UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation Nos.:
BRASS SHEET AND STRIP FROM	)	701-TA-269 and 270 and
BRAZIL, CANADA, FRANCE,	)	731-TA-311-314, 317 and 379
GERMANY, ITALY, AND JAPAN	)	(Second Review)

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Tuesday,
January 24, 2006

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

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

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

CHAIRMAN STEPHEN KOPLAN
VICE CHAIRMAN DEANNA TANNER OKUN
COMMISSIONER JENNIFER A. HILLMAN
COMMISSIONER CHARLOTTE R. LANE
COMMISSIONER DANIEL R. PEARSON
COMMISSIONER SHARA L. ARANOFF

APPEARANCES: (cont'd.)

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS COORDINATOR
SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT
VINCENT HONNOLD, INVESTIGATOR
CHRISTOPHER MAPES, INDUSTRY ANALYST
KELLY CLARK, ECONOMIST
DAVID BOYLAND, ACCOUNTANT/AUDITOR
CHARLES ST. CHARLES, ATTORNEY
GEORGE DEYMAN, SUPERVISORY INVESTIGATOR

In Support of the Continuation of the Antidumping and Countervailing Duty Orders:

On behalf of the Domestic Industry:

JOSEPH L. MAYER, President, Copper & Brass Fabricators Council, Inc.
JOSEPH D. RUPP, Chairman, President and Chief Executive Officer, Olin Corporation
JEFFREY J. HAFERKAMP, President, Olin Brass, A Division of Olin Corporation
THOMAS G. BAKER, Vice President, Marketing and Sales, Olin Brass, A Division of Olin Corporation
WARREN E. BARTEL, President, Outokumpu American Brass
MICHELE A. POTTER, Marketing Manager, Outokumpu American Brass
DOUGLAS W. BURKHARDT, General Manager, Sales and Marketing, PMX Industries, Inc.
MICHAEL T. KERWIN, Economist, Georgetown Economic Services
WILLIAM B. HUDGENS, Economist, Georgetown Economic Services

DAVID A. HARTQUIST, Esquire
JEFFREY S. BECKINGTON, Esquire
KATHLEEN W. CANNON, Esquire
GRACE W. KIM, Esquire
Collier Shannon Scott, PLLC
Washington, D.C.

APPEARANCES: (cont'd.)

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

On behalf of Wieland-Werke AG, Prymetall GmbH & Co. KG, and Schwermetall Halbzeugwerk GmbH & Co. KG:

WERNER TRAA, Director, Wieland-Werke AG
MARKUS SCHULER, Executive Vice President, Wieland Metals
ED PAGES, President, Guarantee Specialties
BRUCE MALASHEVICH, President, Economic Consulting Services, LLC
KLAUS GUTTENBERG, General Counsel, Wieland-Werke AG
DR. JOERG HANISCH, Executive Board Member, Wieland-Werke AG

MICHAEL T. SHOR, Esquire
Arnold & Porter LLP
Washington, D.C.

On behalf of Eluma S.A. (Eluma):

VALMIR BAIALUNA, Sales Manager, Eluma

PHILIPPE M. BRUNO, Esquire
Greenberg Traurig, LLP
Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN KOPLAN: Good morning. On behalf of the United States International Trade Commission I welcome you to this hearing on Investigation Nos. 701-TA-269 and 270 and 731-TA-311-314, 317 and 379 (Second Review) involving Brass Sheet and Strip From Brazil, Canada, France, Germany, Italy and Japan.

The purpose of these five-year review investigations is to determine whether the revocation of the antidumping and countervailing duty orders covering brass sheet and strip from Brazil, Canada, France, Germany, Italy and Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Notices of investigation for this hearing, list of witnesses and transcript order forms are available at the Secretary's desk. I understand the parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

As all written material will be entered in full into the record, it need not be read to us at this time. Parties are reminded to give any prepared non-confidential testimony and exhibits to the Secretary. Do not place any non-confidential testimony or exhibits directly on the public distribution table. All witnesses must be sworn in by the Secretary before 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: Yes, Mr. Chairman. With your permission we will add Klaus Guttenberg, General Counsel, and Joerg Hanisch, member of the Executive Board, Wieland, to the afternoon panel.

CHAIRMAN KOPLAN: Without objection.

Let us proceed with the opening remarks.

MS. ABBOTT: Opening remarks in support of continuation of orders will be by David A. Hartquist, Collier Shannon Scott.

CHAIRMAN KOPLAN: Good morning.

MR. HARTQUIST: Good morning, Mr. Chairman, members of the Commission and staff. I'm David A. Hartquist of Collier Shannon Scott representing the Petitioners in this case.

The record in this case provides strong support for a finding that if the orders are revoked subject imports of brass sheet and strip are likely to increase significantly in volume to undercut and depress U.S. prices and to injure an already vulnerable U.S. industry.

Let me recount for you a few of the key points supporting this conclusion. First, both of the foreign mills that are covered by the orders have refused to participate in this review and have not responded to the Commission's questionnaires. The Brazilian and German producers who are participating predicate their arguments on their reported capacity and production, ignoring entirely non-responding producers in their own countries.

Second, although those producers that have provided information have professed to have no desire or ability to export much, if any, brass sheet and strip to the United States, the evidence of record leads to the opposite conclusion. Our prehearing brief substantiates that the capacity to produce brass sheet and strip in Brazil, France, Germany, Italy and Japan is substantial and has even increased since the time of the original investigation.

The brass mills in these countries have more than ample capacity to export large volumes of brass sheet and strip to the U.S. in the event of revocation, augmented by their ability to shift capacity from other copper-based products to brass sheet and strip.

Third, if revocation is granted, the foreign brass mills will almost certainly divert their exports of brass sheet and strip from third country markets like China to the United States. China's emergence as a major producer of brass sheet and strip will hasten this change.

Fourth, many brass mills in the countries under order are geared for export and advertise themselves as such. KM Europa, for example, a company that has chosen not to participate in these sunset reviews, is a multinational company run by a management team from Germany with major brass mills in France, Italy and Germany, among other countries, and is but one example of this export-oriented outlook.

Fifth, during the period of review, the countries under order continued to sell brass sheet and strip in the U.S. market, demonstrating both a continuing interest in doing so and, aided by low prices, the ability to do so.

Sixth, thanks to the discipline of the

orders, the volumes of these imports have been far below their levels during the periods of the original investigations. Indeed, in its 1994-1995 annual administrative review at the Commerce Department, Wieland, the German producer, commented in relevant part that it had "complied with the order by eliminating sales of product which it could not sell at fair value." This category has covered practically all of Wieland's U.S. sales.

Seventh, if the orders were revoked the price of subject imports would likely undercut U.S. prices of this fungible product, leading to depression and suppression of U.S. prices at a time of rising cost, which you'll hear a lot about today.

Finally, as the data in the Commission's prehearing report indicate, the domestic industry is in an extremely vulnerable state. Profits for this industry have been minimal during each of the past five years.

Further, the U.S. market for brass sheet and strip is declining because the industry's customers are moving offshore to countries like China and India and Mexico. Although the U.S. market is still substantial and attractive to foreign producers, this phenomenon is extremely worrisome to the domestic industry.

For all of these reasons, we respectfully submit that now is not the time to revoke the orders against unfairly traded imports from Brazil, France, Germany, Italy or Japan.

Thank you.

CHAIRMAN KOPLAN: Thank you.

Madam Secretary?

MS. ABBOTT: Opening remarks in opposition to continuation of orders will be by Philippe M. Bruno, Greenberg Traurig.

CHAIRMAN KOPLAN: Good morning.

MR. BRUNO: Good morning, Chairman, members of the Commission, Commission staff. I am Philippe Bruno with Greenberg Traurig for the Respondents in this case.

The Petitioners' script for this case is like one more rerun of the same old movie. In the original investigations, the Commission had before it a greater number of subject countries and different conditions of competition. The orders were terminated for three countries in the first sunset review, leaving a group of countries in this review that the Commission has not previously analyzed communitively.

The market conditions in the industry too have changed since the original investigation. Under these conditions, the domestic industry's simplistic back-to-the-future scenario is just implausible.

Let's flash back to 20 years ago. For the six countries now before you, subject imports fell 60 percent before the orders were imposed. They were falling before petitions were even filed. There is no upward trend that would show likely significant increases if the orders are terminated. Indeed, it is doubtful that this Commission would have even found injury by reason of these imports.

Now let's fast forward to 20 years later. The U.S. industry is back claiming again that it is vulnerable to those subject imports which in the meantime have dwindled to commercially insignificant levels, yet the reasons offered by the U.S. industry have nothing to do with the subject imports.

The short-lived downturn of the U.S. economy that further depressed U.S. demand in the early 2000s has nothing to do with the subject imports. The rising cost of copper and other raw materials that has contributed to the higher cost of production for this industry has nothing to do with the subject imports.

The increasing volume of non-subject imports into the United States, largely under the control of the domestic industry, again has nothing to do with the subject imports. However, we all agree on one thing. The convergence of all three factors in the 2001-2004 timeframe created a perfect storm unprecedented in the last 20 years and unlikely to recur in the foreseeable future.

Far from caving in under the weight of these negative market developments, the U.S. industry has shown extraordinary resilience. It maintained operating profits every year. With the wave of these negative market conditions receding, the situation can only improve with or without the orders.

The real reason subject imports will not increase to significant levels is not hidden in some 20 year old data, but is right under our eyes in the information collected by the Commission in this review. The Canadian industry is gone entirely. The German capacity to produce brass has declined in half since the 1980s as German producers have shifted to higher value alloys. Brazil's capacity is almost entirely devoted to supplying a growing domestic market.

Unlikely many reviews in which the U.S. market has been shielded from competition for so many years, the U.S. market price is not higher than world market levels. Respondents' information shows that prices in Europe and other markets generally are higher than the United States.

Finally, there is no evidence of any adverse price effects. The limited price comparison data collected by the Commission show only overselling. The underselling data from the original investigations included weighted average prices from what are now non-subject country imports, and those are legally irrelevant.

In sum, what will happen if the orders are revoked. The most likely scenario is that subject imports will not have any adverse impact on the U.S. industry because there is little unused capacity in the subject countries, the prices in the U.S. market do not rate an incentive to shift sales, and negative market developments will continue to recede in the future.

Add to this declining capacity in Germany, rising domestic sales in Brazil and growing markets in other countries, and the gloom and doom, back-to-the-future scenario proposed by Petitioners loses all credibility.

Let me end by asking you to consider credibility. When Petitioners pontificate about the dire consequences of any increase in imports, this is a skeptic call of a domestic industry that complains about the adverse impact of low-priced, non-subject imports without even telling you that it controlled much of those imports.

Consider also the credibility of the reported capacity numbers which mysteriously have increased since the last review so that it can now claim low capacity utilization. This case would have been weak in 1987. It is even weaker today. The back-to-the-future theory might be plausible five years after an order, but not 20. Too much has changed.

Thank you.

CHAIRMAN KOPLAN: Thank you.

Madam Secretary?

MS. ABBOTT: The first panel in support of the continuation of orders, please come forward and be seated.

Mr. Chairman, the witnesses have been sworn.

(Witnesses sworn.)

CHAIRMAN KOPLAN: You may proceed.

MR. HARTQUIST: Thank you, Mr. Chairman. I'll introduce first those witnesses who are going to present direct testimony, and then we'll have several witnesses also who are available for the Q&A session.

Our first witness will be Joseph L. Mayer, who is president of the Copper & Brass Fabricators Council; next, Joseph D. Rupp, Chairman, President and CEO of Olin Corporation; Warren Bartel, President, Outokumpu American Brass; Douglas W. Burkhardt, General Manager, Sales and Marketing, PMX Industries, Inc.; Kathleen W. Cannon of Collier Shannon Scott; and Michael T. Kerwin, Economist with Georgetown Economic Services.

In addition to those presenting direct testimony, Jeffrey J. Haferkamp, who is President of Olin Brass, the Brass Division of Olin Corporation; Thomas G. Baker, Vice President, Marketing and Sales, for Olin Brass; Michele A. Potter, Marketing Manager for Outokumpu American Brass; and William B. Hudgens, Economist with Georgetown Economic Services.

With that we'll start with Mr. Mayer this morning.

MR. MAYER: Thank you. Chairman Koplan, members of the Commission, thank you for allowing me to --

CHAIRMAN KOPLAN: Is your microphone on? It is now. If you could pull it closer to you, and you could start again?

MR. MAYER: Chairman Koplan, members of the Commission, thank you for allowing me to participate in this hearing. I am Joe Mayer, and I appear before you today in my capacity as president of the Copper & Brass Fabricators Council.

The Council's members collectively account for approximately 85 percent of the total volume of copper-based, semi-fabricated product produced in the United States, including CDA 200 series brass sheet and strip.

Since my arrival at the Council in 1985, I have worked extensively with this U.S. industry and have observed at close range the important roles that these antidumping and countervailing duty orders have played in limiting the volume of unfairly priced, injurious imports that have entered the United States and in making possible modest profits that have helped to maintain this domestic industry to the advantage of our national economy.

I recognize that these orders have been in place for some years and that their very longevity might seem to some to be sufficient reason to warrant revocation. That assessment, however, would be unjustified for a number of reasons.

Our companies have been confronted since the first sunset reviews in 1999-2000 with extremely tough business conditions and can expect more of the same in the time ahead. While our upcoming witnesses will describe these serious problems in more detail, it is fair to say that the U.S. producers of brass sheet and strip are undergoing a period of great challenge.

China particularly looms as a tremendously disruptive factor both in terms of U.S. customers of our brass mills relocating there and in terms of China becoming a net exporter rather than a net importer of brass sheet and strip. Further, it is virtually a certainty -- not simply likely -- that revocation of any of these orders would swiftly lead to a resumption of unfairly priced, injurious imports.

In addition to the conditions just noted, we have been able to document with substantial evidence in our prehearing brief that the brass mills in the countries under order, apart from Canada, both individually and collectively, have tremendous capacity to inundate the U.S. market with brass sheet and strip.

While U.S. demand has declined somewhat, it is still substantial, and the U.S. market continues to be far more open than any other country's market. With their capacity and the incentive of keeping their equipment and workers employed, there is every reason to expect that the brass mills in the countries under order would move quickly to target the United States, as they did before the orders were in place.

Brass sheet and strip is a vital component of the product mix of a brass mill. A brass mill's viability to produce flat-rolled product is strengthened or put in jeopardy to the extent volume for CDA 200 series brass sheet and strip is gained or lost.

It is imperative that these orders be extended. In that event, our U.S. mills will still be faced with difficult circumstances, but we are competitive, and without renewed dumped and subsidized imports from the countries under order we will have the opportunity to survive and prosper.

Our U.S. producers of brass sheet and strip are world class companies. This statement is true not only of the companies before you -- Olin, Outokumpu American Brass and PMX -- but it is also true of Revere, Scott Brass, Acco and Eagle Brass.

Despite what the few foreign mills that are here might say, we are convinced that the quality of our brass sheet and strip matches or exceeds any brass in the world.

Thank you.

MR. HARTQUIST: Thank you, Mr. Mayer.

Mr. Rupp?

MR. RUPP: Good morning. I am Joseph Rupp, and I'm the Chairman, President and Chief Executive Officer of the Olin Corporation. I've been in the brass industry for over 33 years, and I appeared before the Commission in early 2000 in conjunction with the first sunset reviews in these cases. I appreciate the opportunity to do so again.

Olin Brass has been producing large quantities of a wide range of copper-based flat-rolled products, among them Copper Development Association 200 series brass sheet and strip. We've been producing these since our original brass mill was built during the first world war to supply brass for military cartridges. We take great pride in our company, our heritage, our technical and metallurgical capability.

Over the years, we've been able to establish ourselves and our products on a global basis, and I and my colleagues at Olin and from other brass mills on this panel are familiar with most of the major brass mills around the world.

I would like today to make several comments in support of these orders' continuation. Above all, our U.S. brass industry is under considerable pressure and in a precarious position, and this condition would deteriorate further if the massive capacity that is available in the subject countries were turned again toward the United States' market.

Brass mills, as others on this panel will comment, are capital intensive operations that depend for their success on the use of their equipment to the maximum extent possible. That equipment can produce a broad spectrum of copper-based, flat-rolled product, some of which are like CDA 100 series, which is copper; also CDA 200 series, which is brass. These alloys are much easier to produce and are interchangeable on the equipment. Some series of alloys are not, such as the 300 series leaded brass.

As a result of these factors, the capacity of a brass mill to produce any particular product is somewhat a fluid concept. Moreover, exactly what a brass mill's equipment is used to produce on any given day and over the course of a year will depend upon the needs and the demand of the brass mill's customers. The product mix of a brass mill, therefore, will fluctuate over time.

What is evident from Olin's experience,

however, is that brass sheet and strip must as a practical matter constitute a substantial portion of a brass mill's total output of all products for that mill to be able to keep its equipment and its facilities up-to-date and to realize an adequate return on its investments.

Brass sheet and strip is the baseload product of brass mills here and abroad. Any significant loss of volume results in lower capacity utilization, and this capacity cannot be replaced in similar volumes by other products.

Since the time of the first sunset reviews, there have been some major events and changes in the United States and global markets for brass sheet and strip, all of which have negatively affected our United States industry and all of which have increased our company's vulnerability.

First, in the 2001-2003 time period the United States experienced a widespread recession, and demand for brass sheet and strip is still far below the levels that we experienced in the 1999 and 2000 time period. During the period of review, Olin Brass eliminated approximately 1,000 jobs, which represented close to 25 percent of our workforce.

Second, over the last two years we have seen the prices of copper, zinc and other raw materials, as well as the prices of energy, spiral upward. This trend appears likely to continue for the reasonably foreseeable future.

Third, more and more of our United States customers have been relocating abroad, especially to low-cost countries like China, India and Mexico. With their departure, we have been losing important portions of our United States customer base. There is no reason to think that this trends will be reversed in the short term.

Finally, we are bracing for the day that we believe will come when brass mills in China supply all home market demand and begin to export brass sheet and strip to the United States and to other countries. Rather than see China import brass from countries such as Brazil, France, Germany, Italy and Japan, therefore, we can expect that those countries' exports to China will need to find an alternate market.

We also anticipate, based upon the rapid increase in Chinese capacity, that before long China will cease being a net importer and will become a net exporter of brass sheet and strip. As set forth in our prehearing brief at Exhibit 11, China's own importer data, which shows decreasing volumes of brass sheet and strip imported from the countries under order during the period of review, indicate as much. The speed with which this shift has been occurring is striking and I would say almost breathtaking.

While we have often faced in this country economic slowdowns and spikes in the cost of raw materials and energy, these historically have been followed by upturns in the business cycle and reductions in cost. We have, however, never seen in our industry the sort of relocating offshore of our customer base and the installation of huge amounts of capacity in China that we have been witnessing in the past few years.

These last phenomena and even the latest rises in costs of our raw materials and energy which we believe really reflect China's surging demand -- in other words, we believe China has a huge impact on what's going on with raw materials and energy. These last phenomena represent extraordinary adjustments in our competitive environment and tremendous challenges not only to the United States industry, but also to brass mills in the countries currently under order and elsewhere around the world.

In my opinion, the scenario that I've just presented is a realistic evaluation of the current state of the brass mill industry and what can be anticipated ahead. It is a scenario which Olin has been basing its planning for the future.

Of central important to the ability of Olin and other United States brass mills to weather this powerful and brewing storm is the continuation of the orders being reviewed. In the face of very incomplete information and silence generally of the foreign mills in the countries under order on their capacities, we have provided the Commission in our prehearing brief our best estimates of the foreign mills' capacity and their ability to shift production and to produce brass sheet and strip.

It is evident from this material that these foreign mills have the capacity to produce an overwhelming volume of brass sheet and strip for sale in the United States. In addition, the United States market for brass sheet and strip continues to be sizeable and accessible. Our tariffs on imports of this brass are very modest, and, unlike many other countries, we do not charge any value-added tax on imports.

If the orders were to be revoked, therefore, we expect that large volumes of low-priced imports from the countries under order could and would return to the United States market very quickly. Driving this resurgence would be, first, the economic realities I've described of the capital intensive nature of brass mills and the central role that brass sheet and strip play in enabling brass mills to be financially viable.

Second, the stating of China as a practical destination for brass sheet and strip from the countries under order, and, third, the mature nature of markets for brass sheet and strip in those countries and their loss of some customers to relocation.

I would make one final observation. Brass sheet and strip is a fungible product. With all respect, we take issue with any claims that German or any other foreign brass sheet and strip is somehow of higher quality than the brass sheet and strip that is produced in the United States brass mills. In terms of grain structure, surface quality and otherwise, we feel our product is at least the equal of any other mills' product.

Thank you for your attention.

MR. HARTQUIST: Thank you, Mr. Rupp.

We move to Mr. Bartel.

MR. BARTEL: Good morning. I am Warren

Bartel, the president of Outokumpu American Brass. Outokumpu American Brass, or OAB, is located in Buffalo, New York, and is one of the largest producers of brass sheet and strip in the United States and a major employer in western New York State.

This morning I'd like to discuss the market conditions that we are facing in the U.S. market for brass sheet and strip and the importance of maintaining the current unfair trade orders on this product.

As you might have heard, Outokumpu's Fabricated Products Division, Outokumpu Copper Products, was sold by our Finnish parent to a private equity firm called Nordic Capital in June of 2005. Outokumpu based this decision on a desire to concentrate on its role as a producer of stainless steel.

The successor company will retain the rights to the Outokumpu Copper Products name for a 12-month period, but our name will soon change, probably by mid 2006.

CHAIRMAN KOPLAN: Could you pull that microphone a bit closer to you? Thank you.

MR. BARTEL: We at OAB are currently in a period of transition from our old to our new ownership structure. However, our new owner has made it very clear that it is committed to succeeding in this brass sheet and strip market and making the investment necessary to do so.

Capital improvements that were planned at our Buffalo facility are going forward, and the new owners have made it known their intention to make OAB the preeminent producer of copper and brass flat-rolled products in North America.

While we are very happy to have such a strong corporate backing, we remain concerned about the future of our company and the U.S. industry producing brass sheet and strip. As your staff report shows, consumption of brass sheet and strip in the U.S. market has declined significantly during the period examined in this review. In fact, consumption in 2004 was lower than in any year of the original investigation or in the years of the previous sunset review.

The market for brass sheet and strip is mature, and many of the fabricators that use this product as an input material have been either moving offshore to produce in markets like China or closing down altogether in the face of foreign competition from low-wage countries.

On top of a contracting customer base, we've also been facing large cost increases. Most notably, copper cathode and copper scrap prices have reached all-time highs. While we are generally able to pass through the increased copper costs to our customers, as the total price for brass sheet and strip rises we run the long-term risk of pushing our customer base toward alternative products made from other material.

Further, we've been unable to completely pass through our other increased costs, such as electricity, natural gas and transportation. The end result has been a substantial decline in our profitability over recent years. In the face of our contracting customer base and the declining profitability, the last thing we need is to have the current unfair trade orders revoked.

I would like to describe one other important concept to you. While OAB and the other producers of brass sheet and strip produce other non-subject products on the same equipment, our ability to turn production of these other products as an alternative to brass sheet and strip is limited.

