not vulnerable to import competition if the antidumping order is lifted.

Despite doom and gloom statements from the U.S. industry, the U.S. rebar industry is experiencing record profits that are substantially higher than the average for U.S. durable goods manufacturers or other U.S. steel industries. This is truly the best of times for the U.S. rebar industry.

Thank you.

MS. ABBOTT: The first panel in support of continuation of orders should come forward and take their places.

CHAIRMAN PEARSON: Mr. Price, are you

leading this tour?

MR. PRICE: Yes, I am.

CHAIRMAN PEARSON: Without hard hats this time.

MR. PRICE: I want to thank all the Commissioners for all the efforts that have been made to tour the domestic steel industry and domestic steel facilities, both rebar producers and other product lines, personally.

I am Alan Price, counsel for the domestic industry. Revocation of these orders is likely to lead to resumption of injury to the domestic industry. Much of the critical information is confidential.

The key facts are contained in a set of handouts you have received, and all of the confidential exhibits were filed in advance pursuant to the ITC rules, so I'd like to refer the Commissioners to the set of confidential exhibits here.

In determining the likely volume subject to imports if the orders are revoked, the Commission analysis boils down to a few questions. Do the subject producers have the means to increase imports to the United States, and do they have the motive to do so?

The answer to both of these questions is emphatically yes, and of course there is the question of impact, which Mr. Kaplan will address in his presentation, along with the industry witnesses.

With respect to the means, the record in this review demonstrates the ability of the foreign producers to ship significant quantities of subject merchandise to the U.S. market if the orders are lifted.

Handout A shows total divertible export and unused capacity of the foreign producers, the subject producers that is, compared to U.S. consumption annually. Handout B provides the same information for China alone.

China has become a major force in the world rebar market. As Handout C shows, China's exports of rebar increased from less than 500,000 tons as recently as 2002 to nearly 3.5 million tons in 2006, an increase of 700 percent in only four years. If these trends continue, China will export over 8.5 million tons of rebar in 2007, as shown in Handout D.

If even a minor part of China's 50 million tons of excess or divertible capacity are directed to the United States, Chinese rebar would gain a significant and injurious share of the U.S. market by itself. In addition, producers in many of the subject countries, except Korea, are export oriented.

Handout E shows the percentage of shipments exported by producers in Belarus, Moldova, Latvia and Ukraine. All of these producers have home markets that are essentially insignificant, especially compared to the rebar capacity.

Handout F shows the substantial importance of export markets to the Polish producers, as well as the excess capacity, so there is no question that these countries have the means to ship significant volumes of rebar to the United States if the orders are revoked.

They also have the motive to do so. Prices in the U.S. market are attractive and will draw imports from the subject countries. If the orders are revoked, there is little question that substantial quantities will be shipped here.

Handout G compares the average unit values of rebar imports from Moldova, China, Ukraine, Belarus and Latvia to the average unit value of shipments by the U.S. producers.

The ITC has determined that the use of AUV information is appropriate in prior investigations of this homogenous product. AUVs offer real, objective, verifiable pricing information about what the mills really receive, and it is far superior to published pricing information cited by Respondents.

The AUV information demonstrates that the U.S. is a very attractive market. You should focus, by the way, on the prices that are below the average AUV, the marginal sales needed to fill the mills, what will shift to the United States.

Handout H compares the average unit values of all subject exports to the United States to the average unit values of U.S. producers and from nonsubject imports.

The comparison shows again that the United States is consistently a very attractive market for the subject producers so that if the orders are revoked they will have an incentive to reenter the U.S. market as quickly as possible. It also shows that these imports are likely to enter the market at prices below those of the domestic producers and nonsubject imports.

Handout I is a chart comparing U.S. producers to those in China, Mittal Rih's average price for all sales in 2006 and the world export for rebar based upon the most recent steel benchmarker. While we generally advise caution in using published pricing data, as the public chart shows U.S. prices are above all three of these prices.

U.S. price is not necessarily, by the way, the single highest priced market in the world at any given time, but U.S. prices are high enough, relatively speaking, to draw in imports from the subject countries if the orders are revoked.

All of this shows that the foreign producers have the ability and motivation to increase exports to the United States, and, looking forward into the reasonably foreseeable future, which the Commission must do in a sunset review, the picture grows even bleaker for the U.S. industry.

Handout J, which is public, shows that world rebar capacity is expected to grow enormously over the next three years. Much of this capacity will occur in the Middle East, the CIS countries, including Russia, and the European Union. These are precisely the markets the former CIS suppliers claim will absorb their production.

As local capacities in their current export markets increase, their exports will inevitably be displaced. In addition, Handout K shows Mittal Rih's demand projection for rebar in the CIS markets. Mittal Rih projects only modest growth for rebar demand in the CIS countries. In fact, even by 2010 CIS consumption of rebar is expected to be at or below its 1998 levels or somewhere in the five, maybe six million ton range.

Ukraine alone is adding substantial volumes, millions of tons of new export oriented capacity. Russia has substantial capacity coming on line also. As these new amounts of capacity come on line, the CIS itself certainly will be oversupplied.

The handouts establish three key facts. The subject producers have the ability to ship large amounts of rebar to the U.S. if the orders are revoked.

As the AUV data shows, the U.S. prices are on average consistently attractive to the subject producers so that the subject producers have an incentive to sell in the U.S. if the orders are revoked, and the subject producer incentive to ship to the U.S. will increase because world rebar capacity in their current export markets will rise sharply over the next few years, pushing the subject producers out of many of their current markets and negatively affecting export price to those markets.

Taken together, these facts establish that if the antidumping orders in question are revoked, the subject producers are likely to ship large quantities of rebar to the United States at low prices.

I will now turn to our first industry witness, Mr. Jim Fritsch.

MR. FRITSCH: Thank you. Chairman Pearson, members of the Commission, good morning. My name is Jim Fritsch. I'm an executive vice president with Commercial Metals Company Steel Group. Commercial Metals Company is the third largest producer of rebar in the region and in the United States.

I'd like to use my time today to talk about three extremely important facts about the United States rebar market. First, the fungibility of rebar; two, the primacy of price; and, three, the lack of reinvestment in domestic steel mills producing rebar. Each of these facts renders the domestic rebar market vulnerable to injury from the subject imports if the orders are removed.

In the rebar industry we often say that the one test for rebar quality is if you drop it in water does it sink. I'm only being slightly facetious when I say that. The fact is, rebar is rebar. Unlike automotive quality sheet, for example, rebar customers have very few special requirements.

To the contrary, practically all rebar sold in the United States is manufactured to a standard set of specifications. Indeed, the whole point of rebar is that it is standard so that architects, engineers and contractors can use rebar from any source, domestic or foreign.

If these orders are revoked, the foreign producers will have no technical barriers from entering the United States market immediately. Because quality is not an issue and because so much rebar is available from so many sources, rebar is sold almost entirely on the basis of price.

There is no premium for domestically produced rebar. Imported rebar simply sits on the dock or in warehouses until it is sold. If the foreign producers offer lower prices, and they will, they will immediately gain market share in the United States at the expense of the domestic industry.

Nor are there any market barriers to imported rebar. Neither Buy American requirements or ownership of some fabricators by domestic producers creates an insulated market safe from import competition.

If the orders are revoked and rebar from the subject countries starts entering the United States at low prices, even our own fabricators will be compelled to buy imported rebar to remain competitive in the market.

During much of the period of review, the domestic industry made relatively few capital investments, and the reason was simple. Because of import competition, investment in rebar production simply could not cover the cost of capital. As a result, the domestic industry did not modernize or expand capacity to meet increasing demand.

Consequently, much of the domestic industry production capacity needs revitalization to improve production, productivity and cost effectiveness and to some extent capacity. The industry can no longer delay these investments. Because of the relative market stability provided by the orders, the time is ripe for significant capital investment on the industry's part.

The industry's operating profit for the last three years has been solid, and investments in rebar production will now yield an acceptable rate of return if the orders remain in place.

CMC and other domestic producers are either planning or have actually initiated major investment programs for their rebar facilities. These plans would be jeopardized, however, by the return of subject imports into the market at low prices.

Of course, an industry experiences increased vulnerability whenever it undertakes a major large scale investment program. During such a period, stability in the market is especially important.

Revocation of the orders would permit the subject imports to reenter the U.S. market at low prices, suppressing or eliminating the domestic industry's profits and its abilities to complete its investment programs. This would make the industry still more vulnerable to competition from the subject imports and initiate a new vicious cycle that can only cause further injury to the U.S. rebar industry.

Let me close by saying that these producers have excess and divertible capacity. Additionally, many of them are adding new capacity targeted at an export market. If these orders are lifted, the level of rebar imports into the United States will increase dramatically, resulting in lower domestic prices which would adversely affect our sales, our margins and our profitability.

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

MR. PRICE: Thank you.

I'd now like to introduce Mr. Neal

McCullochs of Gerdau Ameristeel.

MR. McCULLOCHS: Thank you, Chairman Pearson and members of the Commission. My name is Neal McCullochs. I'm vice president of Gerdau Ameristeel.

I welcome this opportunity to explain why Gerdau Ameristeel and its workers believe that the continuation of the orders on rebar is essential to the continued health and stability of the domestic rebar industry.

Gerdau Ameristeel has benefitted from the market stability created by the rebar orders. Since 2001, we have purchased several steel mills and have made significant capital improvements to our existing mills. We now produce rebar at five mills located inside the region.

While our rebar operations lost money as recently as 2003, today Gerdau Ameristeel has reasonable earnings and a healthy balance sheet. However, if the rebar orders are removed the future is not promising. We would likely experience harm to our rebar operations, including a material decline in our financial performance.

As I look forward, there are several areas of concern for the health of Gerdau Ameristeel's rebar business, but one concern stands out in particular:

China. China's rebar production has exploded in the last several years and now accounts for almost 40 percent of global production.

While demand in China has been relatively strong, capacity has far outpaced consumption, resulting in massive excess supply. Not surprisingly, China's rebar exports have skyrocketed as Chinese producers unload their excess supply on markets around the world.

Because the U.S. market remains one of the most attractive, if these orders are removed China will aggressively direct this excess supply at our market. One does not have to look far to know that this is true.

Gerdau Ameristeel is a major rebar producer is Canada, a market that is currently being deluged by low-priced Chinese rebar. Chinese rebar exports to Canada more than doubled between 2005 and 2006 and are entering Canada at prices well below market.

Canadian Government statistics show that Chinese producers are routinely underselling U.S. producers by $100 per ton, a differential confirmed by our own experience in that market. Such aggressive pricing tactics have made it difficult for Gerdau Ameristeel to compete effectively in China.

We would expect Chinese rebar producers to target the U.S. market in a similar manner if the orders are removed. As the Commerce Department has already determined, this rebar will be dumped. In fact, Chinese producers are already targeting the United States wire rod, a product comparable to rebar.

Our experience with Chinese wire rod is a troubling sign of what will occur if the rebar orders are removed. Without an antidumping order in place, U.S. imports of Chinese wire rod doubled from 2000 to 2006 and now account for 23 percent of the U.S. market.

This import surge has resulted in a sharp decline in the performance of domestic wire rod producers, including Gerdau Ameristeel. Our wire rod operations went from a relatively healthy profit in 2004 to losses in 2006. As a result, we have been forced to cut production and lay off workers.

By contrast, our rebar operations experienced a relatively consistent and positive performance over the past several years in a market free from unfairly traded Chinese imports. If the rebar orders are removed, Gerdau Ameristeel's rebar operations will suffer a similar fate as our wire rod operations.

Finally, the threat from China is not likely to dissipate in the foreseeable future. Despite the Chinese Government's call for elimination of obsolete capacity, China continues to build rebar capacity without regard to market forces.

In 2006, China's excess capacity was roughly 47 million tons, a number that will only grow as China continues to bring millions of tons of new capacity on-line in the next several years.

Other subject countries also pose a threat to the U.S. market. The CIS producers, for example, operate predominantly as export platforms and continue to build new capacity. Ukraine in particular is adding massive amounts of new export oriented capacity, which will be targeted at the United States if the orders are revoked.

Moreover, these countries are facing increased competition in traditional markets from new local capacity, as well as from low-priced Chinese rebar, making a shift to other markets both necessary and likely.

Given the excess supply and the export orientation of subject producers, if these orders are revoked large volumes of rebar will be targeted at the U.S. markets. Subject imports have devastated this market before, and they can do so again.

This is all the more true today as domestic demand appears to be moderating. Our shipments in the first quarter were strong, but shipments have fallen off sharply in April. This goes to show that this market can change on a dime.

In conclusion, if the rebar orders are revoked the domestic industry will experience material declines in production, profits and employment. There is too much global overcapacity, and the U.S. market is too inviting a target.

I urge the Commission to maintain these orders. They are critical to Gerdau Ameristeel and its workers. Thank you.

MR. PRICE: And for the record, I would just like to point out a chart on page 34 of our prehearing brief that shows Chinese wire rod exports to the U.S. in 2005 compared to 2006 and quotes their representations to you in that dumping case that they couldn't expand sales to the U.S., wouldn't, didn't have the capacity.

Instead, their sales increased by more than 100 percent, more than doubling. Maybe it's those representations that show why the Chinese are not here today.

I would now like to introduce Mr. Mike Parrish from Nucor Corporation.

MR. PARRISH: Good morning, Chairman Pearson and members of the Commission. My name is Michael Parrish, and I am executive vice president of Nucor Corporation. I appreciate this opportunity to appear before you to discuss why the orders on rebar are critical to the regional and national rebar industry.

Five years ago when Nucor last appeared before the Commission on the issue of rebar from the subject countries, the domestic industry had been devastated by a surge of unfairly traded rebar imports. At the time, dumped rebar imports were relentlessly undercutting our prices, forcing U.S. producers to reduce prices to rock bottom just to remain competitive. Profits were hit hard. Industry-wide, mills were shut down and workers were laid off.

The antidumping orders virtually locked out these unfair traders from the U.S. market. The orders have provided Nucor a degree of stability that has allowed us to invest in a number of capital improvements since 2003. With the orders in place, Nucor's rebar production and profits have increased.

However, I have been in this business long enough to know that stability and profits can disappear in a minute. Another surge of subject imports with the resulting choice between cutting prices or volume or both is more likely than not if you revoke these orders.

It is not rocket science. Imports from these countries have devastated the U.S. market before. If the orders are revoked, they will cause injury again.

But this time it could be worse. The threat from China has reached epic proportions as that country has almost 50 million tons of excess capacity and is exporting its rebar at rapidly expanding rates. While the central Chinese Government pays lip service to concerns about excess capacity, its producers continue to expand capacity well in excess of demand, often with government support.

But China is not the only threat to the U.S. rebar market. Other subject countries such as Ukraine, Latvia, Moldova and Belarus have the ability and motivation to export significant quantities of rebar to the United States. All four countries have substantial divertible supply and are heavily export dependent.

Indeed, unlike a company such as Nucor which has minimal exports limited to geographically convenient markets such as western Canada, these producers have virtually no home markets and are therefore forced to export the vast majority of their production. These are not opportunistic exporters. They must export their production at the market clearing price or shut down.

Further, in countries like Ukraine rebar capacity is expected to increase by millions of tons in the next several years, most of which will be targeted for export. Additionally, producers in Latvia and Ukraine and other subject countries are likely to shift their exports to the U.S. market as new capacity is being installed in the export markets currently served by these producers and as low-priced Chinese rebar invades their traditional export markets.

The United States is also one of the most attractive markets for this excess supply. The U.S. is an open, penetrable market and is one of the more attractive in terms of pricing. To be attractive, the United States doesn't need to be the highest price market in the world. It just needs to be more attractive than other markets where the marginal sales are occurring. By this measure, the United States is very attractive.

We've heard a lot about how attractive prices are on the world market, but much of what we see in the published price reports is pure fiction. If prices were as high as people say they are, Nucor would be selling to those markets. We own a trading company, and if I could get $1,000 a ton in Russia I would be selling there today.

In fact, we have had no requests. These prices aren't real, and we are not selling to those markets. From what we see, the U.S. remains one of the most attractively priced markets. According to the AMM WSD steel benchmarker, U.S. rebar prices are currently about $100 higher than the world export market price and $300 higher than mainland China prices. They are also above the prices Mittal Rih has disclosed in public documents.

In short, subject producers have the ability to export large volumes, and the U.S. market provides a strong incentive for that volume to come here. If the orders are removed and the U.S. market is once again unrestricted, I have no doubt that subject imports will come rushing back. These imports will come in at low prices, increasing overall import volumes and rapidly driving down U.S. rebar prices.

I understand that Mittal is claiming that it will not export significant volumes of rebar to the United States because of its recent acquisition of Border Steel. In essence, Mittal is asking to be exempted from our trade laws.

The Commission should not accept this argument. Mittal's acquisition of Border on April 23 should have little effect on export volumes from the Ukraine. Border is a tiny producer in the United States and in the Mittal Company. Mittal Rih is much larger and has a much greater impact on Mittal's overall performance.

As a corporate manager, you must focus on maximizing performance for the entire corporate group, not a single mill. In addition, several million tons of new capacity are expected to come on line in the next several years in Ukraine, much of which Mittal does not control, so even if you accepted Mittal Rih's claims they cannot speak for the new capacity coming on line.

Finally, there has been recent discussion relating to demand for rebar in the U.S. market. There are undoubtedly troubling signs indicating a possible downturn in demand. I have been told that one Respondent quoted an AMM article that mischaracterized a statement I made. You should know that AMM printed our letter to the editor correcting their misstatement.

The fact of the matter is that the outlook for 2008 and beyond is not as positive. In fact, significant declines in residential construction and recent reports of lower than expected GDP growth are cause for concern.

In addition, as I've just noted, we remain concerned about the foreseeable future as we see a tremendous buildup of excess and divertible capacity in bar markets around the world, especially in China and other subject countries. A surge in imports would create downward pressure on prices and could have adverse effects on the financial performance of Nucor and other domestic producers.

The bottom line is that if you revoke the orders at the same time that demand is moderating, subject imports will cause even more devastation to the domestic industry than we experienced during the original investigation.

In summary, if the orders are revoked, subject imports will return to the U.S. market, production and prices will fall, and our profits and workers will suffer as a result.

On behalf of Nucor, our workers and their families, I urge the Commission to leave these orders in place. Thank you.

MR. PRICE: Thank you.

I will now introduce Mr. Seth Kaplan.

MR. KAPLAN: Good morning, Commissioners. Good morning, Chairman. I am Seth Kaplan, a principal at The Brattle Group. I have been asked by Petitioners to examine several of the key economic issues surrounding this review.

In today's testimony I will focus on three of these issues: Cumulation, the effects of the orders, a backward looking exercise, and the effects of revocation, a forward looking exercise. Let me begin with cumulation and cover some basic facts.

All rebar is interchangeable, so as a physical matter the products are the same. All subject rebar and U.S. rebar are close economic substitutes, and that means that small price changes will cause customers to switch sources. You saw that in the original investigation and during the period of review. All subject rebar can easily reenter the domestic market. The world market for rebar is made by traders. Traders are capable of finding the best prices and shipping to those markets.

All subject producers have excess and

divertible capacity. This comes right out of public information. I ask you to look at the questionnaire responses as well, but there's no question that this is also the case.

All subject producers have incentives to maximize profits by shipping to the high priced U.S. market. That's Economics 101, and the lessons of Economics 101 have been demonstrated in commodity products before the Commission for several generations now.

All subject producers face the same conditions of competition and sell through the same channels of distribution as do the U.S. producers, so the key cumulation criteria are met, given the commoditized nature of the product and the lack of barriers to trade and substitution inherent in the marketplace.

Please turn to the next slide where we see a discussion of the Ukraine in particular. First, several Ukraine producers representing a significant capacity did not respond to the Commission's questionnaire. Mittal will respond to revocation by maximizing the profits of the whole enterprise, not its U.S. affiliate.

I think this is an important point. There's a citation to a recent plate case used by the Ukrainian Respondents where they say that a multinational company will watch out for each of its affiliates.

In fact, the long history of the economic theory of multinational enterprises, which is an addendum to common sense, tells you that the multinational enterprise is going to maximize profits of the whole enterprise, and if that means exporting so be it. If that means shutting down a facility, so be it.

The structure of Mittal's international rebar operations will lead to the resumption of dumping should the order be revoked. Their own documents say that Ukraine is a low-cost producer. To the extent that the United States is a higher priced market, and the evidence from the record and their own questionnaires seems to state it is, you would expect their product to search out these higher prices.

Further, their stake in the U.S. market is quite small. I would ask you to look at the capacity and production and location of their U.S. affiliate.

Finally, this argument has been made in cases with a much greater share of import capacity by these countries and further much greater U.S.

production. I ask you to look at the bearing matter where there were many more U.S. facilities controlled by foreign producers.

You looked at that argument and decided that that would not prevent their related parties from shipping into the United States and injuring other producers in the U.S. market if you continue those orders. Here the facts of the case are much stronger that they would return.

What I did in the next slide is I actually looked at how effective the orders were. This is the econometric estimate of what drives prices in the domestic market. Note the R squared. It's almost one. That says that these four variables -- subject/ nonsubject imports, scrap costs and construction activity -- explain almost all the movement of prices over the last nine or 10 years.

The key point to take out of this is that the volume of subject imports has about a $50 to $70 effect per million tons on the U.S. market in 1994 constant prices.

Please turn to the next slide. This shows domestic prices, actual prices, in blue in 1994 constant dollars. The red line shows what those prices would have been had imports continued at around their level they had been during the original investigation.

You were right. The statistics looking backwards say that without the relief you had given prices would have been materially less. A lot less. Remember, this is 1994 constant dollars. In nominal dollars it would be much more significant than the $50 to $70 we estimated.

So in essence I'm looking back. Did you make the right decision? By looking at prices, the answer is yes, you did. You identified the right factors that drove the market, construction, input costs and imports, and we can see that imports have a large effect and that the removal of them allowed prices to rise during the period of review.

The next slide shows the same matters for the national market.

Now I'm going to turn to what would happen in the future should the order be revoked. The first point I'd like to make, which is similar to the ones made by Mr. Price earlier, is that there is a consistent price gap between the United States and between the subject producers' export average unit values.

I want to stress two points. The first is that average unit values are a good proxy for prices in this matter. They are the prices. The Commission has decided in previous investigations, given the commodity nature of rebar, that average unit values are an appropriate measure of what prices are. There's no big product mix issues. There's no big quality issues.

So what we are looking at are the actual prices that these subject exporters sold their products during the review period. This is not some survey. This is not some international experts saying I called up some people and I think they're like this.

We have nine years of data, and for nine years the subject producers have consistently sold their product in third markets at well below the prices in the United States. Every piece of data on the record in the review.

In this case, the Respondents are not even asking you to look at a stump period, which the Commission normally throws away. They're asking you to look at information that's not on the record and is done by survey and might be good for a month or two rather than looking at nine years of data based on your record and your own methodology. I can't stress this enough.

The next slide, without identifying the individual countries, shows the price gaps based on data in the responses from the subject Respondents. It shows that the price gaps are significant. It shows that they were highest in 2006, and it also interestingly shows that there is not consistency between the gaps of the exports of these various producers and the U.S. prices.

Of the six years we have, three different countries had the largest gaps and three different countries had the lowest gaps. All of these producers have incentives to come to the United States.

The next slide looks at divertible and new subject capacity. Divertible capacity is capacity that's now sold outside of their home markets, exports to third markets. New capacity is announced capacity that's coming on. What I'd like you to note is that it's significant.

It also notes why cumulation is important because when you add up the countries you get large volumes, but one other thing I'd like you to note, and I'm going to stand up and walk over to the slide. I don't think I can reach that high.

I'd like you to look up at about a tenth or a little more of the U.S. consumption bar, the red bar. That's the level approximately of imports that caused all the problems during the original investigation.

Because this product is so commoditized, because it's so fungible, because it's so price sensitive, small volumes of imports could cause injury as they did in the original investigation, so while some of the individual countries might appear small, by themselves they're significant relative to the amount of imports that caused trouble in the original investigation, and combined, and they should be because of the cumulation standards, they're well in excess of what caused the injury. Only a small volume of the divertible and new subject capacity need come here, and this does not include China.

Please turn to the next page. Now we've added China's divertible capacity, and the total swamps total consumption. It was equal to it before. Now it's several times larger.

On the next slide we now see the excess capacity solely for China. The excess capacity for the other countries is confidential. It's not on the slide. The excess capacity for China was calculated in a submission attached to the prehearing brief, and we see now it just completely swamps the U.S. market, and only a small share of the U.S. market is what's needed to cause the injury as it did in the original investigation.

What I did is use economic models that the Commission traditionally uses to estimate the effects of imports returning to levels that they did, value shares, during the original investigation. These are the kind of models the Commission uses in 201 investigations to estimate the effects of remedy. These are cousins of the models that are used to estimate the effects of trade agreements.

This has long been in the tradition of ITC methods and techniques for estimating the effects in both your quasi-judicial role and your expert advice role. What I found was -- and let's look at the revenue effects -- that revenue would decline of U.S. producers by about 20 percent during each of the years looking backwards, which is a good indication of what it would do going forwards.

This 20 percent decline would drop profits by about 11 to 15 percentage points. That's significant and material by any standard. It's significant and material to a financial analyst, to an investment banker, to an economist, and I daresay if someone said your 401(k) profitability would drop by

10 percentage points per year you would find it very significant and begin looking for a new broker right away.

The next slide shows the same matter for the national industry. I want to have you pay particular attention to the variable labor compensation effect. Often times when we come in here it's with the executives and we're looking at the financial condition of the industry. I've purposely and particularly modeled this so we could look at the effects on labor and labor compensation. They are quite large.

What does labor compensation mean? Well, for certain companies that have variable income for their workers people will not lose their jobs, but will lose their profit sharing and production sharing, which is a huge portion of their annual income. For other companies it would be layoffs.

Let me summarize my results quickly. Subject imports should be cumulated. The orders have had materially beneficial effects on regional and national prices. Revocation of the orders leading to a resumption of dumped imports at preorder shares will have significant adverse effects on industry shipments, prices, revenues and profits.

Finally, revocation of the orders will have significant adverse consequences to both employment and labor compensation. Thank you.

MR. PRICE: Thank you, Mr. Kaplan.

I would now like to introduce Mr. Martin Koch.

MR. KOCH: Good morning. I'm Martin Koch, president of Southwestern Suppliers, a distributor of construction products, including reinforcing bar or rebar, and Southwestern is also a rebar fabricator. In our fabrication operation we cut and bend rebar to form job specific shapes.

I testified in the original investigation and am appearing here again today because I'm convinced that if the orders are removed we are going to be hit with a flood of cheap imports. In fact, we are likely to face worse conditions than those that previously disrupted my business and the market five years ago.

Back then, imports from these countries so overwhelmed the market that rebar piled up on the docks and went unsold for a long time. Import inventory levels got so high that it took often two years for them to move off the docks. As a result, prices plunged, and I had to devalue my inventory. It took quite a while to recover from these disruptive imports.

The situation will not be any better and will likely be worse if these countries are allowed to freely dump here again. It is my understanding that rebar capacity and production from subject countries has increased significantly. I have little doubt that these foreign producers will quickly target the U.S. market if these orders are removed.

The producers are quite effective in penetrating the U.S. market quickly by being very aggressive on price. In fact, I currently purchase other steel products from China, including nails, anchor bolts, rod chairs used to place rebar on and rebar ties. These purchases are based entirely on price as Chinese producers consistently offer the lowest prices on these products.

I vividly recall stacks of rebar from the Respondent countries on the docks in Tampa and elsewhere in Florida prior to the last hearing. I have no doubt that history will repeat itself if these orders are removed.

Rebar imports from China and other countries would be readily accepted in the U.S. The reason for this is very simple. Rebar is relatively easy to produce and rather generic in nature. Rebar is rebar whether it's foreign or domestic.

As a result, customers generally do not care whether they are buying U.S. produced material or imported material. They just want the absolute best price. In fact, the primary factor in purchasing rebar as long as I've been in the industry has always been price.

During the prior import surge, Southwestern was forced to buy low-priced imported rebar from subject countries to remain competitive with other competing distributors. We faced the same difficult situation in our fab shop.

I understand it has been suggested that the Buy America requirements insulate the domestic market. That is simply not true. Buy America projects account for only a very small portion of our business and as such have little impact on our purchasing.

Furthermore, domestic rebar producers have no way of knowing whether a sale is for a Buy America project or any other project so they cannot charge higher prices for those that are. Of course, we would be foolish to tell our suppliers when a product is being purchased that it will go into a Buy America project, thereby giving them an incentive to charge us any more.

Finally, I would like to comment on the demand for rebar. Over the last six to nine months, the part of my business that supplies the residential construction sector has literally dried up. It has fallen off about 70 percent in April, and I am not at all optimistic about the recovery in that sector at any time soon.

Thank you for your attention.

MR. PRICE: Thank you.

I'd now like to introduce our final witness, Mr. Louis Miller.

MR. MILLER: Good morning. My name is Louis Miller. I work in Nucor Steel Mill in Birmingham, Alabama, as a roller mill pulpit operator. I first started working in the Birmingham mill over 20 years ago and stayed on after Nucor bought the plant in December 2002.

I've come here this morning for two reasons. Number one, to talk about the improvement in the mill since Nucor took over and, more importantly, number two, to let you know that if imports come back into the United States workers like me will be severely hurt.

I started working at the Birmingham plant in

1983, and I was always proud of the work that I did, and I was thankful for my job. In 2002, Nucor bought the plant and implemented a production bonus program, profit sharing and a scholarship program for our kids.

Nucor stressed their concern for the environment and made necessary improvements. Being an avid outdoorsman, that meant a lot to me. Nucor came with other fresh ideas and also made needed investments in our plant.

I can personally say that all the workers benefitted as a result, but, simply put, at Nucor when we produce more we get more. I get about two-thirds of my pay due to the production bonus plan with Nucor. I also get to share in the profits of the company, the money that I need for me, my family and for my retirement with my wife.

Times have generally been good with Nucor, but I've witnessed downturns in our business due to imports. When production gets cut back, so does my pay and my retirement savings.

If dumped imports are allowed back into our country, my family and the families of all the other workers are going to be seriously hurt. I've seen this happen before. In the second half of 2006 there was an increase in the imports, and as a result I earned $5,000 less than I would have otherwise.

Things might be different in Washington, D.C., but $5,000 is a lot of money to my family. I have three daughters. I've put two of them through college already. My youngest is still in school. I'll be honest. I had a tough time making some of the tuition payments last year.

As a result of the increase in imports and the decreased bonus time, I had to dip into our savings, including my 401(k), just to pay the bills. This is tough on my family life. I had to tell my wife last year that we would have to cancel our vacation, and that was just for a short period of downtime at the plant.

I'm afraid of what would happen if dumped imports where allowed to come back in forever. My friends have mortgages that they wouldn't be able to pay. I'm still making payments on my vehicle, which were very difficult last year. I'm scared of how bad it could get if production was cut back for a long period of time.

It has started to happen again. This month we have already decided to cut back on production. This is extremely unusual. Construction is supposed to pick up in the spring and so May should be a busy month for us.

I know what is going to happen. Hardship for my family and for my friends' families. As I said, two-thirds of my pay is based on our production bonus, and no bonus is paid if the equipment is not operating.

I've had to work two jobs before. I'm scared that I might have to do this again. I'm just hoping that when you make your decision that you don't forget the workers in our country in our industry. I guess I'm here to ask for your help for my family and for the people that I work with in Alabama.

Thank you.

MR. PRICE: Thank you.

That completes our direct presentation. We will reserve the remainder of our time for rebuttal.

CHAIRMAN PEARSON: Thank you. Thank you, Mr. Price.

Permit me to extend my welcome to this panel. I appreciate very much the time that you've taken to be with us today. Many of you have traveled to get here. Not Mr. Price, but the rest of you. You have taken time off of other things that you no doubt should be doing, so I appreciate it.

I'd like to offer a special welcome to Mr.

Miller, who last week so very graciously hosted us in his pulpit at the Nucor Mill in Birmingham and explained to a number of us the production process for rolling that rebar and advised us that it was best to stay out of the way of fast-moving rebar. We adhered to that advice.

It's a great pleasure for us to have someone here who is directly involved in plant operation, especially when we had a chance to meet with you before, so even though our pulpit is somewhat different than yours I would want you to feel very welcome here and look forward to your responses to our questions.

One other comment I would make to you. Years ago I actually worked for a living and had some involvement with rebar, poured some concrete, although I have to confess. I probably used more wire mesh as reinforcement for the work that I was doing, but nonetheless I know rebar as it goes into concrete.

I also know that it can be used for a lot of other things. You know, you take a carbon oxyacetylene torch. You cut it, and you take and weld it probably with an electric welder, an electric arc. You can do lots of very useful things with it.

In those years, the rebar I was working with was certainly all of U.S. origin, but I just want to tell you that from my own personal experience even though rebar may be a basic product, may be a commodity product, it is also a very fine product, and you can be proud of your work.

That's probably enough of an opening statement there. Let me clam up now and turn to the questioning, which will begin with Commissioner Lane.

COMMISSIONER LANE: Good morning. I, too, welcome all of you. After the Chairman's opening remarks, I might have some questions of you. Just how hard did you work when you were working for a living?

CHAIRMAN PEARSON: I probably should just take the Fifth on that for now.

COMMISSIONER LANE: Okay. Mr. Miller, please rest assured that even in Washington $5,000 is a lot of money. I, too, enjoyed the tour, and it reinforced my decision a long time ago to become a lawyer rather than doing labor.

I'd like to begin the questions this morning about consumption. The record indicates that U.S. consumption appears to be increasing over the period of review. Do you expect demand to increase? Why or why not?

Mr. Price, maybe I'll let you direct who should answer that question.

MR. PRICE: First I'd like to ask Mr. Mike Parrish.

MR. PARRISH: Mike Parrish with Nucor. As far as demand goes, when we look out and look forward it looks very hazy.

Like we said earlier, residential construction has really been off. It tends to take around six to nine months before that starts affecting other types of construction like nonresidential construction.

As we look forward, we see that the demand doesn't look quite as strong as it has in the past, and we're concerned about that as we look forward.

MR. PRICE: Thank you.

Mr. Fritsch?

MR. FRITSCH: Jim Fritsch with Commercial Metals.

Commissioner Lane, we talk about capital investments. We look at a very long time horizon for our forecast.

COMMISSIONER LANE: Can you speak into your microphone a little bit?

MR. FRITSCH: Sorry. When we look at capital investments, we try to look out to the long-term demand range. The construction market is cyclical, so we've learned over the years not to try to forecast exact amounts of consumption, but to look at the trends.

As mentioned earlier, in the construction market we always anticipate an upswing in the spring. This year it's quite different. Instead of the upswing that we anticipated, we are seeing some downswings.

Facts like that lead us not to put too much credibility on long-term forecasts, but to look at the long-term trend. The long-term trend of construction in the United States has been good the last few years, and we expect it to be good moving forward, assuming that the order is not revoked and we're not hit with a surge of low-priced imports coming it.

It's the unknown factors about what other countries will do that really cause us great concern, in addition to the cyclical nature of the rebar market.

MR. PRICE: Mr. McCullochs?

MR. McCULLOCHS: Neal McCullochs, Gerdau Ameristeel.

I've been in this business almost 30 years. It's unique, and you can look at the construction industry as a whole and it follows the housing market. It's usually a six to nine month lag when the housing begins to slow down, housing also being large condominiums, which take a tremendous amount of rebar.

As you see that market slow down, once it really hits the bottom six to nine months later you see the other construction slow down with it. I think that's what we're seeing now.

As Mr. Miller said, you know, Nucor took some production curtailments last year. We had to do the same thing. In the fourth quarter we shut most of our rebar mills down from seven to 10 days at the end of the year. As Nucor is now, we're also looking at curtailing production in many of our plants today.

MR. PRICE: Just to add one piece of confidential information, we will submit for the record the April shipment data.

I think we mentioned some of that during one of the plant tours, the shipment data for January/ February/March, but we can show you what the April data looks like without going into specific details here.

MR. PARRISH: Mike Parrish with Nucor. I'd also like to talk a little bit about what Mr. Fritsch said about the planning.

You know, we look at a three to five year plan when we're looking out. Quite frankly, when we see things like this and we think it might be revoked, it gets scary and fearful of how we're going to go and do more construction and try to get more utilization out of our facilities.

So it is a scary proposition when you look at that, and it is a three to five year plan when we're looking at it. It takes some time to get the construction done, to get land, to get permits, things like that.

COMMISSIONER LANE: How do you sell your product? By long-term contracts? How far out right now do you have orders?

MR. PARRISH: Mike Parrish with Nucor. Our orders basically are spot orders, so they're orders that come in on a weekly, monthly basis.

Backlogs can vary, but essentially they don't get longer than about a quarter so it's not like we have long contracts out there or anything like that.

COMMISSIONER LANE: So your longest period would be an order a quarter in advance?

MR. PARRISH: Probably. In that time period.

COMMISSIONER LANE: Mr. Fritsch?

MR. FRITSCH: Yes, Commissioner. Our orders are generally short-term orders also. We roll rebar for stock, and customers come in. Generally our orders ship within 24 hours of receipt.

The minor exception to that is major projects where there's bidding for them. Those projects might run from six to say 12 months, but they represent a small portion of the business. The vast majority is spot short-term orders.

COMMISSIONER LANE: Can you provide me posthearing what percentage of your business this year you would expect to be these long-term projects?

MR. FRITSCH: Yes, we could provide it, but I could just say offhand that it's a very small percentage, probably in a single digit.

COMMISSIONER LANE: Okay. Thank you.

MR. McCULLOCHS: Neal McCullochs.

COMMISSIONER LANE: Mr. McCullochs?

MR. McCULLOCHS: Yes. Gerdau Ameristeel. Ours is almost 100 percent spot. The prices again would be 30, 60, 90 days at the most.

COMMISSIONER LANE: Anybody else want to try that?

(No response.)

COMMISSIONER LANE: Okay. Non-subject imports appear to be increasing their presence in the United States market recently while subject import volumes are minimal. If the orders were revoked and subject imports entered the U.S. market without the discipline for the orders, where would the biggest impact be felt and why? Mr. Parrish?

MR. PARRISH: Yes. Mike Parrish with Nucor. Boy, in a lot of areas, and let me expound on that. The impact would be in prices. Prices could drop. You could also have tonnage and volumes drop. Of course, the effects of that could be almost catastrophic with the way that would affect our profits when that happens.

But I think more importantly, as testified by Mr. Miller, we have all our employees that work on a production basis, and if the volume drops off, then these employees are going to lose dollars. And that's profit-sharing. It's 401(k), all their benefits and things like that that they count on. And so it's going to have a devastating impact not just for the company but more importantly for our employees.

COMMISSIONER LANE: Would you expect the subject imports to affect the domestic industry, or would it take away from the nonsubject imports?

MR. PARRISH: No, it would affect the domestic industry directly. There would be no replacement of imports. It's just going to be more offers coming into the market.

COMMISSIONER LANE: Okay. Dr. Kaplan?

MR. KAPLAN: Yes. It's going to have a first direct effect on the U.S. industry as a price decline no matter what happens to shipments in terms of what they replace. So prices would fall, and that would have severe consequences. But one of the ways to look at how quantities would respond as well is to look at how price-sensitive domestic shipments are.

The staff put in an estimate of the domestic supply elasticity, and they seem to think that the quantities would be very sensitive to price changes and the U.S. industry would lose significant amounts of shipments as well.

In my estimates, I actually have the industry being less quantity-sensitive and a little more price-sensitive than the staff did, and you could see from my estimates that a return of imports to their levels during the period of investigation would result in 20 percent revenue declines, and the imports would replace both some nonsubject imports and some domestic shipments and would cause a decline in prices.

COMMISSIONER LANE: Okay. Okay. Thank you. Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman. I too want to welcome the witnesses who have testified today and express my appreciation for the information they provided and for those who have come from out of town for coming to give us that information.

I'd first like to get to this question of the attractiveness of the U.S. market. As many of you noted, the price gap between export shipments by subject countries and U.S. producer shipments in many cases are substantial. And what I'm really wondering about is, isn't really the more relative figure when thinking about the incentive to export to the United States the comparison with the import average unit values rather than the average unit value of U.S. producer shipments in trying to see how attractive the U.S. market might be? And I'll let Mr. Price direct who should address that.

MR. KAPLAN: Sure. This is Seth Kaplan of The Brattle Group. This product is sold on price. It's a commodity product sold by traders. The relative price comparison is what I believe what the traders could arbitrage at, so what price they could buy the product at and then what market price they could sell it at. So the price comparison made in your confidential data is market prices in those various markets. The price comparisons that we made are the prices, market prices, in this market.

To the extent that they undercut those prices to sell more and bring the product down, price product down on average, that's important to note. That's what we think will happen. But the price the trader is looking for to see if he could move the product and the price the customer in the United States is looking at to see if they want to purchase the product is a price below what they're paying from their domestic supplier.

I think a practical description of this could best be done by a purchaser in terms of what price do you look at. If someone came in and offered a price for a new import below the price of your domestic supplier significantly, would you take it, or are you looking for the price of what another importer would pay? I mean, it's my understanding since this is one product it's the price of what the domestic producer would charge, and so I think we're making the appropriate comparison.

MR. PRICE: I would just add and again to this a little carefully here, but if you look at Confidential Exhibit H in this handout that I went through earlier, you will see that the subject exporter AUVs are compared to both domestic production and to nonsubject producers.

And we believe that that shows that they will take share, take share from both, and that this is a consistent and long-term pattern in the marketplace, that they'll have negative effects. They'll take volume. This is one product, so it's going to take volume principally from the domestic product we think, but it will have effects on both of them.

MR. KOCH: Martin Koch, Southwestern Suppliers and customers of rebar. Our experience has been that when imports come into the market, our customers will let us know that they have offers on material that is either there now or will shortly be coming in, and almost without exception, those prices are better than what the market currently is. We then have to go to our supplying mills and tell them what we're up against.

We're either going to miss the business or we need to put pressure on them to give us the pricing, and in extreme cases, we then are forced to buy the imported material ourselves not in that particular timeframe but perhaps coming in a few months later to remain competitive in the marketplace.

MR. WILLIAMSON: Could you clarify the first part of your statement? You're saying your customers will know what the foreign suppliers, the prices they're offering, and will come to you?

MR. KOCH: It's been our experience that when a quantity of imported bar comes in, even before it arrives, two weeks before it gets there that faxes start going out to our customers, and that's how sometimes a shipment of 5,000 or 6,000 tons can seem like it's 50 or 60,000 tons, because countless customers will say I got a fax from so and so that they've got rebar coming in and it's a lot cheaper than what you're currently charging me, so yes. I hope I answered the question there.

MR. WILLIAMSON: That's okay. Mr. Parrish?

MR. PARRISH: Mike Parrish with Nucor. And the new technology, the internet, works very well, too, as well. And the minute you get something coming into a marketplace, it's passed around by e-mail extremely fast, and that's the reason that it doesn't take a lot of tonnage to start tweaking the market and pushing the market in a direction. And so that's why we're fearful.

MR. WILLIAMSON: Okay. I understand. I was wondering given that particularly some of the eastern European suppliers are now part of the EU, is it really fair to sort of say that their sales to other EU countries are really exports? Isn't that more like having an enlarged home market? And how should we evaluate this in terms of the relative attractiveness of the U.S. market to those suppliers? Yes.

MR. SHANE: Yes. Jack Shane from Wiley Rein. If I could speak to the issue of the Latvian producer in particular. I think the best evidence in terms of the appeal of the U.S. market to the Latvian producer is taking a look at what happened when that producer began exporting alloy rebar to the United States, which was incorrectly not being subject to the duty at the time.

Putting aside the fact that that was clearly a mistake and the Latvian producer should have recognized that as well as the fact that if you look at the explanation of why that alloy rebar was being manufactured, you've got contradictions from the producer versus the U.S. customer, I mean, putting that whole issue aside, what happened when that product, the alloy rebar, started coming in, again incorrectly not being subject to the order, you saw a real spike of the quantities coming in from the Latvians in 2003 and 2004. Almost all of the rebar that was being exported from Latvia at that time, again incorrectly not being subject to the duty, was alloy rebar.

When we brought this to Customs' attention and when the Latvians again were forced to appropriately bring the product in and were subject to the duty, almost all of their product, their exports to the U.S., disappeared. It fell off substantially in 2005. If you take a look at the data, most of that was product already coming here before the Latvians were informed that they could no longer bring their product in exempt from the duty. And in 2006, those exports disappeared entirely.

So we think if you look at that, it shows I think two things pretty clearly. One is that the Latvians have a lot of trouble bringing product in here when a duty is in place. Secondly, I think it indicates importantly that this market, the U.S. market, remains attractive to the Latvians. And if you remove this order, they're going to come back to this market.

COMMISSIONER WILLIAMSON: Mr. Parrish?

MR. PARRISH: Mike Parrish with Nucor. Just another comment about these countries. They're export-oriented. Their whole business model is based on exporting, so even if their region is a little bit stronger, they're still focused. They have the excess and divertable capacity to ship more tons, and that's what they do. That's what they continually do. And of course the U.S. market, it typically has one of the highest prices.

MR. FRITSCH: Jim Fritsch, Commercial Metals. The question about whether it's home market or whether it goes export, I think if you look at the excess divertable capacity plus the addition of new capacity coming on, it's fairly clear that even though the man may be up to them short-term in the EU market, there's still excess capacity that's going to be directed and focused on export markets, of which the United States is a long-term and future attractive market for rebar exporters.

MR. WILLIAMSON: Okay. Thank you.

Thank you, Mr. Chairman. My time is up, but I'll come back and engage Mr. Kaplan on that.

CHAIRMAN PEARSON: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr. Chairman. And I'd like to thank this panel for being here. I join my colleagues in expressing appreciation for the information that we got on the plant tour as well as for coming here and testifying today.

I'd like to begin with Mr. Kaplan and in particular, you spoke about the various factors regarding cumulation, and I'm wondering, in terms of those factors, how is Poland different from Korea or perhaps I should say how is Korea different from Poland?

MR. KAPLAN: Since this is somewhat of a legal question as well, Alan Price is going to discuss this issue.

MR. PRICE: I may also call upon my colleague, Mr. Pickard, to some degree. First of all, just as a pure statutory matter, in defining country under the statute, let's go back to this for a second. A country is a country, not a Customs union except for countervailing duty purposes, and these are only dumping cases.

So, as a statutory matter, each country in the EU has to be treated as a separate country. That's just a pure statutory point. I think it's important for the Commission to remember that. It is the way the statute was designed by Congress, and that was what Congress intended.

Now we think that there is a significant difference here with regard to Korea. The domestic industry believes that Korea essentially consumes virtually all of its production internally at this point. It at this point is operating at essentially full capacity, which is a contrast to Poland.

It has, Korea has, at this point no significant plant expansions. So not only do they consume all internally, they're not expanding plants. And they are at this point not expected to have any exports of any consequence going out onto the world market given their growing demand in their market.

Poland has already a significant quantity of exports. It has significant excess capacity. It has significant new capacity coming online, including capacity being built, for example, by Arcelor Mittal, which never came up in any questionnaire responses that they put in because they didn't put in any questionnaire responses for those units of their business, and by other producers.

We see a very significant difference between Korea, which is consuming internally, not building new capacity and whose exports are contracting rapidly out of the market, versus Poland, who is exporting still very significant quantities, is building large amounts of new capacity internally and is exporting at this point.

COMMISSIONER PINKERT: Thank you. I'd now like to turn to the question of demand in this U.S. market, and in particular, I'm interested whether Mr. Price or any of your colleagues agree that the current performance of the domestic industry is largely due to demand growth related to nonresidential construction. And I want to distinguish here between nonresidential and residential discussion for purposes of this question. Thank you.

MR. FRITSCH: Jim Fritsch with Commercial Metals Company. Nonresidential and residential construction are actually linked, Commissioner. There's a lead-lag effect on it, and residential, as demand for housing goes up, about six to nine months afterwards, there is a noticeable increase in the demand for nonresidential construction.

If you think about it, when people build houses, the next thing they need is a grocery store. They need schools. They need shopping centers. They need auto repair shops. All that is classified under nonresidential, and so there's a very clear link as you move forward. As the residential market declines, about six to nine months later, you'll see a decline in the nonresidential markets.

MR. PARRISH: Mike Parrish with Nucor. I agree with Mr. Fritsch. We've seen a direct link recently with the residential construction falling off and our orders and our backlog getting weaker and some of our facilities having to reduce work schedules, and what happens, like Mr. Fritsch said, is it then bleeds into the nonresidential construction. Now we're starting to see that as well. So it has been a big impact and, quite frankly, bigger than we thought it was going to be. It's hit us pretty hard.

MR. MCCULLOCHS: Neal McCullochs, Gerdau Ameristeel. I think you have to look at the link, too, which is the pure attitude about people and the economy and the environment. If you just pick up the paper now and you talk about housing is at its lowest start, mortgages falling apart, foreclosures. There's a lot of people that aren't going to invest in the economy under these circumstances.

And it's the same thing as Mr. Parrish said. As you look down the road and the economy is going this way and construction is going this way and the demand is not going to be there, if you throw dumped material, dumped imports, into our market and our business, then if we look down the road, we don't see a rosy enough picture to even invest the money that we've made in the past couple years, which you have to make this kind of money to invest in your business and in the future of your business.

COMMISSIONER PINKERT: I understand the argument about the linkage or the lag if you will between residential and nonresidential, but my question was whether you agree with the proposition that the performance is more tied to the nonresidential construction than to the residential, leaving aside the question of linkages and lag times.

MR. FRITSCH: Commissioner, if I understand your question now, you're asking us which one of those two markets really is the driver for the rebar market. I think we'd all agree that the nonresidential market is perhaps the biggest driver, although depending on the facts you look at the last few years, if you look at total dollars spent in construction, the residential was higher than nonresidential.

So whether it's dollars, whether it's square footage or whether it's actual tonnage of rebar, the answer can be slightly different. But all things considered, I think we would agree that the nonresidential market is a driver for the rebar consumption, but the linkage is important because of the slowdown that occurs and the trickle-down effect.

COMMISSIONER PINKERT: I understand the linkage issue, but let me follow up with another question about the nonresidential. I understand that there has been some testimony today that we've begun to see a downturn on the nonresidential side if you will, a lagged downturn or a linked downturn. And so my question is for all the members of the panel whether we have begun to see some impact on the nonresidential construction at this point in time.

MR. FRITSCH: Jim Fritsch with Commercial Metals. I'd say, yes, we have. These are highly unusual times for us in the spring to see steel mills reducing production. Normally it's the strongest time of the year going forward. And if we agree that residential is a small portion of the actual rebar demand, nonresidential being the key, then the fact that we're taking turns off facilities clearly shows that there is either a lag or a slowdown in the nonresidential construction market.

MR. PARRISH: Mike Parrish with Nucor. Exactly. If we're going to say that nonres is a little bit more of the leader there and we have facilities right now that are throttling back because we can't get the shipments and the tonnages that we'd like and especially if you look at this type, this part of the time of the year, this is the time of the year when we should be booking and it's crazy, and we're not and that's scary.

MR. MCCULLOCHS: Neal McCullochs, Gerdau Ameristeel. I think what you see too is the business going on right now in the nonresidential is stuff that was on the boards last year, was designed, was let, the contract was awarded and so forth. What you're seeing now is less work being bid for nonresidential.

So through our fab shops, our fabricating plants, you can look at the amount of work that's being bid and the quotations that are out, and for this time of year and during the first quarter, they're down compared to what's normal. So that's sort of a leading indicator of the slowness that's coming.

MR. FRITSCH: Commissioner, Jim Fritsch again. I would say that when we talk averages for the region that we come with one, but there are pockets of strength still in the marketplace, but there's also pockets where things have slowed down considerably. So when we average all those together, we talk about probably a decline in nonresidential demand at the current time.

I don't want to leave the impression that the market's falling apart. It's still healthy, but we are seeing a downturn from good demand levels. And our primary of course is if the orders are revoked that a surge of imports coming in will take any vitality in the market out and depress both domestic volume and prices.

COMMISSIONER PINKERT: Thank you. Thank you for following up on that.

CHAIRMAN PEARSON: Over the POR, we see only quite small fluctuations in subject imports but much larger fluctuations in the volumes of nonsubject imports. To me, there doesn't seem to be any clear relationship between import volumes and the performance of the domestic industry. There also doesn't appear to be much of a relationship between the market share achieved by the domestic industry in any given year and how well the industry is doing.

So I'm wrestling here with issues of causation. I mean, I think I could probably write an opinion indicating that there's nothing here on the record or not enough on the record to indicate that imports are a problem for the industry. So tell me do the imports really matter, or is it just the strength of domestic consumption of rebar that matters? Dr. Kaplan?

MR. KAPLAN: I think they all matter, and what I did in the statistical side of looking backwards is try to disaggregate all of these effects. So I tried to isolate the effect of subject imports, isolate the effect of nonresidential construction demand issues, isolate the effect of nonsubject imports and isolate the effect of input costs.

And that's the beauty and/or terror of econometrics is that it's a jumble with four or five things going on, and it's what the statistics allows you to do is separate out these various effects, because otherwise, casual empiricism of looking at one trend with another trend when there's four or five things going on could lead you astray. It is confusing because things are going up and down.

And what I found was very strong and significant effects from the subject imports. If you recall, that was a period of relatively strong demand when they were here and the industry wasn't performing very well. Now we're in a period of relatively strong demand and the industry is performing well. Prices are higher. Part of that's due to input costs.

CHAIRMAN PEARSON: But you'll acknowledge, Dr. Kaplan, that at the time the orders went into effect, there was at most a barely perceptible influence on the fortunes of the domestic industry. That was the case for 2001. It was the case for 2002 and for 2003.

And bear in mind that in 2002 and 2003, we also had the safeguard measure that was providing some additional protection to rebar. It was not until the safeguard measure was lifted late in 2003 that we see the rebar industry start to take off and do well financially. So that's why this is a very counterintuitive fact pattern that I'm seeing.

MR. KAPLAN: And I think that's why you have to control for demand. And what the statistics show, what the staff's estimates at the time showed when they did their simulation modeling, I'm doing this kind of metric modeling, is that the industry would have been much worse off during those first several years had the orders not been in place. So the relief that they were afforded prevented a further decline in the performance of the industry, and when demand finally started picking up is when the industry's performance really started doing much better.

So when demand, both imports and input prices, are all fluctuating, it's difficult to just look at two of the variables and attribute everything just to those two when there's lots of fluctuations going on. There is both supply and demand side factors varying over the period continuously, and that's why I tried to use a method that separated these out and said, okay, let's just worry about what happened with imports and what their effects were, controlling for all these other factors.

And I think the history of these tools is to confront exactly the problem that you're addressing. There's lots of things going on. It's not apparent from a casual look at a timed series what's affecting what. This approach separates it out.

And I think it might be interesting to hear what the producers say about the relief they were afforded after the orders and if they felt that if there wasn't relief, if things would have gotten worse off during the beginning of the POR, that's more from a business side, I'm giving you the economic perspective.

CHAIRMAN PEARSON: Right. And I would like to hear from the producers, because of course what we see on the record is that as the shipments of subject imports decreased when the order went into effect, shipments of nonsubject imports rose not quite on a ton-for-ton basis, but they rose very substantially to replace the subject imports.

And so, producers, what was going on in the marketplace, and what effects did you feel from this order going into place?

MR. FRITSCH: Jim Fritsch with Commercial Metals. I've been in the business for quite a few years and been through many cycles. Rebar is sold on the basis of price. When importers come in, the way they buy into the market is by reducing the price. As price comes down, their volume goes up. It has a significant impact on a domestic producer.

If you take a look at the record and you show that the percentage of the market that imports receive hasn't changed much, you have to recognize that in the steel business, you have two choices. One is try to cover your variable costs in order to keep running. Otherwise, you lay everybody off and take a tremendous hit to your bottom line. Or two, just try to come as close to break-even as you can and try to weather the storm.

So as you look back at it, as a businessman, we don't want to lay our employees off. We value them. They're our most valuable asset. We spend a lot of money training them. Their families and the communities depend on our paychecks to them, depend on our taxes and revenues. So there's a social responsibility we also have to keep running the facilities, and that governs our objective as long as we are continuing to provide the shareholders the best value we can under market conditions.

CHAIRMAN PEARSON: Sure. But when the subject imports were limited in terms of their access by the order, did you see nonsubject imports come in right away and play some different role in the marketplace than was being played by subject imports, or did they play largely the same role?

MR. FRITSCH: I'm not sure I can say they played a different role. It's simply that the market is attractive and that imports come in. Those countries that were covered by the order that reduced were replaced to some extent by others. The issue is still the same, though. It's price and it's volume and the impact on us.

I think we testified earlier that our primary concern is the large divertable and growing excess capacity plus the new capacity that's coming on around the world. And as countries that are adding capacity lose their current export markets other than the United States, the U.S. is still a very attractive market, and so as we look forward, the impact of that volume coming here will have a significant impact on it regardless of what country it comes from.

MR. PRICE: Okay. This is Alan Price. Let me hit one quick point. Perhaps Commissioner Okun is the only one who will remember this from the original investigation. I think you're probably the only one who was here for the original case.

The importers came in and said there are no inventories. There are all these imports that came in. They were consumed. You may remember these importer cues saying there were no inventories, and we literally came in with pictures of the subject imports, hundreds of thousands of tons of inventory sitting on docks in Houston, in Tampa, inventories that have already been just sitting there for six to nine months because there hadn't been an import that had come in for some of these subject countries because the preliminary duties came in place.

These inventories overhang the market for an incredibly long time in this case. They just took an enormous amount of time to work off. Their volumes were huge. I remember Bill Silverman who represented the Latvians pounding the table, saying these are fictitious inventories, and we had all these literally picture after picture after picture, dock after dock after dock, of the inventories of the subject product just sitting around the U.S.

Remember this is rebar, so rust doesn't make a difference actually. It's just it helps the cement adhere even better, so it's really not a big deal. That had a long, long impact in trying to work off the marketplace.

CHAIRMAN PEARSON: But if that really was the reason, then we should have had very large volumes of available imported products shortly after the orders went into effect, because we would have had both the inventory overhang that you've discussed, plus we have this very substantial increase in nonsubject imports that as I look at the data pretty much replaced the imports that weren't there.

And yet through all that time, the domestic industry as a whole was able to maintain its operating margins at about the same level that it had achieved during the original period of investigation. So I'm looking at the numbers and I'm not seeing some of the things that are being alleged to be logical.

My time has expired, so I will recognize the Vice Chairman.

VICE CHAIRMAN ARANOFF: Thank you, Mr. Chairman. And thank you to all of the witnesses who have traveled to be with us this morning.

I'd like to start by exploring with all of you in the business a little bit more about how pricing works in this market. There is some mention in the staff report and in questionnaires about the use of surcharges in recent years, but if each of you could just describe for your company the extent to which what's a base price, what's a surcharge, how do you decide what the surcharges are, do you always use surcharges or were you just using them when there was a big problem with scrap supplies. What can you tell me about how the price that you see gets put together?

MR. MCCULLOCHS: Neal McCullochs, Gerdau Ameristeel. We don't use a surcharge. We use a base price, and the base price is basically determined by the market. I mean, we obviously consider what our costs are, increased costs to scrap, power alloys or whatever, but the main thing is the market sets the price. I mean, we've had instances before where scrap goes up, your energy costs go up, yet your base price goes down because the market has gone down.

And that's basically what was happening back early before the duties were levied is we were in a situation where our costs were going up, we had to cut back further production, which further increased our costs because the illegal imports were dumped in here at prices much lower than the market and we had to compete with that price as our prices went up. So even though the cost and so forth are going up, the market sets the price. In this case, it was set lower.

MR. PARRISH: Mike Parrish with Nucor. We do have a surcharge. We put it in as a scrap surcharge. We call it raw materials surcharge but basically fund it on scrap, looking at where scrap goes. The way we price is we have a portion. One aspect of the price is base. Then the other aspect of it is a surcharge. You put the two together and basically you have a transactional price.

Exactly what Mr. McCullochs said, the market really sets the price. There are times when scrap goes up and we lower our base price to be competitive. And at the end of the day, what we put the surcharge in for is to keep track of what's going on in scrap and try to keep track of our costs that way. But at the end of the day, it's a transactional price, and it's a clear market where it's at.

VICE CHAIRMAN ARANOFF: Have you always

priced that way?

MR. PARRISH: No. We put the surcharge I believe if I think back probably the beginning of '04, end of '03.

VICE CHAIRMAN ARANOFF: Okay. So this issue of dividing your price up for tracking purposes started about the same time that the scrap started really going up.

MR. PARRISH: Well, scrap started going crazy, yes. Yes. Which is a big portion of where prices are today, a huge portion.

VICE CHAIRMAN ARANOFF: But you haven't done the same thing, for example, for energy costs, which also have gone up?

MR. PARRISH: No. It's a raw materials surcharge, but it's essentially based on scrap, but it was other raw materials, too.

VICE CHAIRMAN ARANOFF: So that would include all inputs.

MR. PARRISH: Right.

VICE CHAIRMAN ARANOFF: Okay.

MR. PARRISH: Okay.

VICE CHAIRMAN ARANOFF: Okay. Mr. Fritsch?

MR. FRITSCH: Yes. Jim Fritsch with Commercial Metals. We do not have a surcharge. The only surcharge that is passed onto our customers is on transportation. Most trucking firms, because of the high price of diesel fuel, have added a surcharge to their standard rates, and that is passed onto the customers from the trucking company.

VICE CHAIRMAN ARANOFF: Okay. I appreciate those answers. Dr. Kaplan, in your testimony, you were talking about the fact that sales, export sales, sales from producers in other countries, tend to be made through trading companies, and I'm not sure this is something that we really saw reflected to a huge degree in the staff report or the briefs, so I wanted to explore it more with you.

Are you telling us that producers in some of the CIS countries or the Asian countries that are involved in this case that a particular producer sells only to a trader and has no relationship with the buyers in the specific markets where the product ends up being sold?

MR. KAPLAN: Commissioner, you're going to love my responses today because I'm handing them off to people that actually do this for a living rather than me, who's commenting on it from afar. Several of the companies here have had or have acquired trading companies and might want to comment on that issue firsthand, and then the purchaser could if they wish comment on how he's approached in terms of buying materials from foreign countries. Real evidence.

VICE CHAIRMAN ARANOFF: Yes. Okay. Mr. Koch, do you want to start?

MR. KOCH: Sure. Martin Koch, Southwestern Suppliers. When we do from time to time buy imported product, we generally are approached by a trader. The traders are often in New York or Houston. One is overseas in London. And they will offer us rebar from a foreign producer at such and such a price for an arrival four months later.

Sometimes they'll offer us a modest tonnage but with the full knowledge that they'll need to get other people to buy additional tonnage to get the vessel to call in Tampa, Tampa, Port Mentier (ph), where we've received material in the past. That's how we would buy rebar.

Our customers would buy imported rebar, the bigger ones in the same fashion, the smaller ones from someone who has brought the tonnage in perhaps from a trader, perhaps directly. I don't know if I'm supposed to name names here, but one of our biggest competitors is a lumber company, a nationwide lumber company, and it seems to me they don't know terribly much about rebar.

But they bring rebar in unsold, have it at the docks, and that's when they either make the telephone calls or send out faxes. I think they don't send faxes as much as they used to. It's more by personal contact and telephone calls now. But they'll just bring the price down in Florida to the dealer customers, the people that we're trying to target who then sell to residential builders.

VICE CHAIRMAN ARANOFF: Okay.

MR. PARRISH: Mike Parrish with Nucor. It's my experience that because the product's so fungible, there's no real relationship with the customer or anything like that. Most people I know that import, they don't even have a place where they know the tonnage is going to go at the time. They're just speculating a lot of times, looking for the best price they can get to bring it in and then move it after that.

VICE CHAIRMAN ARANOFF: So do you feel like the U.S. market where you're making sales to distributors that you do business with over time or fabricators, do you feel like the U.S. market is unique in producers having relationships with their purchasers whereas that might not be true in these other countries, or do you think that is true in these other countries with respect to their home markets like it is in the U.S., but once the product goes for export, the producer really has nothing to do with it?

MR. PARRISH: Yes. Basically, in this product, there are relationships, but it comes down to price, and I think that's the key thing that everyone has to understand here is that that's what drives it. Whether we have inside customers or not, they are going to buy where they can get the best price. They're in business to make money.

Even our own facilities that we have, we don't subsidize those facilities. They want to buy from the best opportunities. So that's our experience in the marketplace. There's nothing unique. It's the way the product is sold throughout the world.

VICE CHAIRMAN ARANOFF: Okay. I mean, the reason obviously that I'm asking all these questions is because we do have a number of cases and many of them involving steel products where a producer in a particular country has traditional export markets that it serves and may come to us and tell us that they have relationships with customers and that it's not just price that would cause them to leave those customers in favor of different customers because relative prices may change over time and they would want to keep the customer and not burn their bridges. And so I'm trying to assess the extent to which that may not be true in this industry.

MR. PARRISH: Yes. That's not my experience in rebar.

MR. FRITSCH: Jim Fritsch with Commercial Metals. We're one of the companies that does have an international trading company, and we do import product into the United States through an organization called Dallas Trading. Dallas Trading is a trading group, and they work on arbitrage just like Dr. Kaplan said. They search to find a buyer that needs the product and they search to find a mill to supply it at an attractive enough price for the customer to do it. The price is the primary driver, although they try to develop their relationships long-term, their ultimate customer makes the decision based on price.

VICE CHAIRMAN ARANOFF: Dr. Kaplan, my time is almost up.

MR. KAPLAN: You could have some customer relationships, but with enough excess floating around that could be driving the price. So if someone says well, yes, I have a strong relationship there's still this excess above it that's divertible and there's certainly enough of that if you watch how people enter and exit these markets and the traders facilitate tihs and the lack of product differentiation makes it so easy.

The fact that there's no long-term contracts as compared to a lot of other steel products you get the feeling this is a worldwide spot market for something that's, you know, almost a commodity mineral. Not quite, but almost.

VICE CHAIRMAN ARANOFF: Okay. I appreciate all those answers.

CHAIRMAN PEARSON: Commissioner Okun?

COMMISSIONER OKUN: Thank you, Mr. Chairman.

I join my colleagues in welcoming all of you here today. Appreciate you taking the time to be here and to Mr. Miller in particular I hope that Mr. Parrish considers this a productive day for you to be here. That takes that into account. I want to return if I could to some questions about forecasting demand in the reasonably foreseeable future.

I found your testimony particularly helpful thus far, but with regard to the link and in the time lag, I mean, I understand how it's explained and I can understand why that would make sense. If there's anything that you can submit posthearing either by independent market observers that support that because I did go back to it wasn't something we discussed in the original, I haven't had a chance to look at the Turkey opinion, but it's not something I recall with this case in thinking about.

In other words we talked about construction being a big driver for demand, for rebar generally. We haven't done a lot about splitting into residential, nonresidential, and I'd appreciate anything further on that. But also, I just don't see any discussion thus far about this lag that one would anticipate.

MR. PRICE: We'll be happy to do so.

COMMISSIONER OKUN: Okay. And just a follow-up on that, Mr. McCullochs. I did want to give you a chance to respond to another take on that. Again, this is your company, Gerdau Ameristeel, quoted in *American Metal Markets* on May 7.

I know they don't always get everything exactly accurate and they're talking about a much broader product range, but the point that I want to raise in this is the way it's described in this article it says construction activity usually leads to an increase in shipments in the second quarter.

However, that may not happen this year

because many customers prebought in the face of spiraling scrap prices in March said executives of the Tampa-based company. Because customers are waiting to see whether scrap prices will continue recent declines many might continue to delay purchases.

I wanted to give you a chance to respond to that, whether you think that is applicable in the rebar market?

MR. MCCULLOCHS: I think it's applicable across all markets. Especially with rebar we sell the big push of imports in the fourth quarter of last year and I think that was part of the reason that we all had to slow down production at the end of the year because you had that overhang there. I believe everybody was positioned to take off again in the first quarter and second quarter.

We had the spiraling up scrap prices again this year like we did in 2004 almost at the same level. With that you had people buying, pulling ahead, building up inventories. But what we thought would happen is, you know, that it would slow down some in the second quarter but the market was going to pick back up to the point that it would take off again.