Brass sheet and strip is the backbone of our overall operation and historically has been our largest product. Our production operations are highly capital intensive and are set up to handle large runs of throughputs of commodity products like 200 series brass sheet and strip.

Our mills are designed to be run 24 hours a day, seven days a week, and we have to keep the production volumes up in order to keep down our fixed costs per unit of production and turn a profit.

As you can see from our financial data, we've been struggling to do this in the face of our reduced production of brass sheet and strip. While we produce many specialty alloys that sell at higher prices than brass sheet and strip, the markets for these products are relatively quite small.

Given the massive quantities of brass sheet and strip that we do produce, it is simply not feasible or realistic to transfer any significant portion of our capacity to produce brass to these more specialized niche products.

The vast majority of production of brass sheet and strip that we lost over the period that you're examining was not replaced by the production of other alloys. Simply put, if we lose brass sheet and strip production entirely, our mill will not be viable.

Despite the fact that brass sheet and strip production is extremely capital intensive, your staff report shows that the domestic industry is currently in a barely break-even position financially. Your report also shows that during the period you are examining the cashflow of the domestic industry has not even covered its capital expenditures.

A capital intensive industry simply cannot continue to exist long-term if it does not generate sufficient cashflow to finance the expenditures needed to maintain efficiency and product quality. If we've been struggling to cover our capital costs in recent years, we will certainly not be able to cover these costs if the unfair trade orders are revoked and we are again exposed to large volumes of imports from the subject countries.

Let me conclude by saying that the statements of the German and Brazilian producers that they have no intention to return to this market if their orders are revoked are unbelievable. Despite recent contractions, the U.S. remains one of the largest markets for brass sheet and strip in the world.

Further, the consumption declines that we have witnessed in our markets have also occurred in Europe and the Japanese markets, making export of excess capacity from these markets to the United States a very attractive option.

Finally, while demand in China for brass sheet and strip has been increasing rapidly, China's capacity to manufacture the product has increased at an even faster rate. Export opportunities to China are already starting to decline, which will make exports to the U.S. market from the subject countries even more attractive. Our industry and our market are extremely vulnerable to the revocation of these orders.

Thank you for the opportunity to address you this morning.

MR. HARTQUIST: Thank you, Warren.

Our next witness is Doug Burkhardt of PMX.

MR. BURKHARDT: Good morning, Mr. Chairman and members of the Commission. My name is Doug Burkhardt, and I'm the General Manager of Sales and Marketing at PMX Industries. I have been with PMX since 2003, and I've worked in the brass industry for over seven years.

My testimony this morning will address issues relating to the future of my company and the brass sheet and strip market in the United States and why the antidumping duty and countervailing duty orders on brass sheet and strip should be continued.

First let me begin with a brief background of the history of PMX. In 1989, our parent company, Pun Song, headquartered in Seoul, South Korea, began construction of a U.S.-based facility to produce brass strip located in Cedar Rapids, Iowa, with the intent of serving the U.S. market. Construction of this greenfield facility was completed in 1992. It was the first brass and copper rolling mill greenfield facility to be built in the United States in over 50 years.

A significant amount of capital was invested by Pun Song to ensure the successful operation of this production facility, which became operational in 1992. Not long after its establishment, PMX quickly became a world-class producer of copper and brass products, including brass sheet and strip.

Our equipment and facility are state-of-the-art, and we have continuously made capital investments to modernize and increase production efficiencies. In our capital-intensive industry, brass mills must maximize the utilization of the casting and rolling equipment to spread fixed costs over as wide a base as possible.

Because the equipment used to produce brass sheet and strip can also be employed to produce any number of copper and copper alloy flat-rolled products, our company is like many other brass mills in that we can switch production between various products to meet demand.

Brass sheet and strip is a critical element to the product mix at PMX and the other mills by virtue of the high volume entailed. Thus, a certain production level of brass products must be achieved in order to sustain our operations.

Brass sheet and strip is a commodity product and highly fungible. It competes in the U.S. market on the basis of price. PMX competes head-to-head with other domestic producers and importers selling brass sheet and strip with price being the key factor determining who gets the sale.

Given the decline in demand for brass sheet and strip in recent years, the U.S. market for this product has become extremely competitive. Even a small difference in price results in winning or losing a sale.

As I previously mentioned, PMX makes ongoing capital investments to increase our efficiencies. Despite our continuing effort to remain a highly efficient producer, I am very apprehensive about the future of my company if any of these orders were to be revoked.

While the orders have allowed PMX to justify the sizeable capital investment we have made in our Cedar Rapids facility and have given us the ability to make additional capital improvements, the ability to generate a return on investment from our mill would be minimized if revocation occurred, putting future investment, production and employment at serious risk.

Given the large capacity to produce brass sheet and strip that exists in the subject countries and the attractiveness of the U.S. market, it is reasonable to expect increased exports from these countries if the orders are revoked. Any claims by Respondents that they would not return to the U.S. market or would only sell a limited volume, are simply unrealistic. If the orders are revoked, there will be nothing to prevent the unrestrained imports from increasing in the U.S. market. An influx of subject imports into the U.S. market at unfair prices will have consequences for our industry.

These dumped and subsidized imports will undercut our prices, making it impossible for our products to compete and for PMX to be profitable. The deterioration in prices that would be caused by revocation of the orders would lead to a reduction in our revenue, our profits and our ability to continue to invest in capital improvements.

The intensely competitive nature of the U.S. market for brass sheet and strip reinforces my concern. Current low profit margins for the U.S. industry demonstrate that the U.S. brass sheet and strip industry is in a vulnerable condition.

If these orders were revoked, low-priced offers from importers of the foreign product would become the price that PMX and other domestic producers would have to meet. We cannot afford any further reduction in our prices and profit margins.

In sum, revocation of any of the orders would lead to history repeating itself. On behalf of PMX, I urge you not to revoke the outstanding orders on brass sheet and strip.

Thank you.

MR. HARTQUIST: Thank you, Doug.

We now move to Kathy Cannon.

MS. CANNON: Good morning. I am Kathleen Cannon of Collier Shannon Scott. My testimony today will address the issue of cumulation, including the arguments Respondents have raised in an attempt to prevent cumulating imports from Brazil and Germany in this review.

Let me clarify from the outset. We are only urging the Commission cumulate imports from Brazil, France, Germany, Italy and Japan, but have not included Canada in this group. Data available to us at this point indicate that there is no capacity to produce brass sheet and strip in Canada. If that is confirmed, there is no longer a need for the order.

Despite the Commission's decision to cumulate subject imports both in the original investigations and in the first sunset review, both Eluma and the German producers urged the Commission not to cumulate imports here. Their objection to cumulation is not surprising, given the massive collective foreign capacity and import volumes that could and likely would be redirected to the U.S. market if revocation occurs.

Their attempts to justify decumulating imports from Brazil and Germany, however, have no merit. Both Respondents begin by claiming that there would be no discernable adverse impact from imports of either country because imports from each country alone are not likely to cause injury.

Indeed, the Eluma argument that there would be no discernable adverse impact of imports from

Brazil in its cumulation analysis which appears at pages 6 to 9 of its brief is virtually identical to its argument that these imports would not cause injury, which appears at pages 23 to 26 of its brief.

These identical arguments in both the cumulation context and the injury context misapprehend the legal standard. As the Court of International Trade stated in the Yusnor IndoSteel case, "The no discernable adverse impact test in a cumulation context cannot be treated as tantamount to a requirement of proving injury on an individual country basis as such an approach would defeat the purpose of cumulation."

Moreover, the reasons Respondents give as to why these imports would have no discernable adverse impact are unfounded. Both Respondents assert that imports from the subject countries were declining in the original investigation over the 1984-1987 period, while the U.S. industry's condition was improving.

In fact, in looking at the information presented in their briefs one would wonder how an affirmative decision was reached initially. The answer is Respondents are looking at the wrong time period and are looking at only a part of the Commission's analysis in the original investigations.

Most notably, the period at issue in the original investigations of Brazil and Germany began in 1983, not 1984, and extended through 1985 and interim 1986. Based on an examination of the actual period of investigation, the Commission found subject imports were increasing. The Commission also found that imports from Germany were by far the largest single source of imports at that time.

As to the U.S. industry's condition during this period, the Commission found "adverse trends in almost all of the indicators traditionally considered by the Commission."

In the second set of cases filed against imports from Japan and the Netherlands in July 1987, the Commission also found that subject imports were increasing over the time period at issue. Respondents' arguments are based on data from the wrong time period.

Another flaw in Respondents' arguments on the volume trends in the original investigations is that they are based only on the six countries at issue here and aggregate all of those imports. The Commission, however, properly cumulated imports from the countries subject to each of the original investigations, including those not at issue here.

Respondents' analysis improperly aggregates volumes of imports from two different investigations spanning different periods of investigation. It is improper to try to compare the collective volume effect of subject imports across different investigations just as it is wrong to ignore the original effect of imports from Korea, Sweden and later from the Netherlands simply because the Commission subsequently revoked those orders.

The German Respondents go on to cite zero or de minimis dumping margins by Wieland in the early 1990s as the basis for a no discernable adverse impact finding. Wieland argues that Commerce departed from its normal practice by refusing to revoke the German order despite three years of zero margins and claimed that because the German producers did not increase imports at a time when dumping margins were zero the Commission should find no increase in imports would occur if the duties were revoked here.

This argument fails on several counts. First, Commerce refused to revoke the order because it found that Wieland was able to sell without dumping only by selling very small quantities of subject brass in the United States. In fact, in the review period Wieland cites, Wieland had only a single U.S. shipment that was a mere fraction of Wieland's preorder volume.

Commerce also found that Wieland was likely to resume dumping if revocation occurred, particularly because it would want to supply its related U.S. re-rolling facility with strip at dumped prices. This result is fully consistent with Commerce's practice of only revoking an order if it finds no likelihood a company will resume dumping.

Second, Wieland's arguments have the situation exactly backwards. As Wieland itself has stated, Wieland sold very small quantities of brass in the U.S. market at non-dumped prices in the early 1990s because it could not sell other types of brass without dumping.

Commerce recognized that Wieland's small volume of non-dumped sales does not show what would happen if the orders were revoked and Wieland were free to sell large quantities of brass unrestrained in the U.S. market.

In fact, it was Commerce's finding that Wieland had an incentive to resume dumping to supply its U.S. re-roll facility and to maximize its capacity utilization that led Commerce to refuse to revoke the order. Rather than supporting Wieland's claim that this case showed Wieland would be unlikely to increase dumped sales if the orders were revoked, the Commerce finding indicates just the opposite.

Finally on this issue, I note that the zero dumping margins applied only to Wieland. Commerce did not find that the other German brass producers were not dumping. Both Eluma and Wieland predicate arguments on their own data while ignoring other producers in their countries, particularly non-responding producers.

As Mr. Kerwin will discuss, the massive capacities to produce brass sheet and strip in both Brazil and Germany, coupled with other information showing likelihood of increased imports from both of those countries if revocation occurred, demonstrate that imports from Brazil and Germany would have a very discernable adverse impact.

Once the Commission resolves this inquiry, it must determine whether there would be a reasonable overlap of competition. Although the German producers contend that their product is of higher quality and does not compete with the U.S. product, that view is not shared by either U.S. producers or most purchasers.

As the prehearing report indicates, six of seven U.S. producers and 10 of 11 responding purchasers stated that the U.S. and German products were interchangeable. Overall, the Commission found a "high degree of substitution between brass sheet and strip produced in the United States and subject countries."

Record data also indicates that there has been and would be an overlap in channels of distribution, geographic markets and a simultaneous presence of subject imports from the five subject countries, as well as the U.S. product.

Finally, common conditions of competition support cumulation here. The volumes of all subject imports have declined substantially from preorder levels, none showing an ability to sell into the U.S. market at preorder levels without dumping.

All five subject countries have maintained or even increased capacity to produce the product and likely would export their excess capacity or would divert exports from third countries, including China, to the U.S. market if revocation occurred.

Let me make one final point on the record data. At the risk of repeating myself from the hearing last week on Polyester Staple Fiber, we are again in a case in which very few foreign producers have been willing to respond to Commission questionnaires, leaving you to determine what information to rely upon and whether the use of adverse inferences is appropriate.

While the German Respondents would have you just use the information they have given you and essentially ignore the existence of non-responding producers, you can't do that, nor can you assume, as Eluma urges, that any non-responding Brazilian company is small and uninterested in this market, particularly in light of record evidence we have submitted as to other significant production in Brazil.

Information submitted for the record from both public and proprietary sources shows substantial capacity in non-responding companies and incentives to export that capacity to this market. Once again I urge you to consider the use of adverse inferences in this case as the statute contemplates, as the Federal Circuit has approved in the Matsushita case and, frankly, as is deserved where major foreign producers subject to these orders refuse to answer questionnaires or otherwise cooperate in these cases.

Thank you.

MR. HARTQUIST: Thanks, Kathy.

Our last witness is Michael Kerwin of Georgetown Economic Services.

MR. KERWIN: Good morning. I'm Michael Kerwin of Georgetown Economic Services. This morning I'd like to discuss some of the conditions of competition in the U.S. market for brass sheet and strip and the likely volume and price effects of the subject imports in the event of revocation.

In making your assessment of the likely impact of the subject imports if the orders were revoked, it is important to bear in mind some of the conditions of competition prevailing in the U.S. market.

First, consumption of brass sheet and strip declined significantly during the period of review. While the Respondents would have you believe that an upturn in the U.S. market in 2004 brought a good year for the domestic industry, it was actually only an improvement in relation to 2003, which was a dismal year for the industry.

U.S. consumption in 2004 was actually lower than that in any year of the original investigations or in the first sunset review. In fact, between 1999 and 2004, U.S. consumption fell by 100 million pounds or 16.5 percent. The brass sheet and strip market is in long-term decline, and the position of the domestic industry is difficult even with the current orders in place.

Given the long-term contraction of the market, the domestic industry has taken steps to reduce its productive capacity. While the prehearing report shows that the industry's capacity increased in relation to the first sunset review, last week a revision was submitted to the Commission to correct the misunderstanding by one domestic producer which had reported its total capacity to produce all flat-rolled copper and copper alloy products rather than a product specific allocation.

The revised figures show that the industry has not increased its capacity in relation to the first sunset review and that capacity fell significantly over the current period of review.

Contrary to the assertions of the German Respondents that the problems of the domestic industry can be attributed to an overcapacity problem of its own making, individual U.S. companies have taken action to reduce capacity in line with demand trends.

Even with the downward revision in domestic industry capacity, however, the industry maintains ample capacity to produce brass sheet and strip. In fact, the industry not only has sufficient capacity to produce the entire volume of the product currently being imported from all source countries; it could actually produce enough to cover total imports from the peak period from the time of the original investigation. In short, the domestic industry is taking action to reduce capacity when it is feasible and necessary, but it has more than ample capacity to meet domestic demands.

The second major condition of competition prevailing in the U.S. market has been the major increase in the cost of production experienced by the domestic industry. As you've heard, the cost for basic raw materials, such as copper cathode and copper alloy scrap, has increased dramatically over the last two years.

While the industry's pricing mechanism allows the increased metal cost to be generally passed through to customers, high metal prices over the long term can have the effect of encouraging the use of alternative materials by users of brass sheet and strip.

Further, the domestic industry has faced large increases in production costs such as electricity and natural gas and has not been able to completely pass these through. As a result, industry operating profits declined substantially over the period of review both in absolute terms and as a percentage of sales value. Increased finished product prices have not been an indicator of improved conditions for the domestic industry.

In the face of these conditions of competition, the domestic industry is extremely vulnerable to the likely effects of the subject imports, and there's ample evidence the subject imports can and will increase if the orders are revoked.

While the Respondents have provided numerous reasons as to why they can't or won't increase their shipments in the event of revocation, these claims can be refuted fairly readily.

As an initial point, the central fallacy embodied in arguments of both the German and the Brazilian Respondents is that they're speaking on behalf of their respective industries. In point of fact, less than half of the known manufacturers of brass sheet and strip in Germany are participating in this review, and only one of the two known Brazilian producers is participating.

The brief filed on behalf of the participating German producers never even acknowledges that two large producers in Germany, MKM and KM

Europa, have not responded to the Commission's questionnaire.

Further, the German Respondents' brief asserts that its industry has consolidated and significantly reduced its capacity without acknowledging that the universe of German Respondents is larger now due to the inclusion of East Germany under the order in contrast to the limitation to West German mills at the time of the original investigation.

According to Petitioners' sources of information, MKM, located in the former East Germany, had a large increase in its flat-rolled capacity during the period of review. Petitioners' sources of information also show that the responding German producers have not had reductions in their overall capacity to produce copper and brass flat-rolled products over the period of review.

Both Wieland and Schwermetall showed capacity expansions, and Schwermetall's own materials describe it as the largest mill producing flat-rolled copper and copper alloy products in the world. As to Brazil, earlier this year Eluma announced a major capital investment intended to increase its output by 20 percent and expand its exports.

In contrast to the U.S. industry, there have been no brass mills that have been shuttered in Brazil or Germany since the time of the last sunset review. Even if the revised data of the responding German producers are taken at face value, however, the public figures show that these participating producers had an average of 51.4 million pounds of excess capacity in the last two years of the period of review.

Given that U.S. imports from Germany peaked at 69.5 million pounds in 1984 and that responding producers represent only part of the true industry producing brass sheet and strip in Germany, it is clear that in the event of revocation the German industry could readily resume shipping the subject products in volumes above those during the period of investigation.

The Respondents in this review also assert that they will not ship significant volumes to the U.S. market because the Asian market, most notably China, has become far more attractive. In point of fact, however, Chinese import statistics show that imports of brass flat-rolled products from Germany, Brazil and each of the subject countries other than Italy actually declined between 1999 and 2004.

There's also ample information showing that

China is rapidly developing its own industry to produce brass sheet and strip and will require far fewer imports in years to come.

Respondents also argue that the recent weakness of the U.S. dollar essentially prohibits foreign producers from shipping to the U.S. market in significant quantities. Obviously historical trends and exchange rates do not preclude the opposite trends from taking hold in the future.

Even under the recent trend in dollar depreciation, however, exports of many commodities from the subject countries to the United States have increased contrary to any arguments as to the centrality of exchange rates in the calculus of whether or not to ship to the U.S. market.

Specifically, U.S. imports of copper sheet and strip from Germany, a product made primarily by the same companies that make brass sheet and strip, nearly tripled between 1999 and 2004, despite a depreciation in the U.S. dollar in relation to the euro of 16.8 percent over that period.

As to Brazil, the dollar has actually strengthened substantially in relation to the real over the period of review making Brazilian imports significantly more attractive in the event of revocation.

The German Respondents have also made some arguments that are specific to their industry. First, Wieland has argued that its establishment of a U.S. subsidiary means that the German parent company no longer needs to export from Germany to supply its U.S. customer base.

This line of reasoning overlooks one critical point. The U.S. subsidiary, Wieland Metals, is a re-roller, not an integrated brass mill, and thus has every incentive to import re-roll material from its German parent to further process in the United States. Because re-roll is subject material, Wieland is likely to take advantage of any revocation by importing the product from Germany, an action which would directly reduce U.S. producers' shipments.

The German Respondents have also asserted that they will not ship significant quantities of brass sheet and strip to the United States because they have made quality their principal focus, and their business model is now geared around high performance alloys.

As noted by Mr. Rupp and Mr. Bartel, however, it is simply not feasible to succeed as a large copper and brass flat-rolled producer by making niche products exclusively. Production runs for niche products are simply too short to allow economic functioning of these productive assets without being supplemented by some substantial amount of commodity throughput, most notably brass sheet and strip.

Finally, I'd like to say a quick word about the likely price effects of the subject imports. The Respondents in this review have asserted that the extremely limited pricing evidence shown in the prehearing report is somehow indicative of a pattern of overselling by the subject imports.

In fact, an extremely small amount of pricing data have been presented for a single product from a single subject country, so the pricing data in the current sunset review are of no broader significance.

Because of the limited volumes of subject imports currently entering the United States market, the only meaningful import pricing data to analyze are those from the original investigation, which indicated clearly that the subject imports were underselling the domestic industry on a regular and significant basis. Those data should be taken as an indication of the likely price effects in the event of revocation.

In summary, the evidence on the record in this review shows that the domestic industry is in an extremely vulnerable condition, but the import volumes from the subject countries are likely to be significant in the event of revocation and that the return of those substantial quantities of subject imports would have significant adverse effects on domestic producer pricing.

In the face of the industry's vulnerability, the effects of the subject imports in the event of revocation would be extremely destructive.

Thank you for allowing me to address you this morning.

MR. HARTQUIST: Mr. Chairman, that completes are affirmative testimony, and I, before we move to Q&A, would just like to introduce Jeffrey S. Beckington, who is also on our panel. I was remiss in not introducing my partner during the initial introduction.

CHAIRMAN KOPLAN: Certainly. Welcome.

Before we begin the questioning, let me just say because of the number of witnesses if you would reidentify yourselves each time you respond to a question it would make it much easier for the reporter.

With that we'll begin the questioning with

Commissioner Pearson.

COMMISSIONER PEARSON: Thank you, Mr. Chairman. Permit me to welcome the panel. It's always a pleasure to have people in front of us who know so much about an industry about which I know relatively so little.

My direct exposure to brass largely has been through musical instruments and so my first inquiry is is it brass sheet and strip that's used to make trumpets and tubas and saxophones and trombones?

MR. BARTEL: Warren Bartel. Yes, sir.

COMMISSIONER PEARSON: Okay. Good. I assume there's a variety of thicknesses and whatnot depending on the instrument that's being manufactured?

MR. BARTEL: That is true.

COMMISSIONER PEARSON: Okay. Good. Well, then I do know something about this product.

I'm wanting to follow up a little bit on the discussion of what's happened to U.S. apparent consumption. A number of you have mentioned this. I take it that you anticipate that there will be some continued movement of consuming industries offshore such that the domestic demand for brass sheet and strip may decline.

Has there been any study or analysis of this trend such that you might have a sense of how much further that trend can go before you might reach the floor level of support of industries that aren't likely to leave?

Mr. Mayer, has your trade association looked at that?

MR. MAYER: As a matter of fact, we have looked at it to some extent. We participated in hearings before the Small Business Committee of the House of Representatives chaired by Chairman Manzullo, who is very concerned about this.

They didn't examine in particular our downstream customers, but Chairman Manzullo, his district represents tool and die makers to a greater extent.

VICE CHAIRMAN OKUN: Mr. Mayer, I think people are having a hard time hearing in the back. If you can pull that closer to you?

COMMISSIONER PEARSON: Thank you, Madam Vice Chairman.

MR. MAYER: In any event, Chairman Manzullo has some statistics on tool and die manufacturers in his district who have moved offshore or gone out of business, and I think it was on the order of from a total of 4,000 down to 1,500.

I don't know if it's that dire in our industry, but I do know that our brass rod producers, for example, with a market of roughly a billion pounds a year feel that 200 million pounds have moved offshore.

COMMISSIONER PEARSON: So what types of customers are most likely to move overseas? You mentioned tool and die. Is that an obvious customer that would shift out of the U.S.?