What we've seen is there's a lot of I guess less than eager optimism that the market is going to take off like it had before, so everybody's shipments are still slow. The inventories for our customers both for rebar, and merchant bar and so forth are still at record high levels.

COMMISSIONER OKUN: Okay. So the scrap prices may have a role in what you're seeing in addition to the other issues that you've testified to this morning?

MR. MCCULLOCHS: Yes, but it was sort of a short-term thing. I mean, you can pull ahead, you know, for two weeks worth of inventory and so that should slow down one month's shipments, but, you know, we ended up having a very strong first quarter and then we saw the impact of it in April. May should have started turning around, June you should have orders that are really going to be robust.

That's when it takes off. That's the season. It just hasn't happened yet.

COMMISSIONER OKUN: Okay. Appreciate that. Then turning to the global demand side, and I don't know who might be the best person to talk about this, but would we expect to see any linkage on the global side? When I look at the information we have in the record about demand in foreign markets, in particular there's talk about the middle east thing both the residential and nonresidential, a lot of projects going on there.

In China a lot of talk about the construction that's gone on with the Olympics that would be tapering down. Could anyone here talk about what you anticipate on the global side and whether any of this linkage or time lag would apply?

Mr. Price, or any others that are following publications out there?

MR. PRICE: Well, let me hit real quickly and then go to industry witness since I think that's who you really want to hear from rather than me.

COMMISSIONER OKUN: Okay.

MR. PRICE: I have actually another May 8 *American Metal Market* article talking about, you know, CIS rebar prices falling and part of the lines are CIS exporters are coming under increasing pressure from buyers to reduce their FOB prices. It continues the rest of the world seems to be very weak at the moment and CIS trading is very quiet. So, you know, a lot of constant noise out here in trying to judge this, and so you can get a snapshot of an article saying things are great and things are terrible.

Analytically I think if you look at long-term supply and demands, for example in the CIS Arcelor Mittal, we gave you what their long-term supply, demand was for the CIS. You know, nice growth, but fraction of what we've seen in the U.S. frankly. Nothing spectacular out there in the long run. So I think then you add on to that. We know there are building projects going on in the middle east and we've all recognized that.

We also have documented all the new capacity coming on essentially to fill those demands going in faster than -- in fact it looks like the consumption rates are going to go on. If you look at each one of some of the critical export markets out there for these guys who are exporting and we see demand good, some cases not as good as people are trying to say. We see capacities coming on in some of those countries.

That means that those exports that are currently out there are going to have to go somewhere else and we think they're going to come here after what will be the normal competitive marketplaces that will ferret all this out. We think that's going to add to the reasons why they're going to come here and compel it beyond the current price attractiveness of the U.S. market, which we think is attractive.

COMMISSIONER OKUN: I do want to hear from the industry witnesses. Before I do, Mr. Price, let me ask you in your briefs, and I'm not sure I know which tab it is right now or whether there was a tab, but you have supplied information from an independent source that the Commission often looks to to provide details about foreign industries.

In particular you have attached the pages that relate to capacity increases in those industries. If available to you if you could submit the charts that would be on the consumption side of it that would help us because we don't have those.

MR. PRICE: Yes. We'll be happy to do that. What I would say is that when you look at all of the sources out there, you know, there's some value to all of these sources, but they all also have to be looked at in bright lights of other information out there.

COMMISSIONER OKUN: Right. I appreciate that. I think one thing that's always been important to me at least in looking is that we see whatever their complete theory is, whatever the source is and then we can evaluate whether we think --

MR. PRICE: Yes. I agree with you. Yes. I do apologize for not including that --

COMMISSIONER OKUN: I wish we had them here at the Commission, but we don't.

Mr. Parrish?

MR. PARRISH: Mike Parrish with Nucor. I'd just like to add with what Alan said. You know, markets come and markets go, but the one steady force there is the United States' market. The pricing is always there, it's always near the top and so that always remains an issue. Yes, demand is pretty good in different parts of the world and overall, but that's another scary thing, to talk about demand without talking about supply.

When you really talk about and look at that picture together that's the scary thing there. When you look at the six times U.S. capacity and looking at these countries with that supply that's what really gets me and gets me scared from looking forward.

COMMISSIONER OKUN: Okay. Yes, Dr. Kaplan?

MR. KAPLAN: Yes. I also want to emphasize, and I think you maybe have heard this in other steel hearings as well, the supply issue, I mean, you have single countries that are export oriented adding mills or capacity of six million tons. You know, the U.S. market is 10.

So you have these small demand and supply fluctuations going on, you're trying to forecast them, it's hard to do, but then you see the concrete and steel being poured and the steel mill goes up and it's a massive increase in capacity that kind of swamps what we think the variation in demand should be.

COMMISSIONER OKUN: Okay. I'll look at some of the demand. Okay. Then this question I'm going to pose for a posthearing answer, which is I understand that you have argued that Korea should be treated as having no discernable adverse impact on the U.S. industry. I actually can't wait to hear Don Cameron come up here in the next panel to say I agree I guess.

I do want the U.S. producers to in posthearing provide me with any information they may have on whether there is any type of relationship with Korean producers proposed by any of the U.S. companies.

MR. PRICE: As far as I know there is actually no U.S. relationships, but we will check and respond in the posthearing brief.

COMMISSIONER OKUN: Okay. I appreciate that. Thank you for all those answers.

CHAIRMAN PEARSON: Commissioner Lane?

COMMISSIONER LANE: I want to go back to the issue of demand a little bit more. In looking at the data the period of 2004 to 2006 seems to be very positive for the industry. I just wonder, do you attribute any of that to highway construction and big project construction, and if you do attribute the good times to what has happened in the highway industry and reconstruction after Katrina and other disasters why do you think that demand may drop off in that particular sector?

MR. MCCULLOCHS: Neal McCullochs, Gerdau Ameristeel. I think if you look at the unprecedented growth in the market, I mean, it was growing over a million tons a year for rebar. You can't contribute it to one. It was a big picture. Different markets you have different reasons. If you go to Florida there was a tremendous amount of housing being the high-rise housing that boosted that market at record levels.

You can go to other states were there were some highway projects, maybe Texas or others, I'm not sure. It was the general economy as a whole. It was not one thing that you can pick out. It's one of those things where everything is working together at the right time for the right reasons.

MR. PARRISH: Yes. Mike Parrish with Nucor. If you go back to those particular years I think if you look you had, you know, residential really strong back then. Residential throughout the country was really strong. Of course nonres, if you take that nonresidential just building portion out and then add the infrastructure back to those years we had a lot of big projects.

We don't see as many of those big projects going forward on the highway, and then you include the reduction in residential construction and the erosion. I'll also say, you know, it's not rocket science to look at that, but if you look at residential construction, if that's down your infrastructure build is going to be down as well.

You're not going to be needing the requirement to get as many highways, and roads and bridges to those locations. So it all has an effect, it all ties into each other.

COMMISSIONER LANE: Okay. Anybody else want to take a stab at that?

(No response.)

COMMISSIONER LANE: Okay. While we had data for what the industry was doing, is doing, has been doing over the period of review can you tell us and provide posthearing perhaps what your operating incomes are for 2007 to date?

MR. PRICE: We will assemble that

information.

COMMISSIONER LANE: Okay. Thank you. And relating to that same period the domestic rebar raw material costs increased from 2001 to 2003, declined in 2005 and then it increased again in 2006. Can you provide us with data as to what your raw material costs are in 2007 to date?

MR. PRICE: Again, we will provide that for the posthearing brief.

COMMISSIONER LANE: And the same information for your scrap metal.

MR. PRICE: Absolutely.

COMMISSIONER LANE: And what your projections are into 2008 for scrap metal prices.

Why are you laughing?

MR. FRITSCH: Jim Fritsch with Commercial Metals. If I could do that I wouldn't be sitting here, I'd be clipping coupons on a beach someplace. There are industry groups that attempt to make it. When you correlate their forecast of what actually happens in the marketplace, though, the correlation is not nearly as close as those of us in the industry would like to see.

COMMISSIONER LANE: Okay. The domestic industry capacity utilization rates have increased over the period of review. How much more rebar could the domestic industry realistically produce, and specifically how would the domestic producers increase production? Would you be adding shifts, working longer hours or adding new capacity?

MR. FRITSCH: Jim Fritsch with Commercial Metals. Some of the facilities this industry has are devoted entirely to producing reinforcing bar. So if they're running at a sustainable rate of say 90 percent of capacity it's hard to run for any extended period of time more than that. Equipment just has to be maintained.

There are other facilities that produce merchant products as well as reinforcing bar on the same facility. When you deal with customers that produce both products if you choose to move toward one and there's demand for the other product then you have the relationship issue that pops up and continuity of supply. But in general if there's an opportunity to increase production, put more turns on for an extended period of time, you do.

It's not real economical to bring a crew on for a very short period of time and then lay them off again or ratchet back down. But I'd also think that you'd see that for the last three years the industry earnings have been healthy, and it's those type of earnings that are necessary to build new additional capacity.

I can tell you that we have announced a new facility that's dedicated to only producing reinforcing bar. That's in the permitting stage right now that will move ahead. It's a new innovative technology that we think has extremely low production cost, and we'll make it globally a low cost production facility.

The problem we have is that it's going to take us at least two years to build that facility. So when that facility starts up after spending millions and millions of dollars to build it if a surge of imports comes and drives the price down then the economic return on that will be disastrous. And so that's the challenge that we face.

The domestic industry would like to have more rebar capacity. As Mr. McCullochs testified the demand for rebar has been growing the last few years, but we really haven't capitalized on that growth because imports have captured a good portion of it until your order came into effect which reduced to a certain extent that volume coming in.

So there are plans underway. We have major expansion plans as well as the other producers do, but it's based upon the continuity of the earnings that we've received the last three years in a fair market.

COMMISSIONER LANE: Where are you planning to build your new facility?

MR. FRITSCH: One of the facilities has been announced outside of the region that we're talking about. It's in the far west where there's an extremely large population growth. There are other facilities under consideration that would probably fall into the region that we're talking about.

MR. PARRISH: Mike Parrish with Nucor. Actually, it's a really good question to see how we could, you know, grow our business and try to meet some of the needs of our customers. There's a lot of ways to do it. We can add shifts like Jim said. We also invest in the existing facilities that we have. We continue to do that.

Like I said before we look at a three to five year plan on that. Our business is cyclical. We're talking here today about the imports that can come in. So it is a scary proposition when you look at making major investments. Just like what Mr. Fritsch said we're looking at opportunities as well. There was a facility that was shut down that we bought after it was shut down in Kingman, Arizona.

That's a good facility to make rebar, but we still haven't started it up for various reasons but it's going to take some capital to get it started, and we're concerned also about what's going to happen with the import issue and where we see the future going. So there's a lot of opportunities for us to grow and we continue to grow. We've got great employees like Louis here that work efficiently and work together. We've got a lot of best marketing things going on internally to improve ourselves.

But it's still scary when you look out and look at major, major expenditures.

MR. MCCULLOCHS: Neal McCullochs, Gerdau Ameristeel. As Mr. Parrish said it's a cyclical business, but it's also seasonal. You can take the U.S. capacity and you can't just divide it by 12 and say you're going to ship that much each month, which is one of the reasons that you have such an impact of a sharp increase of imports. We had that happen as I said back in the fourth quarter.

We can build inventory in the first quarter of the year which is unseasonably slow because we know in the second quarter that's when the construction is going to take off. If you've got imports or if you've got overhang that causes you to slow it down and that's what you have to do. And like these guys we also have plans for expansion and capacity that basically hinges on, you know, what comes out of this hearing and what we think the future of the industry will be.

COMMISSIONER LANE: Okay. Thank you.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman.

I would like to ask a couple of questions about this concept of a regional industry. The region that we've been talking about is quite large and larger than I think we typically look at when we think of a regional industry. My question is at what point does a region become so large that it's getting close to the nation as a whole and therefore it's inappropriate to try to do this regional industry analysis?

MR. SHANE: Our view is that the Commission made the correct determination in the original investigation in this case that in fact a regional analysis is appropriate. If you take a look at the statutory factors that go into whether or not a regional analysis is the right way to go the facts here clearly support that. For example the production in the region, the vast majority of that production goes to satisfy demand within the region.

If you take a look at the production outside the region only a very little bit of that goes in to satisfy demand within the region. On the import side the subject imports are concentrated within the region as well and that's where the primary competition occurs between the imports and between the domestic product.

In addition we think the regional analysis is consistent with the Commission's determination in the sunset review on rebar from Turkey as well. Also, if you undertake the regional analysis which requires the Commission to determine whether all or almost all of the production in the region will experience material injury we think again it's pretty clear based on the information on the record that condition would be satisfied.

There's nothing that would indicate that any individual plant within the region is an anomaly and therefore would not fit within that analysis. That said if the Commission decides that the regional analysis is not appropriate, you know, we think that both the statute and prior Commission precedent requires the Commission to undertake that analysis on a national basis.

And we think there as well it's clear that revocation of the orders would lead to material injury of the industry on a national basis if the orders were revoked.

COMMISSIONER WILLIAMSON: Okay. Yes. Thank you for that. I would say that of course, you know, given the cost of shipping rebar and given its weight that does then support that regional analysis, but if you think about the prices and the average unit values have risen quite substantially since the regional investigation and that also would tend to weigh against the regional analysis it would seem as well as just the fact the trends, they seem to parallel each other very much both in region and nationally.

MR. SHANE: That's true, Commissioner. I would add there are transportation expenses that are involved here, and the Commission originally determined that with the low value to weight ratio that lended itself into a finding that the regional analysis was appropriate. Also, if you take a look at the shipment data as well I think that supports a finding of a region here.

The vast majority of the shipments within the region go only a limited distance. I think about 250 miles or less. So again I think that lends itself to the regional approach.

COMMISSIONER WILLIAMSON: Thank you for that answer. That leads me in thinking about transportation costs. I've heard very little discussion about the subject imports are coming really from quite long distances. What have been the trends in terms of transportation costs, you know, ocean freight, shipping long distance, versus the transportation costs for the domestic industry shipping to much shorter distances? How should we take that into account?

Over the period of investigation what have the trends been, and is that of relevance here?

MR. PARRISH: Mike Parrish with Nucor. The information that I've seen is that transportation costs overseas have come down. I don't know exactly how much, but I know they've gotten more aggressive over the last couple of years on that.

As far as looking at how that, you know, compares to the overall costs in comparing what they're doing and what we have to do, I mean, if you look at these countries and look at what our cost structure is, the different issues that we have, environmental costs, safety, energy, all the issues that we have to evaluate, I think when you look at that and weight that out there's no advantage there at all when you put the whole thing in a basket.

But I don't have specifics on the actual shipping rates myself.

COMMISSIONER WILLIAMSON: Mr. Koch, do you have anything you can share on this?

MR. KOCH: Martin Koch, Southwestern Suppliers. No, I really don't because when we buy rebar we buy it on a delivered basis, so what costs the trader or the importer would incur to get it from Point A overseas to Point B here I have no knowledge of.

MR. FRITSCH: Commissioner, Jim Fritsch with Commercial Metals Company. Just to mention our company also has an international trading business and of course they follow the trade rates very closely. What we've concluded with respect to the U.S. market is freight rates are a factor, but they're relatively insignificant in the ultimate cost of the product.

We find in many cases that rebar can be delivered from these foreign countries into the United States for less cost than we can ship from our mill to a customer that's maybe 300 or 400 miles away. The dramatic increase in trucking cost and rail cost in the United States has been significant. The other factor that we look at is that, you know, the cost to do business in the United States is much higher than other countries.

We find that our environmental costs are generally higher because we comply and try to be sure that we're good environmental stewards. We find our medical costs are going up considerably higher. We find the energy costs in the United States are much higher than they are in other parts of the world that are producing similar products. Our OSHA requirements.

We want our people to go home just the way they come to work every day and that costs money to comply with that other producers don't have. And of course we just went past April 15 and taxes in the United States are generally much higher than other countries, not to mention we don't have value added tax which puts the U.S. producers at a considerable disadvantage.

When you add all those things up and compare it to the transportation costs transportation becomes a much smaller portion of the equation of where business is done. I might add also that when foreign product does come in they come in at large quantities, 20,000 or 30,000 tons per vessel, and of course ocean freight in general is much more economical than shipping 20 tons on a truck or 100 tons on an individual rail car.

MR. PRICE: Alan Price. Let me just add one thing which is analytically ocean freight costs for this product, we've documented what the averages are. They've gone up a little bit, okay? They haven't gone up astounding amounts. At the same time from what we can tell inland freight costs have gone up in the U.S. pretty substantially. Inland freight costs have gone up in many of the foreign markets and their ocean freight rates to other foreign markets have gone up.

You kind of look at all of it at the end of the day the freight is pretty much going to be a neutral factor here.

MR. FRITSCH: Jim Fritsch, Commercial Metals. I just wanted to add one other thought. You know, our discussion really evolves around the economics of business and making a profit, but as I'm sure the Commission knows in many of the countries that export product to the United States they have different objectives, particularly those that are owned by government.

Their mission is to create jobs and create employment, not necessarily to make a profit with the product. So as we go in to looking at country by country basis and aggregate it together we find many different objectives that are driving, you know, the import of product into the United States, particularly in the rebar line.

MR. PRICE: This is Alan Price again. Even in privately owned companies in some of these countries significant commitments were made to essentially run the mills full out, not to reduce employment, not to lay off employees, so the companies still have the same production incentive. Those commitments are not made in the U.S. Our governments don't have those same types of requirements.

COMMISSIONER WILLIAMSON: Okay. Thank you very much for those answers. Having spent a lot of time in developing countries where people talk about how inefficient it is and the high cost of doing business it's reflective to find out that we have some of the same problems here. But thank you.

MR. PRICE: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Mr. Chairman.

I'd like to start with Mr. Shane and actually ask more of a legal than a factual question. It's my understanding that there was a three, three vote in the investigation on regional industry. Is it your understanding that we at the Commission in the sunset review should start with an affirmative finding on regional industry or is it your understanding that is not the presumption as it were? Thank you.

MR. SHANE: Sure. Jack Shane from Wiley Rein. I think under the SAA the approach of the Commission should be to accept the original regional finding unless there is sufficient evidence that deviate from that. Again, I think here the evidence pretty clearly supports the regional analysis.

You know, if you take a look at the statutory factors that I went over before they still strongly indicate the regional approach. If you take a look at the Commission precedent in the Turkey rebar sunset determination again that supports the regional finding here as well. But I would stress again while we think the regional analysis is appropriate if the Commission finds otherwise then it's got to conduct the analysis on a national basis again under the statute and under Commission precedent.

There as well I think it's pretty clear that the evidence on the record shows that there will be material injury to the domestic industry on a national basis if the orders are left in.

COMMISSIONER PINKERT: Mr. Price?

MR. PRICE: Purely legalistic. I believe the Commission considered this to be a regional determination at the time of the vote and the way they issued the press release and announced the vote in the majority opinion. Secondly, and this then went over to the Commerce Department which frankly it's a three, three vote, scratched its head to be honest about it and said to itself okay, do we post an order that this be administered as a regional case or a national case?

You get slightly different suspension instructions because of that. You know, sometimes the Commission doesn't pay a lot of attention to what the Commerce Department does or necessarily put full weight on the value of what it does, but I think the Commerce Department deserves that respect and I think the Commerce Department came out and issued instructions here that treated this as a regional case.

Those were the suspension instructions that issued here. You as an independent agency do administer things appropriately as you see fit obviously. They as a cabinet agency view things as they see fit. They saw this as a regional decision based upon the decision that was rendered and the way it was announced.

COMMISSIONER PINKERT: Thank you for that clarification. I now want to turn to a more factual question. Perhaps Mr. Price can direct this question to the appropriate responder. What I'm wondering is whether the former Soviet mills in the subject countries are as efficient as the U.S. mills that are represented here today, and whether they use the same production technology.

MR. PRICE: Let me address that first myself. I think, and I'm not sure anyone here has actually walked through any of these mills. Has anyone here walked through any of these mills?

(No response.)

MR. PRICE: Okay. Just want to make sure. This is what I can tell you about some of the mills that we know based upon public information. The mill in the Ukraine is quite an interesting contrast to the U.S. It may be efficient, it may ont. I would leave it in some ways to Mittal to discuss. But it uses a BOF process. I believe they've actually now shut down their open hearth, but they may still be using an open hearth furnace in the Ukraine.

In comparison the U.S. industry uses an electric furnace process. You know, there are differences in efficiency. The electric furnace process is a more efficient process from a technical perspective, but you know what, they may have other advantages when you trade off there. I think the mill in Latvia we know uses still an open hearth process, and it is pretty much a fairly antiquated process.

You'll get seven, eight hour cycle times out there in their production of hot metal. These are really inefficient processes from certain perspectives, but they have no problem competing out in the world market. At the end of the day rebar, is rebar, is rebar. The fact that they may choose to produce in a process that emits three, four times the Co2 for example that the EAF process does in the United States is their choice.

The bottom line in all of this is that the product is interchangeable. The fact that they may use an open hearth furnace, the fact that they may use a BOF process, the fact that in one case they may still be ingotting out here, which is rather than continuous casting in their process, is of no consequence for acceptance of the product in the marketplace.

They're willing to sell it at prices that we believe will be very disruptive prices. So dirty in many respects, inefficient in many respects, not up to international environmental standards in any respects, but at the end of the day it's all competitive in the marketplace. The customers really don't care. It's rebar.

MR. FRITSCH: Jim Fritsch, Commercial Metals. I would just add when we talk about production capabilities for those of you that didn't come up in the industry just to get it straight open hearth furnace we referred to is an old technology. When we talk about global warming, greenhouse gases, it's a major contributor of Co2. BOF is a more modern technology that goes forward, but still a heavy producer of Co2.

Electric arc furnaces came out about the same time as BOFs, but they don't have the blast furnace associated with it, they don't have the mines, the ores, the centering plants, the coke ovens, all those issues which are heavy environmental concerns and expenses. So the electric arc furnaces is a more efficient and lower cost means of production, and also generate considerably less Co2 than the former production that were mentioned.

MR. PRICE: And the unfortunate part about it is that whether we look at China or many other countries now in the world market for steel or other products that increased imports is leading to significant environmental degradation. You know, it should be part of our dumping laws at this point as we look at it.

COMMISSIONER PINKERT: Again, as a factual matter are you aware of any planned movement from the less efficient technologies to the more efficient technologies in those former Soviet countries?

MR. FRITSCH: Jim Fritsch with Commercial Metals. Yes. When you look at the expansion that's taking place you can be assured that the global steel industry, they know the latest technology and they know what it takes to produce a product. Many of these countries are under pressure from the United States as well as other countries to reduce the impact on the environment.

I mean, if the world needs rebar we should produce it where we don't generate the negative aspects of the environmental laws. So they are trying to move in that direction, and they will not be putting in open hearths in to produce new steel.

They'll be putting in either integrated or electric arc furnace facilities.

COMMISSIONER PINKERT: Mr. Price?

MR. PRICE: Thank you. Let me add we know from an EBRD loan that Mittal Steel has is that they're being funded to essentially shut down their ingotting capability or reduce their ingotting capability, put in continuous casting, but that results in something else in this industry called debottlenecking.

Debottlenecking means you end up becoming far more efficient and increasing your real capacity as you gain those efficiencies in the mill. Their EBRD loan basically says they're going to have a significant capacity expansion as a result of that debottlenecking. So we think that some of those factors will get a little better in some cases, but they'll still have a BOF process.

But as they debottleneck as they improve efficiencies they actually improve output. A lot of times those output improvements are never announced they just sort of show up. And they don't show up in one percent improvement, 10 percent improvement. We've seen those in 20 and 30 percent improvements without any announcement.

All of a sudden, you know, that debottlenecking is a pretty dramatic effect.

COMMISSIONER PINKERT: Thank you.

CHAIRMAN PEARSON: In this case as we see oftentimes in other cases we have the issue of the behavior of a multinational corporation that has business interests in various geographies. Here's it's the ownership by Mittal of rebar production facilities both in Ukraine and in North America. I have a couple of questions about that.

Are you arguing that it would serve Mittal's interests broadly if they were to push down rebar prices in the United States? Because my first thought is that wouldn't that create an expectation that prices for other steel products also might decline? I'm not completely sure, but I think that Mittal might have a bigger interest in the United States in the production of some products other than rebar.

So, you know, please discuss the issue of price relationships among various steel products.

MR. PARRISH: Mike Parrish at Nucor. Yes. We produce a variety of steel products at Nucor, and we see no relationship outside of scrap on cost side, but on the transaction pricing side no relationship between what rebar sells for and what like flat-rolled would sell for, any other pipe and tube products, things like that.

There's no relationship except for the driving fact there's maybe infrastructure and nonresident construction, things like that, but the price of rebar has nothing -- if rebar went down it wouldn't necessarily change other steel prices.

CHAIRMAN PEARSON: Okay. So if we were to look at the price relationship historically between rebar and flat-rolled, hot rolled, would we see no relationship?

MR. PARRISH: There could be a relationship due to scrap costs going up. That would be the only relationship I think you could infer from that.

CHAIRMAN PEARSON: Okay. So there's not an argument here that you historically have a price gap between products, rebar probably being lower because it's a relatively straightforward product? There's not some price gap that's normally in effect and that lifting the orders and allowing in dumped product would cause a structural change such that that price gap would increase?

MR. PARRISH: My point is that dumped rebar and imports would not affect flat-rolled pricing. That's correct. They would not affect that.

CHAIRMAN PEARSON: Okay. Any other comments on that issue? Would dumping rebar have an affect on wire rod or other products that might be more similar to rebar?

MR. FRITSCH: Jim Fritsch, Commercial Metals. Prices tend to seek their own level and for products which can be used in occasionally there is rebar can be produced on a rod mill, coiled rebar, and smooth rods can be produced on the same mill, so the production costs essentially are similar assuming that the grades are equivalent. By that I mean rod tests, some higher quality grades for specific application.

But in general if one of those prices sinks down there's a tendency for the other price to follow. It may not go to the same level, but there is a relationship. But when you move from construction to say for example flat-rolled for automotive or appliances as Mike said it's very tough to find a correlation there.

CHAIRMAN PEARSON: Okay. Thank you for that clarification.

Dr. Kaplan?

MR. KAPLAN: Yes. Put it another way. When there's some potential supply side substitution you might have an affect, but the end markets and the production process are completely different for what Mittal makes and there are other mills so there's really no relationship to be expected. And if you sort out the costs as Mr. Parrish said I don't think you would find any relationship.

MR. PRICE: Alan Price. You know, we have provided information for the three producers that we have information on that produce wire rod on the comparative profitability. It pretty much tells you that these things are not moving in sync right now. They're being really driven by different factors out there.

One of the biggest factors, you know, is the subject imports here. The order in one case and the lack of order in the other case.

CHAIRMAN PEARSON: Okay. Well, let's accept for now that the rebar market is somewhat segregated in terms of price from other steel products in the United States. The second question really goes to the issue of whether Mittal would maximize profits by exporting from Ukraine to the United States. I mean, even under the current orders they could be importing from Canada or Mexico or perhaps other nonsubject countries.

I don't know the full extent of their

foreign production. We don't to the best of my knowledge see troublesome importing by Mittal from other countries, so why would we expect to see it from Ukraine if this order is lifted?

Dr. Kaplan?

MR. KAPLAN: In many other steel products Mittal is under order, so they've been found troublesome either as independents or jointly. But two points. The first is kind of an abstract notion. If there's cost differentials and you're maximizing profits across a series of firms you're likely to be shipping to cross-markets and Mittal's own cost evidence that's public suggests that there is differences and that they're less expensive in the Ukraine.

The second point is that they would have a discernable affect by themselves but because you have so many small producers and you're cumulating them you would expect that together as we've analyzed it and the Commission did in the original investigation where they cumulated they would be, you know, a contributing factor. Third, if you look at the actual new capacity that's coming on and their current divertible capacity relative to the other producers they're a large amount of that.

Finally, their production in the United States is quite small, the capacity to produce at their U.S. mill according to public information if you look at *Iron and Steel Works*. I suggest that you look at the confidential information as well. So their stake is small here, their costs are lower there, they're adding new capacity there, they're supply is bigger there, there wasn't a discernable impact before, they're motivated to move it here, it's moved by traders, it's a price based product.

All those things I think argue that a profit maximizing multinational enterprise might well ship here and they have before. The Commission has seen cases where there's as I said much larger U.S. investments by foreign firms like the Bearings case for example and understand quite well that does not prevent the multinational foreign producers from coming back into this market and injuring the domestic industry.

CHAIRMAN PEARSON: You have something to say, Mr. Price?

(No response.)

CHAIRMAN PEARSON: How do you respond to the argument that a profit maximizing multinational potentially has an incentive to enforce pricing discipline on all of its units such that they don't go out and compete against each other?

MR. KAPLAN: To the extent that they're price takers in the markets they participate in and these markets are all competitive they can't individually control prices so you wouldn't expect that unless they had some kind of market power which no one says they do. Then you'd look at what does a multiplant firm in multiple countries do to maximize profits?

What the theory of multinational firms tells you is that if there's cost differentials they are likely to ship across different plants. And also, given the cost differentials you could see them injuring themselves as part of the industry here or if not injuring themselves injuring other producers they compete with. You've made those findings repeated times as I say in fact sets where that on its face would be less likely.

Here it's more likely once again because of the large share of the market there, the large export capacity, the new capacity coming on, the small stake they have in the U.S. market. I'll address this in some more detail in the posthearing to not take any more of your time.

CHAIRMAN PEARSON: Okay. Well, I did want to ask it be addressed by this panel because I assume we may hear a different point of view this afternoon.

MR. PRICE: Yes. Alan Price. Let me just quickly add a couple of things. While I don't necessarily agree first of all with the prior opinions where some of those statements have been made. Just lay that out first of all. This is really quite different, you know? This is a very small footprint here, very small. We don't even know what is really going to happen with their minimal U.S. footprint, and it is minimal on this product line.

This is really quite different than plate, this is quite different than corrosion in a very substantial way. This is also different because when you look at the Ukraine you have essentially what is an export platform. I mean, it has to go somewhere. It's not for domestic consumption for any material degree. Even a robust expansion in Ukrainian demand would not have a significant impact here.

So it's a very different picture then what you might have had in corrosion from France where you had entities that were basically principally supplying a local market.

CHAIRMAN PEARSON: Okay. Well, knowing that you don't want to get me into trouble with my colleagues, all of whom have been exercising great self-discipline today with regard to the red light, we'll cut it off there and move to Vice Chairman Aranoff.

VICE CHAIRMAN ARANOFF: Thank you. And just when you thought there was maybe nothing more to say on this subject I want to ask one question going to the commodity product issue. Specifically one of the things that struck me was that the data we collected show that the domestic industry tends to concentrate in longer length than do the imports that we have record of.

Just to round out the record on this if I buy a ton of rebar in a particular size, in a 60 foot length, and a ton of rebar, same size, 20 foot lengths, is there a price differential?

MR. MCCULLOCHS: Neal McCullochs, Gerdau Ameristeel. In normal markets there would be no difference. You know, to be honest with you the only differential we've had in 20 foot markets in the past is to have a lower price for 20 foot to be more competitive with the imports.

MR. PARRISH: Yes. Typically the price for rebar is the same. There are times when you'll see just very slight differentials between 20, 40 and 60, but typically it's the same, and I agree with Mr. McCullochs. If imports come in at a certain size range then obviously that will affect that.

VICE CHAIRMAN ARANOFF: If a customer is buying a 60 foot length that might reduce the amount of waste that they have when they're fabricating it into a particular size, but that doesn't translate into a price premium or it does but it's canceled out by a greater transportation cost? I'm seeing Mr. Koch in the back nod.

Mr. Koch, do you have something to say?

MR. KOCH: We do pay a lesser price for our 20 foot material because we have to compete with the imports. We pay therefore a little bit higher price for the 40 foot and 60 foot that we consume in the fab shop and in fact a little bit more for 60, but that's a function of the freight cost to get them from the producing mill. It costs more to run a stretch out tractor trailer on the road than it does a load that can carry 40 and 20 footers.

Yes, we have less scrap when we use a 60 foot bar. In fact less when the 40 foot bar. It all depends on what the optimum shearing lengths are. We do of course fabricate from 20 foot also on our smaller shears.

VICE CHAIRMAN ARANOFF: Okay. So, Mr. Koch, for you there may be an advantage or a disadvantage in longer versus shorter, but is it your view that the net to the mill is the same?

MR. KOCH: I don't think I can answer that question. I don't know.

VICE CHAIRMAN ARANOFF: Okay.

MR. FRITSCH: Commissioner, Jim Fritsch with Commercial Metals. Perhaps I could answer that question for you. It actually costs more to produce a 20 foot length than it does a longer length. You think about it liquid steel coming through a cash -- to a rolling mill has to be cut to shorter lengths, more ties are required to bundle it and more people are required to handle it in the mill to put it on a railcar, or a truck, or a barge to ship it out to the ultimate destination.

So it's kind of an unusual thing. It costs more to produce it yet when you've heard it said that occasionally a form bar come in at 20 foot lengths is sold at a lower price.

VICE CHAIRMAN ARANOFF: Okay.

MR. MCCULLOCHS: Commissioner, Neal McCullochs, Gerdau Ameristeel. If I could add, too, the savings and efficiency are scrap between using a 60 foot and a 20 foot. It's probably less than a half of a percent so it's very minimal to the impact of the fabricator.

VICE CHAIRMAN ARANOFF: Okay. One of the arguments that is made in the domestic industries as brief in this case is that we should be looking at a period of perhaps three years as the reasonable period of time over which to assess the likely affects of revocation. We have tended to use a shorter period of time in other recent sunset reviews including those involving multiple steel products.

Is there anything about rebar that makes the investment cycle longer or otherwise should stand out in our minds as to why we should look at a longer period of time?

MR. FRITSCH: Jim Fritsch with Commercial Metals. It's been implied in this hearing and everywhere that there's not an adequate domestic capacity to meet the demand and the demand for rebar is trending upward. If you put yourself in a position of a producer in order to do that if our existing mills are running at good capacity levels we have to build a new mill.

I mentioned earlier we have made the

decision to move ahead with the new reinforcing bar mill. From the start of that facility to before it first starts up it will take over 36 to 42 months depending upon things beyond our control such as EPA permitting, such as zoning changes by the various cities. Today as we sit here it will be at least 26 months before that facility could come into operation.

So when you talk about investing millions, and millions and millions of dollars to start it up and then go through the learning curve an 18 month period is relatively short. I mean, you can't even get the facility built in that timeframe. So from our viewpoint we would argue that if in fact you want to look at keeping the industry vital, reinvesting and bringing on new low cost capacity, it's imperative that you look at a longer period than 18 months.

You physically cannot start, design, permit and build a new facility in that timeframe.

VICE CHAIRMAN ARANOFF: Okay. That's a fair answer. I don't know if anyone else wanted to comment on that.

(No response.)

VICE CHAIRMAN ARANOFF: Okay. One of the things that struck me in looking at the plant by plant information that we have for this industry is you have some plants that concentrate almost entirely or entirely on production of rebar and others that produce a substantial amount of other bar products on the same equipment.

In weighing the argument that it is the margins received on rebar that are going to justify current investment plans and continue adherence to investment plans how should I weigh the fact that, you know, in a number of these mills what's being invested in might be equipment that can be used to produce and is used to produce multiple products?

MR. PARRISH: Mike Parrish with Nucor. Principally, though, most of our production of rebar comes from facilities that are principally focused on rebar so when we do capital expenditures on those facilities it's really focused on rebar alone. There are some facilities that do both, and in those facilities the majority of their business, though, is rebar.

So, you know, it's a situation where we're focused on that rebar market and how we can get more efficient making the rebar product.

MR. MCCULLOCHS: Neal McCullochs, Gerdau Ameristeel. You have to take into consideration, too, that you're going to invest in improving the efficiencies of a mill that's going to make a product that's going to give you the best return. So if you're going to take a mill that does some rebar, some say merchant bar and invest in it for more rebar capacity it usually is specifically for rebar.

You might get some more tons of one of our other products, but you're investing most of the time to increase the capacity of just the rebar especially if you're taking a rod mill and giving it the capability of rolling more rebar. You've got to add cooling beds and so forth and that's specifically for that product.

VICE CHAIRMAN ARANOFF: Okay. So that would be if you were using a rod mill, but if you're using a bar mill what equipment in a bar mill is specific to rebar that can't be used to make merchant bar?

MR. PARRISH: Mike Parrish with Nucor. Yes. The facilities that do both the equipment can make both rebar and merchant bar. In those particular facilities, though, we're focused more on the merchant bar market in most of those cases and working on that, but the equipment can flex from product to product.

When you look at a rebar mill, though, principally just a rebar mill, that equipment cannot make merchant bar. It just makes rounds and rebar, the reinforcing type bars.

VICE CHAIRMAN ARANOFF: Okay. Yes. As you know I recently saw the Darlington mill which can do multiple products and so I'm trying not to judge the whole industry by that standard.

MR. PARRISH: Right.

MR. FRITSCH: Jim Fritsch with Commercial Metals. One of the things that's important to consider in building new metals what the demand from that market is. In areas where it's primarily construction based it can be a focused factory or a reinforcing bar mill.

In other markets where there's demand for both products since all markets don't move the same, there's some cyclicality to it, when construction market is down then you have the flexibility to produce other products to keep your people employed, to keep the facilities operating, paying taxes, et cetera.

The other thing that happens is when you get a surge of imports that comes in a particular product and hits a mill hard if you have multiple capability you can move the product to the other side to try to recover some of those lost sales and at least break even.

VICE CHAIRMAN ARANOFF: Okay. I appreciate all those answers. Going to continue my streak of stopping on the yellow light.

Thanks, Mr. Chairman.

CHAIRMAN PEARSON: See, I have a hard time competing with these other Commissioners.

Commissioner Okun?

COMMISSIONER OKUN: Thank you, Mr. Chairman. Let's see. Just a couple of questions with regard to the regional industry. I guess I'm one of the sitting regional Commissioners in this one having found the regional industry and inclined to stick with that position except that there is one change in the record that I did want to ask and Mr. Price and Mr. Shane comment on whether it's significant.

So again if I look at the record on which I made my original determination in terms of, you know, shipment and you had mentioned this, I mean, it's still about the exact same percentage of domestic shipments within 250 miles of the mill other trends being similar.

But the one thing, and Commissioner Williamson had mentioned this in his question, is the price of the product itself having changed significantly in 1999 $274 a short ton, 2006 $514 per short ton. So I guess the question is in approaching a product where a regional analysis might be appropriate should I look at this change in the value to mean that it should no longer be a regional product?

I was trying to think about the cases where we've had regional industries, I mean, it's the big heavy ones, it's cement, it's crushed stone. There are a few of them like that.

Is there anything that you would point me to in looking at those cases or other ones we've done to say it's still appropriate even though prices have gone up to see this as a regional industry because of transportation costs and because of the fact that the product just doesn't move that far from the mills relative to a lot of other products that we would see and consider on a national basis?

MR. SHANE: Jack Shane again, Wiley Rein. I would first probably point the Commission to the decision in the Turkey rebar sunset case where the Commission found it appropriate as they had done in the original investigation, they found the regional analysis equally applicable in the sunset context, and so I say that would be useful precedent for the Commission to look at.

I would also point again to the factors under the statute in terms of determining whether the regional analysis is appropriate, and if you look at those factors again, you know, is production within the region staying within the region, is production outside the region coming into the region, where are imports concentrated, where is the competition likely to occur?

All those factors strongly indicate, I think in a number of instances they're actually stronger than they were in the original investigation that a regional analysis is the way to go here.

COMMISSIONER OKUN: Mr. Price?

MR. PRICE: Thank you. I would just add that if you look at transportation distances in this case this product over land doesn't transport very far. On water it can transport around the entire globe very efficiently. So obviously that issue of transportation still holds very firm in this case.

COMMISSIONER OKUN: Okay. Well, I appreciate that --

MR. PICKARD: Commissioner?

COMMISSIONER OKUN: -- and if there's anything that you see in looking at other cases -- yes, Mr. Pickard?

MR. PICKARD: Dan Pickard, Wiley Rein. I would just add that statement of administration of action the FAA doesn't talk directly to the regional industry aspect but it does talk about in sunset reviews that it's assumed that there should be some recovery by the industry and that recovery, the improvement in the condition shouldn't be held against it.

By analogy you could make the arguments that it would be assumed that there would be some price recovery assuming the antidumping laws are doing what they're supposed to be doing, and that shouldn't defeat the original findings from for example in regards to the regional industry.

COMMISSIONER OKUN: Okay. Appreciate those comments. I would note with regard to the Turkey case, which while it's recent in time I think the prices, we had not seen this big ramp up in prices even in the Turkey. So it's really on that particular question of I think less for me since I've found a region here, but perhaps for other Commissioners looking at regional cases for the first time, you know, when do you begin?

I mean, obviously we usually begin in the original with a domestic industry that would argue a regional case, but it's just something on the legal side that's worth thinking about of how one should approach it. Hopefully I made the right decision the first time and can stick with it, but I've changed my mind on other things while I've been here, so I'm always open to a good argument. Okay. Let me then turn to just one follow-up with regard to the mill in Ukraine.

Obviously we'll have a chance to talk to them in the Respondents' panel, but if we look at import statistics from Mexico and Canada and assume we can break out or find a way to break out whether they are in fact shipping from nonsubject mills into the United States, do you think that's relevant to look at for purposes of their behavior with the Ukraine or are they so dissimilarly situated, both the countries themselves, Mexico and Canada, and Ukraine that you would not have us look at that as a type of analysis?

MR. PRICE: I'd have to think about that for the post-conference briefs. I'd be happy to reply. You know, we do know there were Ukrainian imports into Canada in 2006. But there are other Ukrainian producers and there is other capacity coming online in addition so it's not just a Mittal issue. And in fact, this is one of the interesting things in this case, originally the entry of appearance was on behalf of the Ukrainian association here representing the entire industry. They withdrew along with most of the rest of the industry, didn't provide any questionnaire responses for anyone else and basically Mittal is here saying "look at us." But what about "look at them." They didn't show up. They didn't come in here and tell you about their current capacity. They didn't tell you about all their alternative capacity coming on -- or excuse me, not alternative -- new capacity coming online.

So I mean I think this is much beyond a Mittal question. And we're talking about a country in general that has insignificant consumption compared to current production and future production with enormous production capability. So let's not just look at this as a Mittal question here.

COMMISSIONER OKUN: Okay. I appreciate those further comments.

Then let me, this will be for post-hearing as well, Mr. Price, and it's with respect to cumulation. And again as we've noted, you've made an argument with respect to Korea and for the Commission to find that there will be no discernible adverse impact. I have rarely done that but given that you've asked I will certainly look at it. And there are certainly other cases that you've cited to and so that I will certainly be looking at doing that.

But having made that argument with respect to Korea, in other cases I have not exercised my discretion to cumulate based on conditions of competition, likely conditions of competition in the U.S. market upon revocation, and looked at things such as the export nature, export-oriented nature of the subject product, changes in capacity. And so I ask as you're looking at the cumulation question, if you put aside Korea and China, how you would have me look at the other subject countries vis-a-vis how they might look with respect to comparing them, contrasting them with Korea. And you can just do that post-hearing.

But, yes, did you have something, Mr. Pickard, you wanted to ask?

MR. PICKARD: We can certainly address it in the post-hearing. But I would make an observation that from time to time you hear arguments from respondents, and there are so little of us running around in this case, that if different subject producers compete differently in the United States against the U.S., the domestic industry, that's grounds for the cumulation. And I think that rests on a misunderstanding of the statute. And we can brief this more thoroughly.

But the statute specifically says if they're competing against the United States, against each other and against the U.S. producers in the U.S. then cumulation might be appropriate. And it doesn't have to do with, doesn't tie with if they have to compete the same away against the U.S. producers. And I think what we've seen recently are more foreign producers saying there's a little something differently about how I participate in the U.S. and, therefore, I should be cut aside. And I think the legislative history and some of the opinions from the reviewing courts would disagree and that basically, and to put it somewhat bluntly, if one import hits you low and one import hits you high you're still hurt. You're being hurt in different ways but the whole point of the cumulation statute is to group those together, I mean the most frequently quoted section is the hammering effects of imports.

But the full point is to capture the realistic import. And if one is hurting you, if they're hurting you in different manifestations I would suggest that it's appropriate to look at all of those imports on a cumulated basis.

COMMISSIONER OKUN: Well, as you know, Mr. Pickard, it is discretionary in some cite cases. I may disagree with you on how I think the reviewing courts have treated how we've exercised our discretion on that.

But my point for a post-hearing is that you discuss with me what you think are the similarities and differences because, again, once you've made an argument with respect to Korea on no discernible adverse impact I think it's fair to ask you to look at those same export oriented, a number of the factors you went through, and explain to me why you think the other countries are different. And that's what I'm asking you to do.

MR. PRICE: Alan Price. We will be happy to do so in the post-hearing brief. And just to say obviously for the record we believe that the other seven countries should all be cumulated here.

COMMISSIONER OKUN: Okay. I appreciate those comments. Thank you.

CHAIRMAN PEARSON: Commissioner Lane.

COMMISSIONER LANE: Mr. Price, I want to refer to your exhibit. I find the exhibit very helpful and it provides me information that I always look for in a case. And so I appreciate the exhibit and the format in which it's presented. But I do have a question. And I have to be very careful about this because it is all confidential information.

So I want to refer you to your chart C which is a line graph showing Chinese exports in metric tons. Do you have the exhibit there? Oh, okay. Okay, so chart C. And then in chart B it's a two-bar chart, one bar showing U.S. consumption and another bar I think it's supposed to show the divertible Chinese supply. And that is given in short tons. Now to my question.

You define divertible supply as unused capacity plus total exports. So if I subtract the total exports, the total Chinese exports adjusted to short tons from your first line chart from the values shown for divertible supply I would expect to get a number that represents excess capacity in China. Am I reading these charts correctly? And if I perform that arithmetic does that result really reflect excess capacity in China? And does that number seem reasonable to you?

MR. PRICE: We obviously -- first of all the Chinese respondents have not shown up in this case. And, you know, that's fairly significant. And they've basically told the Commission, you know, we're not going to reply to you. This isn't even a case of someone filling out a questionnaire and not showing up at a hearing. They didn't fill out a questionnaire.

So we went out and sponsored a study on this. It developed very comprehensive information on mills, mill locations in China. And there is enormous amount of excess capacity in China. This should not be surprising because if you think, I mean if you think China this year is going to reach somewhere between 570 and 600 million tons of capacity production in the 400 ranges, this year. And this is a basic entry, not entry level but a basic essential construction product so a lot of excess capacity is rebar.

So the essential risks here are devastating for the U.S. And we think those numbers are realistic and correct. There is a very large amount of detail about all of the larger mills already in this, in the report that's the basis of this that's in the report attached in the brief. And it was assembled through a variety of comprehensive sources.

COMMISSIONER LANE: Okay. And so, in looking at your chart A which is all of the respondents' divertible supply as compared to what you think is the Chinese divertible supply and you think that that is a reasonable number?

MR. PRICE: Uh-huh. Yeah, we think. I mean, and not -- and let's approach this this way, the amount of divertible supply from the subject producers other than China, okay, is still an enormous number. It just looks small in comparison because the Chinese number is so huge. I mean China has gone from three years ago from virtually no exports on the world market to 50 million tons. It's hard to explain how out of control the capacity situation is and how excessive it is but it is a big problem there.

Having said that, the other guys by normal standards are immense themselves and adding capacity on there. And one thing that's not in chart A but is in our brief is the additional amount of new capacity coming online in the subject countries other than China. And so there is a lot of additional capacity coming online, particularly in the Ukraine, which is quite important here.

COMMISSIONER LANE: Okay, thank you.

At any time during the period of review has there been a shortage of rebar in the U.S. market?

MR. KOCH: Martin Koch, Southwestern Supplies. We have enjoyed tremendous business in the last few years with the exception of what's occurring right now. And in that period of time we have been able to get essentially everything we've needed. There have perhaps been a couple instances of maybe a two-week delay before the next rolling cycle but we usually had inventory to take care of that. So I would say, no, we've been successful in getting everything we need from the domestic producers.

COMMISSIONER LANE: Have the domestic producers ever had orders that you weren't able to fill during the period of review?

MR. PARRISH: Getting back to the question of -- this is Mike Parrish from Nucor -- I would say the market's been tight at times, very tight, but never a shortage. Our customers have always been able to. I think sometimes they have to do a little better planning, a little tighter planning to get their product during a specific time but it's very cyclical. And, yes, we've had some times when our order book was more full than others. But again, the way we look at bookings is on a spot basis, so we're only out 30, 60, 90 days at one time.

COMMISSIONER LANE: Yes, sir?

MR. McCULLOCHS: Neal McCullochs, Gerdau Ameristeel. Just to add on to what Mr. Perry said, in 2004 when the scrap took such a tremendous up-tick people were scrambling to buy as much steel as they could ahead of the price increase. And at that time there was a tightness. There were probably some orders that we couldn't fill. But it was a very, it was probably like Mr. Koch said, it was a short, very short period of time. And it was a out-of-a-seasonality type thing that you can't, you can't produce as much steel as somebody wants on a spot basis when they're trying to beat a price increase.

COMMISSIONER LANE: Mr. Koch, did you want to add something?

MR. KOCH: To my further comments in reference to shipping out of inventory, our objective functioning as a distributor rather than a fabricator is to ship as much as we can directly from the mill to our customers, thereby saving freight into and then back out of our yard. There were a couple instances where we couldn't get, for example, some of the smaller diameter bars. But we had inventory so we shipped from our yard to our customers and kept them supplied. And then replenished our inventory as well as resumed shipping direct to the customers at the next rolling a few weeks later. That's happened a few times.

COMMISSIONER LANE: Okay, thank you.

Mr. Chairman, that's all I have. I will give you my extra time.

CHAIRMAN PEARSON: Well thank you, Commissioner Lane. Very generous.

Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you.

Mr. Miller, you gave us in your testimony you gave us a very clear and vivid description of what your experience was last year when, you know, there were seen to be some slowdowns. I get the impression that for the workers when there is a slowdown or when imports are affecting, you know, competition that it hits you faster or hits the workers faster. They see it first. Is this a fair impression?

MR. MILLER: Yes, that's correct. I mean like the last six months of '06 we're still at this time trying to recover from that. And now it's being put on a, you know, put upon us again. So we haven't recovered yet and now we're going back to the same thing. I don't see any good days ahead.

COMMISSIONER WILLIAMSON: What about in terms of -- excuse me. Mr. Parrish?

MR. PARRISH: Mike Parrish for Nucor. Sorry to interrupt on that but I would like to take just a brief moment to explain the way we pay at Nucor. It's an incentive-based system and about one-third of Louis' pay is base pay. And that's a set pay. But two-thirds is based on incentive compensation. So if we don't have the hours to run and the tons to run two-thirds of his pay is reduced in addition to his profit sharing checks and things like that at the end of the year. So it is a big impact when we don't have the tonnage available to run.

COMMISSIONER WILLIAMSON: And I guess that also means that if there's a recovery the company may do better because it gets the sales in before the worker really begins to see the benefit. I mean, I imagine it takes some time to work off inventory and things like that. Is that a fair statement too?

MR. MILLER: Oh, I didn't quite hear you.

COMMISSIONER WILLIAMSON: I guess I'm saying when there is a recovery from industry or if it fails to go up they're probably going to work off inventory before someone working is going to have increased hours and --

MR. MILLER: That's correct.

COMMISSIONER WILLIAMSON: -- increased benefits?

MR. PARRISH: Mike Parrish with Nucor. Yeah, typically the start-up is slower because you do have an overhang of inventory. And, you know, even though we try to cut back as quickly as possible you don't want to do that, you think when you're looking at the market situation you try to run as and try to stay full if you can. So you probably err on the side of running, and so you do build inventory and then it does hit you when you're starting back up.

MR. MILLER: Okay, thank you. I just find that useful just to get the insights on how things work.

I would also like to turn to the question of this divertible capacity, Mr. Price, that you mentioned. And I think you find that that includes excess capacity, exports and inventory. And given the strong markets close to home for some of the foreign suppliers in some of the markets they've been serving for years, and some of them do have limited excess capacity, and we do have some mixed data on price differentials between the U.S. and other markets, I'm wondering given this why would you say that all of that, why do you treat the exports of the foreign supplies as divertible capacity? I know we're talking about price sensitive, but still.

MR. KAPLAN: It's potentially divertible. It's, since it's not being used in the home market, since it's being shipped and being traded it becomes much more price sensitive. And given the spot price basis in the market and given that -- and the observed entry and exit and changes in volumes of shipment we see that part of the market as very fluid and view it along with their excess capacity as potentially directed here. So that's the first step is do they have the opportunity, as Alan put it. We aren't saying it's all coming here.

The next step is to look and say what would motivate them to come here? And there has been some disagreement among ourselves and the respondents on the motivation which is this price gap that the Commission has been looking at in many sunset cases now as a pretty good motivator. And our argument about this opportunity, this potential that's out there is that you should look at the actual prices received by the various exporters in their questionnaire responses and their foreign producer responses rather than looking at this third party survey data that you collected from various proprietary sources.

Those sources can be helpful especially when there's big product mix issues. But here where there is not, I think it was a great question, are there big price differences between 20's and 40's and 60's? As we're seeing, it's all on a per ton basis. That the actual observed prices from export unit values which have been consistently lower, even in 2006 where they're claiming that these other markets are very strong, is really good evidence that should the orders be removed they have the motive to come here. And this gap has persisted for nine years. There's no evidence of actual sales on the record that do not show this gap.

And even if someone could show that for a month at some period in the beginning of 2007 there might not have been this I would ask you to do what you normally do with very short period data is put it in the context of the nine years of data you have.

The fluidity is the opportunity. We're not saying it all comes here but we are saying that it is a motive to come here.

COMMISSIONER WILLIAMSON: I guess given particularly transport costs that these exports are less, it's less liquid than, say, maybe something like excess capacity or inventory?

MR. KAPLAN: Well, I mean once the -- what we're really looking at is the export transport cost differential from where they're sending it now to sending it here. So it's not just the cost of exporting it from their plant, it's already leaving the country. And in some cases if it's shipped over ground given the -- even near them given the high cost of fuel, the higher cost of fuel in Europe, it's oftentimes much cheaper to put it on the water.

As Mr. Fritsch talked about, you know, shipping 20 tons in a truck or 100 tons in a car versus, you know, 10,000 tons in a boat, a lot less friction in water in a boat than a rail car, it's less expensive. And once again I'll point out, I'm sorry if I'm being repetitive, it's on the water already, it's already leaving.

COMMISSIONER WILLIAMSON: I get the point.

MR. KAPLAN: Sorry.

MR. PRICE: And Alan Price. Let me add one more point which is, frankly it's in many respects a lot easier to operate you mill and just put out one 20,000-ton order. You know, you get some great operational efficiencies. So there is actually a big, you know, incentive to take down, take these big orders and try to sell a truckload at a time. And so I just add that to Mr. Kaplan's answer.

COMMISSIONER WILLIAMSON: Okay, thank you. That's helpful.

I had another question. You argue that the absolute health or profitability of the industry is legally irrelevant. However, we are required to look at the question of vulnerability of an industry. And this obviously works to the domestic industry's benefit when an industry is not doing well. Shouldn't we also have to look at this question at the same time whether or not industry is doing well, about the question of vulnerability?

MR. PICKARD: Sure. Dan Pickard from Wiley Rein. This goes back to something I was talking about earlier, the SAA directly addresses this issue where it says that it's almost to be presumed that the domestic industry's performance should increase after the issuance of an order. And the fact that there has been some recovery by the domestic industry shouldn't preclude the Commission from finding that it's vulnerable or that it's likely to result in material injury. If anything it's very intuitive that the Commission found that this industry was injured by imports, that after issuance of an order it recovered, and if that order was revoked then it becomes very likely that it would be vulnerable again to further injury.

COMMISSIONER WILLIAMSON: Okay, thank you.

I see that my time is expiring.

CHAIRMAN PEARSON: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr. Chairman.

I want to start with Mr. Parrish. I was struck by your description of the pay scheme at Nucor. In particular I'm wondering whether what you've described is an incentive pay structure or whether it's simply a method of keeping costs down when revenue is down. What's being incentivized?

MR. PARRISH: Mike Parrish with Nucor. May I didn't explain that totally. But the incentive is based on quality tons out of the door. So it's a win/win situation for management, employees, the entire company. And so the more quality tons that we produce the company does better and the employee then makes more money and his bonus goes up.

So it's really it's not geared towards the employee, it's not geared towards the company, it's a team approach too because the team, the rolling mill team crew works together on that and they all get the same bonus. So it's a team approach. And when we don't do well we all suffer together, when we do well we all win together.

COMMISSIONER PINKERT: Mr. Kaplan?

MR. KAPLAN: Just from an economic point of view this process one way to cut costs is to lay people off. That's the ultimate way to save costs on labor. That's not what Nucor does. So when people when they aren't running the mill people are being paid at the base rate. In other industries you might not pay anybody if you're not running the mill.

So it does incentivize everybody to put a good quality product, produce a good quality product and to run the mill as efficiently and to get the most out of it they can. And what you see is on average that the compensation is quite high. And the commitment to the workers relative to the manufacturing industry, some of which lays people off, is much stronger.

So your point is taken. It's got to be done somehow. In an industry that's very short term, you know, if you bring people on, you know, here when you make a long term commitment you're going to still have to deal with your cost structure. How do you do it? And if on average you're doing much better, which Nucor compensation has been historically, that's a real win/win situation. So your point's taken you've got to control costs but I wanted to put it in the context of their own schedule.

COMMISSIONER PINKERT: Thank you. Thank you. Now, going back to the issue of China pushing or potentially pushing other rebar producers, that is subject rebar producers out of third country markets I'm curious to know first of all which specific markets you're concerned about in terms of the third country markets? And then secondly, specifically with respect to the EU what is the concern there, if any?

MR. PRICE: Okay. Thank you, I'm actually very happy to answer this question.

There have been recent press reports in various industry news sources that indicate that China has come into the Middle Eastern market very recently and radically undercut pricing, causing a significant fall-off in sales and prices out there. And this is again very fluid but that may feed into why all of a sudden the CIS producers are reporting that they're not getting orders right now for export. So, you know, we're seeing that, that as a major issue.

Another issue we are seeing is the EU itself, its industry is complaining about rebar imports and concerned about them. And is lobbying for some form of I don't know whether it would be a market production case or bilateral deal or something to control those imports along with other steel imports.

Steel from China is actually starting to go into the EU in very significant volumes in a variety of product lines. So we see those, so we see, you know, we see those pressures building.

By the way, in the EU the comment about that I said that there is pressure building to try to restrain that, there is offsetting pressure not to restrain it. And obviously, you know, there is governmental interest that seems to be opposed to trying to restrain Chinese imports into the EU playing out also.

So we see that they are going to -- they can have impact. What is clear with China is that they are a disruptive force on the entire market right now on a global basis. They are disruptive to the U.S. They are disruptive to the third country export markets that the CIS producers are currently claiming to want to focus on. And so we think that they will have a significant and negative impact on those markets.

COMMISSIONER PINKERT: Can you give us some idea perhaps in post-hearing as to what kind of growth China has enjoyed in the EU markets?

MR. PRICE: We'll be happy to do that. A lot of their entry into the EU concern is actually very new on rebar. They're just qualifying now in the EU grade system. And so they're starting to so but they are qualified now. And as they qualify all of a sudden there are significant complaints that are going on about the prices and volumes that are starting to be offered there.

COMMISSIONER PINKERT: Thank you. Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Oftentimes my colleagues help to protect me from myself by asking questions of a legal nature sometimes on topics that are a big arcane to me. This time they've let me down because I'm getting toward the end of the round here and I'm curious about cumulation as you would apply it to China. I mean I have the sense that China is so different than the other countries in this investigation that there's probably half a decent argument for treating China by itself and then doing what you will in terms of cumulating the others. But why cumulate anybody with China. There is nobody else out there that has the size of China and the excess capacity of China.

MR. PRICE: I'll let Mr. Pickard answer legally in a minute, okay, address that. Okay, but let me just start. Guess what, rebar is rebar is rebar. It's the hammering effect of the product. It's that simple. That's what Congress intended you to remedy here. I don't care if there's going to be rebar imports from the United States from these guys they're all going to be equally injurious, the volume effect, the price effects are all going to be substantial.

The question is, are they going to import? We believe that the countries we have identified with excess or divertible capacity are going to send substantial quantities to the U.S. and have negative pricing effects. Therefore, we think cumulation is mandated.

MR. PICKARD: Dan Pickard from Wiley Rein. I would say as a legal matter the fact that China has distinct facts is not particularly relevant if there is a finding that it competes against subject imports and other -- and U.S. producers in the U.S. market. The point of the cumulation statute was not to group like foreign producers together, the point is to do a realistic analysis of how U.S. producers are going to be affected by the imports.

So the Chinese capacity may be in a league of its own but if it's imports are coming in and they're hurting U.S. producers at the same time other subject producers are hurting U.S. producers the cumulation statute is to avoid an artificial analysis when you look at them individually. The point is to capture that in the aggregate to see how the U.S. producers are affected, assuming they're all competing in the U.S. market.

CHAIRMAN PEARSON: Okay. Well, for purposes of the post-hearing perhaps you could clarify whether the explanation you've just given applies most appropriately to an original investigation rather than to a review. Because going back to the use of the word "mandate" by Mr. Price, my understanding is that in a review that there is no mandate for cumulation and it's entirely discretionary. And that's what I'm trying to decide, what are the reasons for cumulating here. And China strikes me as so different that the reasons for cumulating them with others aren't quite as obvious.

MR. PRICE: And by the way, I do recognize the difference between mandate and, you know, and I said that. But practical market consequences, which is what you are supposed to be focused on in deciding whether or not to cumulate, are going to be the same. If the imports from these countries are going to show up they're going to have the same consequences.

CHAIRMAN PEARSON: Dr. Kaplan?

MR. KAPLAN: As an economic matter I would ask to look at two factors for the cumulation purposes. One, will each type of import, each import of rebar from each company -- country have the same effect? And I think the answer is as a commodity yes.

And, second, are their motivations for behavior the same? Are there price gaps for each of these countries that would cause them to come here? And the answer is yes.

So you have each of the countries with the same motivation, each of the countries having the same product that competes in the same way for the same end use. And --

CHAIRMAN PEARSON: Okay. Well, for purpose --

MR. KAPLAN: And then you have and for that reason their effects will be additive and should be considered together.

CHAIRMAN PEARSON: Okay. Well, for purposes of the post-hearing please clarify why given that Congress has assigned quite widely differing dumping margins to these countries why we should see the impact of the imports as being identical for many of them because it seems to me there are some differences there. And I would appreciate understanding more about that in the post-hearing.

I have a different question, Mr. Price, for you. This is probably a quick one. Commissioner Pinkert earlier asked questions about the three/three split that we had in the regional industry versus national industry in the original investigation. I just wanted to make sure, were you suggesting that there is some legal obligation on the Commission to not have a three/three split but rather come up with --

MR. PRICE: No. In retrospect --

CHAIRMAN PEARSON: -- administrability of the order?

MR. PRICE: Actually I will tell you as a lawyer in retrospect I thought it was brilliant having a three/three split because probably the only appealable issue in that case was what was going to happen there. And it took away any appeal. So, no, obviously the Commission you are free to make the decisions you think are appropriate. I think from just a legal perspective how was that order treated? It was treated as a regional order. And that's your starting base and we think that's the starting base you should start from. And there is a general presumption that's the way you would look at it again.

Again, we think we would win this case either way on a national or regional basis. We think the harm is from the record is more focused in the region, just the way the evidence shows this. We think that there is a legitimate region here, that's why we argued this case originally that way. But we've always said the Commission that obviously this is your discretion as to how to administer the statute here.

CHAIRMAN PEARSON: Okay. And then a final question, perhaps also quick for Mr. Fritsch. You had said something earlier to the effect that the U.S. industry was disadvantaged by not having a value added tax applied in this country. And I'm not sure that I heard that correctly. And if I did, I'm not sure that I understand it completely. So either now or in the post-hearing could you fill me in on what you're thinking?

MR. FRITSCH: Yes, sir, I'd be happy to do that. It's probably something I shouldn't have said but when we look at international trade and we look at the incentives that are given to foreign countries about VAT rebates and the U.S. does not have one it does put us at a significant disadvantage. There have been several industry papers written on the subject which I would be happy to forward to you through Mr. Price.

CHAIRMAN PEARSON: Okay, thanks. Is the disadvantage then as the U.S. would export product into global products or is the disadvantage something that is a factor in the U.S. market?

MR. FRITSCH: Well, if you export from a foreign country and get say a 15 percent VAT rebate and then it comes into the United States there's obviously a lower cost basis to the foreign producer, the rebate of value added tax.

Here in the United States when we export in we don't get a value added tax rebate to it and also we pay, you know, taxes on our profits which are being made, so it's cumulative.

CHAIRMAN PEARSON: Okay. Well thank you for that. And I will look forward to learning a bit more in the post-hearing.

And with that I have no further questions. Madam Vice Chairman?

VICE CHAIRMAN ARANOFF: Thanks, Mr. Chairman.

I'm not sure I've ever been in the position before of arguing with a domestic industry who has come in and told me not to cumulate someone. And I'm not sure that I agree with you. But I want to follow up a little bit more on the Korea.

You know, it strikes me that if I were to find no discernible impact for Korea on the facts of this case that would be an expansion of the way that I myself and the Commission in general have applied no discernible impact. It would be a pretty generous reading that might come back to bite your clients and other domestic producers in the future. So if you would provide for me in the post-hearing brief let's just say I don't find no discernible adverse impact would you still have me not cumulate Korea?

MR. PRICE: I'll address that in the post-conference brief.

VICE CHAIRMAN ARANOFF: Okay, appreciate that.

Mr. Parrish, I wanted to follow up with you quickly on something that you had said earlier referring to the possibility of restarting the Kingman facility. Can you give us for the record a small history of that plant and tell us what it would take to turn that into a viable rebar plant?

MR. PARRISH: Mike Parrish with Nucor. I'll try to do the best I can on that. I don't have the exact dates when we purchased it several years ago. And it was already shut down. The facility is a fairly good rolling facility, the melt shop is not. So we would have to do some work to get the rolling mill facility back started because it has been shut down.

We would also have an issue of we have to bring billets in from other areas, either from some of our existing facilities, so we would have to ship billets in to get that facility running. But in general it would take tens of millions of dollars to get that facility started back up.

VICE CHAIRMAN ARANOFF: Okay, thank you for that.

Let's see, one more question. There is information on the record and there has been discussion this morning about potential increases to capacity. And particularly wanted to focus in on Poland and to a lesser extent Latvia. And one of the things one reads generally, not specific to this industry, is that there has been a migration of manufacturing capacity from Western Europe to Eastern Europe. And with these countries joining the European Union I guess my question is is there publicly available data that you could provide or not publicly available that you could provide which would show me whether or not there have been corresponding declines in capacity for this product in Western Europe that might balance out the increases that we're seeing in Eastern Europe?

MR. PRICE: We will see if we can assemble that for the post-hearing brief. I'm pretty good on global capacity but trying to put all those pieces together here is a little difficult.

VICE CHAIRMAN ARANOFF: Okay. I know it's hard but if there's anything that you can show us that would be helpful.

One final question. We've talked a lot about the downturn in housing and how that affects demand for the product. Obviously housing, the construction market, both residential and non-residential, is cyclical. How long would a typical downturn in residential construction last? Is there a pattern?

MR. McCULLOCHS: Neal McCullochs, Gerdau Ameristeel. It's hard to go back. If you look, and we track business and shipments and so forth over the years, it's not like it's consistently you go to a peak for three years and you go down for three years, and it just doesn't, doesn't work like that. So there is not a real indicator other than a whole lot of prognosticators out there that all have their different opinions.

VICE CHAIRMAN ARANOFF: Well, I'm sure that's true. I mean I'm sure this is not the kind of thing where you can say, oh, there's a cycle three years up, two years down, always works that way. But I mean are we talking two, three years or are we talking a decade? Could it be anywhere in between?

MR. KAPLAN: Part of this is that, you know, housing is a local market. But I'd be -- the government keeps pretty good statistics on housing starts and housing permits and we'll provide that information for you, give you a long-time series and a discussion of it in the post-hearing brief.