Mr. Rupp?

MR. RUPP: Commissioner, the types of industries that have moved offshore and some of the markets that our products go into, our products go into electrical products. They go into home building products.

Like the musical instruments, we make doorknobs and kickplates and hinges and those kinds of things. They go into plumbing for faucets, faucet manufacturing in your home, so what we call building products. They also go into automotive connectors and into electronic type of connectors, which would be in your laptop computer and in your automobile.

There has been in the home building type of products a migration of manufacturing out of the United States into the Asian region, as well as we're starting to see electrical products that are now being manufactured in that region.

Coinage and ammunition products continue to be manufactured in North America, and automotive electrical is in flux. Obviously with what's occurring with the automotive industry and what's happening with their tier one suppliers, there is some of that that has moved and a question as to how much of it will.

Just to recap, there has been a fair amount of migration of consumption out of the United States into primarily China, but into the Asian region.

COMMISSIONER PEARSON: Okay. In the domestic industry's brief that was submitted on page 22 it was indicated that U.S. consumption of brass for automotive electronics is likely to decline in the near future. I think you just made reference to that. Could you elaborate?

I mean, what is it that we see in the near future? Do we expect a decline in the production of automobiles in North America, or do some of the companies use brass that came from overseas to manufacture automobiles in the United States?

MR. RUPP: I think that the statement is originally I think there was a sense that automotive electrical connectors probably would remain in the United States because of the just-in-time inventories that are required by the U.S. automotive manufacturers.

I think really what the concern here is is with what's happened with the Delphi bankruptcy, with what's happened with Ford, et cetera. I think the concern is that their drive to lower their costs will force them to manufacture more components offshore.

You know, what we're saying here is the U.S. consumption for automotive will likely decline, leading to severe negative consequences. I think that's really why we believe that there's the potential for that to occur.

COMMISSIONER PEARSON: So as a practical matter if more of the automotive parts industry shifts overseas and the supply chain adjusts in order to provide those products --

MR. RUPP: There is a sense that that can occur.

COMMISSIONER PEARSON: -- then we would expect whatever brass is in those products to probably have originated overseas and then come in as part of the product, part of the component?

MR. RUPP: There is a concern that that

could occur, Commissioner.

COMMISSIONER PEARSON: Okay.

MR. BARTEL: Excuse me, Commissioner. Warren Bartel. If I could just add? I believe also with the change in fuel standards, emission standards, there is an increase in the temperature under the hood of the automobile forcing a technology change away from 200 series brass products to higher performance alloys, which are beyond what is covered in the scope of this investigation, so that is also a negative trend for 200 series brass consumption in the automotive area.

COMMISSIONER PEARSON: Okay. Would it still be likely a brass alloy of some sort; just a different grade?

MR. BARTEL: Yes, that is correct, but a higher performance alloy is not something that is covered under this order.

COMMISSIONER PEARSON: Okay. Is it possible without jumping into conjecture to give some sense of how great the decline in demand might be over the next five or 10 years?

I really don't have a sense of that, whether we're likely to see 10 percent of the demand dwindle or 50 percent. Do you have anything you could say to comment on that?

MR. RUPP: I think that the only reference that we could give, Commissioner is that in the 1990s we had an industry that was growing and went from a consumption rate of 1.1 or 1.2 billion pounds -- I'm talking about the total strip consumption as a proxy for what's happening with brass sheet and strip -- up to a total consumption level of like 1.6 billion pounds.

In 2001, that market dropped down to the 1.1 billion pound range, and we have not seen restoration of those volumes.

COMMISSIONER PEARSON: Okay. If there is any industry study that could be put on the record talking about the prospects for demand I would be pleased to see it.

I understand the difficulty of projecting forward. For heaven's sake, I can barely explain the past, much less predict the future. Knowing that industries often do these types of things, if there is one please have it on the record.

Okay. Given that we have been for several years in an environment of declining demand, why has this industry been able to maintain its capacity and then to some degree suffer from relatively high levels of unused capacity as the demand has tended to dwindle? What has kept capacity running in this industry or kept capacity existing in this industry? Excuse me.

Mr. Kerwin, are you seeking the floor?

MR. KERWIN: Yes. Thank you. One of the things, as I mentioned in my testimony, is that we have made a revision to the industry statistics, and it's fairly substantial.

I think what you will find with those revisions is that at the beginning of the current period of review capacity is roughly comparable to that at the time of the first sunset review and that capacity to produce brass sheet and strip has contracted over the current period of review.

Now as to your question as to why it is that you've maintained capacity in the face of declining production or declines in demand for the particular product, I'll throw that back to some of the industry experts, but I will mention one factor, which is that these are massive, massive facilities. They are designed to run 24 hours a day, seven days a week, and they are extremely large investments.

You don't shut down some element of the overall production. You maintain the total capacity on your hot-rolling mills or your casting capabilities.

COMMISSIONER PEARSON: Right.

MR. KERWIN: As well as the subject product, these mills also produce a number of non-subject products so as the demand for brass sheet and strip might decline it's not something that you can do incrementally. You have to shut down an entire mill or leave the mill at the rated capacity.

COMMISSIONER PEARSON: Mr. Kerwin, you probably can't see that my light has changed and so let me pass.

CHAIRMAN KOPLAN: Thank you.

Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Mr. Chairman. I want to join my colleagues in welcoming such a large panel of industry witnesses. We appreciate your taking the time to be with us this morning.

I want to start by asking some questions about the way that you price your product in this market to make sure that I understand the different components that go into the pricing.

First, I understand that there is a mechanism that is used to pass on raw material prices to your customers. I'm hoping that one or more of you can explain to me how that works, what index it's based on, how often that surcharge, if that's what you call it, is reevaluated and how it fits into the overall price negotiation when you make a sale.

MR. BARTEL: Warren Bartel. Our raw material is priced on the COMEX exchange, part of the U.S. Mercantile Exchange. COMEX is the basis for the commodity price. The producers, the refiners and smelters, put a premium on top of the daily commodity price that they charge us for the raw material, and that is a pass-through to our customers.

As a fabricator, we take the acquisition price, and then we will adjust the premium on the metal upwards slightly and then add a fabrication charge for our value-added. That becomes the basis of the sale.

It's a similar mechanism, but the LME metal exchange is used for the commodity price, and they use a metal premium on top of that plus the fabrication charge as well.

COMMISSIONER ARANOFF: So just to make sure I understood you correctly, you said you start with the index price for the metal. There's a premium that's added by the producer of the metal that's charged to you which you pass on. You add your own premium to that.

MR. BARTEL: Correct.

COMMISSIONER ARANOFF: And then your conversion cost?

MR. BARTEL: That is correct. Recently there have been a series of efforts for us to recoup escalations in transportation charges and energy charges, so generally in many cases, if not all, there will be a transportation surcharge, and very recently, and by recently for my company only in the last month, we've started an effort to collect an energy surcharge to help us offset the escalation in the cost of energy that we're paying to our energy suppliers.

COMMISSIONER ARANOFF: I appreciate that answer. In fact, it anticipated my next question.

Let me just understand. The way that you charge for raw material, that's been consistent throughout this period of review and perhaps before that?

MR. BARTEL: That is correct. However, the producer surcharge that we pay to our cathode suppliers had been stable in the early years of this review and would move only slightly and generally only once a year. That situation has changed during the last two years where the moves are occurring more often and they have been more aggressive in moving the premium.

That was the initiation of a metal surcharge where we attempt with our customers to recoup the premium changes that are within the terms of our agreements with our customers.

COMMISSIONER ARANOFF: Okay. I appreciate that. Now, it's the timing of all of that that I'm trying to wrap my arms around. When you negotiate a sale with a customer, what metals price are you charging them, the price on the day that you agree to the sale? The price on the day that you actually buy the raw materials that are going to be processed for them?

MR. BARTEL: The customer has the option of taking the price on the day of the order or the price on the day of delivery, and if they choose to take on the price on the day of delivery they order it for a specific period to be delivered, and generally that's a week. We will sell the material to them on the future price that we would pay to replace that material in that week of delivery.

COMMISSIONER ARANOFF: Okay. You indicated to me that at least for your company you only just began an energy surcharge. You mentioned a transportation surcharge. Is that a recent industry practice as well?

MR. BARTEL: The transportation surcharge is less than two years old in our company's instance, and it is what we experienced with the run up in the price of fuel.

Our trucking companies delivering our product were hitting us with energy surcharges or, excuse me, transportation surcharges. We make an effort to recoup as much of our cost escalation as we can, but all of this becomes part of the price negotiation with our customers. It is not uniform. It is not even.

At the end of the day, the customer is concerned about what is the total acquisition price that they're going to pay, and that's what they're taking to the market to our competitors.

COMMISSIONER ARANOFF: Right. I was going to say, in a number of industries where we've seen similar kind of raw material and energy surcharges and we've said to people are your customers paying the surcharge, and you get an answer like yes, they're paying 100 percent of the raw material surcharge, but they're negotiating a 20 percent decrease in the base price.

I'm trying to figure out obviously how all of this goes together. In a way you're sort of charging separately for all the pieces that go into your product now. What elements are left in terms of your costs that are being covered by the conversion price that you're charging? When you go into a negotiation, which of the pieces, the surcharges or your conversion cost, is getting negotiated?

MR. BARTEL: Everything that is above the commodity price is negotiated, and it is the total of the value that is above the commodity price that is subject to negotiation.

COMMISSIONER ARANOFF: And that's just because the commodity price piece is so well established in the industry that people don't argue about that one?

MR. BARTEL: We cannot negotiate that with our suppliers and so we can't negotiate it with our customers. We can't control it. It changes daily. It in fact changes during the course of the day.

COMMISSIONER ARANOFF: When you say that the commodity price piece is not negotiable, are you including the pass-through of the premium that your supplier charges or of the premium that you put on?

Are those in the negotiable or the not negotiable category?

MR. BARTEL: Everything that is above the published commodity price is negotiable.

COMMISSIONER ARANOFF: Okay. Thanks. Thanks for clarifying that. That helped.

Looking at it from the cost side -- and this is a conversation that I was having with our staff here yesterday -- once you start sort of separating out your price into separate elements and you've got the commodity cost, and you've got the energy, and the transportation and then you're charging up a conversion price what other costs are left that go into the conversion price?

There's the labor cost. What else is there?

MR. BARTEL: Well, there's labor, there's R&M, there's tools and supplies, but please don't misunderstand when we talk about transportation surcharge it is only the increment of escalation. There is the basic transportation cost is there. The basic cost of energy is in the fabrication.

It's only the recent escalation. The same with the metal premium. It's only the escalation that is very recent that we're attempting to recoup.

COMMISSIONER ARANOFF: Well, Mr. Bartel, my yellow light is on, and I appreciate all your answers.

If any of the other domestic producers who are here today have slight differences or modifications in the way that your companies go about this pricing equation please feel free to put that in your post-hearing brief. It would be very helpful.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

MR. HARTQUIST: We'll do so. Thank you.

CHAIRMAN KOPLAN: Actually, I was going to ask Mr. Rupp and Mr. Burkhardt whether they did have anything to add or was Mr. Bartel speaking for them as well?

MR. RUPP: Commissioner, our methodology is very similar to what Mr. Bartel has described.

CHAIRMAN KOPLAN: Thank you, Mr. Rupp.

Mr. Burkhardt?

MR. BURKHARDT: Yes. I'm in agreement also.

CHAIRMAN KOPLAN: Okay. German producers argue at page 3 of their brief "whatever problems the domestic brass sheet and strip industry faces have nothing to do with imports, nonsubject or subject, but instead appear to result from increasing raw materials and energy costs and an apparently substantial overcapacity problem entirely of its own making."

I've heard your discussion just now about how you treat these yourself. Tell me, do subject producers face comparatively similar increased costs for their raw materials and energy that has occurred over the same period?

MR. RUPP: Commissioner, I would think that they have the same issues that we have. The raw material for the copper is basically a universal issue whether it's COMEX, or LMA-based, or Shanghai-based. Energy is an issue both in Europe and here as well and fuel for transportation is an issue, so I would assume that they have the exact same issues that we have.

CHAIRMAN KOPLAN: Thank you.

Mr. Burkhardt and Mr. Bartel, do you agree with that?

MR. BARTEL: Yes.

CHAIRMAN KOPLAN: I see you both nodding yes. Thank you. Let me stay with the domestic producers if I could. The German producers state at page 10 at footnote 13 of their brief that on January 6 they corrected their capacity data. They explain the capacity data first reported was total rolling capacity, but that slitting and scrap losses limit actual capacity to a much lower figure.

"An efficient producer will lose about 20 percent of its production volume through such cutting, although the resulting scrap can be remelted and reproduced." Do you agree with their estimate of the relationship of actual capacity to rolling capacity?

Mr. Bartel? Mr. Rupp? Mr. Burkhardt?

MR. BARTEL: Yes, there is yield loss that comes from slitting and processing of the raw material produced at casting, but when we speak of capacity we speak of capacity out the door that is net of the yield loss. So when we respond to the questionnaires from the Commission and we talk about capacity we talk about yielded capacity. Those are the numbers that you see from us.

CHAIRMAN KOPLAN: Okay. Let me see if I understand this then. So I think what you're saying is that that scrap loss is taken into account in your estimate of capacity that's reported.

MR. BARTEL: That is correct.

CHAIRMAN KOPLAN: I see, Mr. Rupp and Mr. Burkhardt, you're nodding in the affirmative as well. Thank you for that. I appreciate it. I wasn't sure how that worked.

Mr. Kerwin, Eluma asserts at page 7 that "Brazil has historically not been and is unlikely to become a commercially significant presence in the U.S.

market." They go on and say "imports from Brazil were on a downward trend long before any trade relief petition was filed and the countervailing and anti-dumping duty orders against Brazil were imposed in 1987."

That's the end of their quote. I note that Brazil did not participate in the first review. Your brief includes import statistics for the period 1983 to interim 2005, January and October of that year, at Exhibit No. 2 and with regard to Brazil the quantity of imports in 1985 was lower than in 1983.

How might a factor in that decline trend when I am assessing the beneficial affect of the orders with respect to Brazil?

MR. KERWIN: Let me make sure I understand your question. Your question is how would you analyze the benefit of the orders if the imports from Brazil were already on the decline before the order was put into place? Is that correct?

CHAIRMAN KOPLAN: And that trend is continued. Yes.

MR. KERWIN: Well, it's not surprising that the trend has continued since the order has been put into place.

CHAIRMAN KOPLAN: No. I understand that,

but I'm going back and coming all the way forward from the original.

MR. KERWIN: Yes. You're correct that the imports from Brazil did peak in 1984.

CHAIRMAN KOPLAN: Okay.

MR. KERWIN: As far as the timing of the investigation and the filing of the petition my memory doesn't serve me exactly what the date of that filing was and what impact the filing of the petition --

CHAIRMAN KOPLAN: Do you want to go back for purposes of post-hearing and take a look at all that --

MR. KERWIN: Yes.

CHAIRMAN KOPLAN: -- and maybe respond in more detail?

MR. KERWIN: I would appreciate that. Yes.

CHAIRMAN KOPLAN: No problem. I'd appreciate you doing that. Thank you.

Mr. Hartquist, Eluma asserts at page 13 that U.S. domestic demand for brass sheet and strip has declined over the period of review and that the cost of raw materials and energy has significantly increased as well leading to lower profits that cannot be blamed on import competition.

They go on to assert at page 14 that imports from nonsubject sources have captured an increasing share of the U.S. domestic market and exceeded subject imports in 2004. What is your response to the thrust of their argument that the poor performance of the domestic industry over the period of review is due to these factors and that revocation really would not be a significant factor?

I know I'm going to be hearing that this afternoon.

MR. HARTQUIST: Yes. I'm sure you are, Mr. Chairman. Well, our response would be they're correct in terms of the decline in the demand in the industry as we have testified in the affirmative testimony and that's a condition of competition in the U.S. marketplace, but our point is that these foreign producers have considerable capacity that is available to ship into the U.S. market but they have --

CHAIRMAN KOPLAN: Are you addressing the nonsubject sources? Because remember I asked you to address that. That was part of their argument.

MR. HARTQUIST: Yes. Imports from nonsubject sources have increased also contributing to the conditions of competition in the U.S. marketplace, but our concern essentially is that if these orders are removed those producers in the subject countries that have remained in the marketplace, although at relatively small levels, have the current capacity to come back in and every incentive to do so.

So the combination of these factors, the ability of the subject countries to come in without the discipline of the dumping orders along with the presence of nonsubject imports and the decline in the market for these products puts the domestic industry in a very vulnerable situation.

CHAIRMAN KOPLAN: Thank you.

MS. CANNON: Mr. Koplan, might I just add, too, on that?

CHAIRMAN KOPLAN: Yes, Ms. Cannon.

MS. CANNON: As a legal matter both Eluma and the German statement on page 3 that you cited earlier seem to suggest that there is a requirement that the subject imports be injuring the U.S. industry at present and tend to argue that any problems the industry has had over the period of review are not due to subject imports, but legally that is an incorrect analysis because the presumption is that with the orders in place the industry should not be currently experiencing injury from subject imports.

The real inquiry is is the industry vulnerable as the result of other factors such that if subject imports were permitted to return at dumped levels injury would recur. So I think the analysis that both have presented is somewhat predicated on a false legal assumption.

CHAIRMAN KOPLAN: I appreciate what you're saying. It was actually pages 13 and 14 that I was referring to, not three.

MS. CANNON: Yes, of the Eluma brief and I was referring to page 3 of the German brief you had cited earlier where a similar point is made by them, but for the reasons Mr. Hartquist gave the factors that show we are currently vulnerable place us in such a position that if they were to come back in injury would recur, not that they're causing us injury at present.

CHAIRMAN KOPLAN: Thank you.

Mr. Hartquist, I'm going to stay with Eluma's brief for a moment if I could. At pages 7 and 8 they argue that "Brazilian producers remain heavily oriented to the home market and thus do not have the incentive to divert sales to the United States. Shipments to home market have continued to grow during the POR representing more than" and the percentage is bracketed "of production in 2004."

"As a result Eluma's export to third-country markets have declined steadily during the same period." They claim that their increasing sales for their home market occurred in spite of the fact that average unit values for brass sheet and strip in Brazil were much lower than in its export markets.

If you could respond to that and when doing so tell me first whether you dispute the bracketed percentage of their shipments they say went to their home market in 2004? Also, they claim that this trend with respect to their domestic shipments actually increased in interim 2005 and do you dispute that? I see my light's about to go off, so --

MR. HARTQUIST: I presume we should probably do that in the brief since we're talking about bracketed data.

CHAIRMAN KOPLAN: Yes. You can do that.

MR. HARTQUIST: We'll be happy to do that.

CHAIRMAN KOPLAN: That will save me from my red light going on, and it just did go on. Thank you. I look forward to your response in the post-hearing.

Vice Chairman Okun?

VICE CHAIRMAN OKUN: Thank you, Mr. Chairman.

I join my colleagues in welcoming you here today, welcoming back several of you. We appreciate you, again, taking the time to be with us and to answer our questions.

It's good to hear, again, the discussion of the conversion factor that we had talked about before and Commissioner Aranoff's questions helped me remember how it is that this particular industry sets its prices and that was important to be reminded of that.

Let me start or let me continue I guess with the questions about Brazil. I did want to just follow-up which we can talk about publicly here just in terms of whether you think the importance of the home market to Brazil, which we see in our statistics here, whether you think there's any reason that would shift in the near future.

Maybe actually, before you comment on that perhaps you had referenced in the brief, Mr. Hartquist, the Brazilian Trade Association data which will appear on our final staff report, so we now have that information and the foreign producer questionnaire response from Eluma.

I wanted to know from you, or Ms. Cannon, or Mr. Kerwin, whether you think that means we have a fairly complete picture of the Brazilian industry or not?

MR. HARTQUIST: No. As we've testified we don't think you have a complete picture of the industry because the Trade Association data does not include any proprietary information of at least one other significant Brazilian producer. So we think you really have fragmentary information from Brazil based on just Eluma's data.

VICE CHAIRMAN OKUN: Okay. I want to go back and look at that Trade Association data. I had one other question on that.

In terms of, and I don't know if the producers would have any sense of this or Mr. Mayer, but one of the issues we've talked about is automobile production in Brazil and whether you have information with regard to domestic laws in Brazil that require that the Brazilians are going to be buying autos built in Brazil and whether that would in your view increase the attractiveness of the Brazil producers, whether it's Eluma or the other ones, staying in their home market to feed auto demand and if you have any sense of how big that is.

Obviously I'm going to be asking them -- because it's not in their brief either -- this afternoon, but I did want to get your reaction to the auto industry part of it.

Mr. Bartel?

MR. BARTEL: Yes. Commissioner, I'm not able to answer your question directly because our efforts to enter the Brazilian market with 200 series brass sheet and strip have been thwarted due to their duty and tariff organization, and so we have not been able to participate in that marketplace from my company.

VICE CHAIRMAN OKUN: Any other experience from any of the producers of Brazil?

(No response.)

VICE CHAIRMAN OKUN: All right. Well, if there is anything, and obviously I think that is a major portion, Mr. Hartquist, of the Brazilians argument with regard to why they wouldn't ship to this market, anything you could provide would be helpful.

MR. HARTQUIST: We'll be pleased to do so.

VICE CHAIRMAN OKUN: Okay.

MR. KERWIN: Vice Chairman Okun, if I could --

VICE CHAIRMAN OKUN: Yes, Mr. Kerwin?

MR. KERWIN: -- add one point? We did place on the record an article, actually two articles. One in which Eluma announced it was increasing its capacity by 20 percent and that was from 2005 and a separate article in which it stated that it had intended to increase its exports. So that's obvious evidence to the contrary.

VICE CHAIRMAN OKUN: On the export part. I mean, I guess my question is just I'm trying to get a better understanding of demand in Brazil and what it's likely to be in the future.

Then, Mr. Hartquist, I just did want to go back on the Trade Association data. Was your response that you don't believe that all the producers in Brazil are part of that general data set, that they have nonresponding, or you just don't know?

MR. HARTQUIST: I don't know the answer to that.

I'll ask my colleagues whether we have such information.

VICE CHAIRMAN OKUN: Ms. Cannon?

MS. CANNON: I believe it is not clear from the face of the document exactly who that includes. That was one of the questions we were trying to ascertain from the record, and I believe it's a question your staff has been probing and I don't think it's been resolved as yet.

As you know we had put separate information on the record about the other major Brazilian producer, Trimomoconica, the information that was available to us and I'm not sure that it jives with what that Trade Association data shows.

So I think the answer to your question is that your staff is still trying to look into it, but at least as far as we can tell now it isn't clear that it includes everybody. You certainly did not get anything specific from Trimomoconica in terms of responding to your questionnaire.

VICE CHAIRMAN OKUN: Right. I understand that part. Okay. I appreciate those comments. Then I wanted to turn to the arguments you've raised with regard to China and whether as China becomes a bigger domestic producer that what would have been German and Brazilian exports will need to find other homes. I wanted to ask specifically with regard to Brazil.

Again, I understand that you're saying we don't have complete data on Brazil, but if I look at what's in the staff report with regard to Eluma it would not appear to me that China has been a very important market for Brazil, and so I want to make sure that is your China argument focused on Brazil or is this just generally if I were to accumulate all the subject producers that generally that argument would -- and I know you attach this exhibit in your brief, but I just want to make sure that you think it's as important to Brazil as it is to the other countries.

MR. KERWIN: I'm not going to comment on the specific proprietary information that's in their questionnaire response, but yes, it is a general proposition that in relation to all the subject countries, the general proposition being that China has acted as a sponge for the excess capacity globally in the brass sheet and strip industry, and that it has drawn in a lot of the excess production that's gone on in the world generally and that as it's developing its own indigenous industry that level of intake there is very much likely to decline.

VICE CHAIRMAN OKUN: Okay. Then with regard to the China data -- I know you had pulled, there were a number of news articles attached in the exhibits you had -- is this an industry where there is analyst data available on China that would help put some of the numbers in perspective with regard to China's both capacity, consumption numbers, to help me better understand your argument?

We don't have access to that data, but I wonder if there's anything that can be provided for us.

MR. KERWIN: I'll start on that question.

It's a little difficult to grapple with because the data that are maintained typically are in relation to the broader market for copper and copper alloy flat-rolled products. A lot of the information that we've gleaned about, expansions and proposed expansions in China, have come from press sources.

As helpful as they are and sometimes they're incongruous with each other they're not always relaying the same information. So one article that I know we submitted claimed that China was very close to becoming self-sufficient in terms of its own consumption of production and consumption of flat-rolled copper and copper alloy products.

In my opinion in relation to some of the other industries that we've looked at the data here are not as well-developed as say the steel industry or the stainless steel industry, but I think we can make a good faith effort in the post-hearing brief to kind of put the numbers together and maybe do our own analysis of where we would see that heading and when China might reach a point of self-sufficiency.

VICE CHAIRMAN OKUN: I would appreciate that. I know you make a good point and staff had raised that as well that with this industry because you have just the general production numbers, capacity numbers, that anything we would get would be overstated in that sense. If you can take a look at it and give any sense of what you would look at I think that would be particularly helpful.

The other thing was --

MR. BARTEL: Excuse me, Commissioner? If I could add?

VICE CHAIRMAN OKUN: Yes, Mr. Bartel?

MR. BARTEL: Yes. There is copyrighted material published by a consultant named Simon Hunt, who is a Chinese expert, and he has regular publications and can speak directly to the Chinese investments and capacity growth, but it is copyrighted material.

VICE CHAIRMAN OKUN: Okay. Perhaps we can work with staff to understand whether that's something we have access to or that you could make available to us.

My red light's come on, Mr. Chairman.

Thank you very much for those answers.

CHAIRMAN KOPLAN: Thank you.

Commissioner Hillman?

COMMISSIONER HILLMAN: I would join my colleagues in welcoming all of you and thanking you for taking the time to be with us.

Just because we've just finished a little discussion on China I wanted to go back to just one issue to get your sense of it because as I hear it Mr. Rupp and a number of you have really commented on this issue of China and its role, and you've submitted Chinese import data that would show where these six countries have been exporting and as you've described it that there's been this big decline in the volume of product coming from the six subject countries going into China.

I will say in looking at the numbers that is true if you count 1999 data, but I will say if you look at it more broadly I have to say I don't see this decline that you're talking about.

I mean, if you look at the numbers you're seeing these six countries exporting on average somewhere between 9,000 and if you annualize the data in 2005 to me it would show 2005 being the second largest year of exports going into China.

So to the extent that your argument is really dependent on this notion that China is drying up as a purchaser of product from these countries like I said I'm needing something more because at least as I read the data these six countries sold more into China in 2005 than almost at any other period with the possible exception of 1999, which looks from the numbers to be somewhat aberrational in that there was a single large set of shipments out of Japan.

So part of me says this may be the case that China is going to become a net exporter, but it does not appear from the data that we have that that is something that has happened or that is likely to happen in the very near future in that it appears to me that China is still a very significant and larger importer from these countries than it had been say in 2000, 2001, 2002.

I mean, if you just look at it it's not clear to me. I can understand the trend may occur, but help me understand why you think it's already having an affect on the market.

MR. BARTEL: May I go first?

COMMISSIONER HILLMAN: Sure.

MR. BARTEL: I believe in the materials submitted to the Commission you'll see a Metal Bulletin report that speaks to 1.7 million tons of new Chinese flat-rolled capacity that will come onstream in the next two to three years. It's a Metal Bulletin report.

COMMISSIONER HILLMAN: Okay. I guess part of my concern is the will come onstream in the next two to three years.

MR. BARTEL: These are projects under construction.

COMMISSIONER HILLMAN: Again, that's for us -- again, the issue is because if I just look at the hard data that we have it is actually showing China increasingly importing this product. So that's where I'm struggling would be when do we think this is going to happen?

So if there is, again, Mr. Rupp, I'll let you respond as well.

MR. RUPP: No. I would just, Commissioner, amplify what Warren is saying is that there are brass mills under construction as we speak that will be, you know, one for example will be starting up in the first quarter of this year. It's the intention of the Chinese to become self-sufficient.

Our concern is we believe that it will parallel what has occurred in the steel industry and what has occurred in the aluminum industry over in China is that they will over build capacity to take care of their consumption and ultimately will find some of that backing up over here.

COMMISSIONER HILLMAN: Well, again, I realize there's a lot of sort of anecdotal information on the record. Whatever could be pulled together along with perhaps the information from this Mr. Hunt, if there's some way to pull this together because I've heard it and I've heard you referring to this exhibit.

I'm just being honest with you. This exhibit does not say to me what you've suggested which is that there is a big decline in the volume from these countries going into China.

So anything further you would want to add in the post-hearing, Mr. Hartquist or Mr. Kerwin, would be welcome.

MR. HARTQUIST: We will be pleased to do so.

COMMISSIONER HILLMAN: If I can then go to the issue of nonsubject imports. A couple of issues I would like you to address.

A number of you commented on the issue of the total capacity and/or excess capacity in the U.S. industry to produce this product, that there is extra capacity out there, yet Respondents are clearly arguing that it's the U.S. producers that are bringing in these nonsubject imports.

So my question to you all is why? If there is excess capacity in the U.S. market why are you bringing in significant volumes of nonsubject imports?

MR. BARTEL: If I could take that question, Commissioner, because Outokumpu Copper has a factory in the Netherlands that produces 200 series brass sheet and strip for automotive radiator applications and this product was covered by the original order, was subject to dumping duties. During the time it was covered by the order Outokumpu did not withdraw from the market.

It continued to produce and supply that product to the domestic market because it is the world's lowest cost producer of 200 series brass sheet and strip for automotive radiator application.

It has unique technology that specializes in producing this product for radiator applications, it has the dominant market share of this product throughout the world and it's because of its unique technology and its low-cost position in the marketplace that the order was vacated during a sunset review.

They continue to produce the product for radiator applications as they did during the period that they were covered by the order, but that's all that they do at that factory. That's the only product they produce, and they're the best in the world in doing it and have technology unequalled by anyone else in the world.

COMMISSIONER HILLMAN: All right. Thank you. I appreciate that answer.

Are there other comments? Yes?

MR. BURKHARDT: Just a quick comment, Commissioner.

Our parent company, Pun Song, in 2004 when the market was on the increase PMX was in the process of manning up to take care of that increase in demand and for a very short period of time we brought in some small amounts of 200 series alloy from our parent company only until the time when we were manned up and able to handle the increase in demand ourselves.

So it was a very short-lived situation and just something to carry us over until they got the new people hired and trained.

COMMISSIONER HILLMAN: Any other comments? Generally, if we look at the data on nonsubject imports we have -- again, I'm trying to make sure I understand from your perspective the role of nonsubject imports.

I hear your answer with respect to the Dutch imports and I understand the answer on the Korean side, but we've seen increases in nonsubject imports from Mexico, from Poland, from other places. I'm trying to understand how we should view the competition from those nonsubject imports versus what could happen if the order would be revoked with subject imports.

I hear you telling me the Dutch imports are different in both product mix, et cetera. They're different, they compete differently, but with respect to the other nonsubject imports how would you describe how they compete or would compete in the market versus subject imports?

MR. BARTEL: Well, I believe in the U.S. we have the largest market for copper and brass sheet and strip in the world, we are a target market for all producers around the world and they bring their product to market and we have to compete with them. If it's done on a fair basis and a level playing field that's part of the world we live in, and we have to compete and we do on a daily basis.

COMMISSIONER HILLMAN: To the extent, again, in the post-hearing brief if it should involve any confidential information if there is any other information that the domestic producers could put on the record to the extent that the domestic producers are the ones doing the importing I would like some sense of why.

I've heard the answer on the Dutch imports.

If there's anything else that could be put on the record to help us put these nonsubject imports into context that would be helpful. Then more on the legal side of it there is a part of me, I look at this order and I say okay, we revoked the orders on Korea, Netherlands and Sweden.

Part of me says we heard a lot of arguments at the time that we did the first review on what would happen if we revoked orders. Obviously there's some special differences there, but on the other hand why shouldn't what happened after the revocation of those three orders say something to us about what might happen if these six orders were revoked?

MS. CANNON: I would answer that by you have to look at the facts of each of those cases and why you revoked those orders. Sweden you revoked the order because they shut down production.

Here we have one country that's shut down production, Canada, as far as we can tell and we are not asking you to maintain that order, so that's a unique situation and revoking the order on Canada absent other information would be consistent.

For Pun Song, they established a U.S. integrated facility, PMX, and while arguments may have been made as to what might or might not happen that's a fairly unique situation. While Dieland is attempting to analogize itself to that and claiming that it has a U.S. facility as we testified that facility is a rerolling facility that will import the subject product from Germany.

So that's quite different. I think that makes it a very different scenario, not to mention that you have a lot of other German producers both participating and nonparticipating. So the German situation is quite different.

Then you have the Netherlands situation which as Mr. Bartel just testified involved a very discreet product, the radiator strip, and again, a related U.S. facility, Outokumpu American Brass, that was producing and supplying this market. You don't have that from any of the other subject countries.

You don't have a U.S. facility here that is supplying the U.S. market as you did with respect to both Korea and the Netherlands in the earlier case. So I think that the facts of those cases and the reasons the Commission gave to revoke those orders are very different from the facts you're seeing presented to you today.

COMMISSIONER HILLMAN: I appreciate that answer.

Thank you.

CHAIRMAN KOPLAN: Thank you.

Commissioner Lane?

COMMISSIONER LANE: Good morning. I would like to start with Mr. Kerwin. In looking at the pricing data for the U.S. production and the pricing for subject country product what conclusion do you reach as to whether the United States would be an attractive market versus the existing market for the subject countries based upon the existing pricing data?

MR. KERWIN: I think that as I mentioned in my testimony we have a limited amount of comparable pricing data between the subject imports and the domestic pricing information. Clearly the domestic pricing information shows that the fully loaded price for this product has been going up recently.

It's gone up significantly in the last couple of years and that's not surprising given what's gone on with the price of copper and input metals during this period.

On the other hand that's a common industry issue globally, and I couldn't say that is any indication in itself that the U.S. market would be more attractive than other markets in the world because copper is a global price, and so all producers around the world have been facing this same situation.

I think what's more salient is to go back to the pricing data from the original investigation as an indication of what would go on in this market in the event of revocation.

I do think that as a general proposition that the pricing in the U.S. market is generally reasonably attractive to many markets in the world and we do not have the types of barriers to entry such as someone mentioned the tariff into Brazil being 30 some percent or into China there are as I understand very significant tariffs and value added taxes.

So in that sense when you consider the lack of barriers to entry into this country in some ways this is indeed a very attractive market on a price basis.

MR. HARTQUIST: Commissioner Lane, if I may respond just a moment further the data in the staff report on pages V, XI, et cetera, are very mixed and very scant in some circumstances.

We can't comment on a lot of it because it's proprietary, but there seems to be a lot of disagreement about the relative level of prices in the U.S. market versus other markets and frankly I think that the data in the report makes it very difficult to draw any generalized conclusions because it's just not sufficient.

COMMISSIONER LANE: Well, actually, I may have been cheating.

Mr. Kerwin is an expert and probably has more access to information than what is in the report, and so I was just going to ask him in what you know about world markets for this product and what we've heard about Brazil exporting to other countries, and the Asian market and all of that have you drawn any conclusions as to whether it would be more profitable for the subject countries to be selling their product to other markets versus what they could get in the United States?

MR. KERWIN: Well, in some instances I don't think it's even that feasible for the producers to ship to other markets. As I said the ompantnous of, and the size of this market and the transparency of this market make it certainly one of the most attractive --

COMMISSIONER LANE: Okay. Mr. Kerwin, I hear you on that. Let's just focus on price.

MR. KERWIN: I think I we could probably put something together for you. Again, this does come back to the limitations of even these proprietary studies that may be put together. Are they specifically analyzing this specific product? Again, the materials that I've seen are not as satisfying and as useful as some of the information that is maintained on say the stainless steel industry.

I have not seen hard numbers maintained by independent analysts on this. What I'm basing my previous comments on was our discussions with the people in the industry, but I have found it difficult to precisely quantify from independent analysis. We will see if we can put together some information like that for the post-hearing brief.

COMMISSIONER LANE: I would appreciate it, and I, too, have a hard time remembering what is proprietary and what's not and that's why my question was somewhat vague because I didn't want to overstep the line, so post-hearing would be fine.

Now, I'd like to go to members of the industry. You were talking about how the facilities that you own can be used for brass strip and sheet and other products and that because the facilities are so large and they're so capital intensive that it doesn't make sense that you shut the facilities down, so I am assuming then that when you said that they can be run

24 hours a day, seven days a week that you are running them a lot more than just what you need for this particular product.

So could you tell me for all of the production at your facilities how much you're running them? Are you allowed to do that or is that proprietary also?

MR. BARTEL: I think capacity utilization is considered proprietary. I think we can answer that in the post-hearing brief.

COMMISSIONER LANE: Okay. Thank you.

MR. RUPP: Just to add to that, Commissioner, during the period of investigation from an Olin perspective we had a facility that we totally shut down -- I think that's in the brief -- in an attempt to try to adjust to capacity and that's in my earlier comments where we lost a large quantity of people that we laid off.

One of the other things that is done in some of these facilities is you have multiple pieces of equipment, and so you try to run it as efficiently as possible on a 24/7 basis, but you don't run all the equipment. For example we're not running all of our equipment as we speak, although we are running most of the facility on 24/7.

So I think, as Warren says, we can get more detail there.

COMMISSIONER LANE: When you do this in post-hearing would it be possible for you to quantify the percentage of your facility that is the capacity that is devoted to the BSS as compared to your total production?

I see, Mr. Bartel, that you're saying yes. Thank you.

In your opinion should rerollers which have no casting capability be included in the domestic industry producing brass sheet and strip?

MS. CANNON: Yes, Commissioner Lane. The Commission found that rerollers were part of this industry in the original investigation, and we agree with that conclusion.

COMMISSIONER LANE: Okay. Are there types of brass sheet and strip that you cannot or do not produce in the United States?

MR. BARTEL: Of the 200 series brass sheet and strip products we produce all of them.

COMMISSIONER LANE: I have another question, but it's somewhat long, so I will wait until my next round.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

Commissioner Pearson?

COMMISSIONER PEARSON: The brass sheet and strip industry exports some product. My sense is that the numbers show no increase in exports, probably a decrease during the period of review. Is there some prospect that exports would increase to Canada if indeed Canada no longer has the brass sheet and strip industry?

MR. RUPP: I think there is the possibility of that, although Canada is a very small market, but I think it would be reasonable to assume that there would be more exports that would go to Canada without their producers, although their producers have been gone for the last two to three years so there is export that's going in up there now.

MR. BARTEL: We do export to Canada and if you have any customer leads for us we'll be glad to take them.

COMMISSIONER PEARSON: Okay. Well, Canada does have a substantial automotive industry, and so I thought that the demand for brass sheet and strip in Canada might be disproportionate relative to their overall population.

MR. BARTEL: Well, that is true,

Commissioner, but the exports of 200 series brass products to Canada do not go necessarily to the automotive industry. Those products go into components made in North America that go to the Canadian automotive industry. So it's an indirect export by our customers.

COMMISSIONER PEARSON: If Canada is importing brass sheet and strip from somewhere other than the United States what's the likely source? Any idea what the likely source is?

MR. BARTEL: I don't have direct knowledge. I know that other than to say Canada does export from global sources, and I am aware of exports from the Netherlands to Canada for radiator products specifically.

COMMISSIONER PEARSON: I have a question about futures markets. You indicated that there are active futures markets for copper in New York, London and Shanghai. Is the arbitrage between New York and London sufficient that those two markets track each other quite closely?

MR. BARTEL: Yes, Commissioner, they do track and whenever the spread becomes wide it is very short-lived because the material would move to normalize the difference. So they do track together in a very narrow band of arbitrage.

COMMISSIONER PEARSON: How about Shanghai? Is that market sufficiently liquid and transparent so that it also tracks closely with New York and London?

MR. BARTEL: It isn't so obvious to us and personally I don't have direct information to comment on that. Perhaps my colleagues could.

MR. RUPP: I don't have enough information to comment on the Shanghai market other than I think it would be a little bit more confusing than the other markets that we're aware of.

COMMISSIONER PEARSON: Mr. Kerwin, you have any knowledge of that question?

MR. KERWIN: Not directly. We've kind of heard rumors over the years that there's a bit of a disconnect between the Shanghai exchange, and the London metals exchange and the COMEX, but it's not a very ompant system and it's difficult for those on the outside to really understand how it works.

COMMISSIONER PEARSON: Would there also be issues with moving foreign exchange back and forth in financial transactions involving Shanghai or is that not an issue?

MR. KERWIN: I can't really answer that question. I'm not sure.

COMMISSIONER PEARSON: Mr.?

MR. BECKINGTON: Beckington.

COMMISSIONER PEARSON: Beckington.

MR. BECKINGTON: Yes. Mr. Pearson, I think the answer to that is yes. We've done a pretty fair amount of study over the last couple of years with the Yuan's undervaluation and its manipulation we would style it by the Chinese government.

Essentially, as you've probably read in a number of articles over the last couple of years if you have any foreign exchange at all that you bring into China in some way or another it's controlled by the Chinese Government. Basically Yuan are printed, and put in circulation and through that so-called sterilization process that's how the Yuan is essentially undervalued as badly as it is.

We think that the undervaluation to date remains in about the 40 percent area even though the Chinese in July moved the Yuan by about 2.1 percent to be stronger vis-a-vis the dollar, but it looks as though that shift is more of a cosmetic approach than anything else.

We don't know exactly what waiting there is in the basket of currencies that the Chinese use to value the Yuan, but it looks as though it's very much a heavily weighted basket if you will still very much so toward the dollar so that it's really not been detached from the dollar's movements.

COMMISSIONER PEARSON: Thank you. Would I be correct to infer then that none of the firms represented here are hedging in Shanghai futures?

(No response.)

COMMISSIONER PEARSON: Okay. Good. Another question about hedging. Do you hedge most or all of your copper inventories in the New York futures market or some percentage? Explain to me how you try to guard against price fluctuations in copper.

MR. BARTEL: In my company, Commissioner, we have a base stock which is the inventory floats within the confines of the factory that is not hedged because there is no intent to sell it. It is the working inventory that stays in the factory. Every transaction that we conduct with our customer is hedged daily so that our metal exposure risk is minimized.

So we price on the commodity exchange with our customers, then we in fact buy the contracts to cover that exposure on a daily basis.

COMMISSIONER PEARSON: Okay. So when you're hedging the brass product are you hedging in copper futures the copper component of the brass?

MR. BARTEL: Both copper and zinc.

COMMISSIONER PEARSON: Pardon my ignorance. Is there a futures market for zinc?

MR. BARTEL: Yes.

COMMISSIONER PEARSON: Also in New York?

MR. BARTEL: Zinc is on LME.

COMMISSIONER PEARSON: Mr. Rupp, did you have something?

MR. RUPP: I was just saying that it's on the LME as he was answering.

COMMISSIONER PEARSON: Good. So you have then sophisticated mechanisms for trying to manage the price risk. The risk is always there, it's just a question of how you deal with it.

MR. BARTEL: Well, the effort and the goal is to minimize commodity price risk.

COMMISSIONER PEARSON: Right. Okay. Good.

Mr. Kerwin, going back to you Commissioner Lane was raising the question about prices in various countries and you may have agreed to do this already, but is there data that we don't now have on the record that you could provide that would give us some price comparisons among the various countries for brass sheet and strip?

MR. KERWIN: I have not come across such data, so it is not on the record currently. After the hearing today we can discuss this with the members of the industry, but to my knowledge as I said there's not a comparable system in relation to brass sheet and strip as there may be to say stainless steel flat-rolled products, that these are maintained by industry analysts.

We'll see if we can get anything on the record if it exists.

COMMISSIONER PEARSON: Thanks. Perhaps my last question. In your brief there's a mention of job shops as being part of the customer base. What is a job shop?

MR. RUPP: One type of job shop would be a custom stamper who would develop tools to make a specific part and then may have -- for example the automotive electrical stampers. A lot of times when they have a new part they might hire you to develop the tool and to make the prototype parts and then at a certain volume level then the Tier 1 supplier would take that over. So that is a job shop.

Also, a job shop is a guy that just does lots of little bitty different things, but he's not an OEM, original equipment manufacturer.

COMMISSIONER PEARSON: Is it someone who would do a lot of unique applications or whatever?

MR. RUPP: Right. Right.

COMMISSIONER PEARSON: Or the --

MR. RUPP: Right. As an example.

COMMISSIONER PEARSON: Then someone else would do the larger run?

MR. RUPP: That's an example of it. Yes.

COMMISSIONER PEARSON: Any sense how large a percentage of your customer base is comprised by job shops?

MR. RUPP: I wouldn't venture to guess. I think we could get an idea of that information and put it in the brief.

COMMISSIONER PEARSON: Mr. Burkhardt, did you have?

MR. BURKHARDT: Same. I'd prefer to put that in a post-hearing brief.

COMMISSIONER PEARSON: Okay. That would be fine. My light is changing. I'm running out of questions.

Mr. Chairman, I want to thank this panel, but I think I'm done.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Let me just remind you all to continue to reidentify yourselves for the reporter as you respond to questions.

Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Mr. Chairman.

I don't think anyone has gotten to this question yet, but I wanted to ask if you would comment on the German producers' Exhibit No. 5 and on their basic assertion that operating income as a percentage of fabrication charges is a good way to assess the industry's financial condition.

MR. KERWIN: Michael Kerwin. I'll take a first stab at that. I think what's important here is to look at the operating income of the industry in both contexts whether it's as a percentage of sales value or as just an absolute dollar value.

In reviewing the data that are on the record, the aggregate data for the industry, even looking at the simple dollar values of operating income during the period of review it's pretty obvious that operating income has gone down very substantially over the period of review. The bottom line is the bottom line.

One thing I would mention as to why it does make sense to analyze operating income as a percentage of overall sales value is that these companies are buying these materials. If the price of copper goes up they have to purchase those materials, they have to hold those inventories of materials. They are out-of-pocket for the purchase of those actual materials.