VICE CHAIRMAN ARANOFF: Thank you very much. And with that I think that concludes my questions. I do want to thank the panel very much for your testimony today.

CHAIRMAN PEARSON: Commissioner Okun.

COMMISSIONER OKUN: Thank you, Mr. Chairman. I think I just have one question left. And this is a question from your handout, Dr. Kaplan, with regard to the price gap series, the country by country price gap series. And I know you've not identified the countries, obviously to protect the confidential business information, but you've got six countries. We have eight. You know, I assume you're going to take Korea out because you're not arguing them. But for the missing seventh country, the fact that it's not on here, does that say anything about its incentive to or its price gaps either looking at it differently in terms of whether it has an incentive to come to the United States, without naming the country obviously? I mean you could say it post-hearing. I'm just saying is there any -- am I right that you're just --

MR. KAPLAN: No. This data was not cherry picked. I didn't say, oh, this one doesn't work, and left it out. I will discuss it in the post-hearing brief.

COMMISSIONER OKUN: Okay. If you could just discuss that post-hearing I'd appreciate that.

Okay, and with that I don't think I have any other questions. I want to thank all of you as well. And I did want to note, Mr. Price, that I appreciated actually you going through what Commerce did with this case on the regional versus national basis because I remember it was a great debate when we were sitting there trying to figure out what happened if the

Commission went three/three. So I appreciated hearing the aftermath of that.

And with that, Mr. Chairman, I have no further questions.

CHAIRMAN PEARSON: Commissioner Lane, did you have anything more?

COMMISSIONER LANE: I just have one more question about Korea. I am just absolutely perplexed at why we have gone this far and with a country and now it's being suggested that they not be cumulated. Are there other facts that we don't know about that will lead to this recommendation other than the fact that it appears that they are at maximum capacity and most of their product is going to home markets?

MR. PRICE: We started out to this case and said to ourselves who has export, who has excess capacity or divertible export capacity and said these are the folks we think are going to come to the U.S. market. When we sat down and put that template together Korea just didn't fit that template, okay. Korea at this point is at extremely high levels of capacity utilization. Korea is as a country not exporting a significant portion of its production as exports are going down year by year. What minimal levels they have seem to be withdrawing out of the international market. The Korean market appears to be rather robust as a country at this point.

Korea, oddly enough, consumes more rebar that just about any other country on a per capita basis. Apparently the building codes or something are designed to just, you know, be steel friendly so there's just a tremendous amount of steel consumed in their buildings. Based upon that we looked at this and we concluded that we did not see Korea likely to export any export to the U.S. we concluded, and that was the basis for the reasoning here.

COMMISSIONER LANE: Okay, thank you.

CHAIRMAN PEARSON: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Just two questions briefly. In Exhibit 3 of your brief you provided analysis of the Chinese market. I was wondering if you could provide more information post-hearing on the firm that did that and the other principals?

MR. PRICE: No problem at all.

COMMISSIONER WILLIAMSON: Thank you. Just one other question. You argued that the industry's baseline condition is irrelevant and that we need to look at the likely change in the industry's condition. Just wondering, would you argue that say a 4 percent decline in operating income is equally injurious to an industry with a 5 percent baseline as it is for one with a, say, 30 percent baseline?

MR. PRICE: I would argue that a material decline, that is something that is more than inconsequential or insignificant is such that relief should be granted. And I think almost anyone in industry would tell you that if imports came in and their profit margins were lowered by 4 percent that if the workers worked less hours, the plants were less full, if the production was less, that's material injury.

COMMISSIONER WILLIAMSON: No further questions. Thank you.

CHAIRMAN PEARSON: Commissioner Pinkert?

COMMISSIONER PINKERT: I'd just like to thank this panel for very thoughtful testimony and for coming here today. And I look forward to the post-hearing.

CHAIRMAN PEARSON: Any further questions from the bench?

(No response.)

CHAIRMAN PEARSON: Do members of the staff have questions for this panel?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you, Chairman Pearson, staff have no additional questions.

CHAIRMAN PEARSON: Does counsel in opposition to continuation of the order have any questions for this panel?

MR. GURLEY: No questions for me.

MR. PERRY: No questions from Mittal.

CHAIRMAN PEARSON: Okay. My gosh, it's lunchtime. Let's see, oh I'm going to surprise my colleague and suggest that we take just more than an hour today and come back at 2:30. Be mindful that the room is not secured and so any business proprietary information or other things that you would like to have long-term possession of should go with you.

With that we stand in recess for an hour and two minutes.

(Whereupon, at 1:28 p.m., the hearing was recessed, to reconvene this same day at 2:30 p.m.)

//

//

//

//

//

//

//

//

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

(2:30 p.m.)

CHAIRMAN PEARSON: This hearing will reconvene. And even the Commissioners will come to order now.

Madam Secretary, are there any preliminary items?y

MS. ABBOTT: No, Mr. Chairman. The second panel is seated and all witnesses have been sworn.

CHAIRMAN PEARSON: Okay. Mr. Perry, is this your show?

MR. PERRY: Right.

CHAIRMAN PEARSON: Please proceed.

MR. PERRY: my name is William Perry of the law firm of Garvey Schubert and Barer and I am here representing Liepajas Metalurgs, the Latvian steel producer, rebar producer and exporter.

I just want to make a quick comment. Mr. John Shane, the counsel for the petitioners alleged that the reason LM stopped exporting rebar to the United States was this thing regarding alloy rebar. Before the hearing we had a meeting with Investigator Olympia Hand, we gave her some confidential documents, including the Commerce Department verification report on this issue, and a letter from the U.S. Customs

Service, Customs and Border Protection. What happened in the alloy steel thing in a very non-confidential way is the U.S. Customs Service told the importer that if they import -- that this alloy rebar coming in from LM was outside the dumping order. So they thought they had a loophole.

We started doing the review and, as you know, in an antidumping order the real, the definition of what is covered, the subject merchandise is the wording not the HTS numbers. And we basically, I and the lawyer for the reporter, both decided we reported all of our rebar exports to the United States, didn't matter what the alloy was. And we passed with flying colors at verification.

But the point that this was the reason LM stopped exporting is malarkey. Remember, the dumping order at this point, the dumping duty for LM wa between 0 and 5 percent. That is not a big barrier to importation in the United States, a dumping margin of 0 to 5 percent. The reason LM stopped exporting is because it entered the EU, and that's the reason. Prices are higher in the EU. More important, as Alex will mention, he's selling directly to end users. Why is that important? Instead of selling to traders he's selling to end users so he gets a much bigger markup when he sells rebar as a domestic sale in the EU.

Now I'd like to ask Alex Zaharin to speak.

MR. ZAHARIN: Good afternoon. My name is Alex Zaharin and I am the Vice Chairman of the Joint Stock Company Liepajas Metalurgs. LM is the sole producer of rebar in Latvia and the Baltics region. Latvia is now a member of the EU, WTO and to NATO. Due to the conditions of competition under which our country currently operates and under which we will continue to operate in the foreseeable future our exports of rebar to the U.S. will remain at zero or will increase to only insignificant volumes even if the AD order against rebar from Latvia were revoked.

We're here today, however, because we want to keep our commercial options open to ship to the U.S. should the conditions of competition change dramatically in our present core markets. As noted in the staff report, Latvia was the only of eight countries under the subject AD orders that continued to sell merchandise into the U.S. in commercial quantities after imposition of orders in '01. We were able to sell in the U.S. because the initial antidumping duty margin was 17.21 percent which was relatively low compared to the other respondent countries.

In December '03 the Department of Commerce reduced our AD margin to .87 percent and the AD order no longer was a material impediment to our exports to the U.S. Therefore, LM exports to the U.S. increased. However, in '04 LM's exports to the U.S. began to decline despite being subject to an AD deposit rate of only 3.01 percent. By September '05 we had ceased exporting rebar to the U.S.

We voluntarily exited the U.S. market because the conditions of competition in the U.S. rebar market became unfavorable to our company and exports therefore compared to other markets, especially the EU. It is these prevailing conditions of competition, not presence or absence of a low margin AD order, which caused LM to exit the U.S. market. As long as the prevailing conditions of competition continue we have no commercial incentive to compete in the U.S. market.

The most important condition of competition is Latvia's entry into the EU in '04. Since Latvia became a member of the EU, LM enjoys unfettered access to the expanded EU 27 market, one of the largest rebar markets in the world. Entry into the EU resulted in the complete reorientation of our export markets. Whereas exports to the EU comprised approximately one-third of LM's production in '01, by '06 LM's exports to the EU, including domestic shipments to the Latvian market accounted for approximately 80 percent of our production. And between '01 and '06 the quantity of exports to the EU increased by almost 125 percent.

I would briefly like to review a few of the benefits that EU membership bestows upon LM that illustrates why we have reoriented our exports towards the EU and away from the U.S. market. Firstly, beginning in '01 we embarked on a costly and time consuming process of obtaining country-specific mandatory certification to enable LM to sell in all major country markets within the EU. We increased our country certifications from four in '01 to 13 in '06. Each such certification requires substantial initial investment and, in addition, an annual maintenance fee.

Secondly, once Latvia became a member of the EU our exports to the EU have been subject to preferential transportation tariffs as a direct result of the EU accession and exports to the EU were subject to less onerous customs requirements. LM enjoys enhanced marketing opportunities as an EU producer such as the ability to enter into long-term supply contracts with the EU end users. Due to the reduced risks of importation into the EU, LM and its ultimate customers were able to eliminate intermediary trading companies and sell directly to each other.

LM's U.S. sales were always made through trading companies. Selling directly to end user rather than through traders facilitates trade financing.

Numerous other favorable conditions in Latvia's rebar trade exist and are likely to continue to exist into the foreseeable future. They include a growing Latvian and the Baltic markets. The entry of Latvia and Lithuania and Estonia into the EU has resulted in tremendous growth in local construction since '04 supported by both funding of infrastructure projects and private investment. Latvia's home markets for rebar has increased sevenfold in volume from '01 to '06. In addition, since '05 our sales to the Russian market have increased substantially and are likely to increase in the future as Russia's oil and gas wells finally are spurring massive construction projects in Russia. LM's proximity to the booming Russian markets, to Moscow and St. Petersburg gives us a distinct competitive advantage over other producers outside the Eastern European region. In '06 our sales to the EU, the Baltic home market and Russia accounted for over 85 percent of LM's production.

The following economic conditions of competition that have made the U.S. market less lucrative to LM must also be considered by the Commission. This includes the continuing steep decline of the dollar vis-a-vis the euro and the lat. Since the introduction of the euro the euro has appreciated vis-a-vis the dollar by over 50 percent. Since '06 our local currency, the lat, has been pegged to the euro, meaning that from now on our conditions of competitions are identical to those from the producers in the euro zone. As long as the dollar remains weak it makes little economic sense to sell rebar in dollars rather than in euros or lats. A reversal in the trend of the weaker dollar is not predicted at this point in time.

Currently its factory prices for rebar are now higher in the EU and other international markets than in the U.S. Our questionnaire response shows published prices in France, Germany and Latvia are higher than the U.S. published prices. The staff report even noted that the rebar traders have diverted rebar from the U.S. market to more lucrative markets. Since the addition of the EU 12 there is now a net deficit of rebar production of over two million tons as compared to the consumption in the EU. Consequently, rebar is now selling at a premium in the EU. This rebar deficit in the EU is not likely to shrink or disappear in the foreseeable future.

Finally, increasing transatlantic freight charges have made the U.S. market less profitable for our company. Between 2000 and '06, the transatlantic tariffs have doubled. The staff reported noted the shipping costs added 12.6 percent to the customs value of Latvian rebar.

On the issue of capacity, during the period of review, in contrast to significant increases in the U.S. rebar capacity for the review period, our capacity for rebar production has remained constant. LM has not increased its rebar capacity since 2000 prior to the imposition of the order. In addition, LM's capacity utilization has increased in each year and LM is now operating at approximately 95 percent of its maximal theoretical rolling capacity. However, we are presently running at 100 percent of effective capacity.

Latvian exports to other Western Hemisphere markets are instructive. First, we voluntarily exited markets in Latin America due to the same conditions of competition outlined above. We exited Latin America despite the absence of any antidumping duties.

Second, in the Canadian market LM was subject to an AD order between 2001 and 2006. As in the U.S. market, we remained in the Canadian market until voluntarily exiting it in '03. Even though the Canadian order was lifted we have not resumed exports to Canada. As with the U.S., under current conditions of competition we have no rational incentive to resume exports to the Canadian market.

Two additional points. First, although the staff report correctly noted that LM's inventories are relatively low, both the petitioners and the staff report misinterpreted the inventories reported by LM. The amounts reported as inventory do not represent open stock that is kept for sale. LM produces only for order. Inventory is merchandise that was produced to a customer's order but is awaiting delivery. We cannot use merchandise reported as inventory for general sales to any customer.

Moreover, inventory for Europe cannot be diverted to the U.S. because of the difference in specifications and in actual production process for the rebar destined for Europe. Europe allows for the low -- for the cost beneficial use of water quenching cooling system which is not allowed for rebar sold in the U.S.

Second, the petition has alleged that if the order is revoked LM will undersell the U.S. product. This is an incorrect statement. First, price comparisons during the period of review show that LM exports to the U.S. oversold the domestic product in 33 out of 48 possible price comparisons. In addition, since joining the EU LM's cost structure has increased. For example, not only have raw material and energy prices in Latvia increased significantly but the costs in Latvia for raw materials and energy have equalized to EU levels. We no longer enjoy access to below market raw materials and energy prices due to our proximity to Russian and the Eastern European markets.

Similarly, LM labor costs have increased as LM has to meet EU level labor standards and wages. These increased costs limit the likelihood of future underselling. Based upon the conditions of competition it is unlikely that the revocation of the AD order with respect to rebar from Latvia would lead to the continuation or reoccurrence of material injury to the regional domestic industry producing rebar.

Thank you for allowing me to present this testimony to the full condition.

MR. PERRY: I would like to ask David Phelps to testify.

MR. PHELPS: Good afternoon. My name is David Phelps and I am President of the American Institute for International Steel. AIIS represents North American steel importers, exporters, port authorities, ocean carriers, stevedoring firms and other logistics firms as well as steel distributors and some processors. Our members are an important part of the supply chain that keeps American manufacturing and the construction industry in the United States efficient, operating and profitable.

Today I am the bearer of glad tidings. The U.S. rebar industry is not vulnerable to import competition. If the antidumping orders are lifted, especially the order on Latvia, the U.S. rebar industry will not be materially injured or threatened with material injury. This is a time for celebration for all companies who supply steel to the U.S. market, including domestic rebar producers and importers. The growth in the U.S. GDP has been very strong over the last few years and the growth of construction has been a major factor in the strength of the U.S. economy.

With the restructuring of the American steel industry and strong economic growth times have never been better for the American steel producers, including rebar producers. In '06 the U.S. industry set records for profitability, including rebar near record shipments and record consumption while imports also hit all time highs. In addition, U.S. steel exports hit an all time high in '06, 9.7 million net tons. U.S. steel executives just this week, as reported in May 9 AMM, expressed optimism for further increases in exports in '07. Lou Shorch of Mittal USA who is also a North American rebar producer stated, "There are good opportunities to ship internationally right now. Pricing is favorable for exporting. And with the growth in efficiency of our industry we think it will be a long-term opportunity."

Andy Sharkey, president of AISI also stated that "macroeconomic conditions, notably strong demand for steel and higher prices in global markets, make it likely that North American companies will easily exceed the '06 number on exports this year."

Rebar producers have also participated in the good times, shipping their products to the hot U.S. construction market and benefiting significantly from large increases in spending for our most important infrastructure program, highway and transportation. As is well known, this significant rebar market specifically precludes import competition under stringent federal Buy American rules which require that the steel be melted and poured in the United States and requires certification to that effect.

Apparent U.S. rebar consumption during the POR '01 to '06 grew by 28 percent and regional rebar consumption also grew by 28 percent according to the staff report. It is important to note that in '06 residential construction declined but rebar consumption increased by over one million tons as compared to '05, more than offsetting the weakness of the residential construction market. Meanwhile, overall U.S. rebar production increased by 26 percent during the POR. Also during this period the U.S. rebar industry added, in response to this strong market condition, 700,000 tons of new capacity, and in the region over a half a million tons of new capacity. Clearly, the U.S. has a strong, growing and vital rebar industry.

The tale told by the industry's investment in their facilities supports the notion that this industry is strong, profitable and with no need of further import protection. This is not a vulnerable industry. After declining from $62 million in capital expenditures in '01 to $44 million in '02, capital expenditures have exploded to $146 million in '06. Given that '06 was even more profitable for the rebar industry one has to assume capital expenditures will grow further in '07.

The U.S. Bureau of Census reports in '01 that the steel and ferro alloys industry, which is the way they divide it up, made a minus 2.2 percent operating profit margin compared in that same year '01 to 1.6 for all durable manufacturing. By '05 the steel and ferro alloy industry operating profit was 10 percent compared to 5.3 percent for all durable manufacturing. Census data for the first half of '06 show much the same trend, 10.9 for steel compared to 5.6 for all durables.

In stark contrast, as the staff report indicates, the operating profit margin for rebar producers after declining from 6.6 to 4 in '02 and 3.1 in '03, much higher than for the steel industry generically or, and certainly in the neighborhood or more than the durable manufacturing, in '06 increased to a whopping 20.7 percent, almost double the average operating profits for all steel, ferro alloy producers. After falling from 4.7 in '01 to 3.3 in

'02 and .7 in '03, the regional operating profit margin for the rebar industry increased to 19 percent in '06. Not only is this not a vulnerable industry, it is clearly one of the most profitable U.S. manufacturing sectors.

Meanwhile, led by explosive growth in infrastructure development in a host of developing countries and regions, including China, Russia, India, Brazil, Eastern Europe and the Middle East, the demand for rebar worldwide reflects systemic growth. Emerging from a decade-plus recession, Japan is again growing at a strong rate. And the EU likewise has experienced strong growth in construction. The staff report confirms all this.

What does this mean for the U.S. industry and the Latvian industry? First, it is clear that there is no strong shortage -- there is no shortage of strong economies to sell rebar to. Steel prices, according to public sources, tell the tale. For the first time in my experience rebar prices are higher than hot rolled sheet, with rebar in excess of $610 per ton in the U.S. market and hot rolled sheet at $569, a relationship that can only reflect the strength of U.S. construction. Around the world it is much the same.

In Europe rebar prices are even higher than in the U.S. Europe, which has more steel production than demand for steel overall, is short of rebar, necessitating imports much like the U.S. market. Surrounded by hot rebar markets and some ex-mill prices higher than in the U.S., LM clearly has lots of options. And as a new member of the EU, Latvia is now in a unique position. The consumption of rebar in Europe in '06 was 23 million metric tons when shipments inside the EU were only 20. This shortage has grown over the last four years with the entry of the Eastern European members.

Finally, we note that we have a very interesting correlation. When imports were at their lowest in the POR in '03, rebar firms' profitability was likewise at its lowest. On the other hand, when rebar imports were at their highest, and prices as well in '06, profits for the rebar industry were likewise at their highest too. Does this remind anyone of the carbon steel wire rod case?

Thank you for your time.

MR. PERRY: John Gurley.

MR. GURLEY: Good afternoon. My name is John Gurley from Arent Fox. I am counsel to Mittal Steel Kryvih Rih. I am here today with Diana Quaia with Arent Fox and Dr. Kenneth R. Button and Jennifer Lutz of Economic Consulting Services.

The Ukrainian rebar industry has undergone significant changes since the POI. In their brief petitioners cite to a quote made by the general director of Kryvorizhstal in 2005 about its desire to enter the U.S. wire rod market. First, this quote was made about wire rod, not rebar. But more importantly, it was made by a company that effectively no longer exists.

Mittal Steel Kryvih Rih, formerly Kryvorizhstal, is now part of Arcelor Mittal. The aforementioned general director is no longer in charge. Mittal is just one of over ten Arcelor Mittal companies that produce rebar. It's hardly the closest to the U.S. market. As noted in our brief, there is Border Steel, a U.S. producer, Sicartsa, a Mexican producer with two mills, and Mittal Canada which also has two mills. Arcelor Mittal also has several other rebar mills in Trinidad and Tobago, South and Central America and other locations. Mittal has no intention of taking actions which could hurt any of its affiliates, especially those in the United States, Canada and Mexico.

I now turn to two specific allegations made by petitioners. These allegations relate to current and future capacity of Ukrainian rebar producers. Petitioners allege that Mittal represents less than half of the Ukrainian rebar industry. Petitioners' brief states that there is an aggregate capacity of 4.4 million tons besides that reported by Mittal. This allegation is based on a kind of trenchant analysis one normally associates with tabloids. Indeed, this statement is simply wrong.

The petitioners do not distinguish between producers of long products and producers of rebar. Even after seven years petitioners do not seem to know or care who is producing rebar in the Ukraine. Where do petitioners get this 4.4 million ton number? They cited to two sources. A review of Iron and Steel Works of the World, their first source, indicates only three other smaller rebar producers besides Mittal. But it is unclear how petitioners calculated 4.4 million tons. Perhaps they added total capacity of all long product producers, including those who do not make rebar. We just don't know.

With respect to the other source cited by petitioner which is under the APO but to which my client has independent access, the table relied upon by petition includes a company from, get this, Turkmenistan, which at last report is a separate country. If one excludes the company from Turkmenistan from the very source cited by petitioners it indicates that there are 4.3 million tons of total capacity in the Ukraine of which Mittal represents about 4 million tons. We still have no idea how petitioners arrived at the phantom 4.4 million tons of missing rebar capacity. It's a mystery.

Now let's look at what is factual. First is Mittal's own questionnaire response indicating its share of production at 75 to 80 percent. We were being modest. To obtain a reliable estimate of the remaining producers we supplied data from Metal Expert, a service similar to that cited by petitioners, except it is one that focuses on Eastern Europe and the CIS countries. This information was provided at Exhibits 2 and 3 of our brief.

That report appears to cover 100 percent of Ukrainian rebar output and shipments and specifically lists Mittal as well as the second and third largest Ukrainian rebar producers, Makeevska and Yenakievski. These last two companies' production exports comprise less than 7 percent of total Ukrainian production exports. All other rebar producers account for less than 1 percent of the total output. So instead of petitioners missing 4.4 million tons of production, we have hard evidence of missing production of less than 300,000 tons. That's quite a difference.

Let's talk about future production capacity. Petitioners allege that they expect a huge increase in Ukrainian capacity, over 6 million tons in the next few years. Again petitioners provide a less than rigorous analysis, most of which is based upon speculation or is simply wrong. We will address here today two of the most glaring examples.

The first is Euro Finance, a scrap company. Petitioners say Euro Finance Limited, a scrap company, plans to install rebar capacity of 1.8 million tons by the end of 2008. This is based upon a single internet source which picked up a rumor of this proposed project. But the cited quote talks about it becoming operational in 2010, not 2008.

Second, in our search of information about new rebar capacity at the oddly named Euro Finance we did not come across any company press release regarding this mill or details on the mill itself. At most, this report is for a construction production for a new mill, allegedly for long products, that is still on the drawing board or in its incipient stages. So we do not know exactly what will be produced in 2010 at the earliest, if anything. Indeed, there is no indication that construction has actually started. When will it start? When will production come online? What will be produced? How much will be produced? These are all questions with one answer: we do not know.

It is also worth noting that the source petition quotes with respect to this project states as follows: "'By the time the mill starts up Ukrainian demand for long product is expected to exceed current levels of consumption by far, following in the footsteps of Russia. There will be a shortage of rebar then,' the executive says." This is petitioners' own quote.

We next address another egregious example, ISTIL Steel. According to petitioners, ISTIL, another Ukrainian steel producer, plans to add rebar capacity of over 742,000 tons in the next three years. Petitioners did not even name this company in its response to the notice of institution; nor should have it. ISTIL's own website as well as Iron and Steel Works of the World do not include that ISTIL actually produces rebar.

Mittal actually called ISTIL and they confirmed that they do not make rebar and have no plans to make it. So any statement that 742,000 tons of rebar capacity will be added by ISTIL is flat wrong. Of the 6 million tons of new capacity alleged, we think petitioners are partially right with respect to a single mill, Makievska, which will have increased capacity to make numerous long products, not just rebar, starting later this year or early next year. But this increase in capacity will be 700,000 tons, again for several types of long products not just rebar.

Now I want to address briefly the issue of the Ukrainian responses to the foreign producers' questionnaire. Given the fact that Mittal represents 90 percent of the Ukrainian market it's not surprising that the Commission is missing data from some small players who have evidenced a distinct lack of interest in the U.S. market both in the original POI and now. In the original POI, Kryvorizhstal, the predecessor to Mittal Steel, was the sole respondent in the Department of Commerce case. Of course I wish all the companies had responded but their failure to respond should not result in any adverse consequences. More than 90 percent of the Ukrainian rebar industry has responded to the questionnaire in the form of the Mittal questionnaire response.

Finally I'd like to talk about cumulation. Recent Commission precedent supports a determination by the Commission that imports from the Ukraine would compete under different conditions of competition than imports from other subject countries. In 2007 the Commission issued its written decision in the sunset review of carbon steel products which include cut-to-length plate from Romania. The Commission declined to cumulate the Romanian producer, Mittal Steel Galati, with other countries because imports from Romania would likely compete under different conditions of competition than those from the remaining nine subject countries.

In making its determination the Commission noted the significant changes the Romanian cut-to-length plate industry had undergone since the original investigation. The Commission explained that the Romanian producer was no longer state owned, and the Commission emphasized that the producer was now in the same corporate group as a major U.S. producer of cut-to-length plate. The Commission stated that this newly arising corporate affiliation between Mittal Steel Galati and Mittal Steel USA will make it likely that the decisions as to how Mittal Steel Galati will respond to revocation of the antidumping order will be made at the corporate level with the best interests of U.S. affiliate in mind.

Similar to the facts in cut-to-length plate, the record before the Commission shows that the Ukraine's largest rebar producer became affiliated with Arcelor Mittal in November 2005. Prior to its purchase by Mittal Steel the company was an underfunded state-owned producer. Similar to the Romanian case, Arcelor Mittal has five important mills in North America that produce rebar, the interests of which will be protected at the corporate level with the best interests of its North American affiliates in mind. As in cut-to-length plate, the Commission should exercise its discretion and not cumulate Romania.

I will now turn to Dr. Ken Button.

MR. BUTTON: Good afternoon. I am Kenneth Button, Senior Vice President of Economic Consulting Services, LLC. I am accompanied by ECS Senior Economist Jennifer Lutz.

Let me begin by summarizing the economic case for Ukraine. First, with respect to U.S. demand, U.S. demand for rebar is strong and is likely to stay strong for the reasonably foreseeable future, especially considering the continued strong growth of

U.S. non-residential construction, multi-family housing construction and public sector construction. Therefore, the output of U.S. producers of rebar will continue to be absorbed at strong prices which will continue to permit strong profitability on rebar operations.

With respect to foreign rebar demand, foreign demand for rebar is even stronger than in the United States and is similarly likely to stay strong for the reasonably foreseeable future. Rebar prices in key foreign markets both are at historically high levels and are, in fact, comparable to or even higher than U.S. market prices. Given the very strong foreign demand levels, foreign rebar prices are likely to stay at high levels for the reasonably foreseeable future.

Therefore, Ukraine's rebar production will continue to be absorbed in Ukraine's home market and in its traditional export markets. Thus, revocation of the order on Ukraine will not lead to a recurrence of injury to the U.S. industry.

The issue for the Commission in this sunset review is what is likely to happen in the reasonably foreseeable future. Therefore, the Commission has an interest in having the most current information about pricing trends so that it can determine expectations about the future. What really counts is not what prices have historically been but rather where prices are now and what they are likely to be in the future.

The Commission also faces the question how far out into the future should the Commission's perspective be? The Commission should pick a time frame perspective that is consistent with the economics that underlie the product, in this case the primary determinant of rebar demand is construction activity which itself most prominently is determined by macroeconomic growth. The consensus of leading forecasts of U.S. GDP growth tends to be presented in a framework going out two years.

For example, the Federal Reserve Bank of Philadelphia reports in its survey of professional forecasters projection of GDP for a two years forward period. Specifically, it forecasts U.S. real GDP growth to be 2.8 percent in 2007 and 3 percent in 2008, which is continued healthy growth. It does not report a projection for three years out to 2009.

Similarly, the National Association of Business Economists recently issued its consensus of macroeconomic forecasts for the two-year period which anticipates continued healthy GDP growth of 2.8

percent in 2007 and 3.1 percent in 2008.

In other words, two years into the future tends to be the time frame which is "reasonably foreseeable" from the perspective of professional economic forecasters. Furthermore, the length of the time frame should be consistent with commercial sales practices. As the prehearing report states, rebar in the U.S. market is mostly sold on a spot not contract basis. Therefore, rebar market forces do not take extended multi-year periods to adjust to supply and demand changes.

The Commission must also address the question of whether to make its determination on a regional or a national basis. Most importantly, I believe that the economic data will lead the Commission to the same conclusion regardless of whether a regional or national framework is used. However, any time the domestic industry carves out a "region" that comprises 73 percent of total U.S. demand you are viewing what must be considered economic gerrymandering. Furthermore, since the original determination the argument for a regional industry has weakened. Since that time, the U.S. industry has restructured and consolidated dramatically such that the vast majority of U.S.

industry production is now controlled by three large national producers. These companies have mills in all areas of the country and their sales are coordinated under national commercial strategies determined by corporate headquarters to maximize total corporate, not regional, profitability.

The industry also has taken additional steps to integrate vertically through the expansion and acquisition into the downstream rebar fabrication industry. The rebar industry giant Nucor, for example, has just acquired Harris Steel which is the third largest rebar fabricator in the United States with facilities in Canada and both within and outside the 30-state region.

CMC states in its 2006 annual report regarding its rebar fabrication business, "our coast to coast footprint in the United States was enhanced with new and improved facilities." Such vertical integration furthers the economic interdependence across the proposed region border.

All of the data available to the Commission, including the GDP forecast just cited, indicate that U.S. construction activity and demand for rebar will continue to be strong for the foreseeable future. U.S. construction activity continues to be very strong not only with respect to private, non-residential construction but also with respect to U.S. multi-family residential construction and, of course, rebar-intensive public construction. Macro growth and construction activity are topics about which I would welcome any questions during later time.

Moreover, industry publications and the SEC Form 10-K's and 10-Q's of the U.S. producers contain numerous and repeated statements by the U.S. rebar producers. That U.S. rebar demand is strong and is likely to continue to be so. Nucor stated just recently in April that Nucor "remains optimistic about the outlook for bar products. As we enter the peak construction season demand remains very healthy, led by strength in the non-residential construction, mining and energy markets."

The prehearing report also aptly summarizes the U.S. demand situation as follows: "In North America, particularly in the United States, favorable market conditions for rebar include rebounding non-residential construction activity that is not anticipated to slow down in the near future, reduced inventory levels held by service centers and end users due to slowing import levels, and significant order backlogs." What that means is it is likely that both the current rebar output of the U.S. producers as well as new U.S. output coming from any U.S. capacity expansions will be absorbed by U.S. demand.

Moreover, the prehearing report makes clear that the strong profitability of the domestic industry over the last three years reflects in large part the historically high prices for rebar. Yes, scrap prices are high but rebar prices have risen far higher such that the all-important metal margin, which is the spread between the cost of scrap raw material and the price of the finished rebar, has risen to record high levels. The result is that for three years domestic producers' operating and net profit margins have expanded greatly.

Not surprisingly, given these levels of profitability the domestic industry has been in fact effectively operating at full capacity in order to take advantage of the strong market environment. Currently the industry is operating at 89 to 90 percent capacity utilization which is what Mr. Fritsch from CMC has just agreed is reflecting full capacity.

Please take note that a significant change occurred in the international market conditions in the latter part of 2006 when the healthy construction activity in foreign markets turned into a construction boom with rapid growth in the foreign demand for rebar that became even stronger than in the United States. How can we tell that this is so? Besides the data on construction activity in the key foreign markets such as Russian, Europe, the Middle East, the strength of foreign rebar demand is most obvious by the fact that foreign rebar prices are comparable to, or even higher than, U.S. rebar prices.

The prehearing brief of the Ukrainian producer contains detailed information about the strength of these foreign prices. Data were provided comparing U.S. and foreign prices, recognizing the need for adjustment for foreign freight costs, with respect to the U.K., Germany, France, Italy, Spain, Russian, Turkey and others. Additionally, the Commission should note the statements of the U.S. producers themselves commenting on the fact that foreign demand is strong and that foreign prices are as high, or even higher than, United States prices.

For example, CMC stated in its SEC Form 10-Q in April, "Global infrastructure growth is creating unprecedented demand for rebar and other steel long products, in particular in the markets of North America, Middle East, North Europe, Central and Eastern Europe, Russia and Asia." CMC also stated in

February, "Rebar prices are likely to reach record levels in many international markets. The level of imports into the U.S. should remain at low levels compared with 2006."

Turning to Ukraine, what are the economic conditions that would determine whether the Ukrainian producer MSKR would begin exporting rebar to the United States if the order were revoked?

First, is there an economic incentive to do so? For MSKR there is not. As described in MSKR's brief, the currently prevailing rebar prices in Europe, Russia and the Middle East and other relevant markets are as high, or higher than, the prices in the U.S. market. Therefore, there is no economic incentive for MSKR to shift from the current stable domestic and regional export relationships to export into the United States.

Note that in the domestic producers' prehearing brief their comparisons of prices between the U.S. and foreign markets are not based on currently prevailing prices but rather are almost exclusively based on historical average unit values during 2006. And the subject imports were drawn into the U.S. market when U.S. prices were relatively high. They do not provide the Commission with information about prices prevailing now or which are likely to prevail in the foreseeable future.

A second key consideration is that MSKR is currently producing at 100 percent capacity utilization and does not have a divertible output that it can direct to the U.S. market. Real GDP in Ukraine grew at 7.1 percent in 2006, double the U.S. level, supporting an ongoing booming construction activity which has grown annually at rates exceeding 20 percent.

Third, MSKR is also unlikely to export rebar to the United States at a low price because MSKR's commercial strategy is now controlled by Arcelor Mittal Group which has very strong interest in maintaining a healthy U.S. rebar market environment. In addition, as noted by Mr. Gurley, Arcelor Mittal has four affiliates in the United States, or make that five affiliates in the United States, Canada and Mexico for which the United States is an important rebar market. MSKR has a clear disincentive to do anything that would reduce U.S. or North American rebar market prices.