So the price of copper is a cost that they are bearing. So I think it is important to look at the overall sales value in looking at the operating income, but as I said in the first place even looking at just the simple values of the operating income you see a very substantial decline during this period.

COMMISSIONER ARANOFF: Thanks, Mr. Kerwin. What I think I'm hearing you saying is the trends are the same no matter how you do it, but you still think it's better to look at it the way we have it in our report?

MR. KERWIN: Yes. In a nutshell.

COMMISSIONER ARANOFF: Okay. If I understand it and I don't want to overstate their case, but one of the premises that underlies the Respondents' argument about why to look at it this way is that the raw material costs are a direct path through, there's really no risk involved and my sense from the witnesses I've heard this morning is that's not really true.

There's a lot done to minimize the risk, but there is in fact still an inevitable fluctuation there that you need to take account of.

MR. BARTEL: Commissioner, if I could comment on that specific point there is the working capital impact of the raw material acquisition cost. So we have the raw material inventory carrying costs at the front of the process and then also the working capital associated with accounts receivable that is not reflected in either of the measure that was cited as an alternative.

COMMISSIONER ARANOFF: Thank you, Mr. Bartel. That's very helpful. Let me also ask all of the industry witnesses there is a point in the German producers' brief where they contend that there have been shortages in the U.S. market and that certain customers were placed on allocation. I think they refer to 2000 and 2004.

Could any of you comment on what was going on that accounts for those comments?

MR. RUPP: Commissioner, my name is Joseph Rupp and let me just comment on a couple of those.

In 2000 was a year in which total consumption of all sheet and strip products including brass sheet and strip were at record volumes and there was a fairly significant ramp up that occurred, and so there was a period of allocation as mills brought on their people, trained their people and tried to react to the spike in demand.

In 2004 speaking for my company we had a serious outage where we actually had a fire on what was called our hot strip line that was burned up and out of commission for a period of time, and so we had a temporary situation where we had people on allocation for a while until we got ourselves sorted out.

I think that would be my response from our company's perspective.

MR. BURKHARDT: Commissioner, Doug Burkhardt with PMX Industries. I won't speak to 2000, I wasn't with PMX in 2000, but I will speak to 2004.

There was a rapid ramp up as far as the economy and the demand for our products were concerned early in 2004, so we were in a short period where -- call it allocation controlled cell -- we were not able to keep up with orders not because we did not have the capacity or the equipment, but because we did not have the manning necessary.

So we quickly hired more people and trained them and very quickly we were in a position where we were not in an allocation mode, but it was very short-lived and it was due to a manning issue.

COMMISSIONER ARANOFF: Thank you, both.

MR. BARTEL: Commissioner, Warren Bartel. We were very happy to take advantage of our colleagues misfortune in 2004 and didn't have any of our customers on allocation at that point.

In the year 2000 as Mr. Rupp stated demand came on very strong, very quickly and it took the industry and certainly my company a period of time to go out and actually recruit, train people to man up to higher capacity levels.

So there was some capacity constraint in the early parts of the year and that was taken care of by the second half of the year and then unfortunately demand fell off very precipitously in 2001.

COMMISSIONER ARANOFF: Let me follow-up on that. To of you gentlemen just tell me that in 2004 you needed to hire people, and train them and bring them on. There's a fair bit of argument in the Respondents' briefs about capacity in the U.S. exceeding demand and that capacity hasn't adjusted itself to declining demand trends.

Can you explain to me the role that taking on and then sometimes having to lay off employees plays in the ability to adjust capacity to demand?

MR. BARTEL: If I could start perhaps. In our company case we have one factory and one set of equipment. As the customer demand rises or falls we add machines or we reduce numbers of machines that we operate within our factory.

Labor is a variable cost, and we have union contracts and we have obligations to our union employees, but we have the ability to adjust labor through lay off in slack times or through hiring in more robust times, and so there is a period of adjustment as we adjust our labor force.

I would just comment further that this is why we're concerned about the revocation of the order because we know that the Respondents have excess capacity, unutilized capacity. We know that certainly in German and Japan -- I can't speak for Brazil, I don't know, but in Germany and Japan labor is considered a fixed cost, it's not a variable cost.

They don't have the ability to take people out, so for them factory utilization rates is paramount. It's the most important thing for them. So that as other market opportunities dry up or as doors open up the attractiveness of our market is not just based on price it's the opportunity to utilize unutilized capacity and take advantage of the labor cost that they're already paying for.

COMMISSIONER ARANOFF: Thanks. I want to turn while I still have time left to some questions to follow-up on questions that Commissioner Hillman was asking about the extent to which domestic producers have imported nonsubject product or purchased nonsubject product that has been imported into the United States.

I think it's mostly confidential, so I just want to read these questions into the record and ask you to please respond to them. As I said I think some of these were asked by Commissioner Hillman, but I wanted to ask in a little more detail if you could provide for each domestic producer what nonsubject imports that producer has either imported or purchased and the reasons for such imports or purchases.

I'm trying to connect that with the official import statistics that we have on the record for example showing that the six largest sources of nonsubject imports were the Netherlands, Poland, Mexico, Switzerland, India and Korea. I think we've already had some explanations about what was going on with imports from the Netherlands and Korea, but the other countries remain of interest.

In particular I want to try and get at the issue about whether these purchases or imports were made in order to reduce the cost of production of downstream products that are produced by related companies in order to avoid the need that has been described to us for some of your customers to move production operations overseas, and in the event that is the purpose of such imports how we should weigh those concerns in assessing the likely volume of subject imports in the event of revocation.

Hopefully the transcript will make all those questions sufficiently clear.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

I want to come back to the question I asked toward the end of my first round -- I'm not going to go through the whole thing, but just this one quote out of the German producers' brief at page 10, and that is, "An efficient producer will lose about 20 percent of its production volume through such cutting, although the resulting scrap can be remelted and reproduced."

What I wanted to ask Mr. Kerwin is, is this scrap loss taken into account in your estimate of German producers' capacity, as discussed at pages 37 and 38 of your brief? I'm referring to the last full paragraph, the last paragraph that begins on 37, and then you go over to 38.

MR. KERWIN: The discussion at 37 and 38 is based on, obviously, a source of information other than the questionnaire responses.

CHAIRMAN KOPLAN: That's why I'm asking the question.

MR. KERWIN: As testified to by the members of the domestic industry, ordinarily capacity is reported on the basis of out-the-door products.

CHAIRMAN KOPLAN: I appreciate that. I remember their response, but I didn't ask about how you computed when you used the numbers for the German producers' capacity. That's what I'm asking.

MR. KERWIN: Well, what's at issue here at 37 and 38 comes from an independent source of information, and I can't say categorically whether the scrap loss would or would not be accounted for there, but my point is that the industry standard worldwide is to report capacity on the basis of what is going out the door, not on the basis -- in other words, after the scrap losses come off --

CHAIRMAN KOPLAN: If I understand you correctly, you're saying it should take it into account, but you can't verify if it does. Is that right?

MR. KERWIN: That is correct.

CHAIRMAN KOPLAN: Okay. I appreciate that. Thank you.

Let me stay with you, if I could. Eluma asserts at page 8 that, and I'm quoting, "during the POR, U.S. average unit prices were lower than Eluma's average unit prices in its export markets." Do you disagree with that, and if not, what incentive would Brazilian producers have to shift exports from these other third-country markets to the United States?

MR. KERWIN: Sir, I'm trying to determine the source of the information that they are citing to here, and I'm looking at the public version, and there is a lot of information missing.

CHAIRMAN KOPLAN: Do you want to do that post-hearing?

MR. KERWIN: I think that would probably be the most effective way to do it, yes. Thanks.

CHAIRMAN KOPLAN: But you do know where I'm referring to on page 8.

MR. KERWIN: I'm sorry. Is it close to the bottom of the page?

CHAIRMAN KOPLAN: Yes. The exact quote is:

"During the POI, U.S. average unit prices were lower than Eluma's average unit prices in its export markets."

MR. KERWIN: Okay.

CHAIRMAN KOPLAN: Do you see it?

MR. KERWIN: Yes, I do see that, but what's not clear to me from that quote is what is the source of the information that he is citing to.

CHAIRMAN KOPLAN: Okay. So do you want to do this post-hearing?

MR. KERWIN: Yes, please.

MR. HARTQUIST: We need to do that post-hearing because I think the quote that you just read contains proprietary information.

CHAIRMAN KOPLAN: They lifted the bracket --

MR. HARTQUIST: Oh, they did? I apologize, Mr. Chairman.

CHAIRMAN KOPLAN: -- on the word "lower."

MR. HARTQUIST: Okay.

CHAIRMAN KOPLAN: Is that what you were referring to?

MR. HARTQUIST: I was. Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: That bracket has been lifted, Mr. Hartquist.

MR. HARTQUIST: Thank you.

CHAIRMAN KOPLAN: That's why I was able to ask the question -- just lifted, but it has been lifted. Okay. Good try, though.

So why don't I just stay with you for a minute? If the subject country sourced its re-rolled, and this is a follow-up to Commissioner Lane, if a subject country sourced its re-rolled input materials from outside its country, should such material be considered subject product if re-rolled in that subject country?

I'm asking this because of a bracketed footnote in your brief, and I'm asking, do you know if, in fact, this was happening during the POI, or is that merely conjecture on your part, and if it was happening, could you elaborate on that in your post-hearing submission?

MR. KERWIN: I'm sorry. Where is that in our brief?

CHAIRMAN KOPLAN: Pages 44 and 45, and it's footnote 31.

MR. KERWIN: And your question is, if a re-roller in one of the subject countries purchased its re-rolled input from a nonsubject country and then added value to that product, further processed it in a subject country, and sent it to the United States, would that be considered subject product?

CHAIRMAN KOPLAN: Right. You see what I'm referring to is it starts on line 6 of that footnote that's on page 45 and runs to line 7, and it's that that triggered my asking you whether or not you had specific examples of this happening. Do you follow me?

MR. KERWIN: My first answer would be, yes, the product would be subject product because it would be the product of Germany, any of the subject countries, after having that value added in that country.

CHAIRMAN KOPLAN: Okay.

MR. KERWIN: And then do we have specific examples of that happening?

CHAIRMAN KOPLAN: Yes.

MR. KERWIN: We may be able to develop some because some of these companies in Europe are essentially multinationals in that they have locations in several different countries.

CHAIRMAN KOPLAN: If you can, I would appreciate it because we don't have examples of that, to my knowledge. Okay? So if you are able to do that, I would appreciate it.

MR. KERWIN: Sure. We'll see what we can put together.

CHAIRMAN KOPLAN: Thank you.

Mr. Hartquist, the German producers argue at page 3 that, and I'm quoting, "because BSS is an intermediate product accounting for much of the cost of the finished manufactured products produced from it, which finished products themselves face import competition, attempts to maintain U.S. prices for BSS above global market prices are not sustainable as they simply will drive customers out of business or overseas. Nonsubject imports have simply replaced subject imports, and the condition of the domestic BSS industry is largely as it was. The orders are no longer effective, and after 18 years, should be terminated." That's the end of their quote.

At page 24, they argue: "Changes in the condition of competition that have occurred since 1987 and 1999 preclude a finding that underselling margins determined 20 years ago would return absent the orders. Most significantly, nonsubject imports have grown in importance to the U.S. market." Could you respond to their argument?

MR. HARTQUIST: Yes. We'll be happy to do that in the brief, if we may.

CHAIRMAN KOPLAN: Yes, you may.

For domestic producers, Eluma asserts at page 20 that, and I'm quoting, "the presence of tolling arrangements in this industry further attenuates competition between domestic and foreign producers." Some data in the staff report, at Chapter 2, page 3, and part 5, supports this assertion that points out, and I quote, that "total arrangements have an effect on pricing as well as an effect on competition between domestic and foreign producers."

Do you agree that the existence of tolling arrangements and scrap buy-back programs provides an advantage to domestic producers over subject imports? Mr. Bartel?

MR. BARTEL: I disagree on the basis that we do very little of our business on the tolling arrangement, and by "little," less than 5 percent of our sales to customers is done on a toll basis.

CHAIRMAN KOPLAN: Mr. Rupp?

MR. RUPP: My answer is basically the same as Mr. Bartel's. We do very little tolling.

CHAIRMAN KOPLAN: Mr. Burkhardt?

MR. BURKHARDT: We also do very little tolling. Most of our business is selling the metal price in effect time of shipment.

CHAIRMAN KOPLAN: Thank you. Do any of you foresee such arrangements increasing in the foreseeable future? Mr. Bartel?

MR. BARTEL: We would like to increase tolling, but our customers would not like to increase tolling, and it runs to the whole issue of capital employed, and no one wants to have their money tied up in upper units at this high value.

CHAIRMAN KOPLAN: Thank you. Mr. Rupp?

MR. RUPP: We see it the same as Mr. Bartel.

CHAIRMAN KOPLAN: And Mr. Burkhardt?

MR. BURKHARDT: From a working capital standpoint, it would be good to do more tolling, but our customers are not willing.

CHAIRMAN KOPLAN: Thank you very much. I see my red light is about to come on. I'll turn to Vice Chairman Okun.

VICE CHAIRMAN OKUN: Thank you.

A question for the producers and Mr. Mayer as well. In looking into the reasonably foreseeable future for your industry, where do you see yourself in the business cycle? Mr. Bartel or Mr. Rupp?

MR. BARTEL: This is Warren Bartel. We are seeing 2005 start stronger than 2004, but certainly much, much lower than the year 2000.

VICE CHAIRMAN OKUN: I think you've probably testified to this, but much lower than 2000, in terms of the end use customers, do you attribute that to a particular end use in particular or more generally the movement of customers overseas and the other things you've talked about today?

MR. BARTEL: I think, currently, the U.S. economy seems to be doing well for the customers that we sell to, and we see a small, incremental increase in business. Business seems to be tending up rather than down in speaking to the cycle.

VICE CHAIRMAN OKUN: Okay. Mr. Rupp?

MR. RUPP: I would say that this current business cycle, from 2000 to 2005, would be something that we would characterize as something that's been very choppy. 2001 was a disastrous year. 2002, the first half of the year, there was what we later believe is a replenishment of inventory that was offset by a decline for about 18 months in the last half of '02 and '03. We saw a pickup in '04. We saw it drop back in '05, and now we're starting to see a little bit of a pickup in '06.

So I would characterize what we're seeing as a lower level of consumption in the U.S. that is very choppy, and it's being impacted by inventory replenishment and also by offshoring of product that continues to leave this country. What's making our situation even worse from an inventory perspective is the fact that the price of copper has basically gone from $1.00, $1.20 to over $2.00 a pound, and it's making the desire by our customers to hold inventory. They would like to have none if they could, so that makes this even a more difficult time for us, but we see it as a very choppy time.

VICE CHAIRMAN OKUN: Okay. Is '06 as far out as you would look in terms of that?

MR. RUPP: Yes. I would say that I don't think that we have the visibility that we used to have. Years ago, we used to have visibility where we would have six, nine, 12 months of visibility. We don't have that visibility any longer.

VICE CHAIRMAN OKUN: Okay. I appreciate that.

Mr. Mayer, do you have any comments from the association?

MR. MAYER: Commissioner, I would defer entirely to the judgment of our company representatives.

VICE CHAIRMAN OKUN: Okay. Then I'll go back to Mr. Burkhardt.

MR. BURKHARDT: Definitely, the brass strip market is not nearing the overall economy as far as a steady pickup. I think uneven, choppy, is a good description, and the fact that our customers' products leaving the States and going to primarily China is going to continue, and it's probably going to accelerate. So as far as the future is concerned, it's going to be a very difficult environment to compete in.

VICE CHAIRMAN OKUN: I appreciate your perspectives on that question.

A couple of things that I just wanted to have follow-up for the post-hearing. In response to Commissioner Hillman's further questions with regard to the situation in China, and I know, Mr. Bartel, you had referenced in my question some other information. Maybe you'll put it on the record, which would be helpful. If you can make sure when you're doing that, I know you had focused on facilities that you're aware of or that there have been indications of capacity that may be coming on line, if, Mr. Hartquist, if you can make sure that you also try to pull together consumption data for China, as I think it's most helpful to see those two put together.

And, again, as I've listened to you, the reason I'm focused on that is when we talk about your customers moving to China, it's bad for this industry. I understand that part. I'm not sure that it is increasing the demand in China. I understand that capacity is coming on line, but I'm just trying to get a better perspective of that with whatever information you're able to collect.

MR. HARTQUIST: We'll do our best.

VICE CHAIRMAN OKUN: Okay. I wanted to go back to Brazil for one moment because I did get from staff the Brazilian Trade Association's responses to the Commission, and that confirms that the data that they have submitted includes all Brazilian producers. So for purposes of post-hearing, if you can please analyze a larger data set and explain if your arguments still hold and anything else you would like me to take into account in looking at that additional data, I would appreciate that.

And I guess I should say on that, Ms. Cannon, if you would, for purposes of post-hearing, discuss -- I assume you would oppose decumulating Brazil. I understand that, but if I were to choose to decumulate Brazil using discretionary factors based on conditions of competition, whether you believe that the order on Brazil should remain in effect.

MS. CANNON: I'll be happy to do that.

VICE CHAIRMAN OKUN: Okay. Mr. Kerwin, on that, I would note, I did go back and look at the article that you were citing to as support that Eluma was going to increase its exports. To me, that article is very general about the holding company, which also includes tin producers, fertilizer raw producer, that overall they were going to be increasing exports. So if there is any other additional specific information you could provide, I would appreciate that as well.

MR. KERWIN: We will do that.

VICE CHAIRMAN OKUN: Okay. The CVRD Company; I heard rumors that they had planned to enter the copper and brass industry because of their mining operations. Anything any of you are aware of or have information about? I'll ask the Brazilians this afternoon. I was just wondering if there was something in the news. With all of the talk about scrap prices and who is in the mining industry, I assume that there is a lot of interest in that. Okay. I'll ask some this afternoon.

I guess my final question: In terms of the analysis of the capacity of the foreign producers to ship to the United States, I think you've responded a little bit today, but just for post-hearing, in helping us understand, in looking at what we understand is everybody reporting capacity for the whole mills, what would be the best way to analyze how much of that would be available in the subject product and whether we should look at the historical split between the different products. If you're producing 80 percent brass sheet and strip, you can produce other products, but are you likely to shift and why? I know you've done some of that, but just help me understand if it matters for the different subject countries or not or the different mills, how they operate.

MR. HARTQUIST: We will look at that as well.

VICE CHAIRMAN OKUN: Okay. And with that, I have no further questions, but I really want to take this time to say thank you for all of the answers you've given. It's been very helpful this morning and this afternoon.

CHAIRMAN KOPLAN: Thank you.

Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you. Just a couple of, I hope, follow-ups. Specifically on this issue of product shifting and what's the total capacity, the German Respondents are claiming that of the products that can be made on the same equipment, this particular form of brass sheet and strip is the lowest-value product, thereby making product shifting into this brass sheet and strip unlikely.

I guess I wanted to hear from the industry's perspective. Help me understand the sort of value hierarchy, if you will, of the products that you can make on this same equipment that you do make, that you routinely could make, and where do you think brass sheet and strip falls within that value hierarchy?

MR. RUPP: There is a variety of alloys, Commissioner, that can be manufactured on the same equipment, and we have an industry group that divides them in chemical composition, so there is a 100 series, which is primarily copper; there is 200 series, which is brass; there is 300 series, which you have lead in it; and 400 series, which is a type of bronze, et cetera. And I would say that brass is the commodity piece of the business, as are some of the 100 series alloys, which are commodity pieces of the business that would fit in the middle, sometimes to the lower end, of your margin scale.

That can be changed by what you're doing specifically with that brass. If the brass goes into what we call a plate-and-polish type of application, goes into an electrical connector with a special coating on it, it can become a more higher-margin product.

So what they are saying is that the commodity brass is not the highest margin. I'm saying that within brass there are some higher-margin brass products, depending upon the application.

Our argument is that the important element is just to have that equipment, as you understand, having that equipment fully utilized, and while we, too, would love to make nothing but higher-margin material on our equipment, the fact of the matter is that we have more capacity than the market is for those types of products, so we have the need to make the brass to be able to absorb our cost structure and improve our profitability, which I would think that they would have a similar situation.

COMMISSIONER HILLMAN: Okay. Mr. Bartel?

MR. BARTEL: As Mr. Rupp said, there are certain products made from 200 series brass products -- elevator panels, polished panels, polished burial caskets -- that have quite high unitary value. I think, for us, the more important factor, however, is the majority of our revenue, the majority of our earnings, the majority of our profitability come from the production of 200 series copper and brass products. The size of the markets for the higher-valued alloys is much smaller, and the competition is more global, and so the magnitude of the opportunity is much smaller than the production of the 200 series brass products that we've produced.

COMMISSIONER HILLMAN: I appreciate that.

Mr. Burkhardt, did you want to add something?

MR. BURKHARDT: Just quickly. When we made our investment into this country to begin with, it was investing into equipment to handle the brass and copper sheet and strip market, and brass sheet and strip now makes up about 45 percent, depending upon the year, the total market, and that is, for the most part, a fixed-cost-spreading business. When you have that kind of a major investment in equipment, you have to run the equipment as many hours as possible. You have to maximize the amount of time that equipment is running.

So the brass sheet and strip, and there are items that are plated, there are brass items that do bring value added to the marketplace where you can get a little higher price, but, for the most part, it's the lower-margin business that does allow us to spread our fixed costs, and if it went away, there isn't enough of the other business to sustain our mill.

COMMISSIONER HILLMAN: Okay. A related issue. Mr. Bartel, in your testimony, you said that, again, prices are at all-time highs for a lot of the metals, and if they go too high, that there will be alternate products using other materials. Help me understand what those alternate products and/or other materials likely be.

MR. BARTEL: Well, the obvious one that we spent the most time looking at was aluminum. What's happened with aluminum in the automotive radiator is a good example.

COMMISSIONER HILLMAN: All right. Then if we can get back to some of the pricing issues, as I heard your discussion with Commissioner Pearson in terms of how the COMEX versus the LME markets were very similar, which, to me, then suggests that it does come down to fabrication prices in terms of trying to understand it. How would you describe fabrication prices in the United States compared to fabrication prices in the EU or Latin America or Asia?

MR. BARTEL: Historically, in my opinion, they have been comparable. The wild card is currency exchange rates, so that the prices in Europe today are relatively high because the euro value is higher than the dollar value.

COMMISSIONER HILLMAN: So, today, you would describe fabrication prices in Europe as higher than in the United States.

MR. BARTEL: Because of currency exchange rates. A year ago, the opposite would have been true.

COMMISSIONER HILLMAN: How about Latin America or Asia? Also comparable?

MR. BARTEL: Well, there, I would say comparable to the extent that those markets are available to us. The Japanese market is not available. It's a closed market, and the Brazilian market is not available. It's a closed market.

COMMISSIONER HILLMAN: Mr. Rupp, did you want to add something?

MR. RUPP: Yes, Commissioner. I think that we should clarify in the brief when we talk about fabrication prices because I think that in Europe and in North America the terminology is a little bit different. In other words, their fabrication price in Europe would be a higher price, and their metal would be the same, but there would be limited metal, what we call "adder," on that pricing. In the United States, you would have a lower fabrication price, the same metal and a higher metal adder. At the end of the day, what the customer is looking at is if you take the metal piece out, what are they paying? That is, in essence, what the real fabrication price is.

I would think that we should make sure that we make that clearer in our post-hearing brief so that that's understandable. My concern is that we give you numbers that say fabrication and our numbers here and their numbers there, and we're not really talking apples and apples with that.

COMMISSIONER HILLMAN: Okay. I, obviously, am trying to understand. I heard Mr. Bartel describe very clearly with Commissioner Aranoff exactly how this price is determined, --

MR. RUPP: Right, right.

COMMISSIONER HILLMAN: -- and you're saying everything other than the COMEX metal price in your book is negotiable.

MR. RUPP: That's correct.

COMMISSIONER HILLMAN: That is part of what you're negotiating on, and that's what I'm trying to understand, is how the prices for what you can negotiate on compare between the United States, Europe, Latin America, and Asia. So if there is anything further that you want to add on that issue in the post-hearing brief, I think it would be helpful.

Obviously, we have some limited pricing data. The pricing data in our staff report tries to break down metal prices versus fabrication prices, but we have very little comparative data. So whatever can be put on the record to help us understand, however we're going to describe it, the nonmetal part of the prices, you know, again, I am trying to understand how we assess the relative attractiveness of the U.S. market versus anyplace else in the world.

If I step back for a minute, and I look at, as you've described it, this is a declining market in terms of demand. You have demand arguably up in lots of other places where your end use customers have moved. If the prices aren't pretty high, it's not at all clear to me why the U.S. is such an attractive market.

So if there is something that you want to add, again, to understand why it is that we should assume the U.S. is, relative to other places, an attractive enough market that if these orders were revoked, it would draw in imports, I think that would be very helpful.

MS. POTTER: Commissioner, Michele Potter from American Brass. If I could just add one more thing.

COMMISSIONER HILLMAN: Sure.

MS. POTTER: Some of our customers do have contracts, and we're talking about the attractiveness of the market, and with the fluctuation in exchange rates, it can make the U.S. market very attractive at times and not at others, and although we have pricing agreements that may last a few months, a year, or a few years, most of them with our customers can be renegotiated upon their request at any time.

So if the exchange rate fluctuates one way or the other, there may be a very big incentive for some of the subject countries to approach our customers with more favorable pricing.

COMMISSIONER HILLMAN: Those changes; are they determined in any way by the portion of the total cost of the product that brass sheet and strip makes up? Again, I'm trying to understand where that price fits into it. I can imagine for these end uses we have a wide range of how much of the total value brass sheet and strip constitutes. Where does that play into this?

MS. POTTER: I'm sorry.

COMMISSIONER HILLMAN: I can imagine

products that have a very small amount of brass sheet and strip -- again, the total value of the product, brass sheet and strip is very minor, and other products where the value that brass sheet and strip connotes to the total amount is, in fact, very high, and I'm trying to understand whether that affects this issue of the relative attractiveness of the U.S. market.

MS. POTTER: I don't really believe that that has that great of an impact.

COMMISSIONER HILLMAN: Okay. With that, I think I have no further questions at this time, Mr. Chairman. Thank you very much.

CHAIRMAN KOPLAN: Thank you.

Commissioner Lane?

COMMISSIONER LANE: Thank you. I just have a few questions.

The first one is addressed to the industry. What percentage of the nonsubject imports are imported by you, and other imports by the domestic industry, what percentage are those imports to your total domestic production of this product? I hope I've got all of the identifiers in there correctly so that you can figure out exactly what percentage it is that I'm asking for.

MR. HARTQUIST: Commissioner Lane, a similar question was asked by another commissioner, and we will --

COMMISSIONER LANE: Okay.

MR. HARTQUIST: -- deal with that in the brief and expand the answer to cover your specific issues that you've just mentioned.

COMMISSIONER LANE: Okay, okay. And this may have been asked, too, but I don't remember it. Can you give me a percentage of your business that you have lost due to your customers moving offshore?

MR. HARTQUIST: Again, there is a similar question that has been asked, and we will respond to that as well.

COMMISSIONER LANE: Okay. Thank you. And, Mr. Hartquist, I'll address this to you. In the prehearing brief, at pages 27 and 63, you refer to the domestic BSS industry facing a cost-price squeeze. If you pass on the copper and zinc price increases through the metal price component of the total price, and if you have instituted surcharges for fuel, transportation, and energy price increases, how are you facing a cost-price squeeze?

MR. HARTQUIST: Well, I'll take an initial crack at that, Commissioner Lane, and ask the industry witnesses to respond further, but I think that the simple answer to that is that while there is an attempt to pass these prices through to the customers, the key really is what is the final price that the customer is going to have to pay, regardless of the components of that price: fabrication cost versus material cost, metal cost, for example.

So, in the end, the customer says, "Okay. You have this passthrough. That's fine. Your price is a dollar a pound. That's fine, but I can buy that from another source for 95 cents a pound. Are you going to meet the price or not?" And that's the issue that the producer has to grapple with.

So it's not, in essence, a perfect passthrough because, in the end, the amount of additional fab price component to the ultimate price may be reduced, and so the profitability goes out of the sale of the product. Maybe Mr. Bartel or Mr. Rupp or Mr. Burkhardt would like to expand on that.

MR. BARTEL: I would just add -- this is Warren Bartel -- I would just add that the impact on working capital and the cost of carrying working capital cannot be passed through in any way.

In answer to an earlier question, I stated that our ability to collect surcharges -- everything above the commodity cost of the metal is negotiable, and our customers negotiate on those things, so we are not 100-percent successful in collecting the increments that we attempt to collect.

The biggest missing element is the impact on working capital that is on both payables and on the receivables side where we have to bear the increased cost of the high commodity price.

MR. RUPP: I would just add, Commissioner -- this is Joseph Rupp -- that our total cost structure, because of this situation in the industry, we're unable to get price increases, so we're unable to pass labor increases, medical cost increases, environmental costs, what we call "legacy costs." All of those things are piling up on us, and we don't have the ability to pass all of those costs on. So what we're attempting to do is pass some of these energy costs and surcharges, but the full weight of the costs on us, we're unable to pass those on through pricing.

MR. BURKHARDT: Doug Burkhardt. I'll just reaffirm or agree with Mr. Bartel as far as the working capital. It's a tremendous squeeze on us as far as the price of copper going from the seventies into the $2 per pound, as well as zinc increasing in price also. So that cost component is real, and it's a very large constraint for us.

As far as the surcharges are concerned, again, it's an uneven situation. There is a competitive marketplace as far as what you're able to accomplish with the surcharges. The energy surcharge is a very recent phenomenon. It just came into effect in the industry late last year, the last two months of last year, and, again, it's not a situation where you get it across the board. The cathode premium that's been in place for a while doesn't capture all of the increased costs of cathode premiums to the industry. It just captures a portion of those, and, again, that's to be negotiated individually with our customers.

COMMISSIONER LANE: Okay. Thank you.

Mr. Chairman, that's all I have.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Pearson, have you changed your mind? Commissioner Aranoff?

I do have a couple of short matters left. First of all, with regard to the issue of comparative fabrication prices -- this is a follow-up to Commissioner Hillman -- where you're going to respond in the post-hearing, Mr. Hartquist and Mr. Kerwin, if in responding to that question, you could take into account that portion of Exhibit 3 of the German producers' brief that's headed "Comparison of U.S. Producer Domestic Fabrication Price and Wieland Fabrication Price," and it runs from Product 1 through Product 6. The contents of those tables are business proprietary, but you have access to those tables, and if you could take that into account in providing your response for the record, I would appreciate that.

MR. HARTQUIST: We certainly will do so.

CHAIRMAN KOPLAN: And one last question, and this is for the domestic producers, and it's a follow-up to questions from Commissioner Pearson and Commissioner Aranoff.

Domestic basic producers' capacity utilization has declined over the period of review. Between 1999 and 2004, U.S. apparent consumption fell 16 and a half percent, and basic producers' capacity fell about 4 percent. Do domestic basic producers face barriers to exit in this industry? Are there EPA or state regulations that would make it difficult or expensive to shutter a facility? If I could hear from Mr. Bartel and Mr. Rupp and Mr. Burkhardt on this. Mr. Bartel?

MR. BARTEL: Well, first of all, we have only one factory, so if we close it, we're out of business; we're leaving the market. We have very high capital costs, invested -- costs, so we have no interest in leaving the market if we can maintain a viable business.

The second part of your question: Yes, there are extremely high exit costs, environmental exit costs, that are triggered with the cessation of operations in an industrial site, and the --

CHAIRMAN KOPLAN: Is that state and federal?

MR. BARTEL: Both state and federal, and our facility is in New York State that has a very rigorous state environmental enforcement agency.

CHAIRMAN KOPLAN: Thank you. Mr. Rupp?

MR. RUPP: I think we could include in the brief what we wrote off, Olin did, when we shut the Indianapolis operations down, but we took a charge -- I think it was a pretax charge -- in the $30 million range. We'll confirm what that was totally, but it's totally along the lines of what Warren talked about of shutting the facility down, dismantling parts of the facility, taking care of the environmental requirements. In some cases, clearly, you have to pay severance, et cetera, going forth, so it's expensive to shut operations down.

CHAIRMAN KOPLAN: Thank you. Mr. Burkhardt?

MR. BURKHARDT: The same. It would be very difficult for us, and there is a barrier as far as shutting our operation down. The note that we have outstanding, the fact that we have a facility in one location and have quite a bit invested in that location, the environmental costs, and the like; there would be some real barriers there as far as shutting down.

CHAIRMAN KOPLAN: Thank you. I appreciate those responses.

Vice Chairman Okun? I have no further questions. Commissioner Hillman?

COMMISSIONER HILLMAN: Just a couple of quick follow-ups. The issue that you were discussing at the very first round with Commissioner Pearson on your customers, your end use customers, going overseas; I wasn't sure that I heard your sense of is that affecting everyone equally, or are there certain end use segments that are not moving offshore?

MR. RUPP: I think that it is probably affecting everyone, maybe not as equally. I think if you are more based in building products, or you're more based in electrical products, you've probably been affected more than others who are in automotive types of products. But the end result of lowering the capacity utilization in the industry ultimately affects everybody because of the fact that we've said that the ability to really be able to get price increases in this industry is very, very difficult, as we get lower capacity utilization, that becomes even more difficult, so as a consequence, there is an impact, I think, on the whole industry.

COMMISSIONER HILLMAN: Just so I understand it, is there any difference in the fabrication price that you get, whether you're fabricating a product for the housewares industry versus the automotive industry?

MR. RUPP: There is different price for different applications.

COMMISSIONER HILLMAN: Do any others disagree with that in terms of the end use segments?

Then I guess the last question I have, if that's the case, if we are going to continue to see this shift of all of your customers ultimately overseas, what would you say your plan is to remain profitable in what you're describing as a continually declining market?

MR. RUPP: I would prefer to do that in the brief.

COMMISSIONER HILLMAN: Okay. Anyone else?

Okay. I appreciate that answer, and with that, I think you for your answers to all of the questions this morning. I appreciate it.

CHAIRMAN KOPLAN: Let me see if there are any other questions from the dais. I see that there aren't.

Mr. Deyman, does staff have questions of this panel before we release them?

MR. DEYMAN: George Deyman, Office of Investigations. I have one question and one request for information.

On page 25 of your prehearing brief, you present a table of nonsubject imports. It's public information based on official statistics. You say that you believe that the vast majority of these imports are of 200 series brass sheet and strip. What basis do you have for your statement that the vast majority of the nonsubject imports are of the 200 series product?

MR. BECKINGTON: This is Jeff Beckington, German. I think the best answer to that, Mr. Deyman, is that throughout the entire history of these unfair trade orders, I think that essentially is an assumption that has been made by everyone because, first of all, 200 series brass sheet and strip is the predominant brass product.

It far outstrips leaded brass and tin brass, the other two commodity areas that are covered by those harmonized tariff schedule numbers, and as far as anyone has ever been able to discern, including us and including the Commission, for the entire life of these cases, that's the best perception that anyone has been able to muster at this stage of the game.

MR. DEYMAN: We simply wanted to establish that if we use the official statistics in the staff report, that they include basically the subject product, the type of brass that we're studying in this investigation. If you could, in your post-hearing brief, and also the Respondent's in their post-hearing brief, comment on the extent to which official statistics do or don't include nonsubject product, it would be helpful.

Also, one other data request. If you could, in your post-hearing brief, explain exactly how capacity was allocated to the subject product for each of your firms, how you accounted for yield loss, and basically to what extent the methodology for determining capacity was consistent from firm to firm. And I might add, I would like the Respondents to do that for their capacity data for Brazil and Germany also. We would like you to do that. Thank you. The staff has no further questions.

MR. HARTQUIST: We'll do so.

CHAIRMAN KOPLAN: Thank you for that, Mr. Deyman. We appreciate it, and I look forward to your responses.

Mr. Bruno and Mr. Shor, do you have any questions of this panel before they are released?

MR. SHOR: I do not, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you, Mr. Shor. Mr. Bruno?

MR. BRUNO: No.

CHAIRMAN KOPLAN: Thank you, Mr. Bruno.

With that, this will conclude this morning's session. I want to thank the members of this panel for your answers to all of our questions. It's been most helpful, and I look forward to your post-hearing submissions. I'll release this panel, and we will resume at one-thirty.

(Whereupon, at 12:40 p.m., the hearing in the above-entitled matter was recessed, to reconvene at 1:30 p.m.)

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

(1:30 p.m.)

CHAIRMAN KOPLAN: Madam Secretary, I think we can resume.

MS. ABBOTT: The second panel, in opposition to the continuation of the orders, is seated, Mr. Chairman, and all witnesses have been sworn.

CHAIRMAN KOPLAN: You may proceed.

MR. SHOR: Mr. Chairman and members of the Commission, without any delay, I would like to introduce Werner Traa from Wieland Werke, Germany.

CHAIRMAN KOPLAN: You're going to have to move your microphone closer to you.

MR. TRAA: Good afternoon, Mr. Chairman and members of the Commission. My name is Werner Traa, and I am a member of the executive board of Wieland-Werke AG based in Germany. I'm responsible for Wieland's rolled Products Group worldwide.

My remarks focus on three issues. First, I will explain why German exports of subject brass to the United States have been declining for 20 years, since 1985, and why there are likely to be no significant exports in the foreseeable future.

Second, I will explain why the data you have in your staff report regarding German production capacity and production is accurate and practically complete.

Third, I will address current and foreseeable market conditions and trends for subject brass.

The data in your staff report show that subject imports began to decline long before petitions were filed and long before orders were entered. Subject imports from all countries and subject imports from Germany fell in every year from 1984 to 1987. By 1987, imports from Germany had declined by more than half and from all subject countries by 60 percent. The largest declines took place in 1985 before the petitions were even filed.

This downward trend, moreover, has continued unabated to the present date. At the same time, imports from nonsubject countries like Poland and India have been increasing. The explanation has nothing to do with trade cases and everything to do with how we add value in the industry.

No rolling mill in Germany or the United States is dedicated exclusively to subject products. Instead, we cover the entire spectrum of copper alloys. Our rolled products range from pure copper to different brasses, to fine Phosphor bronzes, to nickel silver -- and to newly developed, high-performance alloys for specialty electronic applications.

Of all of these alloys, subject brass is the easiest to produce. It can be produced on the least-sophisticated equipment, with the lowest investment in technology. It is the entry-level product, but for these same reasons, it is low on the value chain. It has the lowest profit margins of any of the copper alloys we produce.

The key to improving profitability in high-wage countries like Germany is to move up the value chain, and this is exactly what has happened over the last 20 years. We have invested hundreds of millions of dollars in better technology and more sophisticated equipment. We have reduced capacity and production of low-margin alloys like the subject product and increased capacity and production of phosphor bronze and high-performance alloys. The prices and the profits on these products are two to 10 times higher. That is why Germany capacity for C-200 series brass today probably is half of what it was in the 1980s, and it is why German exports to the United States have declined.

I have read the U.S. industry brief and their argument that if the orders were terminated, Germany would shift production back down the value chain from these higher-profit alloys back to common alloy 200 series. This is nonsense, and they know better.

The U.S. producers have also been seeking to move up the value chain and would not move down. We know from sources in the U.S. that Olin buys C-200 series brass from Poland. We know that they sent company officials to India in August. It makes economic sense for them to buy subject brass from low-wage countries and shift to producing higher-value alloys in the U.S., but don't believe we or they would move backwards.

I will now turn to German capacity. Petitioners have sought to make much of the fact that there are seven producers of subject brass, but only three responded to the Commission questionnaire. They urge that the Commission assume that the nonresponding producers have 770 million pounds of capacity. This is an absurd number.

This case does not involve all rolled copper products; it involves only one group of alloys. As Petitioners acknowledge, the data are based on estimates for total rolling capacity, which includes both subject and nonsubject alloys. As I just discussed, the Germany industry over the last 20 years has been moving away from subject brass into higher-value alloys to the point where subject brass occupies just a small fraction of total rolling capacity.

We contacted all of the other German producers so that we would have the basic data needed for participating in this review. The data we have gathered indicate that the three responding producers -- Wieland, Schwermetall, and Prymetall -- account for roughly 90 percent of German subject brass production. This is an accurate number. Let me explain.

The four other producers, German producers, are MKM, Plettenberg, Sundwiger, and Schlenk, as we noted in our questionnaire response. KME and Deutsche Nickel, cited by Petitioners, no longer produce subject brass in Germany at all. MKM focuses on pure copper strip. MKM is technically incapable of casting or hot rolling brass. It only could roll cold-rolled material purchases from Schwermetall. As you have full data from Schwermetall, you have full capacity and production data from MKM. MKM adds no additional capacity or production. Moreover, its production volume was small, under 6.6 million pounds in 2004 and under 5.5 million pounds in 2005.

Plettenberg is a small, integrated producer. Their plant has a total input capacity of 31 million pounds, of which 6 million is devoted to welded brass tube. Their remaining capacity can yield finished product volume of only 20 million pounds or so, not all of which would be the subject alloy.

Sunfegger focuses on high-performance alloys. Its website does not even list brass as a product anymore. Like MKM, they do not cast or hot roll subject brass. They produce 4.4 million pounds of subject brass annually, all of which is from re-rolled materials supplied by Schwermetall.

Finally, Carl Schlenk is a small, niche producer whose Web site indicates that they produce only foils and ultra-thin strip. Again, they have no casting or hot-rolling capability. They purchase all of their subject brass input material from Wieland, only 220,000 pounds annually.

In sum, the nonresponding producers and re-rollers are insignificant and do not represent any significant German capacity or production beyond the three responding producers.

Finally, I will discuss current and expected market conditions in Europe and in Asia. Significantly, prices in Germany and in Europe for subject brass are higher than in the United States. We know this is an important issue, so we want to provide you with the best data we could.

We looked first to industry publications, such as CRU. While CRU does a good job of tracking quantities and pricing trends, its data are not useful or accurate measures of price differences between the U.S. and German markets. They do not use the same products in the two markets. The data do not include all surcharges.

We compared CRU data to our own prices and found the CRU numbers for Germany to be very low in relation to our actual price. Because we could not find any representative published pricing data, we provided Wieland's own prices for Germany and the rest of Europe for the specific products the Commission examined.

The data are comprehensive and not selective, and we believe they are representative, given that our market share in Germany for C-200 series brass is roughly 50 percent. When we compare our fabrication charges to those of the U.S. industry available in the public staff report, we see that prices in both Germany and the rest of Europe are higher than in the United States. There is no price incentive for us to shift sales to the United States market.

Let me conclude by spending a minute on China. German exports of brass to China are insignificant. According to official export statistics, 2004, German exports of subject brass to China totaled a mere 1.5 million pounds. Our focus, once again, is on the high-value-added, high-performance alloys. Moreover, German exports of subject brass to the region are concentrated in high-quality, high-priced products for specialty applications.

Our sales to China are not of commodity subject brass products to producers of commodity products. We sell to multinational companies with their own manufacturing plants in China producing sophisticated electronics and other products requiring the highest-quality material.

New brass mills in China cannot come close to our quality and will not displace our sales in the foreseeable future.

I would like to introduce my U.S. colleague, Markus Schuler, and I thank you very much for your attention.

MR. SCHULER: Good afternoon, members of the

Commission. My name is Markus Schuler. I'm the executive vice president of Wieland Metals, Inc., the United States subsidiary of Wieland-Werke AG. Wieland Metals owns and operates a copper and copper-alloy rolling mill outside of Chicago. We produce subject brass strip and other alloys here in the United States.

I will address three issues that have arisen in this case. First, as you know, back in the 1980s, Germany was the largest exporter of subject brass to the United States. Wieland accounted for the vast majority of those exports. I will explain why, in light of the existence of Wieland Metals and other changes in the U.S. market, those exports from Germany will not return.

Second, I will discuss quality differences between certain subject brass produced in Germany and that produced in the United States.

Third, as a domestic producer, I will discuss market conditions in the United States over the POR and in the foreseeable future.

Let me begin by explaining why significant imports from Germany or any other subject country would not resume if the orders were terminated. Let's go back in time to the early 1980s. Wieland had no manufacturing presence in the U.S. market. Our U.S. customers for subject brass in Germany fell into three broad categories.

First, we had end user customers who bought large volumes of standardized products. These customers could forecast their needs months in advance. Our main customers in this industry were lock manufacturers, companies like Schlage and Weiser. We could ship these customers product by the container load, and they could accommodate the three-to-four-month lead times that were required to order, produce, and deliver brass from Germany.

The second customer category comprised re-rollers and service center distributors. These were companies like A.J. Oster and Heyco. These companies maintained inventory and could deliver small quantities with short lead times to end users.

The third and smallest category of customers we served with imports back then were end users with special quality requirements. These were niche market customers who had special needs exceeding standard industry specification for surface finish and other physical properties. We could have special production runs for them using different machinery and slower speeds, and we would charge them premium prices for these specialty products.

The first category of customers which had been our largest has, over the intervening years, largely left the United States. These customers produced low-end products which are now produced in newly industrialized countries at lower cost. Our former lock industry customers, for example, no longer manufacture in the United States. The market for high-volume products ordered by end users months in advance from foreign brass producers simply does not exist here anymore.

Wieland understood this trend, which is why we invested $30 million in the mid-1980s to construct a plant in the United States. We established infrastructure at the re-roller/service center level of distribution, enabling us to supply end users needing smaller quantities on short notice, a channel of distribution we had not been able to serve from Germany.

Some U.S. manufacturers saw the same trends and reacted similarly. In 1991, Olin paid $82 million for A.J Oster, the major service center in the United States, and formerly one of Wieland's largest customers. Our decision to begin production operations in the United States in 1987 placed us in a segment of the market where we could be closer to our U.S. customers and offer them much shorter lead times, making it unnecessary to import from Germany to serve customers here.

But this also meant that what had been Wieland Germany's second-largest category of customers in the 1980s today is unavailable, as they are competitors of Wieland Metals. Moreover, the U.S. industry now largely owns for itself the distributor-service center channel of distribution. The only category of customers remaining in the U.S. market today for German producers is the third category comprised of niche customers that require special production runs of higher-quality brass than is available in the United States. But this is a small market of only a few million pounds a year, encompassing small producers like GSI, who you will hear from shortly.