Finally, we believe that the Commission needs to be very careful in its consideration of the domestic industry's econometric model in Exhibit 1 to their brief. The model is a look at history, the original POI and following. But it is presented as a prediction of the future if the orders are revoked. One has to look closely in the text for an admission, however, that the model also assumes that, subsequent to the revocation of the order, the subject imports will surge into the U.S. market. However, the central issue for the Commission today is precisely whether Ukraine, for example, would redirect exports to the U.S. market.

The petitioners' model includes only four explanatory variables: the volumes of subject and non-subject imports, the cost of scrap, and a measure of U.S. rebar demand. It does not include any measure of foreign demand, a key factor which in the absence of the order would be important in determining whether there would be an initial economic incentive to divert exports to the United States. The fact that foreign construction activity and hence rebar demand are booming, and are likely to continue to do so, is a central condition of competition that will prevent Ukraine rebar from being redirected to the U.S. market. In MSKR's case, even a decline in foreign market demand would not result in redirected exports to the United States because of Arcelor Mittal's corporate incentive to maintain strong U.S. market pricing.

Thank you.

MR. PERRY: That concludes our presentation.

MR. CAMERON: Mr. Chairman and members of the Commission, my name is Don Cameron of Troutman Sanders on behalf of Hyundai Steel Company. I have a very brief statement to make.

Imports of rebar from Korea have no discernible, will have no discernible adverse impact on the U.S. industry. Even the petitioners agree that imports from Korea will have no impact. I realize this is unusual but that is the case. The reasons are straightforward.

As an historic matter the U.S. is not a traditional market for Korean mills. Imports from Korea were a function of the Asia financial crisis and that crisis is over. The Korean industry and Hyundai Steel in particular have consolidated and eliminated significant domestic capacity to produce this product in Korea.

Thirdly, the Korean industry is operating at full capacity and will be operating at full capacity in the foreseeable future given the economic growth in the Korean market. The Korean industry and Hyundai

Steel in particular are also focused almost exclusively on the domestic market, actually to an overwhelming degree.

These conditions of competition in Korea are not going to change. As a result, imports from Korea will have no discernible adverse impact on the U.S. industry and that is the reason for our position before this Commission.

I will be glad to answer any questions. And that concludes my statement and I think the panel presentation. Thank you.

CHAIRMAN PEARSON: Thank you. Welcome to all of you this afternoon. I appreciate the time that you've taken to be with us. Some of you have traveled considerable differences and you have other things that you could be doing today so we very much thank you for being here.

We'll start the afternoon questioning with Mr. Williamson.

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman. I too want to express my appreciation for the witnesses coming here today and giving their testimony. I realize they've been waiting a while to do it.

I would first like to start off with a

question about the regional industry question. You argue against a regional industry analysis yet you provide no analysis of the market isolation factors. Can you either now or in your post-hearing brief address those statutory factors we are required to consider in determining whether or not there is a regional industry?

MR. GURLEY: Yes, we will do that, Commissioner.

COMMISSIONER WILLIAMSON: Okay, thank you.

Okay, and I guess you know the history about three Commissioners in the last, the original case to find a regional industry. I guess you've also address the question is there, as the record in these reviews is somewhat similar is there any reason to think about a national?

For Ukraine I would be interested in whether or not to the extent you can can you please describe Mittal's rebar operations in other subject countries, particular China and Poland, and to what extent their operations and sales are coordinated?

MR. GURLEY: My understanding is that a mill is being built in Poland. I don't have all the details on that but I will follow up with that. I will tell you that anything coming out of Europe, including Ukraine, would be coordinated. I would say the matter right now is that exports coming out of Ukraine are actually managed through Dubai, of all places, because Arcelor Mittal wants to make sure that there is a coordinator amongst its mills in that area of the world. So there would be complete coordination such that they're not competing against each other, any quantities that ever would arrive in the United States would be very moderate and would be fairly priced.

COMMISSIONER WILLIAMSON: What about China and Poland though?

MR. GURLEY: Well, I mentioned Poland. I think there is a mill that is in the course of being almost completed. And I will provide further information about that.

With respect to China I'm not clear that Mittal has any facilities in China. That's not my understanding, Commissioner.

COMMISSIONER WILLIAMSON: There was some discussion this morning about this Buy America requirement and the extent to which these requirements limit competition between subject imports and domestic rebar. And I wonder to what extent the large volume of non-subject imports in the U.S. market indicate that Buy America requirements are not that important. Are there other, also any other considerations on that?

MR. PHELPS: Obviously the -- David Phelps, AIIS -- the highway and transportation, highway, bridge and mass transit bills that get passed periodically by Congress are very important for the long product industry in the United States. Rebar is very important inside that, along with wire mesh and so on. It is not the whole story, there's no question about that. Some of the older data suggests that it's an important part. And, in fact, when the highway bills get signed every five, six years the rebar and the wire rod industry always sort of applaud that because it always involves more spending on highways and so on.

So there is a market impact but clearly it's the private sector that drives the industry with non-residential construction and residential construction. The Buy American rules themselves prohibit steels not melted and poured in the United States. And there is a certification process. That's the Transportation Department's area.

COMMISSIONER WILLIAMSON: So what impact does that have on supplies of?

MR. PHELPS: Well, foreign supplies are prohibited from bidding on it unless, you know, the steel is not available. But I've never heard of a situation ever where a contracting firm bidding on a highway product would argue that rebar is unavailable, domestic rebar is unavailable. I think it would be a ludicrous argument. So foreigners are -- foreign steel products are prohibited from those projects. If they are involved in them then there's probably some hanky-panky going on.

COMMISSIONER WILLIAMSON: Mr. Phelps, you mentioned when you were talking about demand for steel in these strong markets I was wondering since you're, I assume your firm is involved in imports and not, the domestic industry this morning talked about the sharp falloff in April and I was wondering to what extent you're seeing that in terms of projects that you're making in terms of bidding on it?

MR. PHELPS: Yeah, Dave Phelps again. In early 2001 or -- 2001 -- 2007, excuse me, first quarter I think most people in the industry who watched these things carefully were taken very much by surprise by a very fast and steep run-up in scrap prices. And we saw immediate response. I mean there's sort of an adage in the industry, when scrap prices are going up that's a good signal. When scrap prices are going down that's a bad signal for the market. It was a very rapid increase in scrap prices. And we saw electric arc furnace based products like rebar all of a sudden we saw an awful lot of ordering that would have taken place in the second quarter or later first quarter starting to take place very early.

Consumers don't like to be the last company in line when the prices are rising like that. And the market was strong enough so that most of the mills as far as I'm aware tacked on those scrap price increases. And we had a very large and very quick run-up in inventory in advance of what is usually the start of the big construction season in the second quarter. We also had some weird weather at the end of the first quarter and April was a bit strange in certain parts of the country.

So you can't really look at a one-, two-, three-month period, particularly one where you've had a run-up in scrap prices and a run-up in commodity prices like rebar as determinative of what's going to happen. Most people, I stay on top of this as much as I can, I'm not in the mills and I'm not in the ordering departments of the rebar companies but most people believe that the GDP will remain reasonably strong this year and non-residential construction will be solid. Whether that turns out to be so, if I had that crystal ball I would also be on the beach like one of the gentleman earlier this morning.

But that's more or less what happened for the rebar market. And wire rod, had the same impact on wire rod and some other products that are mini mill or electric furnace based products.

MR. BUTTON: Mr. Commissioner?

COMMISSIONER WILLIAMSON: Yes?

MR. BUTTON: Ken Button. Mr. Phelps has just described what happened which I believe likewise is a temporary phenomenon and inventory event that this morning perhaps was not accurately described as a demand event. Let me perhaps just comment on that for a moment.

U.S. rebar demand is most clearly mirrored by U.S. construction activity. Construction activity can be broken down generally into four pieces: single family housing construction, multi-family housing construction, non-residential construction, private, and then public construction. Not all four of these are equally rebar intensive.

Imagine a single family frame house. Imagine a office building or a condominium. A single family house is the least rebar intensive per dollar among those. U.S. single family housing declined and has been declining for some months. We all know about the sub-prime mortgage issue. But the other sectors of construction, multi-family housing, non-residential private, and the rebar very intensive public sector all increased in the most recent quarter for which data are available. So that effect of the sector is strong.

With respect to single family housing, yes, there has been a downward trend. But who knows interestingly whether this is an arbiter of things to come or not? Single family housing starts increased in March. I think that the market we see and the demand, the construction activity figures published by census is one of a strong market, not one of a weak market.

COMMISSIONER WILLIAMSON: I'm out of time, so thank you.

CHAIRMAN PEARSON: Commissioner Pinkert?

COMMISSIONER PINKERT: Thank you, Mr. Chairman. I'd like to join my colleagues in welcoming this panel. Thank you for taking the time to be here and to testify before us today.

I'd like to start with Mr. Button. And in particular you talked about some consensus estimates for or consensus forecasts for the next year or two years for the economy as a whole. I'm wondering is there a consensus estimate of the probability of a recession over the next 24 months?

MR. BUTTON: Well, with respect to the next 24 months there are four, I can give you four forecasts. And you can attach to any of those forecasts what you want.

You have the two private forecasts which I just mentioned which do not see a recession occurring. In fact, they see growth going from about 2.8 percent now to 3 percent or plus in 2008. There is no sense of increasing gloom about a recession.

The Congressional Budget Office similarly sees a stable economic growth going out into the future. And so, of course, does OMB.

I am aware of no forecast which is calling for a recession that way. The International Monetary Fund has forecast for the global economy 4.9 percent for the next two years. They see also stability.

COMMISSIONER PINKERT: Those are expected values, are they not?

MR. BUTTON: They are.

COMMISSIONER PINKERT: So my question has to do with the probability which maybe has a small expected value associated with it but the probability of recession over the next 24 months?

MR. BUTTON: I'd be happy to provide those. I don't have those with me now.

COMMISSIONER PINKERT: Thank you. I just recall that there was a public statement by a formerly major public figure that talked about the possibility of a recession over the next year.

MR. BUTTON: Right. The forecasters sometimes do have indicators of whether they believe the probability of a recession occurring within a certain time frame is going up or down. I can try to obtain those data for you. But the, clearly the forecast as far as we can tell is that it won't happen.

COMMISSIONER PINKERT: I wasn't suggesting that it will happen, I was just trying to get a grip on the probability.

MR. BUTTON: Very good.

COMMISSIONER PINKERT: Thank you.

Now turning to LM, and I'm just going to call it LM to make it easy on myself, don't have to worry about the pronunciation, does LM have any forecast for the alternative markets that have caused you to exit the U.S. market? In other words, over the next year, the next 24 months do you have any forecasts for those markets?

MR. ZAHARIN: We really do not have the forecast for outside of the EU export markets which we consider to be our core markets today. And in addition to that, the Russian market which we do have some forecast figures for in terms of the expected consumption for the next year, on this particular market we can only add that Russia has yet to even begin investing into its infrastructure projects. Most of the consumption is coming from the residential and commercial real estate. So we have yet to see what quantities will be required to rebuild and renew the infrastructure that's been neglected for years.

COMMISSIONER PINKERT: Could you provide the forecast that you do have in a post-hearing?

MR. ZAHARIN: We'll do it in the post-hearing brief.

COMMISSIONER PINKERT: Thank you.

Now, I think you alluded to this but let me ask you directly, what are the drivers of demand in those alternative markets, for example EU and Russia?

MR. ZAHARIN: Probably the most vivid example for the EU is Germany. For the first time in

'06 Germany was in the black in terms of its construction growth. And this is the single largest market in the European Union.

In terms of Russia we have stated that finally the investments are taking place and there is a dramatic need for rebuilding of housing and primarily Moscow being the center, in its own universe, is taking the most significant quantities. And despite the fact that there are imports into Russia that were at significant levels in '06, Russia is still short and will continue to be short of rebar because its consumption is growing faster than the internal production.

COMMISSIONER PINKERT: Thank you.

Now, Mr. Zaharin, I don't know if you can answer this next question that I have but I'm curious about how Latvia's entry into the EU affected Latvia's trade relations with Russia. I recall at the time that there were some public or published reports that this might have been viewed as being adverse to trade relations with Russia. And I'm just wondering if you can comment on that, if you have any thoughts about that, or maybe anybody else on the panel might be able to reflect on that issue?

MR. ZAHARIN: I have to be very careful with respect to the answer to this question. I'll give it a try.

There was a joke, and I think it's allowed here that, an advertisement, if you want to piss off Russia call 1-800-LATVIA.

(Laughter.)

MR. ZAHARIN: Sorry for.

Politically it's an issue. Economically we are very much dependent on Russia in terms of trade, in terms of transit, in terms of now labor since our markets have opened up to EU. And the old EU is enjoying this. We have to leverage. And so we are dependent in many aspects: energy. As you may very well know, Riga hosted the latest NATO summit last year. And it is very much apparent that we as a country can do many things about ourself in terms of promoting democracy and freedom of speech and other great things but we cannot change our geography, so we will always be there.

COMMISSIONER PINKERT: I recall that in your testimony earlier you talked a little bit about how there's been a change in your ability to source raw materials from Russia. Can you speak more to that issue and whether that was connected with, in any way with the entry into the EU?

MR. ZAHARIN: Well, objectively speaking we are not much dependent in terms of raw material, the main raw material, which is scrap, on Russia. We are mostly sourcing domestically since we are the only user in the Baltic states.

In terms of other raw materials, and we can include energy into it because we are a gas-powered plant, and Latvia does not have its own gas, we of course bring it from Russia at EU price levels.

Now Russia these days since its market is doing very well is scrap hungry. So Ukraine can, our colleagues can attest to the fact that Russia is limiting its exports to not only to Europe but to other destinations as well.

In terms of other raw materials we have options, mostly CIS. So we're not dependent on Russia as such.

COMMISSIONER PINKERT: I also note your argument that imports of Latvian rebar have predominantly oversold rather than undersold U.S. rebar since the antidumping order. Perhaps Mr. Perry would like to comment on whether or not this is probative of LM's behavior if the order is revoked. Isn't it a predictable result of the order that imports will be priced higher in order to keep the dumping margin down?

MR. PERRY: Yes, that's true. But I think that what we are seeing now as of, what was it again, 2005 LM stopped exporting. And I think that's more of a with relative little dumping margins. I mean you've got 0 to 5 percent. And, yes, obviously with the dumping orders in place you have to watch your prices. But the truth is right now because of the EU market there's really no incentive at this point in time in the clear imminent future as they would say to start exporting large quantities to the United States. There's really no incentive.

We were talking before that prices in Europe are how many dollars on average higher than the U.S?

MR. ZAHARIN: Well, we stated the numbers in our initial submission. I wouldn't want to misinterpret them or misstate them at this point. But there is a significant. And of course we have to look at the trend. But it's fairly difficult for us to look at the trend if we don't have actual exports to the U.S.

COMMISSIONER PINKERT: Thank you.

CHAIRMAN PEARSON: Mr. Gurley, you have had a chance to review the chart provided this morning at Tab K by the domestic industry which was an Arcelor

Mittal chart that reviewed the CIS market size and segment growth. Did you have any comments on that? My understanding was that the domestic industry looked at that and thought that that does not show very robust growth for rebar. Is that how we should interpret the chart?

MR. GURLEY: I think that the current prognostications are certainly why I've been discussing the client that they're pretty optimistic about the market. Even the growth that's shown in the chart shows significant growth. Ultimately Arcelor Mittal plans to sell more in its home market, more in the CIS and more in the Middle East. But I can give you more definitive information in a post-hearing statement.

CHAIRMAN PEARSON: Okay. Because it's not completely clear to me when this chart was generated and so it's hard for me to know what the expectations might have been --

MR. GURLEY: Yes.

CHAIRMAN PEARSON: -- at the time it was produced. Although I would note that Arcelor Mittal hasn't been in existence as a company for all that long. So perhaps that argues for a relatively recent time frame.

Mr. Button, do you have anything regarding that chart or leave it for the post-hearing?

MR. BUTTON: Yeah, nothing further at this time on this particular chart.

CHAIRMAN PEARSON: Mr. Gurley, you did speak earlier about the decision making within Mittal. Could you go back and walk me through that again? I mean how would the decision making by the various Mittal operating units be made in regard to their sales to the United States of rebar? What's not clear to me is how much management decision making resides right at the plant and how much of the decision making resides elsewhere?

MR. GURLEY: With respect to Ukraine the, as I mentioned earlier, there is a marketing division actually in Dubai which coordinates the exports out of the region of Ukraine. So I think internally within Ukraine they can sell it to Ukraine and the CIS countries making that decision at the plant level. But for exports outside that, including to Middle East or Africa, would be coordinated through Dubai.

If there were imports to the United States it would come through Arcelor Mittal North American International, which is kind of a mouthful. But it is in Chicago, which is the headquarters of Arcelor

Mittal. And everything would be going through a single avenue, a single source, which is this office in Chicago. So there wouldn't be a circumstance where suddenly there's a lot of product showing up from the Ukraine in Miami or Long Beach without the knowledge of, one, Dubai or, two, Chicago. So everything would be very coordinated.

CHAIRMAN PEARSON: Okay. And it can be difficult to tell from the outside who has the final say. But if management in Chicago was concerned about the volume of rebar that was proposed to be imported to the United States from Ukraine or from anywhere else do you know is there a process for them to raise that concern and to push back or?

MR. GURLEY: They're the ones who actually make the sale. So if you look at the, I guess the Commission's recent decision in cut-to-length plate I mean that was sort of this classic fact pattern for Arcelor Mittal, is all the product coming from Romania was being sold through Chicago by then Mittal Steel North America. So they are the ones that got the order. Romania wasn't out looking for orders. In fact, they didn't have a real ability to do it, it was Chicago.

I think similarly with rebar Ukraine would not be -- they may say, gee, we have some rebar, if ever that sort of thing should come around, but it's basically America that decides at what price and to make sure that it's coming in in moderate amounts and at fairly traded prices.

CHAIRMAN PEARSON: Mr. Phelps?

MR. PHELPS: Yes. Dave Phelps. AIIS as you can imagine has had a relationship with Arcelor for quite some time, Arcelor Americas. They, the Arcelor, the old Arcelor trading house operations from New York are almost as we speak being relocated to Chicago. So they're closing their New York operations, bringing them to Chicago. And you can well imagine the old Arcelor mills, this isn't rebar but it tells the tale that you're really asking about. What they're interested in doing is making sure, because Arcelor makes an awful lot of the same products that the Mittal operation in the United States makes, automotive products and high-end flat rolled products, they're going to coordinate everything in Chicago, both the domestic production and the ancillary imported material and so on. There's absolutely no reason to believe that for rebar they wouldn't be doing the same thing. There's every reason to believe they would.

MR. GURLEY: Chairman, if I could just add, this is probably an appropriate time, is that there's been a lot of speculation that, well, Mittal's 4 million tons or whatever in the Ukraine is going to dwarf the small capacity of poor little Border Steel. Well, I think it's clear to say facts are facts, Ukraine is bigger than border steel. But we're looking at it from a regional level and the amount of tonnage that's available within three hours flight from here. And I will give this to post-hearing brief, but it's close to 2 million tons of rebar capacity located in Canada, Mexico and United States.

So it's not a function of Ukraine's bigfooting Border Steel, it's going to be somebody in Chicago deciding how they want to allocate. And I can tell you right now is that 2 million tons is a lot of capacity and that it's going to have a certain amount of sway. They want a strong U.S. market.

CHAIRMAN PEARSON: Okay. And if there was to be an export from Mittal Ukraine into the United States with the blessing of Chicago would it be handled through Dubai?

MR. GURLEY: They have regional exports coordination facilities so that because there's other Mittal producers of rebar. I mean that's sort of another question that should, that I want to develop on is that there's several Mittal plant around the world. There's Algeria, Romania, etc. Isn't exactly like there's evidence provided by petitioners that Mittal has somehow targeted the wonderfully profitable and attractive U.S. market. There's no evidence of that at all. They have ten different places they can ship to the United States from or over ten. But at least for this part of the world where Ukraine is they make a conscious effort to make sure that all the mills in that area are coordinated through a single marketing operation in Dubai to make sure that they're not acting stupidly, to make sure that everybody knows what they're doing.

It's a big company. Obviously they want to make profits and they're trying to do it in a coordinated fashion.

CHAIRMAN PEARSON: And do we have on the record the locations of all of the Mittal facilities that manufacture rebar?

MR. GURLEY: We have placed on the record in our supplement to our questionnaire response all the different countries. I think it's up to 12 right now. But I'll make sure if every single one is not listed in a supplement to the questionnaire we'll put it in the post-hearing brief.

CHAIRMAN PEARSON: Okay. Thank you very much. I just find this to be an interesting issue how a major firm coordinates across borders a variety of facilities, variety of product mixes. It's not always easy to understand how things might unfold but clearly the firm wants things to unfold for the best, so.

MR. GURLEY: I want to add a disclaimer that I'm not speaking for all of the Arcelor Mittal and just for rebar for Ukraine.

CHAIRMAN PEARSON: Yes, I understand.

Mr. Zaharin, you mentioned this question of scrap being exported from Russia. Is all Russian scrap subject to an export tax, ferrous scrap?

MR. ZAHARIN: Well, the real issue is the tax rebate and how easy or difficult it is to get it once you export. And from what we know it has not been easy.

CHAIRMAN PEARSON: Okay. So an export tax applies in general and there is a provision under some circumstances for exporters to receive a rebate of that tax?

MR. ZAHARIN: That's correct. We're talking a VAT rebate in case of exports. And that has been a difficult process for exporting companies.

CHAIRMAN PEARSON: Okay.

MR. ZAHARIN: Other than that I do not know of any export barriers. Well, I shouldn't be saying that. In case of transportation by rail the tariffs for export destinations are significantly higher than for domestic deliveries, so.

CHAIRMAN PEARSON: These are the Russian rail tariffs?

MR. ZAHARIN: That's correct. Plus you have a natural barrier in case of exports to Western Europe which is difference in rail gauge. Those are different for Russia and CIS versus Western Europe.

CHAIRMAN PEARSON: Okay, good. Well, my light is changing so let me turn now to Madam Vice Chairman.

VICE CHAIRMAN ARANOFF: Thank you, Mr. Chairman. And welcome to this afternoon's panel. Thank you to those of you who've traveled so far to be with us today.

Mr. Gurley, I want to take off where you -- take up where you left off with the Chairman in talking about the incentives for Arcelor Mittal. And you mentioned reasonably enough that there are a number of rebar producing facilities that are much closer to the U.S. market than the one in Ukraine as well as other equally distant ones that are similarly situated. But in sunset cases we've often had that argument made to us and the Commission will sometimes say, well, yes there are facilities in other countries have just as good a chance or maybe even a better chance by geography of serving the U.S. market, but what do we know about those facilities and the conditions of competition under which they operate?

I mean you mentioned what the overall capacity is approximately but in terms of, you know, capacity utilization, what's going on in the Canadian market, Mexican market, other markets in the Americas? I mean how much more can you tell us to fill out the story?

MR. GURLEY: I will tell you as much as we can. I will tell you that the central element of the petitioners' case is that the U.S. market is so attractive that every country wants to export all of its divertible capacity to the United States. That's clearly not the case. Arcelor Mittal is a case in point. If that were true than Arcelor Mittal would be shipping from 12 different facilities to the United States and targeting the United States market.

With respect to the specific data with the Arcelor Mittal mills in other countries I will provide that in the post-hearing brief. But I think it's clear to say that we shouldn't look at Mittal Steel Kryvih Rih any different than you should Mittal Steel in another country. Is there any incentive for them to come to the U.S? If there's no incentive for the Algerians to come to the United States why would the Ukrainians suddenly have that same incentive?

What you do know is that Mittal Steel Kryvih Rih is operating at 100 percent capacity. And that tells you something right there. They're busy and they expect to continue to be busy in the foreseeable future.

VICE CHAIRMAN ARANOFF: Right. Now, I understand what you're saying although with all due respect I don't think the petitioners' argument depends on everything from Ukraine being diverted here to the U.S. I think their argument is that anything that Ukraine is exporting and getting a lower price than they could get in the U.S. could potentially be shifted here and that there'd be an incentive. So the fact that they're at 100 percent may not answer that question.

MR. GURLEY: I'll give you a better answer in our post-hearing response.

VICE CHAIRMAN ARANOFF: Fair enough.

Mr. Cameron, I can't resist asking you this question. Since you think that there is no discernible adverse impact and the domestic industry seems to concede that too and in fact seems to concede in their brief that this order should be revoked has anybody gone to Commerce and told them that instead of having us go through this exercise?

MR. CAMERON: Thank you, Commissioner. the answer to that as far as I know is no. We have not participated and generally don't advise our clients to participate in the sunset procedure at the Commerce Department. There is a saying -- I'm not going to be as graphic as my friend up front with respect to 1-800-LATVIA -- but I will say that there is a phrase out there that says that the sun never sets on an antidumping order at the Commerce Department. And in general that's been, that's proven correct.

So we didn't even think of participating at the Commerce Department to tell you the truth. We came in this proceeding, analyzed our data. And our clients aren't going to be exporting, they are fully loaded. And we believe that the fact of the matter is that the previous exports were a historical accident, they were a function of the Asia financial crisis. I believe that we are the only industry that is participating here which actually has reduced capacity. They reduced capacity for a very real reason, I mean this wasn't an accident, it was a conscious decision. And actually Hyundai Steel was the major company that did that.

So the short answer to your question is no. I think it's a valid question. Actually I had never even considered going to the Commerce Department and participating in that proceeding. So maybe I made a mistake but that's where it is.

VICE CHAIRMAN ARANOFF: Okay, appreciate that answer. And certainly also direct that question to the domestic producers for your post-hearing. If you really don't think there's a reason to hold on to this order why didn't you go to Commerce? If you can answer the question, if there's anything you want us to know.

Okay. Turning to another topic, Mr. Zaharin, you mentioned that having joined the European Union has allowed your company to sell directly to end users and you mentioned the use of long-term contracts. Can you elaborate on that a little, what are you calling, what is a long-term contract?

MR. ZAHARIN: First, I'd like to state that objectively stating we're in the same position as the domestic industry in terms of the percentage of the long-term contracts on our books. We're talking about single digits but they are there. And we consider those to be for one year or longer. And everything in those contracts determine our commitment to supply with an exception of quantity and the price. Well, one may argue that this is not contracts in that case. Well, yes and no. Yes in the respect that this is a reserve capacity. So we commit and we hope and in most cases we do come through with the shipments.

And another reason for that that we have to distinguish various types of customers that we have. We can talk about cut and bend shops, steel distributors, construction companies, and every single customer, every single group of these customers has some unique business model. For construction companies they have to put up their prices for six to 12 months. That's normal, that's how they do business. And when the volatility is such as it is today in the steel market they look for protection and they really get very little comfort. So those are strategic customers, mostly domestic or Northern European that we selectively enter into long-term contracts.

VICE CHAIRMAN ARANOFF: Okay. What would be helpful I think in helping us assess how things have changed for your company since Latvia joined the EU and how that affects our analysis here, I think if you were able to provide us confidentially with this, who are the new customers in Europe that you have since joining the EU and approximately what volume we're talking about. You know, that I think would be able to help us evaluate.

MR. ZAHARIN: Gladly.

VICE CHAIRMAN ARANOFF: Okay. And if there are customers in Europe that you had before, you know, joining the EU but there's been a substantial increase in volume to those customers, you know, that might be a separate category. Okay.

Dr. Button, I think it was you who was talking about the metals margin?

MR. BUTTON: Yes, I did cite that.

VICE CHAIRMAN ARANOFF: Okay. Can you think of an explanation for why it is in the U.S. market that the price increases are outstripping the cost increases?

MR. BUTTON: Yes, I can. And it has to do with the strength of U.S. demand. And during 2006 in particular the data show that U.S. apparent consumption from 2005 to 2006 increased by a million tons. The U.S. producers in 2005 were producing at capacity. Capacity utilization data, public data, were about 90 percent. They had about 800,000 tons of unused capacity according to the books.

The next year they added another 250,000 tons so they had about a million tons overhang equal to a million tons increase in demand, but how much did their production go up, 160,000 tons, basically less than the addition to capacity. They couldn't produce more. Demand was outstripping supply; it was a seller's market. Thus you're able to have price go up.

Imports came in, you know, to respond to the higher price and they filled the gap.

VICE CHAIRMAN ARANOFF: Well, even if we assume that the situation that led to both the cost and the demand were to continue in the reasonably foreseeable future, the fact that the domestic industry didn't have sufficient profits for a number of years to invest in their capacity and now are doing so would that be a change that would mean that what we're seeing now is, you know, not a good basis on which for us to examine what's going to happen in the reasonably foreseeable future?

MR. BUTTON: Well, you can do it -- I guess the light's gone on -- but you can make a comparison between what things were like in the period of investigation, what demand relationships were there and compare them now. In the period of investigation you're dealing with declining GDP, you're dealing with negative GDP in some quarters, and then just when you voted in the first quarter of '01, there was a declining GDP, prices were soft, demand was declining. Right now it's the opposite.

Demand is sufficiently hot here and overseas that it appears to be durable. The industry has now had three years of very strong profitability. And it doesn't seem like that's going to stop. Will it be 21 percent operating margin next year? I don't know. But if it's only 15 percent, well that ain't bad. I do not see a situation of vulnerability in the rebar sector, and I'm speaking only about rebar, with respect to, you know, any decline in demand or any outstripping increase in supply either here or overseas.

VICE CHAIRMAN ARANOFF: Okay. Appreciate those answers. Thank you.

CHAIRMAN PEARSON: Commissioner Okun.

COMMISSIONER OKUN: Thank you, Mr. Chairman. And I join my colleagues in welcoming all of you coming here this afternoon. And I appreciate your testimony and your answering our questions. And for those who've traveled long distances, thank you in particular for being here, Mr. Zaharin.

And let me, Dr. Button, if I can go back to you, I know you had a chance to talk about the construction market and talk about the four sectors as you saw them and there being different drivers sometimes for single family versus private non-residential and the other four. But did you comment directly on whether you agree or disagree that there is a lag between if residential has -- if we see residential going down that non-residential either on the commercial or private whether it would follow?

MR. BUTTON: I have not seen a basis for the lag. Single family has been declining recently for a different reason. We have a highway bill out, highway construction out there expanding. We have office buildings expanding. We have multi-family residential expanding. I have not seen data that establishes any predictable lag there.

I do have the statements in the 10-Q's and other fora of the domestic producers saying that they thing that non-residential construction is going to continue. There's no reference to lags in them.

COMMISSIONER OKUN: Okay. I believe the petitions had offered to provide kind of a historical look at housing starts and other indicia that they may be looking at to see whether there has in fact historically been this type of lag and whether we should look at it. And I would make the same offer to you to look at that and see if it proves or disproves the idea that a non-residential downturn is going to follow what we've seen on the housing side.

MR. BUTTON: Happy to do that, Commissioner.

COMMISSIONER OKUN: Okay, appreciate that.

Then is there anything that the producers here could add with regard to the Middle East? You know, some of the pricing series and the other confidential data on the record don't track all countries as closely. Some countries are tracked and some aren't. And I just wondered if there's anything else you can add. I'm trying in particular to understand, as I just said, growing demand in the Middle East but also growing capacity or capacity predicted. The staff report statement with regard to that predicts that I think in several years -- or should look at the exact statement -- but at any rate that's fairly vague. And I wondered if there's anything else that you could add today or post-hearing with regard to what's going on in the Middle East in particular?

MR. GURLEY: We will very bravely address that in the post-hearing brief.

COMMISSIONER OKUN: Okay, Mr. Gurley.

Mr. Zaharin, anything?

MR. ZAHARIN: Well, maybe we can make a few comments about the consumption, not so much about the new production, which we do know is expected to come up especially in the Emirates and Iran and other Middle Eastern markets that consume in volume.

Interesting observation is that two years ago, a year-and-a-half ago when you speak about the Middle East you really talk about selective markets, such as the Emirates, such as Iran. And now there are other markets that are catching up. You can cite North Africa. Algeria now is a very voluminous market. Morocco is also. And Morocco does have its own capacity if I'm not mistaken. Mittal has a mill in Morocco. And you don't see many exports coming out of that particular market.

So we would also like to address this issue on the consumption, not so much on the production, in post-hearing brief.

COMMISSIONER OKUN: Okay. Well, if there's anything I think it is certainly important for the Commission's analysis to see, you know, both sides of the equation. And we often get presented with one side or the other. So to the extent that there's any other information you can on both sides of the equation I'd appreciate it, and the time frame associated with that production coming online.

Then let's see, Mr. Gurley, let me turn back to you for the other questions about the Mittal plants worldwide. And I know you're providing information post-hearing as well.

One of the points that the petitioners had raised, and it may have appeared in their brief, were that the Ukraine has in fact exported to Canada. So that that is an indication that if the order were lifted that they would export here as well. And I understand the comments you've made in response to the Chairman's questions about, you know, Mittal Chicago looking at that and deciding whether it should come in. But I guess my question is if we were to look at what the Ukraine has exported to Canada and then look at what Mittal has exported from Canada and Mexico into the United States should we be looking at that and would it tell us anything?

MR. GURLEY: I think it will tell you

something. With respect to Canada I know that the import statistics show that there was 17,000 metric tons came in in 2006. Is that correct? 17,000 is not a lot. I will tell you that Mittal Steel Ukraine will ship no rebar to Canada in 2007 nor is it anticipated they would be.

Keeping in mind that Mittal Steel took over the Ukrainian plant in, you know, in 2005 so there is, they're working some things through the system but evidence on the record 17,000 tons is not very much. Nothing will come in for 2007. But I will address that more fully in the post-conference brief to show you what's coming in from Canada, what's coming in from Mexico. So I think it will tell a very interesting story.

COMMISSIONER OKUN: Okay. I will appreciate looking at it. And I think maybe the Vice Chairman had noted that one of the things that helped if one is to look at that is trying to understand what's going on in Canada and Mexico as well so that we're not just taking it in kind of the abstract.

Mr. Button, did you have something to add?

MR. BUTTON: Just a quick correction. Those were short tons which is smaller volume.

COMMISSIONER OKUN: Okay. Yeah, I was

looking at that. Thank you.