In sum, large volumes of imports from Germany and other countries are not likely because foreign producers simply cannot meet the changed market requirements. They lack of infrastructure in the U.S. to reach today's end users purchasing relatively small quantities at short lead times and U.S. producers themselves largely control the distributor channel. For confirmation, you need look no further than nonsubject imports and who controls and distributes those imports in the United States.

This makes the second issue I want to discuss, quality differences between the domestic like product and certain brass we can and do produce in Germany -- simply put, Wieland Germany produces the highest-quality subject strip in the world. To be sure, most of our production is of standard-quality brass meeting normal industry requirements, produced in large production runs, but our standard-quality products cannot be distributed in the United States for the reasons I have just discussed, nor can we make a profit selling it to the United States at current and foreseeable future exchange rates.

Wieland Germany has the specialized equipment and expertise to produce subject brass that meets very specific customer requirements for surface finish, physical tolerances, and other properties that neither Wieland Metals nor any U.S. producer can meet. We have invested more in technology and learned more in producing subject and other products.

Wieland brass offers unsurpassed, deep-draw characteristics due to metal uniformity, which enables products and science currently not attainable in the

United States. We also can produce a surface finish whose average roughness and deviation are less than any other producer in the world. We are able to do so through a combination of expertise, equipment, and rolling speed. The smoother finish enables certain customers to eliminate secondary operations like buffing and better suits certain decorative applications.

These higher-quality products command a price premium and will certainly not undersell U.S. domestic producers.

Finally, I wish to conclude my remarks by briefly discussing trends in the performance of the United States subject brass industry. Based on Wieland Metals' experience in the market as the United States producer, the main purchasers of subject brass are customers in the automotive, ammunition, electrical, and hardware industries. As these are mainstays of the broader economy, demand for subject brass tends to direct the overall economy.

During the 1999-to-2000 economic boom, we experienced record production volumes and record profits. Production profitability fell during the 2001 recession and recovered in 2003. There is no correlation to trends in imports, subject or nonsubject.

Where are we today? In the second half of 2005, in every single month, we had production and shipment volumes surpassing any year in the past five. This trend has continued in 2006 and is likely to continue for the foreseeable future, not just for us but for the industry as a whole. These improving demand conditions result from increases in true demand as well as from the end of a destocking period at the end of 2004 and early 2005 brought about by accelerating copper prices.

The rapid increase in copper, and thus subject brass, prices coincided with an increase in short-term lending rates that rapidly raised the cost to our customers and their customers of holding inventory. They reacted by curtailing purchases and working through existing inventories. Now inventories are depleted, and purchases are increasing.

Indeed, we have had trouble securing adequate subject re-roll material from our U.S. supplier, Olin. Beginning in October 2005, Olin provided our normal allocation but refused to supply our orders for additional quantities. These conditions continue to the present, as Olin has turned down additional orders for January and February delivery.

While the initial shortages may have been due to hurricane-related, natural gas supply problems, this can no longer be the explanation. The domestic industry has imposed metal price increases, new surcharges, and natural gas surcharges that all have been accepted by the market. Volumes and profits are robust. The AD and CVD orders before the Commission have outlived their usefulness and, after almost 20 years, should be terminated.

That concludes my remarks. I would like to introduce Ed Pages from GSI. Thank you.

MR. PAGES: Good afternoon, members of the Commission. My name is Armando Edward Pages, and I am the president of Guarantee Specialties, Inc. Guarantee's main line of business is the manufacture of plumbing components for the kitchen and bath. We make plumbing escutcheons, kitchen sink drains, and bath waste components. Plumbing components comprise 80 percent of our $12 million in annual sales.

I've been with Guarantee for over 30 years and have been president since 1990. As president of Guarantee, I am involved in all aspects of Guarantee's business. This includes purchasing raw materials, working on engineering issues, and setting material requirements as a part of the sales quotation process. Subject brass accounts for an average of 65 percent of the cost of Guarantee's finished products. Before the antidumping order against Germany was put in place in 1987, Guarantee obtained 90 percent of its brass sheet and strip from Wieland-Werke AG.

I had first-hand knowledge of, and hands-on experience with, Wieland brass through the plant management, operations management, and quality control functions that I held at the time. We used Wieland's subject brass before 1987 because it was better than all of the other available brass in a number of different ways important to Guarantee.

First, Wieland's brass had superior cosmetic qualities. Wieland's brass was better than that available from domestic producers or other importers in terms of surface finish, which is the quality of the product that gives it its luster. Our customers demand a certain level of surface finish. The products we were able to manufacture using Wieland's material met and exceeded that standard and required less additional buffing than any other brass.

Not only was the appearance of Wieland's brass superior when it was delivered; it remained superior as it was worked into the finished product.

Wieland's brass was always luder-line free, meaning that when we processed the brass to make the parts for our escutcheons, there were no stretch lines. The stretch lines, which are unacceptable in a finished product, sometimes appeared when other brass was used and processed.

Wieland's brass was also more consistently defect free than other brass we have purchased then or now. Defects like scratches, imperfection or pin marks are unacceptable in our finished products; and, therefore, they are unacceptable in the brass we purchase. If we observe these defects in the raw materials that we receive when we perform quality control on those materials, we return the material to the producer. We were forced to reject less of the Wieland brass due to these types of surface defects than the other brass that was purchased then or even the brass that we purchase today.

Furthermore, Wieland's brass was softer than domestic brass. We are able to produce a wider variety of products with the softer material. This is because softer brass can be shaped more readily into different forms without the risk of cracking that you have with the harder brass made by domestic companies.

The brass we obtained from Wieland in the

1980s is superior even to the brass that is available today from domestic manufacturers and importers. This was made clear to me recently as I examined a sample of Wieland's brass from the 1980s that we still had in our office. After all of these years, the sample is still clearly superior in terms of its finish and the softness of the material to anything I can get today from a domestic producer.

I have that sample with me today, along with a sample of brass currently available from a domestic producer. As you will see, the Wieland sample from the 1980s is still noticeably superior to the domestic brass.

The loss of Wieland as a supplier hurt our company. Without Wieland's brass, we had to use brass of a lower quality and were no longer able to make the same quality of product. Our inability to obtain Wieland's brass also had a direct impact on our sales and our customer relationships. Delta Faucets, a customer of Guarantee's for 20 years, told us that because we could no longer provide them with the same quality products, products we had manufactured using Wieland's brass, they would no longer purchase our plumbing escutcheons. The loss of Delta's business cost us between 5 and 10 percent of our total annual sales.

If the orders were to be revoked, we would seek to again purchase brass from Wieland Germany due to the importance of material quality in our products. We have been told by Wieland Metals U.S. that Wieland Germany has made technological improvements since we last were able to buy from them. We understand that Wieland Germany now produces an even higher quality of brass than they did in the late 1980s, brass that requires no buffing.

Guarantee would be willing to pay a price premium for Wieland's Germany, higher-quality brass over the prevailing average domestic price for brass. We would willingly do so because we could produce a higher-quality finished product more efficiently.

That concludes my remarks. I would now like to introduce my colleague from Brazil. Thank you.

MR. BAIALUNA: Good afternoon. My name is Valmir Baialuna. I am sales manager for the Brazilian producer of brass sheet and strip, Eluma SA. I have been with Eluma in my current position for eight years. Eluma supports the revocation of the orders against Brazil and the other countries concerned.

Eluma did not participate in the last sunset review conducted by this Commission. In fact, Eluma has pretty much been a bystander in these cases for the last 20 years. The reason is simple: Eluma's imports into the United States, like all Brazilian imports, were declining long before the orders were issued. The import data show that in the two years preceding the imposition of the orders, imports from Brazil had declined very significantly, to a very small percentage of U.S. demand.

The decision to limit our exports to the United States was not directly linked to the orders but to other market considerations. Starting in the mid-1980s, the Brazilian market for brass increased steadily and significantly. This was fueled by the very significant growth in a number of Brazilian industry sectors, such as automotive, telecommunication equipment and construction. This growth in Brazilian demand has continued until now and is expected to continue in the future, as the information we provided to the Commission clearly shows.

During that period, Brazil was not the only market which experienced exponential economic growth. For example, Eluma and the other Brazilian producers also increased their exports to Asia and later to countries in Latin America. The information provided by Eluma and the Brazilian industry shows that today very close to 100 percent of our production if focused on Brazil and Latin America.

In the last 15 years, we have been a primary beneficiary of the globalization of the industries consuming brass. Today, we supply several subsidiaries of U.S. companies that purchase brass from us to produce downstream products in Brazil. There is little unused capacity in Brazil as a whole and almost none with respect to our company.

The Commission has received our answer to its questionnaire and also has the information that was collected by SINDICEL, the Brazilian association that covers brass producers. The information from these two sources shows very similar trends.

There are currently four producers of brass products in Brazil. Eluma is the largest Brazilian producer. The second largest is Termoneccanica, and the other two producers are very small and are estimated to represent only about 5 percent of the Brazilian market.

The information provided to the Commission shows that Brazilian capacity increased over the period in response to the increased Brazilian demand. Using the Brazilian producers' sales to the domestic market as a surrogate for Brazilian overall demand for brass, those sales increased by 56 percent between 1999 and 2004. At the same time, Brazilian capacity increased by about 50 percent. Thus, increased capacity in Brazil was very much in line with the increase in the Brazilian demand.

If you compare the capacity that existed in Brazil in 1999 and the industry's sales to the Brazilian market in 2004, you can see that the Brazilian industry would not have been able to supply the Brazilian market if its capacity had stayed at its 1999 level. Almost all of this capacity is dedicated to the Brazilian market. Therefore, this increase was necessary to meet the Brazilian demand and has not resulted in excess capacity.

I also note that brass imports into Brazil from third countries, including the United States, have increased significantly during this period. For example, imports of brass products into Brazil tripled between 2003 and 2004. This trend indicates that the growth of the Brazilian market was very significant and justified the decision made by my company and others to devote additional capacity to that market.

The U.S. industry has alleged that Eluma is in the process of further increasing its capacity for brass. The Commission has our capacity figures for the period concerned. As I have already explained, our added capacity has been focused on supplying our growing domestic market and has not resulted in any unused capacity. For example, Eluma's capacity utilization was very close to 100 percent in 2004.

Under these conditions, in spite of the allegations made by the U.S. industry, Eluma has no significant excess capacity that would threaten the U.S. industry. Even if the entire production resulting from our excess capacity in 2004 was sold to the U.S. market, it would represent less than 0.01 percent of U.S. apparent consumption. During the first three quarters of 2005, this number was even smaller.

The Brazilian industry also supplies increasingly Latin American countries. This trend, which started in the late 1990s, has now completely overtaken our exports to Asia. As the Argentinean economy slowly recovers from its slump of several years ago, the data we provided to the Commission show that exports to Latin America have absorbed any unused capacity that was not devoted to the domestic market. It is our view that this trend will continue in the future.

Eluma would not be able to immediately shift capacity to brass from other products if the orders were revoked. We produce several different products on the same equipment: copper, bronze, brass alloys, including the C-200 series. Eluma has always produced these three products and intends to continue to produce them. Shifting production among these products is limited by the product blend that we must maintain to supply our customers in all three markets.

Shifting capacity to brass from copper, for example, means losing sales and market share in the copper market. It is possible in theory but impractical in reality.

In fact, the information we provided to the Commission shows that Eluma's capacity increased very slowly and in small increments during the period. It does not evidence any sudden product shifting to free capacity for brass, even though the Brazilian brass market was growing very quickly, as I mentioned earlier.

In addition, diverting sales from other markets to the United States would be impractical and would not make much business sense. We have long-established relationships with customers in these other markets that would make it difficult for us to divert sales from a commercial point of view.

Furthermore, we have little incentive to give up these markets for the U.S. market. The average price in these accounts is higher than the average U.S. market price. With lower market prices in the United States, why would we want to divert sales or increase capacity to supply this market?

I have read and heard the arguments made by the U.S. industry that it is vulnerable to our imports if the orders are revoked. I am no economic expert, but assuming this is true, for it to claim that it still needs protection after 20 years suggests to me that our imports were not the cause of its problems in the first place.

The increase in the cost of producing brass, especially copper, zinc, and energy cost, does not affect the U.S. industry alone but all producers around the world. In this respect, we are as vulnerable as the U.S. industry to rising cost of raw materials and certainly have not incentives to sell in the United States if the U.S. market price will not allow us to recover these costs. We currently sell in other markets at prices that are higher than the average U.S. market price.

Brazil remains a small producer of brass compared to all other producing countries. Its capacity to produce brass is a fraction of that of Italy, France, Japan, or Germany. Unlike the other countries, almost all of Brazil's capacity is devoted to supplying a growing domestic market. Brazil does not export significantly, nor do its exports represent a significant share of its sales. For example, in 2004, Brazil's total exports were 2.5 million pounds, or 3.3 percent of its total sales. These data clearly show that the conditions of competition set Brazil apart from the other countries.

In conclusion, I would like to share with you my surprise after I read the determination made by the Department of Commerce. This department determined that the revocation of the countervailing duty order against Brazil would likely lead to a continuation of subsidies, even though it also found that all known subsidy programs had been terminated in Brazil. How can that be? The same question could be asked of the claim made by the U.S. industry that imports from Brazil would adversely affect it if the orders were revoked.

Thank you. I will be happy to answer any questions you may have.

MR. MALASHEVICH: Good afternoon, Mr.

Chairman and members of the Commission. I am Bruce Malashevich, president of Economic Consulting Services. I am here today on behalf of Respondents participating in this second sunset review of a case that was decided almost 20 years ago.

My comments will focus on rebuttal of certain arguments in the Petitioners' prehearing brief regarding performance of the domestic industry, conditions of competition, and the likely effect, or, rather, lack thereof, that revocation of these orders against all remaining subject countries would have on the domestic industry.

I would like to begin by turning your attention to the set of public exhibits passed out to you a short while ago. Exhibit 1 is a hypothetical representation of subject import market share over a typical period of investigation in a Title VII proceeding. As you can see, the market share of subject imports declined by half in this hypothetical case.

In my some 30 years of experience before the ITC, I can think of not a single antidumping or countervailing duty case where the Commission voted in the affirmative with subject imports having declined so precipitously in relation to consumption.

I now turn your attention to Petitioners' essential theory in this particular sunset review. Please turn to Exhibit 2. It contains a quotation from page 65 of their prehearing brief, and it says, I quote, "that the subject imports will have a significant negative effect on the domestic industry in the event of revocation is most clearly indicated by the data developed at the time of the original investigation."

Clearly, Petitioners believe that the data from the original POI should be the primary basis for your current, forward-looking decision, notwithstanding the fact that such data are now almost 20 years' old.

Okay. So let's take a look anyway. Please turn to Exhibit 3. As I'm sure you now recognize, the lines on Exhibit 1 and Exhibit 3, in fact, are identical. The market share of the countries that remain subject to this order declined by more than 50 percent over the course of the original POI, the exact time period which Petitioners themselves believe to be the most important period for your decision. It strains credibility to conclude that a similar fact pattern in any case before the present Commission would yield anything other than a negative determination.

If this is the best that Petitioners can do, I'm tempted to just sit down and stop right now, but giving them the benefit of doubt, there are other aspects of Petitioners' arguments that warrant critical comment this afternoon. For example, Petitioners would have you believe that the financial performance of the domestic industry has been poor, even with the orders in place, and that revocation would further injure the domestic industry.

A careful review of the record in this case reveals that the domestic industry producing BSS, in fact, is not vulnerable but, rather, quite resilient. I urge the Commission to think about profitability of the domestic industry in the face of what Petitioners would have you believe is a perfect storm of negative market developments which the domestic industry has successfully overcome. Despite a general economic recession during the period of review, exacerbated by the impact of the 9/11 tragedy, a longer-term softening of demand for various reasons, and unprecedented increases in raw material and energy costs, the domestic industry was able to maintain a positive operating profit in every single year of the period of review.

In 2004, the last year of the period, and this is very significant in light of Petitioners' theory, in the last full year of the POR, the domestic industry achieved operating profits essentially equal to their level in the base year of 1984 in the original period of investigation.

As for the outlook, an article appeared in the American Metal Market on December 27, 2005, reporting that inventories of brass products in the U.S. are expected to remain tight. You heard testimony from the domestic industry this morning that the outlook for 2006 is very good. I agree. We have continuing growth in overall U.S. GDP at a healthy level. This is important because consumers of BSS products span a wide range of industries across various economic sectors. They include manufacturers of automobiles, ammunition, and electronics products. Building and construction firms are another major end user. Therefore, the performance of the domestic industry producing BSS necessarily tracks the general economy.

During the general manufacturing recession experienced in the U.S. from 2001 through 2003 -- that's distinct from the recession in GDP, which was much shorter in duration -- the BSS industry also experienced declines, as expected. Nevertheless, the industry remained profitable in every single year. In fact, the domestic industry's financial performance was even better than the Commission's traditional profitability analysis reveals.

One condition of competition for the BSS industry is that producers and re-rollers separately pass through the cost of the metal to customers under well-established pricing agreements. You heard an excellent description about that system early in this morning's testimony. More recently, U.S. producers have implemented, and customers generally have accepted, surcharges for fuel and energy and, in some cases, natural gas.

It's the fabrication charge on which producers earn practically all of their operating revenue and profits. Thus, final net sales values that are inclusive of escalating metal costs necessarily inflate the true sales values of the domestic industry's actual operations in relation to operating or any other measure of profit. For this reason, the Commission should evaluate the profitability of the industry using a so-called "conversion margin," which essentially excludes the metal costs from the equation.

I confirmed with the industry's representatives today in Germany and Brazil that this is, in fact, how they monitor their progress in the normal course of their business.

So I urge members of the Commission to carefully study Confidential Exhibit 5 to the German prehearing brief which calculates this conversion margin for the domestic industry. This exhibit shows that under this more appropriate measure of profitability, the domestic industry achieved in absolute terms much healthier levels of profit throughout the entire POR than are indicated in the prehearing report, and nothing I heard in this morning's testimony would cause me to change my view in that regard.

The prehearing report, I think we now virtually all accept, also contains misleading data with respect to the domestic industry's level of capacity and, therefore, capacity utilization rates. I emphasize that staff is not at all at fault here. Rather, it results from an unusually wide range of assumptions upon which domestic capacity was reported by the individual players. Consequently, the domestic industry's capacity is wildly overstated, thus artificially driving down utilization rates.

The rates, as reported in the prehearing report, also are simply unrealistic in the face of reported shortages in the market during the POR and the recent behavior of nonsubject imports. You heard confirmation today that there were extended periods of allocation, at least in 2000 and 2004, and other evidence and testimony today that, to some extent, they continue today.

I understand that at least one major revision to the reported domestic capacity data has just been submitted, and we'll analyze that revision for the post-hearing brief.

We also call the Commission's attention to the complete lack of harmful correlation between the performance of the domestic industry and the behavior of subject imports. During both the original investigation and this POR, subject imports' market share declined coincident with generally declining levels of operating profitability for the domestic industry, however you measure it. Despite Petitioners claims, the two factors simply are not related in a manner that would support an affirmative determination.

Should the Commission accept Petitioners' claim that the domestic industry is in a weakened state, there is no causal connection between its performance and the declining subject imports' share of the domestic market.

Once again, focus your attention on a particular statement in Petitioners' prehearing brief. On page 3, Petitioners state, and I quote: "The reasons for the domestic industry's weak condition include a decline in demand for BSS over the period of review with numerous downstream customers relocating offshore, increasing costs of production, and increasing volumes of nonsubject imports."

Note that there is no mention of subject imports. Perhaps more important, all three of the factors mentioned are completely unrelated to subject imports' presence in the market.

I certainly do not concede that the domestic industry has weakened, but I would like to comment on these three factors that serve as Petitioners' theory on page 3 nonetheless.

First, they state that the demand for brass sheet and strip is declining. Although the raw data indicate that apparent consumption has declined over the period of review, this decline was largely cyclical in nature and the result of a general manufacturing recession that occurred roughly between

2001 and 2003. So that's three years of the POR right there.

Since the substantial decline from 2000 and 2001, the demand for BSS has generally expanded. Petitioners would like the Commission to focus on the lean years during the recession. I urge the Commission to evaluate the domestic industry over the entire course of the business cycle, as it should and normally does. Such an analysis will show that the domestic industry is certainly not weak but, rather, quite resilient.

The second factor mentioned by Petitioners, increasing cost of production, is also wholly unrelated to subject imports. The Commission should note that a majority of the increases of cost of production are the result of increasing raw materials costs, especially copper. No one in this matter disputes that increases in the cost of raw materials are simply passed through in the form of higher prices to the customer. Thus, they have a minimal effect on the financial performance of the domestic industry.

Second, as we are all aware, commodities in general have experienced tremendous increases in prices over the last several years. However, futures exchanges now suggest that moderation of this trend is underway. The January 19, 2006, edition of the Wall Street Journal reported that futures prices for copper scheduled for March of 2007 are five cents per pound lower than currently. Once again, the Commission should consider the recent cost increases in the context of a full business cycle and the fact that BSS producers worldwide paid the same world prices for key alloy elements. All parties agree on that.

The third major factor cited by Petitioners is a reportedly significant increase in nonsubject imports. Now, the testimony this morning was particularly enlightening on that score, and I emphasize that you pick up a confidential exhibit that was just reprinted from the prehearing brief on the subject of nonsubject imports. I understand that that's been passed out to you all by the secretary's office.

Now, essentially, Petitioners are arguing that you should look to the behavior of nonsubject imports during the POR as a forecast of what would happen to subject imports in the event of revocation and also as a cause of the domestic industry's vulnerability. Well, they principally rely on nonsubject imports from the formerly subject countries: Sweden, Korea, and the Netherlands.

Now, think about the public testimony this morning. There is no production any longer in Sweden, and the imports from Korea and the Netherlands, in the case of the Netherlands, were of a product that couldn't be made to the appropriate quality by a domestic producer, and the material from Korea was bridging material that helped them start a domestic production operation.

So owing to the circumstances testified to this morning, how could the behavior of those imports possibly be a forecasting tool for the future behavior of entirely different subject imports from a different set of countries? It's inconceivable. And, secondly, how can the industry be vulnerable to an increase in nonsubject imports that it mostly accounted for, and that increase is explained by the special circumstances testified to this morning by the domestic industry itself?

These facts alone effectively destroy Petitioners' argument regarding the significance of nonsubject imports. Nevertheless, should the Commission conclude that the domestic industry is in a weakened state, there is nothing in the record to indicate that revocation of the orders would disturb the domestic market or otherwise affect the domestic industry.

As shown in my public exhibits and Respondents' briefs, subject imports in the aggregate have been declining over the original investigation, both absolutely and as a share of the domestic market, and simply continued that trend thereafter. It's doubtful the Commission would have reached an affirmative determination originally against the countries now subject to this order.