MR. BUTTON: 17,000 short tons, yeah.

COMMISSIONER OKUN: Okay. Mr. Cameron, I'm going to turn back to you. I think --

MR. CAMERON: Why do you have that smile on your face? You look like you're trying to pull the wings off butterflies or something.

COMMISSIONER OKUN: You're the most restrained I've ever seen you. I just, you know, I can't imagine that you didn't come here and like stand up and say, you know, I won, sit down.

But, okay, if you, if you as I know you have followed Commission decisions you will have realized that I think there is not a fact pattern presented as with Korea today where the Commission has gone no discernible adverse impact. I know I haven't. And I think the Commission has not either. So this may be something you want to address post-hearing but I would appreciate you looking at how the Commission has exercised its discretion and when its exercised its discretion to cumulate and look at Korea in that way. And also do, as I asked the petitioners, how you see Korea vis-a-vis the other countries? And to make it a little easier on you I would say to set aside China and for my purposes you don't need to look at China.

But for the other countries if you can distinguish Korea for me on those, the other factors that I've looked at in cumulation.

MR. CAMERON: Commissioner, thank you. We'll be glad to do that. I would note that while I understand what you're saying with respect to no discernible adverse impact, I would suggest to you that number one, the -- and you're basically making that point, that cumulation is a discretionary issue in the reviews, rather than mandatory investigation, which is something that you discussed this morning.

But more importantly, I do think that it is a relevant piece of evidence that the Petitioners, both in their brief and at the hearing today, have reiterated that imports from Korea are not likely to have any discernible adverse impact. That is a factual statement. How you wish to formulate that within the context of your analysis could be a different thing and I'll be glad to answer that with respect to cumulation. But, that remains to be the case.

And just to follow-up on a question that you had for Petitioner's this morning, I would be glad to ask, but I'm not aware of any ownership interest that any U.S. mill has in any Korean mill. The Korean fact pattern may be unusual, but I will say, it's very unusual for me, on behalf of a Korean mill, to be here at a sunset proceeding and say we don't have any imports and we haven't had any imports, because as you're aware from your history here and our history here, that in the normal case, we have exported under the orders. The antidumping orders are not generally a big problem. The reason Korean producers have not exported under the orders and, as you note from our pre-hearing brief, Hyundai hasn't exported for some time and Hyundai is the one, who actually consolidated and took out capacity of Honbo and took out capacity of the other mill and reduced overall capacity. Well, the reason that there aren't any imports is because this simply is not the market. When you have the degree of concentration and focus on the domestic market in Korea that you have in this case and the fact that you don't have any imports, it's a fairly telling statement.

So, that -- I'll be glad to answer your question in the post-hearing brief. But, I think it's a legitimate question, but the facts remain the facts.

COMMISSIONER OKUN: Okay. I appreciate those comments. Obviously, we have newer Commissioners here now and they may decide to take a different tact. So, I just appreciate you looking at how we have done it traditionally, as well. So, thank you, very much. Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Lane?

COMMISSIONER LANE: Mr. Cameron, I would like to stick with you. I'm tempted to say something, but I guess I won't.

MR. CAMERON: Commissioner, please, you should feel free. This is your body. You should feel free.

COMMISSIONER LANE: Well, I guess maybe it's possible that there's going to be something that you and I can agree upon after all of these years.

MR. CAMERON: My God, I don't believe that.

COMMISSIONER LANE: Well, I mean, I'm sort of struck by the fact that everybody says we should be cumulating Korea, so who am I to argue with that. But, I am a little -- I would like to know a little bit more about what is driving the domestic consumption in Korea for rebar and is that different than the last period?

MR. CAMERON: Well, that's a very good question, Commissioner, and I think that this goes exactly to the problem that occurred in the investigation period. The investigation period was a function of the Asia financial crisis. What you had prior to the Asia financial crisis, you had actually incredible domestic growth in Korea. At one point, I believe we have in our pre-hearing brief, there was growth in the construction sector in 1996 of 28 percent. I mean, when you're talking about the construction sector, you're then focusing on rebar and long products. Well, Korean electric art furnace producers, now, electric art furnace producers, as you are aware, produce more than just rebar. They produce h-beams. They produce other wire rod, other long products.

In Korea, they added capacity to address anticipated growth in the market. Well, that market collapsed around the last half of 1997 and collapse is really a very polite way to say it. I mean, it was a depression. And as a result, these companies basically exported their way out of the Asia financial crisis. Some of them went bankrupt. As you know, Honbo, which at one point was a bet and lar of the U.S. industry and of the United States, well, Honbo doesn't exist anymore and part of the reason was because they run into the ground. Well, Hyundai bought some of those assets and reduced some of that capacity. Another Korean producer was also bought by them.

But, once you had -- once you ended the Asia financial crisis and they started to come out of it, what happened? Well, I mean, it doesn't -- it didn't rebound immediately, but what happened was that there was tremendous amount of growth in the Korean market and now that growth is continuing. So, it really is very similar to what's happening around the world, in terms of the fact that, yes, there is a lot of construction. There is a lot of non-residential, residential, et cetera. But, it's strong economic growth and it's that growth that's continuing and they have enough problems trying to meet demand with their capacity and they're doing that. But, that's the focus of the industry, as a result of that.

So, the change between what happened during the investigation and what happened now is that. Plus, you have the fact that Korean industry, to the best of my knowledge, is not adding capacity. They've been taking capacity out.

COMMISSIONER LANE: And do you expect this demand in Korea to continue for next several years?

MR. CAMERON: That's the projection. The projections are that domestic demand -- economic growth in Korea should grow rather than contract.

And, obviously, if the FTA is consummated, whether it will be or not is anybody guess and I'm not suggesting that anybody should vote based upon a speculative agreement, but that should add additional growth in the Korean market. But, yes, the projections for the domestic market in Korea, the domestic economy is growth; yes, strong growth.

COMMISSIONER LANE: Okay, thank you.

MR. CAMERON: Thank you, Commissioner. And I do sincerely hope that for the first time in my career, I can agree with you on a result.

COMMISSIONER LANE: We'll see.

MR. CAMERON: Yes, I was afraid of that part of the answer.

COMMISSIONER LANE: Mr. Gurley, tell me about the cost facing production of rebar in the Ukraine, especially the effect of any natural gas costs and issues relating to that.

MR. GURLEY: I do know that Ukrainian natural gas prices have gone up substantially. I don't think the natural gas is a huge driver of the steel cost, but I know it is a factor. Certainly, the costs they're facing are the costs that any other major producer are going to be facing, to the extent that they're buying raw materials on the open market and the energy sources are being at market prices. I know electricity has also gone up significantly in recent years.

COMMISSIONER LANE: So, natural gas is not a large component of producing rebar in the Ukraine?

MR. GURLEY: Based on my plant tour, that's my recollection. But, I'll feel free to correct that recollection if it's wrong.

COMMISSIONER LANE: Okay, thank you. Now, I want to go to the lawyers and perhaps Dr. Button, if you had access to the Petitioner's confidential exhibit this morning that Mr. Price talked about. In that exhibit, there were projections and graphs relating to Chinese capacity and the amount of excess capacity that China may have for rebar. And I wondered if you had had a chance to look at that and did you agree with those graphs?

MR. GURLEY: Commissioner, we frankly had not focused 100 percent on this graph and we would like to approach it in the post-hearing brief, if that's possible.

COMMISSIONER LANE: Okay. This same exhibit also talked about world prices and talked about that the world prices for rebar were less than the prices for rebar in the United States. And some of the graphs also show that the subject countries would be able to divert a substantial amount of the product to the United States based upon the differential and the world price and the U.S. price. I would like for you all to comment on that analysis that the Petitioner provided in those graphs.

MR. BUTTON: Commissioner Lane?

COMMISSIONER LANE: Yes?

MR. BUTTON: This is Ken Button. Perhaps we can comment at this time on the confidential Exhibit I. And this is based on some information from a source, which was also -- pardon me? I believe it's a public exhibit rather. I hope so. It's also based on a source, which is used in a public exhibit in Ukrainian's Exhibit No. 12 to its brief. And what you see in this is a U.S.A. east of Mississippi price and that seems to be suggested as being the higher price out there. And you have to its left a world export price. Not shown is the fact that the same source and same document would have the Western European price, which was the highest still. So rather than the U.S. east of Mississippi price being shown here at $679, the Western Europe price was $717. That was not shown.

We would note that the world export price is, in fact, a blend, a blend of the Chinese price, which is lower here, and of the higher ones elsewhere. I would note with respect to Ukraine, first, the prices that we just discussed were for April 2007. The Ukraine price is for 2006 average. Prices have gone up. And there's an issue about the source of this particular Ukraine price on which we would be happy to comment in the post-hearing brief.

COMMISSIONER LANE: Okay, thank you. I would appreciate that.

MR. BUTTON: And one additional comment, which my colleague Ms. Lutz will make with --

MS. LUTZ: With respect to -- Jennifer Lutz, ECS. With respect to Exhibit H, which shows the foreign producer export AUVs compared to U.S. non-subject import AUVs and U.S. producers domestic shipments, it is comparing -- the subject country exports are an f.o.b. point of shipment price and the non-subject imports are a landed duty paid price. And I don't know exactly what the cost to ship to the U.S. are, but it certainly would close that gap a bit.

MR. BUTTON: The issue of freight, we would just note, should include ocean freight coming to the United States. And given the comments this morning about the importance of inland freight, indeed that being a factor that limits the commercial feasibility of selling in an area around a plant and thus is underlying the concept of a regional industry, one ought to add some provision for U.S. inland freight to get them to be perfectly comparable data. Thank you.

COMMISSIONER LANE: Okay, thank you. Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman. Continuing along that line of questioning, what can we say about what's happened on ocean freight charges over the period of investigation and what forecast, comparison of that to charges in the U.S.? And are there advantages if you're shipping, say, maybe on bill or ladings, I'm not sure how you would do it, shipping from overseas directly to your customer in the U.S., is it a sort of an advantage for a foreign supplier, compared to -- given that there are, I guess, difficulties with trucking costs, railroad costs here in the United States? So, can you shed some light on that relationship, because it disregards the ability of foreign suppliers to sell in this market?

MR. ZAHARIN: Commissioner Williamson, maybe we can attest to those, because part of our company is also a port facility. And we are -- I think we can objectively speak, because we are right on the water. And sea is the only mode of transportation of foreign material to the U.S. And we've stated in our testimony that the freight charges have more than doubled since the order was placed.

And there are two primary reasons. Number one, the deficit or the shortage of fleet that is apparent in the world, you know, worldwide, and not only for rebar, but for any commodity. And as a matter of fact, just recently, the charges for Panamax size vessels have doubled in a period of four months.

The second component, of course, is the oil prices, because that is how the vessels run. And it cannot be ignored, the fact that the oil prices have risen for several years now. And that, also, obviously, impacted the freight costs to the United States. Now, we cannot ignore the fact that for a mill that is located as far away as we are, and that would also apply to most of Europe freight and transportation charges, are significant component of the end price to the customer. Even 10 percent, it is still a factor. So, when it doubles, we're talking about significant numbers here.

COMMISSIONER WILLIAMSON: What about --

thank you for that. What about the comparative costs and how they may have changed from shipping, say, from Latvia to Germany? Do you do that by sea or by land and how does that compare to shipping to the United States?

MR. ZAHARIN: It really depends on the destination. In the case of Germany, you have options. You can go by truck via Poland or you can go by vessel directly from Latvia. There are some markets east of us especially, where you can only entertain shipping by rail or truck. So, you really have to be very specific when you talk about shipping, how far you go, what distance you're covering, and what country of destination the material is going to. Overall, I cannot think of another market that we can ship to today, where the freight charges would be more of a factor than it is for the U.S.

COMMISSIONER WILLIAMSON: Okay. Why is that? If you're going over land, I assume, say to like Pakistan or Iran or someplace like that? I'm sure that's not overnight.

MR. ZAHARIN: Well, I don't recall the last time we shipped to Iran. No, but it's a fair question. But in case of Algeria, for example, and my colleagues can also speak on this, since we haven't really shipped much to Algeria, but the freight charge, at this point, would be about $40. If you talk about the U.S., depending on the parcel that you ship, but the minimum that would make economic sense would be 7,000 to 10,000 tons; the bigger, of course, the better. We're talking about $45, $46. That's to the best of my knowledge today. But, again --

COMMISSIONER WILLIAMSON: That is to a U.S. port or to --

MR. ZAHARIN: That's to U.S. Texas gulf region.

COMMISSIONER WILLIAMSON: And to go, say, from Latvia to even Hamburg or to Frankfurt, I assume there's the --

MR. ZAHARIN: Under 15 Euro.

COMMISSIONER WILLIAMSON: Thank you.

MR. GURLEY: Commissioner, this is John Gurley, if I can add something with respect to Ukraine. I do know that the cost of freight to the United States is quite expensive and I think Dr. Button had put something in our brief about the likely charges. But, we also have the charge of getting it to the port in Ukraine. One of the things -- one of the only benefits of Ukraine being part of the former Soviet Union was the fact that the rail gate is throughout the former Soviet Union are the same. So, frankly, shipping by train throughout Russia and the other CIS countries is actually quite efficient and not very expensive.

And lastly, I would just like to point out, on April 20th, when Nucor was being very bullish about the U.S. market, as opposed to today, they were talking about export opportunities. And this was in the American Metal Market and Nucor said the following: 'When prices are higher offshore, that creates an opportunity. But, they can't be higher by just a little bit. They have to be higher enough to deal with the trade issues and the cost of getting it to the customer.' Well, same thing for us, the freight cost to the United States are significant and Nucor acknowledges the same thing, if they're trying to ship something to Ukraine.

MR. PHELPS: Dave Phelps. AIIS represents or has as members ocean carriers and there's just been a fundamental change in the last four or five years with the explosion of growth from China. It has been attracting an awful lot of the world's shipping capacity to the Pacific. And fundamentally, we've had shortages, particularly in the North Atlantic trade, that's been driving up the cost. And if you were to see some of the graphs that I've seen over the years on the cost of shipping, daily charges for Panamax and those size vessels, it's quite staggering. There's been a shortage of vessels. There is now around the world a boom in shipbuilding and one of the things that drove the plate market in the United States and around the world to unprecedented heights is, in fact, shipbuilding. And we see ocean freight rates, not we, AIIS, but our members tell us, ocean carrier members tell us that freight rates are still a number of years away before we get to a supply and demand situation that can ease the rates somewhat.

COMMISSIONER WILLIAMSON: Thank you for that, addressing that question by all of you. Mr. Button, I was just wondering, and Commissioner Okun asked you about the question of the last, I think you said -- are you saying there is no lag relation -- what is the relationship between residential construction and the other forms of construction?

MR. BUTTON: In my response to the Commissioner Lane, it was that we would take a look to see whether there is a lag. What we do know is that currently, the major facets of construction, which appear to absorb most rebar, as, say, non-residential public and multifamily are rising. And we'd be happy to take a look at the issue, as to whether there would exist, in fact, a lag with single family housing construction, as the underlying economics may not be the same for all of those.

COMMISSIONER WILLIAMSON: Okay, thank you. Mr. Cameron, the data on the information that we have on some of the Korean producers is quite limited. And how should we weigh this in our analysis? Should we draw adverse inference?

MR. CAMERON: That's a reasonable question, Commissioner. I think that the answer to that would be that in light of the fact that the Petitioners don't have a problem with the data, and actually I think that what we've tried to do was to provide not only specific data with respect to our company, but also industry-wide data, which is not always the case in terms of the way that individual companies approach this Commission in other cases. But, we have tried to do the best that we can to get as much information as we can with respect to the rest of the industry. I mean, I think that the U.S. industry obviously feels fairly comfortable with the data that we have. So, I think that adverse inferences would not be appropriate in this case. Thank you.

COMMISSIONER WILLIAMSON: Sorry. I forget to ask them this question.

MR. CAMERON: Oh, no, I think it's a reasonable question. But, I think that that is the case and I think that it wouldn't be appropriate for those reasons. Thank you.

COMMISSIONER WILLIAMSON: Thank you. My yellow light is on.

CHAIRMAN PEARSON: Commissioner Pinkert.

COMMISSIONER PINKERT: Thank you, Mr. Chairman. I'd like to start with a question for the entire panel and ask whether Buy American policies are a more or a less or more or less significant factor than at the time of the original investigation, or are they the same, in terms of their impact on the market? Thank you.

MR. PHELPS: Commissioner, Dave Phelps. The policies, themselves, have not changed, not for well over two decades, I believe. The difference today versus the period under investigation is the size of the highway and transportation bill is dramatically larger. So, construction is more expensive. There's more highway and bridge funding going on out there, so it's consuming more steel. But, the policy, itself, is absolutely the same as it was during the period under investigation.

MR. GURLEY: Commissioner, this is John Gurley. I think one of the issues the staff raised, and I hope I get this correct, is that I think one of the major producers here did not provide a guestimate or an estimate as to the size of the Buy American market in the United States. And I'm kind of wondering why, if they're here and they're one of the largest producers, they couldn't even guess, but maybe they didn't want to have a guess that was not against their interest. Thank you.

COMMISSIONER PINKERT: Thank you. Now, the domestic industry appears to project a considerable increase in U.S. production capacity in the future. Perhaps, Dr. Button would like to comment on how the Commission should evaluate this projected increase. Does it make the domestic industry more or less susceptible to import-related injury?

MR. BUTTON: I think it recognizes the -- it's a reflection of the global expansion of demand and it's a reasonable market response to it. I certainly think it reduces the vulnerability to potential injury from imports. I spoke earlier about the issue in 2006, when they maxed out on capacity. They couldn't meet the domestic industry needs. U.S. demand continues to rise. So, certainly, the domestic industry may want to use the profitability it's earned now and expects to continue to earn in the future and add capacity. I am certainly not convinced by their allegations that global capacity is for -- certainly capacity in the United States or in countries like Ukraine are going to increase in a manner which in any way threatens the U.S. industry or prevent the U.S. industry from enjoying that demand.

COMMISSIONER PINKERT: I would now like to address a question to MSKR. The domestic industry relies on average unit values to argue that prices in the United States are higher than in alternative markets for the subject imports. MSKR, on the other hand, relies -- or they rely on other sources of pricing data. Are there differences in how the data is collected that make one source more reliable than another for purposes of our analysis?

MR. BUTTON: Commissioner Pinkert, I'll respond to that, at least initially. It is not so much as how the data are gather, as to what time period they represent. The average unit values are literally averages for the 12-month period of 2006, when many things were going on. And, certainly, it's a period of rapid price change. It does not, in that respect, tell you where we are now. In MSKR brief, the focus was on current prices and anticipated pricing, all intended to be hopefully helpful to the Commission, in determining what is likely in the reasonably foreseeable future.

COMMISSIONER PINKERT: But are there relevant differences in how the data is collected, leaving aside the time period? I understand what you're saying about time period. But, are there other relevant differences in how the data is collected?

MR. BUTTON: Well, one of the things that's done is I believe there's an emphasis in the Petitioner's data, simply taking average unit values for exports. What we have done is taken current market prices within the environs of the particular producers; for example, Ukraine. Ukraine does have multiple customers to which it sells. But one of the -- and it is certainly trying to profit maximize where it is selling. The point that we'd hope to emphasize is that it's in a domestically expanding market where, among other things, freight costs are going to be lower. It's right next to Russia, a hugely, dramatically increasing expanding market for which freight is relatively easy. And where it can, it is also selling farther away in places in the Middle East or to, it's not exactly special circumstances, but situations such as Algeria, where it's selling to an affiliate, which has particularly advantageous penetration of that rapidly growing Algerian markets. So, these are reflections of what we believe are the current trends, as opposed to very broad spectrum averages for prior periods, which is what the Petitioners provided.

COMMISSIONER PINKERT: Another question for MSKR. LM argued that it continued exporting to the United States after the issuance of the order, because it had a cash deposit rate that was much lower than the rate for producers in other subject countries. Now, specifically, with respect to MSKR, would the absence of a deposit rate encourage Ukrainian exports of the merchandise to the United States?

MR. GURLEY: I think not, because the time of the dumping case, MSKR was a state-owned company and if they were a state-owned company that is underfunded, we might have a different answer. But, we're not there right now. We have them part of Arcelor Mittal, producing at 100 percent capacity. So with or without a dumping margin, I don't think it's going to change their long-term plans. And right now, they're fully busy in the region and they're five Mittal affiliates right near the United States.

COMMISSIONER PINKERT: Tell me a little bit more about Arcelor Mittal's new U.S. acquisition. Has that acquisition been completed, at this point in time, or is it simply projected?

MR. GURLEY: It's completed.

COMMISSIONER PINKERT: And I note that the acquisition is located in west Texas, near El Paso, and that it is not one of the major or the largest U.S. rebar producers. In light of these facts, how would MSKR's affiliation with Border Steel likely effect MSKR's marketing decisions with respect to the U.S. market?

MR. GURLEY: I think it's fair to say, again, that Border Steel is not the largest U.S. producer. It's not exactly the same fact pattern that we had in plate. But, we look at a slightly more regional fashion. They are affiliated with two producers in Canada and two producers in Mexico, as well. So, the regional penetration of Arcelor Mittal is large. They have access, again, to two million tons of capacity. And so any decision, if and when to ship to the United States, would take into account that two million tons of capacity, which is available to the United States. They're not in the business of eating their own and there's no way that somebody from

Ukraine is going to make a sua sponte decision to ship large amounts to the United States. It simply would not be done. It would be coordinated through Dubai and they would be done in moderate amounts, if there are. But right now, there's no plan to ship anything to the United States. They just don't want to have a trade restriction against them, which they don't think is necessary.

COMMISSIONER PINKERT: You may recall from this morning that there was some discussion about the impact of changes in the market for other steel products, the impact of that on rebar producers in the United States. And I suppose, in particular, there was a discussion of whether prices for other steel products could have an impact on the prices of the rebar in the United States. Is it your view that these are related phenomena or are they independent of one another?

MR. GURLEY: I think every steel product has its own dynamics and certainly in this rebar case, we've been focusing on non-residential construction and the demand therein. And so, I think certainly our efforts in this whole case have been to focus on what impacts rebar and not looking at the other steel products.

COMMISSIONER PINKERT: But, you're not testifying today that Mittal would have an interest in cross products in potentially not exporting the subject merchandise to the United States?

MR. GURLEY: Mittal has an interest in making sure that prices are high in every market that it's available. So, I think that right now, their position is going to be that they want a vibrant U.S. market. They would do nothing to disturb it and they want high prices in all of their product segments.

COMMISSIONER PINKERT: Thank you. Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Mr. Phelps, can you tell me, what types of ocean vessels is rebar shipped on?

MR. PHELPS: Well, I know a couple of them, Handymax, Panamax. It depends on the fleet availability, I think. Mr. Zaharin probably can better answer that.

CHAIRMAN PEARSON: Is some rebar shipped in containers or these dry bulkers? What --

MR. PHELPS: I have heard on rare occasions, we had a company out on the west coast, who brought in smatterings of rebar from the Far East in containers. But, that was only because it was a container ship ready and waiting and he got himself a super deal.

But, container shipping of steel is very, very unusual and it's probably rare, only driven by some opportunistic situations.

CHAIRMAN PEARSON: Would anyone care to comment further?

MR. ZAHARIN: As far as the container shipments, I can tell you that in all years of our exports, we've never shipped rebar in containers. As far as to the U.S. shipments, our concern, there are alternatives, because rebar is such a product that can be combined with other cargos to be shipped in case of bigger, larger vessels. But, Handymax would be the most appropriate type of vessel to travel from Europe to the Gulf region. I cannot speak for other --

CHAIRMAN PEARSON: This would be a dry bulk Handymax?

MR. ZAHARIN: Yes. Yes, that would be bulk cargo.

CHAIRMAN PEARSON: Okay. So, you might have part of the cargo being steel and part of the cargo being fertilizer?

MR. ZAHARIN: You'd better be careful in that case. You don't want to throw any fertilizer on steel.

CHAIRMAN PEARSON: Well, there was an

earlier comment that fertilizer -- that rebar didn't mind a little rust. But --

MR. ZAHARIN: Atmospheric -- it would have to be specific, in that case.

MR. PHELPS: Mr. Chairman, in our industry, we generally -- in the United States, I don't know about in Latvia, we call it break bulk and break bulk is steel, aluminum, wood products often, copper. I've seen pieces of bowling alleys coming off the same ships as steel. So, it's called break bulk. If somebody is buying a power generator from Europe, that can be on there. You never know what you're going to get when you're down at the docks and they open up a hold.

CHAIRMAN PEARSON: Okay.

MR. PHELPS: Steel is largest break bulk commodity in the world.

CHAIRMAN PEARSON: Okay, thank you. That tells me what I was wanting to know. Can you clarify, are either the Latvian or Ukrainian plants that we're talking about today located on navigable waters, such that they just take the steel from the mill over to the other side of the yard and put it on a vessel?

MR. ZAHARIN: Well, two-and-a-half kilometers, plus two miles, from the docks. So, if you have a long crane, you can do that.

MR. GURLEY: The Ukrainian mill, Kryvih Rih is not located on the water. Anything that goes by ocean has to go to the Black Sea, which is I think a couple hundred kilometers away, at least.

CHAIRMAN PEARSON: Okay. So, for the Ukrainian product, the most logical export route is on that wide gage rail to some other country --

MR. GURLEY: That's correct.

CHAIRMAN PEARSON: -- that has wide gage rail?

MR. GURLEY: That's correct.

CHAIRMAN PEARSON: Okay, thanks. Mr. Cameron, I know you're going to think I've been ignoring you and I would hate to waste your prodigious talents. So, let me --

MR. CAMERON: Right.

CHAIRMAN PEARSON: -- go back to an issue that I discussed this morning and that has to do with causation. Because, there have been other review cases when I've been here as a Commissioner, in which the respondents have come in and said, look, you look at this record, you really can't see any effect from the order when it went into place; you know, why should you think there would be an effect, if you lifted the order. Now, in this review, I don't think that Respondents, as a group, are arguing to lift all the orders. Can you discuss that with me? Is there reasonable argument here that we should lift all the orders or should be lift the orders that the three of you represent?

MR. CAMERON: Well, to be quite frank with you, Commissioner, I think that the other counsel should respond for their companies. But, I mean, we've had this situation before. I think that there has been a change in the Commission. But, frankly -- I mean it comes up with China, for instance. Now, Commissioner Okun has graciously suggested that I don't have to distinguish China from Korea. That's very nice. I appreciate that. But, this has come up before and the fact of the matter is, we're here on behalf of Korea. Frankly, I don't know anything about China. And the only thing that I can tell you about China is what you have in the record. And quite frankly, you don't have much in the record, which is part of the problem. So, to that degree -- and I don't believe that any of my friends up here are going to disagree with that. So, we are arguing with respect to Korea, because the Korean situation is somewhat unique. And I think that the fact that the domestic industry actually recognized that, as surprising as that is, is something that -- that's basically our position. So, I understand your broader question with respect to others, but I don't know that I'm the best person to ask about that.

CHAIRMAN PEARSON: Okay. Well, let me ask Mr. Perry and --

MR. PERRY: I think that Don said something, which kind of applies to us. I mean, normally, we would have told Latvia, it's really hard to win a sunset review. But, we realized how unique it was, because it entered the EEU and its whole marketing situation changed. And we started to notice that sometimes the Commission would decumulate and look at the countries individually. And we're lucky, because LM is the only producer in Latvia and in the Baltic, which makes it easier. So, then, I could tell my client, you've got a chance, you've got a shot. If it was the Chinese, pretty hard to tell them that they have a shot of winning. And I think that's exactly why the Chinese didn't show up. And they know the Commission's record. But, if you look at their trial record in other cases, I mean, one of the cases we've cited was a steel case involving Czechoslovakia. Czechoslovakia's entry into Europe was one reason the

Commission turned off the order. And so, there's at least an argument we have here and that's why we're here and we're making it.

CHAIRMAN PEARSON: Mr. Gurley?

MR. GURLEY: You can take out the word Latvia from Mr. Perry's testimony and replace Ukraine. But, I think that is accurate, is that we, also, think we're in a unique position because of our relationship with Arcelor Mittal and the privatization of by far the dominant producer in Ukraine. We're arguing that Ukraine be decumulated and the order should be revoked as to Ukraine.

CHAIRMAN PEARSON: Okay. Well, just for what it's worth, on the basis of this record, even I might not be quite ambitious enough to argue for lifting all of the orders. But, I did want to pose that question, because often we have one side that's arguing that. I haven't heard that yet today.

But, let me follow up with a not unrelated question. It has to do with cumulation. Do you have any thoughts as to whether China should be decumulated and dealt with on its own or should we lump everyone except Latvia, Ukraine, and Korea together with China and consider them that way?

MR. PERRY: I think that we have to say that

China is different. You've got a point on that. And the capacity issue is a huge issue. So, I think that's really almost -- because, I'm not going to advocate that. I do advocate that we don't want Latvia cumulated with China, put it that way, and we would be arguing very strongly that we don't want to be cumulated with China. But, as to whether China should be looked at alone, I think that's an issue, which you internally are going to have to decide. But, it is different, very different.

CHAIRMAN PEARSON: Any other thoughts on that issue or you're content with Mr. Perry's assessment? Okay.

Well, let me go back, Mr. Gurley, to you, then, with a different question and that is, is there an export tax on ferris scrap leaving Ukraine? Is that a condition of competition that we should be aware of?

MR. GURLEY: I saw that in Petitioner's brief. Can I ask my colleague,

CHAIRMAN PEARSON: Please.

(Pause.)

MR. GURLEY: I think there is an export tax, but I don't know exactly the amount. But, I will provide that for you, Commissioner.

CHAIRMAN PEARSON: Okay. Well, for purposes of the post-hearing, please do that, because I'm just curious whether it's a significant enough incentive to production of steel products in Ukraine from scrap, that we should take it into account, as we consider the possible performance of the Ukrainian industry post-revocation of an order.

MR. GURLEY: I will do that.

CHAIRMAN PEARSON: Okay. Mr. Zaharin, my yellow light is on, but if there is anything in the post-hearing that we should know about the Russian export tax and the rebate that you had mentioned to earlier, if there's something that you can provide, in terms of additional clarification, I would be pleased to read it. And with that, let me turn now to Vice Chairman Aranoff.

VICE CHAIRMAN ARANOFF: Just a few more questions. This morning, I asked the domestic producers some questions about the reasonable period of time and about their argument that there was something that would justify going out to a longer period in this case and I wanted to give any of you an opportunity to respond. Is there anything that justifies our looking at a longer period? Do you have a position on it one way or another?

MR. BUTTON: Vice Commissioner, I had addressed the length of the period somewhat in my opening remarks, in which I suggested that two years would seem to be -- 18 months to two years would seem to be the reasonable period time frame within which for you to make your analysis, both on the basis of the ability of the -- to look into the future on demand issues and things of that nature, which shape the demand for rebar; and, secondly, the fact that the absence of long-term contracts in this industry, as compared to many others, means that the market responds fairly quickly to changes in market circumstances. If, for example, there was an industry, in which long-term contracts, you had to wait for them to expire before you can readjust to price or volume circumstances, perhaps there might be an argument there. Here, that doesn't exist.

The suggestion was made that what you should really do is take the period of time to build a plant. Well, I think that argument may have existed in some of the prior cases, in which the Commission has examined this issue and also come up with something in the realm of two years, as opposed to going out farther. And I would agree with that perspective that the Commission had in those other cases.

VICE CHAIRMAN ARANOFF: Okay. I don't know if anyone else has a thought. I'll move on.

Normally, when we're looking in a sunset review at sort of whether there's a price-based motive for someone -- for a foreign producer to shift existing exports from another third-country market to the U.S. market. One of the questions that we'll often ask is, well, is there likely to be a sustained difference in price between the two markets, such that it's worth the trouble of abandoning existing customer or market and shifting the product over to the U.S. market. And it strikes me that -- well, I'm not sure that that's the right inquiry in a case such as this one, where sales made outside the home market are most often made through traders, who are doing business on a spot basis and are opportunistic, in terms of looking for the best price margin that they can get on a certain volume that they have available at a certain time. Would you agree with that characterization, the market, which was the domestic producer's characterization, that it's really the traders that are making spot sales, based on whatever is the best price at the time?

MR. BUTTON: Well, as Mr. Gurley has described with respect to Arcelor Mittal and Kryvih

Rih, here, it is not the case that they would go through traders, in this respect. It is done in-house. And for some other foreign producers, I believe, it's done that way, as well. But with respect to traders, they are indeed interested in maximizing their profit and the price. So, they will follow price incentives. But, our point is that foreign demand and U.S. demand have been so strong and in the past, the prices have risen, but that foreign demand, indeed, has risen additionally strongly, that U.S. prices make it very remunerative for foreign producers to keep their products in their domestic or regional markets. Will that stay there? Well, I think the traders recognize the prevailing price there and they're certainly taking them off to perhaps the Middle East, where there are very, very strong prices, or at times when they spike even higher, such as in Russia, as described this morning. But whether it's the trader or an internal trading company, they're looking for profitability and they will follow, I think, the relative prices between the two markets we've already described.

VICE CHAIRMAN ARANOFF: Okay, two follow-ups. One, I take your point that Arcelor Mittal is doing -- or increasingly doing, anyway, it's trading in-house. That probably wasn't true in some other sunset reviews we've had in the past, where we've had Mittal companies on both sides of the room and it was kind of every plant for himself. But, increasingly, it seems to be moving towards that model, which makes sense. But, that is still a global trader that's looking to maximize its profits globally. So, the fact that it's in-house, I'm not sure that's -- that may be a distinction without a difference, in terms of the motivation.

MR. BUTTON: Perhaps, Mr. Gurley would add, though, I believe there is a distinction there, because a standalone trader has only a fairly narrow self-interest to look after and they're looking for the highest short-term profit. But, if you have an integrated marketing system of a sophisticated large organization, they have a somewhat longer-term perspective balancing interest. I think that marketing decisions within Arcelor Mittal and particularly if they're made out of Chicago, as they consider what happens in the U.S. market, there would be certainly much more prudence there, than it would be a standalone trader in Rotterdam.

MR. PERRY: Could I just add that, I think that one of the things that obviously the Petitioners

-- why they're underselling the U.S. price, but I think you've got a unique situation here. And the unique situation is that prices in Europe are higher than the U.S. And more important for the Latvians, this is important, because of exchange rates. The dollar is weak. When the dollar is weak, there is very less incentive to sell into the U.S. market. The Lat is tied to the Euro. And if you're selling in Euros, it makes much more -- it is important for you to sell with a higher currency. And I just thought Alex may want to add something on that.

MR. ZAHARIN: That's a tough one. We are by the U.S. definition are not of a mini-mill. We produce 700,000 tons. Even after modernization, we will still be under, in terms of crude steel capacity. For a company of our size and capability, which is very different from what Arcelor Mittal can do, the way to penetrate the market is trader. We did look at the possibility of going directly to the customers in the U.S. and on the public record, we did do some business with a large distributor, Georgia Pacific, right before the order was placed.

Now, what's interesting, in terms of pricing, if I may just take one minute, it's no more than observation. Today, we heard about difficult

April. And while we were listening to that, we looked at the current price list of one of the domestic producers, who is today present here, and what strike us is that effective April 1st, the prices were increased by $2.75 CWT. Now, that is an increase of about 10 percent.

Now, if you anticipate a slow down, why increase the prices? And does the slow down in your shipments happen because you increase the prices or because there is import coming in? The second point that supports that is that we all agree here that rebar today is priced at maximum historical level or close to it. Now, when a situation like this happens, people are very careful about their approaches. So, speculation takes place, especially in the commodity. That's only natural. So, if you hold off your purchases for two weeks, as long as 45 days, that is normal. That's all I have to say on this.

VICE CHAIRMAN ARANOFF: Okay. Dr. Button?

MR. BUTTON: With respect to the difficult April, and we've heard some discussions this morning about reductions in production, and I believe Mr. Miller spoke about that at the Birmingham plant, let me just ask, in that context, that the Commission examine very carefully a particular table in the prehearing report. That table is confidential Table E-1. And what it provides is the production over time in each year for each of the company and then within each of the companies, it provides it for each of the mills. So, I would just, without saying further, I would say that that is something worth close examination in the context of this morning's discussion on that topic. Thank you.

VICE CHAIRMAN ARANOFF: Okay. My light is yellow, but Mr. Phelps, I can see you want to have a word.

MR. PHELPS: Yes. Steel trading houses were mentioned here and I thought it might be appropriate for me to say a couple of things. First of all, a simple thing, 2007 is not 2000 or 2001. 2000-2001, we were coming out of an Asian financial crisis. We were moving into a recession. The U.S. dollar was strong. What has happened since then is just quite astounding around the world. The U.S. economy has been strong for four years, three years, you can pick the start date. Europe has awakened. China has exploded. Indian is right behind them. The Middle East is growing fast. The world has so much changed from the original POI, that it's difficult even to comprehend. And for a trading house, trading houses live by differentials. They find a market that is particularly appealing and they sell steel into it and they maximize their profits. It's a very difficult game right now, because if you look at the prices between the U.S. and the EU, you can't really do the business, because of the difference -- because the cost of shipping. If you look at prices between the U.S. and other markets and around the world, there are a scant few of them, who have created these kinds of opportunities and the trading house, moreover, has to decide today on May 10th what the conditions of competition, if you will, will be four months from now when that steel arrives. So, for the rebar world, it is just a very different universe from 2001.

VICE CHAIRMAN ARANOFF: Okay. I appreciate that answer.

CHAIRMAN PEARSON: Commission Okun?

COMMISSIONER OKUN: Thank you. I think just a couple of things. One, just based on your last comments, Mr. Perry, about the value of the dollar in relation to the Euro, and I know, Mr. Zaharin, in your testimony, you had talked that that was one of the changes when Latvia exited the U.S. market in preference to the EU market. And I guess I would like comments, and perhaps, Dr. Button, from you, as well, which is the exchange rate issue -- I remember when I first started at the Commission, you know, we heard it argued exactly the oppositive. Of course, the dollar was very strong then, as you just noted, Mr. Phelps. And what respondents would say then is, you know, we shouldn't be looking at that, because steel traders are looking at a broader picture and it's very hard to predict where currencies are going to be. That's not how we make these decisions. And I've spent some time looking at that and haven't really participated in many opinions, where we put much rate on the exchange rates for a number of reasons. And so, I'm just curious whether, Dr. Button, whether you think that it's something the Commission should reexamine and, if so, why? And then, I would ask Mr. Perry or Mr. Phelps to comment on that, as well.

MR. BUTTON: As an economist, when I used to work at the Treasury Department, it's hard to predict which way the dollar is going to go. And I think that in this case, it's not necessary for you to do that. I believe that the power of the market forces, the demand forces involved here I think are very strong and sustain the type of future demand for rebar that we've described. So, I don't think you have to get into foreign exchange rate issues.

COMMISSIONER OKUN: Mr. Phelps and then Mr. Perry. Mr. Perry, you can go ahead and then Mr. Phelps.

MR. PERRY: I was just going to say that really what we're arguing here is we're not looking at the micro exchange rates vis-a-vis the United States and other countries. What we're saying here is that this is an incentive for LM, as a Latvian country, to sell into Europe rather than the United States, because when it joined the EU, the Lat became equivalent to the Euro. So, it was selling, in effect, in Euros and Euros is a stronger currency than selling in dollars. Can you just add a couple of points on that?

MR. ZAHARIN: They just took a risk from us away. We no longer had the fluctuation Lat to Euro and we still do have a fluctuation from Lat to the U.S. dollar. That's the --

COMMISSIONER OKUN: I understand that point. Mr. Phelps?

MR. PHELPS: Changes in currency have huge impacts on trade flows. And with the dollar weaker, there is absolutely no question, particularly vis-a-vis the Euro, there's no question. But, that changes the conditions of competition to the Latvians. It changes the conditions of competition for people shipping into the Euro zone from non-Euro based currencies, as well. So, I think you would have to ignore changes in currencies at your peril, I think.

COMMISSIONER OKUN: Do you have a view of what the reasonably foreseeable future is, in looking at that? I mean, obviously --

MR. PHELPS: A crystal ball.

COMMISSIONER OKUN: -- yes, I look at some of this, in terms of what -- speculation.

MR. PHELPS: If we figure it out, then we can both get on the phone to my stockbroker and buy some hedge funds or something.

MR. BUTTON: Commissioner Okun, just to clarify my comment about exchange rates. Mr. Phelps is right, what has happened, what is history here in terms of a change between the original period of investigation and today is indeed relevant. What was described with respect to Latvia and a relationship now between Latvia and Europe, which reduces the exchange risk, because of the currencies being linked, that's an important real thing. What I am talking about is whether the Commission should get in the job of deciding whether exchange rate a year from now or two years from now is going to be today's rate or some other rate, I believe is a difficult task.COMMISSIONER OKUN: Right. That was my question -- or what -- that was exactly it, Dr. Button. And whether Mr. Phelps has any other view on that --

MR. PHELPS: Just, I think, I'll agree with virtually everyone. There is no indication out there right now that we're going to return to a strong dollar vis-a-vis the 2001 era. Nothing in the economic picture that I can see or forecast suggests that. I think the Euro will remain relatively strong to the U.S. dollar, particularly now, with the European -- particularly the western European economy is strengthening and it's been quite some time since they've really had any kind of growth that approached robust. So, Eastern Europe has been growing very quickly. Western Europe has really been the sick man. And now, we're beginning to see in the steel industry, we watch this very carefully, because it's an international marketplace, Western European steel markets are substantially stronger than they were this time last year. And all of that argues for little change in the relationship between the Euro and the dollar.

COMMISSIONER OKUN: Okay. I appreciate those comments. And my last question is just to request for post-hearing, to counsel here, which is if you could comment on the issues raised by the Petitioners, with respect to how the Commission should evaluate material injury and what is material and does it mean something different in a boom market or not. And I know you've provided some comments on that and I've read the Petitioners' arguments, as well. But, if there is anything further that you can add on that, I would appreciate taking a look at it, as well.

And with that, I have no further questions, Mr. Chairman, but I do want to thank all of you for your answers and I will look forward to your post-hearing submissions, as well.

CHAIRMAN PEARSON: Commissioner Lane?

COMMISSIONER LANE: I have no further questions. And I want to thank the panel for coming today.

CHAIRMAN PEARSON: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you, Mr. Chairman. I do have no further questions and I, also, want to thank the panel. I appreciate it very much.

CHAIRMAN PEARSON: Commissioner Pinkert?

COMMISSIONER PINKERT: I think I just have one further question. I was struck by the testimony by Mr. Zaharin about exchange risk and the possibility that the elimination of exchange risk might be considered to be a condition of competition. Wouldn't it be a relatively simply matter to quantify the currency exchange risk? Don't we have forward markets for currency exchange?

MR. ZAHARIN: Yes and no. Yes, you're right, in the finance world today, you can hedge the currency exchange risk. At best, it will be just a cost factor to you. Now, we were operating prior, in the beginning of the period when the order was placed, and underdeveloped financial market. Today, it is absolutely possible, but today, it is not necessary, because since January 1, 2004, it is possible to hedge and there is no need to hedge, because we're pegged. In case of the U.S. shipments or U.S. denominated markets, it is possible to hedge the exchange rate risk. You're absolutely right. It is just a cost factor.

COMMISSIONER PINKERT: Would it be possible for Mr. Perry to quantify what he considers to be this significant condition of competition by looking at the amount of exchange risk that has been eliminated in this manner?

MR. PERRY: I'd have to turn that over to Alex.

MR. ZAHARIN: We haven't done it, but we'll try and seek some offers from the financial institutions to see how much of an expense that would be.

COMMISSIONER PINKERT: Thank you. And, Mr. Chairman, I have no further questions, but I would like to thank this panel for very thoughtful and forthcoming testimony.

CHAIRMAN PEARSON: I have a follow-up of sorts to Commissioner Pinkert's question and this, you can deal with in the post-hearing perhaps more appropriately than now, but just to make sure that I understand what is possible to achieve in currency hedging. It would be my sense that if you were going to hedge currencies for six months or a year from now, the Euro-dollar relationship, you would be able to lock in a price relationship not terribly different from what the relationship between the two currencies is now. You wouldn't be able to somehow lock in the rate that had prevailed during the original investigation here some years ago. Is that a correct understanding?

MR. ZAHARIN: That is correct.

CHAIRMAN PEARSON: Okay. So, you might want to expand on that in the post-hearing. You can't get to -- I don't think you can get to a cheap Euro relative to the dollar through any hedging strategy, at least I would want to have that explained. Counsel for the domestic industry, if there is a way to deal with that, you may also address it.

My last question, probably best addressed in post-hearing, is for you, Mr. Gurley, and for the Ukrainian Respondents. Is the Russian market still an attractive market for the Ukraine? And the reason for asking is that the domestic parties have indicated that Russian recently renewed a CVD order against Ukraine in the context of a sunset review. And in light of this, it's not obvious to me whether your products are going to have a bright future in the Russian market. And if they don't, where might they be redirected?

MR. GURLEY: We'll give you more complete information in the post-conference brief. But, this order against Ukraine has been existent for several years and they've been shipping a fair amount of rebar to Russia during the past year or two, I think, for sure without a problem. That's because the prices in Russia have been so high. We'll address what we anticipate will be the demand in the future in our brief, but it hasn't been an impediment, certainly in the last year, 18 months.

CHAIRMAN PEARSON: Okay. And if we don't already have it on the record, you can clarify what the CVD rate is and whether it changed during the review, that sort of thing.

MR. GURLEY: I will do that.

CHAIRMAN PEARSON: Okay. Thanks so much. I have no further questions. Madam Vice Chairman?

VICE CHAIRMAN ARANOFF: Thanks, Mr. Chairman. I just want to follow-up on a conversation that I was having with a number of you in my last rounds of questions about motivations, in terms of price arbitrage around the globe. And I guess if I took -- if I accepted what you were telling me, there really wouldn't be an incentive for anybody to export to the U.S. market, unless they were really close, so the transportation costs were low, and their currency was very closely tied to the dollar, which may or may not explain what's going on within North America. But, if you look at Table 4-3 in the staff report, which lists U.S. imports by leading non-subject sources, you see that there are, in fact, substantial imports coming into the U.S. market from non-subject sources, despite the exchange rate and the transportation costs, and some of them are coming from places not too far from where some of the producers present today are, including Bulgaria, Egypt, Turkey. And most interestingly to me, a substantial -- well, not huge, but a volume coming in from Germany, where the prices are supposed to be so fantastic that they couldn't possibly be exporting to the U.S. with the lousy exchange rate and everything else. Anybody want to comment on my all those imports seek it's advantageous to come here, but not for you?

MR. BUTTON: Well, this I Ken Button. I would just note with respect to Turkey, there had been a significant non-subject supplier over the course of 2000 -- latter part of 2006 and early 2007. In fact, they have responded. Those import volumes have declined.

The data you're looking at, being 2006 data, over the entire period, I earlier made the point that during 2006, a substantial portion of that, U.S. prices were higher. U.S. industry couldn't provide volume and product was brought in. But then in the latter half of 2006, there was the explosion in demand overseas, U.S. prices increased. And I think you're seeing now a different pattern arising. So, the point being is that for an individual shipper or trader, whomever, they'll follow the economic incentive and the economic incentives in 2007 and looking forward, I believe, are more to keep the products in their home markets and the regional markets, than to bring them into the United States.

VICE CHAIRMAN ARANOFF: Mr. Zaharin?

MR. ZAHARIN: With an exception of Germany, all the countries that you've mentioned are located in the Middle East region close, nearby. We'll look at Turkey, who is the most significant factor, in terms of importation to the U.S. of rebar. And U.S. for Turkey has been a historical market. They have been here for years now. There is another factor that is adding incentive to Turkey to export to the United States and that is Chinese imports coming to the Gulf region.

On the issue of currency, Turkey is denominated in U.S. dollars, so to speak. So, they're used to taking that risk and they're used to selling in dollars. On top of that, it is commonly known that the Turkish producers are affiliated with transportation companies having their own fleet. So, transportation by sea is natural for them.

To add to this, we can also confirm that Turkey is an issue, in terms of capacity. Europe is negotiating with Turkey, trying to develop a restructuring plan, and the issue of subsidy, of the government subsidies is also there.

VICE CHAIRMAN ARANOFF: Okay. Perhaps in your briefs -- to me, in some ways, this comes down to the issue of likely -- what likely means in this context. As I look forward, it seems to me that in a world with traders, who aren't particular -- who have no particular allegiance to any customer and customers with no particular preference for any producer's product, at any moment, if the price in the U.S. that they can get is better than the price they can get somewhere else, some tonnage is going to come in. Does that mean it's likely that imports would rise to a significant level, if the order is revoked, or does that mean it's possible? Mr. Phelps?

MR. PHELPS: Yes. Representing the trading houses, traders have very strong relationships with their customers and their duty to the customer is to supply material. And in the case of rebar in the United States, we need rebar, because our industry doesn't supply sufficient quantities. Turkey has a long-term relationship with a lot of trading houses, who have, in turn, relationships in the United States. I can't explain Germany. That one took me by surprise, as well. But, there are relationships and long-term relationships, particularly with Turkey, that explain an awful lot of this. And as I said, U.S. needs rebar to be imported, in order to keep our construction sector operating and efficient.

VICE CHAIRMAN ARANOFF: Mr. Cameron?

MR. CAMERON: Commissioner, I think that one of the points that you're driving at is that it's a more complex picture than that. I think that one way to look at it is that just from the perspective of Korea, number one, issues of capacity and capacity utilization are relevant to the question of whether or not there is a likelihood of exportation. Number two, getting to your issues of traders, is the industry that you're talking about, are they, in fact, domestically oriented to a large degree or to an overwhelming degree or not, because when you're talking about traders, you're really talking about participation to a significant extent on the export market. And these are exactly some of the characteristics that we've been talking about with respect to why it is that there is no likely discernible adverse impact from Korea, because they don't fit into the model and into some of the issues that are raised by your example of non-subject imports. Thank you.

VICE CHAIRMAN ARANOFF: Dr. Button?

MR. BUTTON: Ms. Commissioner, my final comment with respect to the injury points that you just made is that we see the imports coming in, in 2004, and does this reflect -- 2006, beg your pardon, and does this reflect potential injurious impact, if it occurred in the future. I would just note that the 2006 import volume indeed is substantially larger than 2005. It's hugely larger. But, as the Chairman pointed out this morning, this was also at the same time that the U.S. producers production increased, the prices increased, and their profitability went to record levels of 21 percent operating margin. Certainly, these imports does not create an injurious circumstance.

VICE CHAIRMAN ARANOFF: Okay. I appreciate all those answers and thank the panel, very much, for your participation this afternoon.

CHAIRMAN PEARSON: Are there any further questions from the dais?

(No further questions from the dais.)

CHAIRMAN PEARSON: Do members of the staff have questions for this panel?

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

CHAIRMAN PEARSON: Okay. Well, then, permit me to offer my thanks to all of you for being with us today. It's been, as I would have anticipated, a most interesting and often enjoyable afternoon and I appreciate very much the fact that you have been with us. Even having said that, I am reminded that the domestic industry should be asked whether they have any questions for this panel. This is why we don't run this with just one chairman and nobody else up here. Okay. Well, then, you may be excused.

(Panel excused.)

CHAIRMAN PEARSON: And I will review the time remaining. Those in support of continuation of orders have nine minutes from direct questioning, plus five for closing, for a total of 14. And in opposition to continuation, you have 12 minutes from direct, five from closing, for a total of 17. So, how would you like to proceed, Mr. Price. Do you want to do rebuttal separately from closing or do you wish to do it altogether?

MR. PRICE: I'm willing to do it all together.

CHAIRMAN PEARSON: Okay. Well, let's go ahead and make space for them. Should we take a break for about two minutes? Okay, a stretch break for two minutes and then we'll go with closing.

(Whereupon, a brief recess was taken.)

CHAIRMAN PEARSON: Let's go ahead and reconvene. Mr. Price, Dr. Kaplan, how do you wish to proceed?

MR. KAPLAN: Good afternoon, Seth Kaplan of the Brattle Group, a couple of points. One, the first was a question I was unable to answer from Commissioner Williamson, which had to do with whether Latvia's admission to the EU should be considered now as their home market. And it's almost, but not quite. It is a change in the conditions of competition, but it's still -- there are still some barriers, you know, language and otherwise within that community that it is not fully integrated in complete respects like the United States, for example. And I think the main point I want to make is that even as a part of the EU, they still have interests, if their export prices to the United States would be higher. But, I do recognize that it is a change in their condition.

My main rebuttal has to do with the issues regarding the price gaps. And we've had admission that traders do control this market, in general; that Mittal, for example, has its own giant trading company that, as Dr. Button said, they're profit maximizing and seek the highest price. And then the question is reduced to the price gaps and the likelihood of them in the future. And I submit to you that their argument rests on contracting the period of time to a week in April, where a third party compared prices and they tell us they're lower in the United States than where they sell. And my argument is that we have data monthly and quarterly going back to 1997, showing the U.S. as a superior market on average, that the gap was biggest in 2006, using not a third-party data, but their own data, and that you're seeing a movement in the exchange rate that has changed things for maybe a couple of months and that we all know that the exchange rate could change back, because it's uncertain.

So, what do we think is likely? The continuation of something that happened for maybe a month with data we cannot trust, based on a third party, asking us to ignore a history that goes back 10 years, or 10 years of data that is on the record, that shows a continuous wide gap, wider than the transportation costs, and in the foreseeable future, it is very likely that it is expected to return. The notion that something not on the record for a month is what we should look forward to in the future and I try to collapse the future, you know, a year, 18 months, about three weeks, tomorrow, you know, I don't think things are going to change, to a time of two years that the Commission has looked at, or what we argue, the planning stages of these mills out to three years. It is very likely, given the long record and the long history, that given how this market works, the spot nature, the trading pattern, that the gaps that we've seen in 2006, five, four, three, two, one, 2000, 1999, 1998, and 1997 are likely to remain and reappear and cause the movement of goods of rebar to the United States to the highest priced market or a higher priced market than their lowest priced export market. I'm going to -- rebuttal comments and I will let Alan do his rebuttal and close. Thank you.

MR. PRICE: Thank you. I will cover a couple of points first in rebuttal. Just for point of clarification, this demand chart, which was in our exhibit, was actually also part of our brief, exhibits to our brief. For Mittal, their projections, September 28, 2006. So, it's not like we've found some document from years ago. This is a fairly recent document from the record. We provided it in its entirety on the record and you have it. As you can see, their own projected demand for the CIS, this is all the CIS countries, shows growth. We're not saying it's not growth here. But, frankly, if you do a straight line, it looks like about five, six million tons by about 2006, up from maybe four million tons in 2005. I mean, you know, there's growth here. We all agree with that. It's just not overwhelming growth. It's not staggering growth. It's fairly modest. And so, I just want to make sure you have it.

The other thing, though, this does show is what period of time are people projecting over. Again, Arcelor Mittal, someone in the industry, not a document created for this record certainly. I think it was used in a plant tour. They're projecting out three years. It goes to, again, what's reasonably foreseeable. It's their own document. It tells you a fair amount on that.

Regarding capacity buildup in the Ukraine, we will provide the Commission with the complete buildup on the Ukraine. We did, by the way, in our buildup, we did not include the Turkmanistan mill, which I think in that third-party report was included under the Ukraine, and we saw that. We looked up the mill and said that this mill is in Turkmanistan. That's not there, okay. Again, I want to make sure that everyone -- that the record is clear on that.

Now, I would like to turn to my closing argument. First, I would like to look around the room for a moment and express my thanks. Thanks to the Commission. Thanks to the Commission staff, which has put together an excellent record, in this case. I want to thank the domestic industry witnesses. I want to thank Mr. Parrish, Miller, Fritsch, McCullochs, and Koch. I, also, want to thank Mr. Zaharin, the only actual industry witness you saw from the other side on this case. We had a lot of people, who really didn't participate in this case. The Chinese haven't shown up here at all. The Indonesians haven't shown up here at all. A large chunk of the Polish industry hasn't really shown up, except for a portion of Commercial Metals, which did file a questionnaire response. We believe a significant portion of the Ukrainian industry did not participate in the case. We, also, think frankly that people are most probative in answering your questions are not people like myself, people like Mr. Kaplan, people like Mr. Button, people like Mr. Gurley, but the industry witnesses. And in this case, we are struggling with a record, where the Commission is asked to make judgments about pricing and what's going on and how things are really being managed. But, you don't have the opportunity to ask any company witnesses that. How is a company managing itself? Well, pretty telling. I think you get a lot from the examination of the industry witnesses, understanding what they're going to say, not say, gives you real insight.

Mr. Gurley, a few years ago in a case in hot-rolled, showed up, nice briefs, interesting questionnaire responses, which I won't give the details on, because those are confidential, said, you know, client said, not -- all the written materials, not showing up, not shipping, no interest, et cetera. Asked a question by Commissioner Hillman, those of us, who remember it, who were here at the time, the clients were asked the question, what's going to happen, why -- are you shipping to Canada, what about prices in the market, what's really happening. Gee, that market is incredibly attractive. And everyone looked up at the time. Sitting in the back of the room watching you, you all looked up. And so, I think it's incredibly important to get a feel of these cases to understand who is really here and who is participating and who has expressed an interest in this.

Now, our case is pretty straightforward.

You have nine years of extraordinarily rich data in this case, nine years of pricing. And the pricing shows large and growing price gaps between the AUVs that the subject suppliers, by and large, export to their markets, to their export markets, and the AUVs available in the United States. It shows huge gaps, as Mr. Kaplan noted. Those gaps are well documented. Those gaps are, I think, beyond question without based upon your questionnaire data. It's the type of data that you've used in all the previous rebar cases, shows that this is an attractive market. And as we've said, it doesn't have to be the most attractive market, it just has to be attractive.

Now, the Respondents, as Mr. Kaplan correctly pointed out, says, let's focus on this little period here. Maybe, this is an important period. Maybe, we should just change our focus. But, let me take some of the words the Respondents used during their presentation. Mr. -- I believe it was Mr. Button, but if I got it wrong, I apologize, which witness said this of the Respondents, said, we're looking at a unique situation when we talk about what is happening with the current exchange rates. And he said, unique situation. It really sticks out from nine years worth of data. So to the extent these third-party pricing has any relevance, in terms of judging what market prices are, unique situation.

And I don't think the third-party pricing in these generally published reports necessarily has a lot of bearings on what the real ex-mill returns are. And that's something that the Latvian brief said, you have to really look at the ex-mill returns. And when you look at the real ex-mill returns, we think that nine years of data shows that there's a significant difference between a lot of these published prices and what companies like Mittal Rih, like Maldoven Steel Works, like the Bella Russian producer BSM really get. So, we think that as you look at the situation, you should not put a lot of weight on a unique situation.

Indeed, the Commission precedent in this area has long shown an aversion to looking at very short periods and making judgments. Instead, the Commission tends to look at the longer period, to make a holistic decision. Here, the Commission, and in one case and this case involves ferrous silicon from Brazil, the Commission stated, we decline to give the most recent six months of data in the investigation significantly more weight than data representing the preceding full three -- or 36-month period. Again, don't put all of your marbles on this little basket here, which is, according to the Respondents, themselves, a unique situation. We believe that on average, today, the U.S. is more attractive than the markets that are available, not the highest price market, but enough of those markets.

The second thing I want to point out is that the U.S. will be adversely impacted by the subject imports. There will be negative price and volume effects. This is a commodity. There's no question that as imports come in, shifts get taken out. Workers work less. Prices are affected. Profits are affected.

Final point I'd like to hit here with regard to Mittal is I think they've just acknowledged that essentially they're a trading entity. They've been marketing their Ukrainian product here. And let's see how they're treated in other countries. I think what's telling here is that there is an EU quota on the Ukraine today. It tells you a lot about what people think in the rest of the world. There is a countervailing duty case in place against the Ukraine. Thank you.

CHAIRMAN PEARSON: Thank you, Mr. Price. Let's see, Mr. Gurley, Mr. Perry, how do you wish to proceed? Do you have some rebuttal comments or would you prefer to go directly to closing?

MR. GURLEY: I'm going to combine both under one presentation, if that is okay.

CHAIRMAN PEARSON: That would be fine.

MR. GURLEY: Actually, Dr. Button is going to have a few remarks, closing remarks about foreign prices.

MR. BUTTON: Thank you, Commissioners. Mr. Kaplan, on price, I think, did focus on a key issue and the key issue is whether the important pricing data on which you should focus your own attentions, particularly with respect to this pricing gap, are the U.S. prices and the foreign prices. Do you look at the past or, in fact, as required by the statute, as I understand it, do you look to what is going to happen in the future? Mr. Price closed a few moments ago with a reference to a case of ferrosilicon from Brazil. It was an original investigation, I believe, and it was the six-month period versus the three-month he was talking about. But, you were trying to decide at that situation, what happened, what did happen, not what was going to happen. You need to do that today.

Whether we're dealing with spot prices or traders, that simply determines how quickly the market equillibrates. The key question is what you have seen recently, this one-month period that Dr. Kaplan described, is this a better determinant of what's going to happen in the future or is it what things have happened in the past? Well, I believe you should look at the current pricing and what's behind it, as an indicator of what's going on in the future. For example, what's different? You have projections of foreign GDP, things are better, people believe that the markets in these foreign economies are expanding. This is different from those six years. We have projections of foreign construction activity. We have huge projects, in the Middle East or in Europe or wherever, those are realities. They are happening. They are today and they're going to absorb products in the future. That wasn't happening during the past six years.

How do we know this? Well, we have the studies that have been cited in the briefs. We have reports of various sources. We have the U.S. producers quotations, as they look at this, and make investment decisions. For example, CMS has said a lot of good things about its plant in Poland and how it seeks the long-term markets there and its willing to put some money into Croatia, it seems, to have a plant there to feed these other foreign markets. The

Commission should look at the best indicators it has to what is reasonably foreseeable in the future. And there is plenty of reason to believe that foreign prices will continue to be at levels comparable to, or perhaps even higher than, the U.S. rebar prices. Thank you.

MR. GURLEY: My first comment, I guess, will be what the anticipated behavior will be of Arcelor Mittal. If you believe Mr. Price and Petitioners, we are some large behemoth that is just going to take every penny we can from every market. I think you should look at what we do and not what Mr. Price says. We have 12 mills around the world. We have two million tons of capacity nearby the United States. We're going to be supplementing in our post-hearing brief exactly what we have been doing with respect to the U.S. market. So, I think the facts will show how Arcelor Mittal treats the United States market. And commonsense should also guide you that if we have five mills nearby, why are we going to hurt their ability to make money in the United States, Mexico, or Canada? Why would we impede their ability?

Second, Mr. Price said that somehow we should look and see how Mittal is treated overseas, like somehow insinuating that we're playing dirty overseas. But, let me ask you, when was the Russian CVD case order imposed against Ukraine? I believe that was at least five years ago. Arcelor Mittal bought its facility in Ukraine in 2005. The quotas in European were also imposed several years ago. So, again, why the invective against Arcelor Mittal for something that may have happened five years ago? We're trying to clean up, clean house in Ukraine and make sure it's run in an efficient, profitable fashion.

Now, let's turn to who Ukraine is. It's been our position today that Arcelor Mittal effectively is the Ukraine industry. Of course, there are other members. We acknowledge that. Petitioners have said there's a missing 4.4 million tons of capacity that has somehow have not been reported. They mentioned that they have thoughtfully taken out the Turkmani company from their calculations. But, look at that third-party source. If you take out the Turkmani company from the source, that leaves 4.3 million tons of capacity, of which, according to that third-party source, Mittal is four million. So, it will be intriguing to see how Petitioners come up in their post-conference brief with a calculation that says somehow there's another 4.4 million missing.

That would mean there is 8.7 million tons in capacity. It doesn't exist.

Remember, too, that we put on a record another source, Metal Expert, which delineated what we believe is 100 percent of the Ukrainian industry. It is very consistent with the other third-party data once you take out the Turkmanistan company. It is also showing around four million tons, of which Arcelor Mittal comprises over 92 percent.

Now, let's talk about future capacity. If you see they're very fanciful charts, where they say it's going to have about six million of tons the next few years. If you parse through the Internet research that they've done, you'll see that most of the time, it doesn't even talk about rebar. Secondly, they talk about mills, which haven't even started production. We'll be providing more information about that, but there's evidently no proof of the six million tons. What we do know is there's a single mill, Makeevska, which is going to have an increase capacity of 700,000 tons. We acknowledge that. But besides that, the six million doesn't exist.

In conclusion, a lot has changed in this case since it was originally filed in 2000. All of it good for U.S. producers and for Mittal Steel Kryvih

Rih, as well. These changes are profound. The clear burden today was on the U.S. industry to show that it would be injured if the order against Ukraine were revoked. They have not met that burden. Thank you, very much.

MR. PERRY: Again, Bill Perry from Garvey Schubert Barer. I find myself agreeing with Mr. Price on one point, Alex Zaharin showed up. And I think this is very important, because when I worked at the Office of General Counsel with Mike Maveal over there, my second case was Section 751 review investigation on television receiving sets from Japan. And I remember that case, because it was the first review. And what was interesting about it was that it changed, it changed in the closing argument. And the reason was the Japanese were the ones that filed the petition and they showed up with all of their lawyers and not one witness. And then what happened in closing was the lawyer for the petitioner said, hey, they requested this review, where are they. And the point here again is that you are trying to determine the company's intentions, what do they intend to do in the future. If you look at Mr. Price, where I disagreed with him, he kept saying, let's go back to data in 1996, 1997, 1998. Your job isn't to look in the past. Your job is to look into the future and try to predict what will happen when the order is lifted. That's why Alex has come here today to testify, along with David Phelps, as to what his intentions are. And his intentions pursuant not only through his statements, but because of the facts on the record, is to sell into the EU and not ship to the United States.

Now, the argument of the Petitioners is, oh, wait a minute, this is just a recent up-tick, where Europe is higher than the U.S. This is just very, very recent, so don't look at that. This has been going on from 2003 to 2004, the fluctuations back and forth with EU going up, U.S. going up, EU going up, U.S. going up. But, then, it's a question of risk. If the Lat is tied to the Euro, why bother incurring additional costs to have some hedging insurance? Just sell in Euro and it's stronger. And this decision to make a weaker dollar isn't something that just happened in the last month. This is a concerted policy decision of the U.S. Government. There is legislation on the Hill to do this. They are trying to make this a weaker dollar and it's having an effect. They got what they wanted. And so throughout the world now, the dollar has become weaker. And I think it's something you have to take into account, at least looking at that.

Again, I would just put out again, I think this is very important for the Commission to be looking forward. I think LM and Alex's testimony today and our pre-hearing brief and in our post-hearing brief, we will make it very clear that LM's intention is not to come to the United States. It will continue to sell in its traditional even home market. Even Mr. Kaplan admitted, yes, Latvia joining Europe, I guess it is a changed circumstance. It's a condition of trade here. It's something that you have to take into account. Things have changed. And so, Latvia is going to be selling into Europe, not the United States. That's their intention. Thank you.

MR. ZAHARIN: Just wanted to take the opportunity to thank the Commission and the staff. It's been an experience.

(Laughter.)

MR. ZAHARIN: We've gone through the administrative reviews, through verifications, and, well, all of it made us stronger, let us put it this way. We want to be objective in our assessment. In that objectivity, we have to say we are a commercial enterprise and we're driving by market. And the market is such today and our true belief will continue to be in the foreseeable future, such that unfortunately, as much as we enjoy coming to the United States, we will not be coming for business. Thank you.

CHAIRMAN PEARSON: Thank you. Does that conclude closing? Okay. Thanks once again to all participants in today's hearing, including my fellow Commissioners. You put up with a lot sometimes.

The closing statement, under Title VII of the Tariff Act of 1930, post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by May 22, 2007; closing of the record and final release of data to parties, June 19, 2007; and final comments on June 21, 2007. One additional note of likely interest to counsel, the Commission yesterday made a decision to shift the date of the vote from June 28 to July 10. So, make note of that and don't come here on the 28th unless you have other business.

I think there's no other business before us today, so this hearing is adjourned.

(Whereupon, at 5:54 p.m., the hearing was concluded.)

//

//

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Concrete Reinforcing Bar

INVESTIGATION NOS.: 731-TA-873-875; 877-880; 882 (Review)

HEARING DATE: May 10, 2007

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: May 10, 2007

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos E. Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Bernadette Herboso
Signature of Court Reporter