Under a revocation scenario, Petitioners would have you believe that subject imports would flood back into the market in significant quantities. Two major obstacles prevent such a result. As shown in Exhibit 3 of the Germany prehearing brief, prices in the U.S. market are not above world market levels, and, in fact, in many cases are below the prices that could be achieved elsewhere. Thus, producers have no incentive to divert shipments to the U.S. market should the orders be revoked. The strong value and increasing value of the euro and, more recently, the strengthening of the Brazilian real, further discourage diversion of shipments to the U.S. market.

You heard testimony from one of the Germany industry witnesses that the U.S. industry now generally controls distribution as well as production of BSS in the United States, another barrier to increasing subject imports. Brazil and Germany have no significant available capacity to increase production of BSS.

Germany had been the largest exporter to the U.S. among the currently subject countries. However, German capacity and production have declined substantially since the original POI. Wieland, the largest exporter, has established manufacturing operations in the United States. The Commission should also note that exports to the U.S. of Wieland's nonsubject brass sheet and strip products, classified otherwise in the same HTS numbers, have declined steadily, both during and since the time of the original investigation.

A simple fact is that the most promising growth markets for BSS are in other parts of the world, especially Asia.

All of these circumstances combine to make it extremely unlikely that subject imports would come back into the U.S. market in any meaningful quantities. Should the Commission nonetheless conclude that subject import market share would increase upon revocation, it's very likely that such increase would be at the expense of nonsubject imports rather than domestic production. Although the data are confidential, I urge the Commission to investigate the channels of distribution for domestic shipments, on the one hand, and subject and nonsubject imports on the other.

Given the role that domestic producers themselves play with respect to nonsubject imports, it is much more likely that the response to any hypothetically significant increase in subject imports would be a commensurate decline in nonsubject imports rather than domestic production. Thus, the domestic industry is not somehow threatened by increasing subject imports should these orders be revoked.

Thank you, and I would be pleased to answer any questions.

MR. SHOR: Mr. Chairman, that concludes our presentation.

CHAIRMAN KOPLAN: Thank you very much. I appreciate your responses to our questions, and, again, as we go through our questions this afternoon, if you would continuously reidentify yourselves for the record to assist the reporter, and we'll begin the questioning with Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Mr. Chairman. Let me be the first to welcome the afternoon panel, and thank you for being with us to answer our questions this afternoon.

Let me start with a question for Mr. Traa. Am I pronouncing it correctly? Thank you.

MR. TRAA: Yes.

COMMISSIONER ARANOFF: In your brief, you make the argument, and I think you also made it in your testimony, that German imports would continue to be quite small if the orders were removed and that the only opportunity for increased imports would be to some very specialized, high-quality customers in the U.S.

I know that in your brief you analogize your company's situation with the situation of the Korean producer and with OAB, who are affiliated to foreign producers for which the Commission revoked orders in the last round of reviews in this case. Both of those U.S. affiliates are integrated producers, whereas Wieland's affiliate in the U.S. is a re-roller.

Why wouldn't there be an incentive for your company to ship partially finished product to be re-rolled in the U.S.?

MR. TRAA: For me, the main reason would be that we would not put capacity into heavy-gauge material and ship this to the United States at a price which is not interesting for us. We would rather use that capacity for producing high-quality products and shipping it either in Europe or, of course, to Asia into the high-performance alloys -- nickel, silver, phosphor bronze -- as I've said before.

COMMISSIONER ARANOFF: So is it your contention that your capacity utilization is already so high that there is just no room to add this product to ship to the U.S., or is it just that even if you had capacity, you wouldn't do it because this is a low-end product and not worth the money?

MR. TRAA: I would say it's a low-end product, and at this point, at this moment, with the current exchange rate, it wouldn't make any sense for us to ship this to the United States.

MR. SHOR: Just to emphasize the point about the exchange rate --

CHAIRMAN KOPLAN: Could you move your microphone closer, Mr. Shor?

MR. SHOR: I'm sorry. Just to emphasize about the exchange rate, and perhaps Markus could also comment, at current exchange rates, it is much cheaper for Wieland Metals U.S. to purchase that re-roll material from Olin, its current supplier, than to import it from Germany. That's just a function of the market.

MR. SCHULER: Markus Schuler. I would like to add some comments here from the buying/receiving end in the United States to this question.

While the parent company may or may not have interest in supplying to the United States, I certainly don't have any interest in buying from them. Certainly, one of the reasons, Werner just mentioned. A couple of the other reasons are very obvious and were actually stated this morning by our domestic producers.

The industry has really, really changed. The long lead times that it would require certainly would require us to stock far more material at our warehouse in order to make sure that we're covered at all times.

Now, with the interest rates where they are, transportation costs where they are, and the metal prices where they are, the financing of additional volume is really not up to us. It was also stated this morning that there is really not much margin left in selling brass here in the United States market. I agree with that. I don't have the margin to spend it on capital expenditures for extended volumes of raw material that I would have to do because the supply chain from Germany is three to four months, and with transportation costs rising and transportation more and more affected and slowed for various reasons, it's certainly not a feasible undertaking for us.

There's another couple of reasons. The relationship we have with our U.S. supplier certainly also enables us to buy on short notice. You also heard this morning that the visibility of orders, incoming orders, has been shorter than ever. Today, you will see customers wanting to receive material before they received order confirmations in 1984. The visibility is just not there anymore. Reaction times do not allow me to go, on our major product that takes up the majority of our production, into inventories that I just simply can't afford. The space that I need to store that material -- I would just not be willing to consider it for the mainstream of our production.

COMMISSIONER ARANOFF: I appreciate those answers, and in response to them I would say that I understand the scenario that you're describing for why this wouldn't make sense. It's based on, as I understand it, two assumptions which I hope that you will provide some support for, either now or in your brief, just to round out the argument. One, the exchange rate argument, as, I think my colleague the Vice Chairman was raising this morning with the Petitioners, how should we address the exchange rate issue when we're looking at the reasonably foreseeable future to the extent that your incentives that face you now with the exchange rate situation the way it is might change. I don't know what kind of assumptions the commission can make about exchange rates in the reasonably foreseeable future. But second, obviously, this situation of what the U.S. re-rollers' motivations might be depends on a business model that allows it to make its own decisions. I don't know what the control situation is between the German parent and the U.S. affiliate in terms of whose profits are the major concern in how those decisions are made about where the U.S. re-roller is going to buy from.

I don't know, Mr. Shor, if there's something you want to add now?

MR. SHOR: Yes. If I could address a couple of those points real quickly? And Markus can respond as well.

On the exchange rate, I think Markus will explain that we're not talking about small changes that are necessary in the exchange rate. We're not talking about the Euro moving from 123 to 120 that suddenly it makes it profitable. There would have to be a large movement before it would be cheaper to import from Germany than it is now. And that's why you're seeing, again, on the non-subject brass that's imported from Germany, that is also declining as well for much of the same reason. It is not just the subject brass.

MR. SCHULER: I think we have to, on the exchange rate side here, look at the much longer trend. If you go back to the 1980s and compare that with the range we are trading today, it was the German Mark back then and it's the Euro today, if you said that in relation, the span of change that we see at this time, the downward trend overall is perfectly clear. We would need to go back to values significantly away from where they are today.

MR. SHOR: The second part of your question addressed the intercompany relationships and the control issue but, as I understood Mr. Traa's testimony, that was not the issue at all.

I think if you look at the confidential information in terms of the excess capacity Wieland has in particular, there isn't enough there to satisfy the needs of Wieland Metals, is the first point.

Second, I just wanted to make sure you understand the point that I understood Werner to be making.

Re-rolled material is much thicker material. What they send to Wieland Metals and the margins on re-rolled material are not as great as the margins on material that they further process because they make their money on processing. So it would not make sense for them to shift production from a higher profit product to a lower profit product on the Germany side.

MR. TRAA: Yes, that's correct.

COMMISSIONER ARANOFF: Okay. Let me move on, then. Thank you for those answers. A related question.

In your brief, the argument is made that the German industry has downsized and brought its capacity into line with demand while the U.S. industry has not done the same, but I'm not sure that that's consistent with Mr. Traa's testimony this morning, so could you just clarify for me, if you could, have there actually been any plant closures or reductions in capacity in the German industry over the period of review or has the capacity been shifted to other products?

MR. TRAA: We shifted, actually, the production to other products, so our main focus over the last years is of course, besides Europe, the Asian market and there are alloys, alloy groups, which are considered as high performance alloys. For example, one is called C194, which is also in the 100 series. It's the base material for lead frames for computer chips, so Intel is one of the end users of that product. We consider ourselves as one of the worldwide main suppliers for that product, so, whatever capacity is there, we shift into this production of that highly sophisticated material.

COMMISSIONER ARANOFF: Thank you very much. My time is up.

MR. SCHULER: Can I add one quick sentence? The shifting also means that other downstream equipment has to be installed, so shifting back would mean idling that additional equipment that was set up to producer the higher grade materials.

COMMISSIONER ARANOFF: Thank you very much, Mr. Schuler.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

Mr. Schuler, maybe you can help me out here. I just want to make sure I heard correctly. Did you testify that you're currently on allocation with your U.S. supplier? Did you say that?

MR. SCHULER: That is correct. We are on a long-term agreement. As per a long-term agreement, we are getting a share, the share that we have agreed upon, but it has refused to give us additional material.

CHAIRMAN KOPLAN: Okay. Because this morning, I thought I heard them say that any allocation had ended, that there were no more allocations. If you could provide the details of that for purposes of the post-hearing, I would appreciate it.

MR. SCHULER: No problem.

CHAIRMAN KOPLAN: It's in conflict with what I heard this morning.

MR. SCHULER: We certainly will do that.

CHAIRMAN KOPLAN: Thank you.

Mr. Bruno, you argue at pages 9 and 10 of your brief that if the commission does not find the no discernable adverse impact standard met, we should not exercise our discretion to cumulate imports of BSS from Brazil with the other subject countries because of conditions similar to those the commission determined to exist for South Africa in the cut-to-length quality steel plate investigation regarding China, Russia, South Africa and Ukraine.

I remind you that I differed from the

majority in that opinion with regard to South Africa and exercised my discretion to cumulate their subject products with those from China, Russia and Ukraine, but I won't hold that against you. I just thought I would note that for the record.

With that in mind, I've got a couple of questions to follow up with you on that.

First, with respect to non-subject products such as copper and bronze, which were mentioned this afternoon, do Brazilian producers have unused capacity that could be shifted to the production of BSS?

We haven't asked it that way, I don't think, so far.

MR. BRUNO: I'm going to ask the industry representative to speak on behalf of Eluma. I do not have this information but I certainly could get it for the post-hearing brief.

CHAIRMAN KOPLAN: Could you do that? I'd be happy to hear from him, but if you could do that for the post-hearing brief, I would appreciate it as well.

MR. BRUNO: We will certainly do it, Chairman Koplan.

CHAIRMAN KOPLAN: Certainly.

Go ahead, sir.

MR. BAIALUNA: The whole capacity of our plan is split between the three product lines, brass, bronze and other alloys. The capacity is all mostly 100 for all products.

CHAIRMAN KOPLAN: For all of them?

MR. BAIALUNA: Yes.

CHAIRMAN KOPLAN: So then you're saying that with regard to your company, you could not shift because you're at full capacity?

MR. BAIALUNA: Even if I could shift, I will lose market in my other product lines. For sure I use the same equipment, I could shift. Also, looking at my numbers, Commissioner, you could see that my capacity even if I do that will be very limited because I put in my report the number that I am producing of C200 alloys and all other alloys. So it's possible to estimate what it would be and it will be not so significant the change and we will represent a marketing loss for all other products from the company.

CHAIRMAN KOPLAN: Thank you. I appreciate that.

Now, let me come back to you again, Mr. Bruno. I note that a majority of domestic producers, importers and purchasers rated BSS from Brazil and domestic sources as always or frequently interchangeable. That's the staff report in Chapter 2 at page 24.

Do you agree that subject Brazilian products are at least substitutable for the domestic product?

MR. BRUNO: Yes, we would agree, Chairman Koplan. This is a question that I discussed with Eluma's representatives and I can tell you that they produce and export what they call the standard type of brass, so they are not into a niche market or low quality or high quality, they are just standard brass. So in this respect, they would compete in terms of physical characteristics and end users with the U.S. industry.

CHAIRMAN KOPLAN: Thank you. I have another one for you.

You argue at page 20 of your brief, and I'm quoting, "There is attenuated competition between subject imports sold to distributors on a spot basis and domestic product sold to end users under long-term contracts." That's a quote.

Don't spot sales of subject imports to distributors make it easier for subject producers to penetrate the U.S. market at least with regard to smaller volume customers?

MR. BRUNO: Certain, Chairman Koplan, but the point is that they would not be able to go after the large end users and therefore any penetration would be certainly limited. That was the purpose of that point we were making.

CHAIRMAN KOPLAN: Yes, I understood that. I just wanted to close the loop with regard to the smaller ones.

MR. BRUNO: That's right.

CHAIRMAN KOPLAN: Okay. Thank you for that.

Mr. Malashevich, at page 37 of their brief, the domestics claim that, and I'm quoting, "The productive capacity of the Germany industry is significantly larger than at the time of the original investigation" and "its ability to shift to the United States is now far greater."

They also urge the commission to page 38 of their brief to assume that the entire capacity of non-responding brass producers which they assert is 770 million pounds, and I heard this afternoon that you're not exactly stipulating to that, can be and would be devoted to the subject product in the event of revocation.

Should the commission base its analysis on the entire capacity as the best information available or can you provide the commission with reliable data of the BSS capacity of subject non-responding Germany firms and could you please include a discussion of the ability to shift capacity?

Mr. Traa, I believe, reported current production for us.

Mr. Malashevich?

MR. MALASHEVICH: Well, first of all, I think it goes without saying that primary source data is always preferred and I believe at least one angle of your question was addressed in your testimony of the Germany witnesses just a few moments ago.

CHAIRMAN KOPLAN: Yes.

MR. MALASHEVICH: I don't know if I could add anything to their testimony at this time, but I would invite them, if they feel they have material that they could share with you now, invite them to respond to your question completely and I will make every effort I can post-hearing to work with the representatives to answer your question in greater depth, but I defer to them at the moment.

CHAIRMAN KOPLAN: Thank you.

I didn't mean to cut you off, Mr. Shor. Go ahead.

MR. SHOR: That's fine. I know it's difficult to absorb a lot of facts when they're read to you, but let me clarify Mr. Traa's testimony. I think it will be clear in the transcript.

Of the other four Germany producers, three of those are not integrated producers. They do not produce any raw material. They purchase all of their material from either Schwermetall, a reporting producer, or Wieland, a reporting producer, so you have all their data because it would be double counting to include their production and their capacity and Wieland and Schwermetall's capacity.

The only other producer who has not responded was Plettenberg.

CHAIRMAN KOPLAN: Excuse me. I didn't catch it.

MR. SHOR: It was Plettenberg. We provided their capacity information and that's what we used in our estimate of production. We took their total available capacity and assumed that that was all devoted to the subject product and used that as the basis for saying that the three responding producers accounted for 90 percent. So we already made the most adverse assumption based on the available data to us. There are no other producers of subject merchandise in Germany.

CHAIRMAN KOPLAN: Thank you.

Did the Germany producers wish to add anything to all this?

MR. TRAA: No, I think it's all said.

CHAIRMAN KOPLAN: It's covered?

MR. TRAA: It's covered. I guess we have letters from those companies showing this or telling us this or confirming this information.

CHAIRMAN KOPLAN: Okay. Thank you for that.

I saw, Mr. Shor, you were nodding in agreement with Mr. Traa.

MR. SHOR: We'll provide those with our post-hearing brief.

CHAIRMAN KOPLAN: You've got to say with your mic. You'll provide it with your post-hearing brief, Mr. Shor?

MR. SHOR: We'll provide the letters with our post-hearing brief.

CHAIRMAN KOPLAN: Okay. Thanks.

Mr. Shor, let me stay with you and your mic. In a footnote in the domestic brief, it's footnote 31, but the discussion is bracketed, the domestics claim that re-rolled import materials could be sourced outside a subject country. This was asked this morning. Would such material be considered subject product if re-rolled in a subject country? That was asked this morning as well. And your answer is?

MR. SHOR: I think if it's re-rolled in Germany, it counts as subject merchandise, yes.

CHAIRMAN KOPLAN: So that's your answer?

MR. SHOR: Yes. But, again, Prymetall is a re-roller and this relates to a question that was asked before. When you're dealing with capacity and production data, all three rollers and producers we agree count as part of the domestic industry or count as part of the foreign industry, but you have to be careful so as not to double count the same capacity and the same production or the same pound of material twice.

CHAIRMAN KOPLAN: Thank you.

I see my red light has just come on. I'll turn to Vice Chairman Okun.

VICE CHAIRMAN OKUN: Thank you, Mr. Chairman.

I join my colleagues in welcoming this panel here this afternoon. I appreciate your willingness to participate and answer our questions and for the information you've submitted.

Let me start with you, Mr. Baialuna, just with some additional questions about future demand in Brazil. In your brief and in your testimony today, you had talked about home market demand and you're anticipating that it's going to continue to be strong. My first question would be whether you could be more specific about what end uses are driving the home market demand in Brazil and kind of the relative strength of each.

MR. BAIALUNA: Well, it's almost in order, as I put in my testimony, first of all, the automotive industry. The automotive industry in Brazil is quite strong, not only for the domestic market but due to the exports of these companies. The second one is telecommunications, telecommunication equipment, and after that construction. There is also another one that is not here that is actually the second and it's the ammunition is brass strips for ammunition production.

VICE CHAIRMAN OKUN: Okay. Do you have any information or studies or anything external that you could point to or put in the record for us to help us see the statistics or the demand that you see as a company, whether that's a business plan or outside analysis that would support that?

MR. BAIALUNA: I will try.

VICE CHAIRMAN OKUN: Okay. Anything that you have or that you could find to help. I can look at what we see in the record with regard to your home market shipments now, but I just want to make sure I understand the demand.

Yes, Mr. Bruno?

MR. BRUNO: Vice Chairman Okun, I just want to point out, though, and I do understand that the information you need is very relevant here, but that the grown in the domestic demand in Brazil has been a long-term trend. We're looking at basically 10 years of increasing sales to that market, so this is not a recent phenomenon and that's the reason why this industry is projecting that it will continue to grow. We're talking about structural demands in the country such as construction, telecommunications and so forth. So we will be happy to provide surveys and statistics about those various industry sectors, but I just wanted to point out that it is not a recent fluke, it is really something that has been going on for many, many years.

VICE CHAIRMAN OKUN: I appreciate that.

I had asked the question this morning, I was curious about it, have there been any changes in regulations or laws in Brazil with respect to the auto industry that are relevant to the domestic auto industry in Brazil?

MR. BAIALUNA: I'm sorry, I do not get your question.

VICE CHAIRMAN OKUN: I think we were either talking with staff or looking at something through the newsclips. They were talking about the Brazilian auto industry, there being a requirement that the cars being sold in Brazil be primarily from domestic production and I wasn't sure if that was a law in Brazil or if it's just erroneous information. I'm trying to figure out if you know that or if you could find that.

MR. BAIALUNA: I'm sorry, I do not have the information. I really don't know.

VICE CHAIRMAN OKUN: Okay.

Yes, Mr. Bruno?

MR. BRUNO: We will inquire about this and provide any information in the post-hearing brief.

VICE CHAIRMAN OKUN: Okay. That would be helpful.

The other thing I had mentioned this morning, again, from sources not yet on the record, but whether CVRD has announced plans to enter the copper and brass industry.

Is that anything you're familiar with, Mr. Baialuna?

MR. BAIALUNA: CVRD is Company --

VICE CHAIRMAN OKUN: Right.

MR. BAIALUNA: But it is not a company linked with my group.

VICE CHAIRMAN OKUN: But is it a company -- are you aware of they are --

MR. BAIALUNA: Actually, this company is exploring copper ore. They're a new reserve in Brazil and they are exploring, but they are a raw material producer for us. We are transformers and also they do not have a refinery so they only produce the copper ore, the mineral, and so other refineries would produce the copper cathodes or the copper ingots that would be the raw material for my company. There is not the linkage --

VICE CHAIRMAN OKUN: So you're staying in the raw materials.

MR. BAIALUNA: Yes.

VICE CHAIRMAN OKUN: The business to be in right now. Yes. Okay. I appreciate that.

And you had responded, and Mr. Bruno, perhaps for post-hearing, I just want to make sure I understand the arguments with regard to whether the capacity that we have on record, whether there has been an expansion in capacity in the Brazilian industry in 2005 in particular.

MR. BRUNO: I believe that the only -- if you're referring to the announcements made in the newspaper articles that were mentioned this morning in the testimony of the U.S. industry, I would like Eluma's representative to address that. I think with respect to the Brazilian industry you have now the data. There is one little correction that had been made in the earlier version that was not made in the most recent version of that data which I communicated to staff yesterday. But in any case, with respect to Eluma, I would prefer to have Mr. Baialuna --

VICE CHAIRMAN OKUN: Please. Mr. Baialuna?

MR. BAIALUNA: Regarding investments in the newspapers it's true, it's the investment for the whole group. My group has other companies also, a copper refinery, a tin producer. Eluma also has other products that -- Eluma is a copper fittings producer. We are leaders in Brazil for tubes and fittings for plumbing. We produce brass wires, copper and brass wires. So the investment is for the whole group, not dedicated to specifically to the production of flat products or specifically what we are talking here, brass products.

VICE CHAIRMAN OKUN: Okay. I appreciate

that. If there are any documents or information that you could submit post-hearing to further clarify that, I would appreciate that as well.

MR. BAIALUNA: We will do so.

VICE CHAIRMAN OKUN: Then let me turn to a question to the panel with regard to demand in China and the arguments made by the domestic industry that China, while it had been a growing market, is starting to turn the corner and a lot of products will have to find somewhere else to go. Again, one of the things we had asked for this morning was whether there was any more specific information that could be submitted to help us better understand demand and consumption trends in China.

Mr. Shor?

MR. SHOR: Let me start by just putting some of the numbers in context. Petitioners had a table in their brief --

VICE CHAIRMAN OKUN: If you can pull your mic closer, I can't hear you very well.

MR. SHOR: I'm not doing well with the mic today.

VICE CHAIRMAN OKUN: You've got to use it, you've got to pull it closer.

MR. SHOR: The Petitioners had a table in their brief showing the import volumes into China of subject brass. They left those in short tons, but let me translate into million pounds for you.

For Brazil, we're talking 600 pounds is the total imports from Brazil. For Germany, it was 1.4 million pounds. These are insignificant volumes. China is an insignificant market for this product for the companies before you. Even if you look at all the subject countries, it's something on the order of 14 million pounds, which is roughly under 3 percent of U.S. consumption. Even if every pound of material that's going to China is all subject brass, which it's not, and even if it were all diverted to the United States, which no one is arguing would happen, it would still be insignificant. The quantities are just not there.

VICE CHAIRMAN OKUN: Okay. Well, I appreciate those comments and, just again, for post-hearing, to help us better understand both the argument of what China is shipping into these other markets and to the extent there are exports by the subject producers into China, we talked a little bit about what that trend line is and what it might be doing in the future, but anything --

Mr. Traa, you look like you wanted to jump in there. Please.

MR. TRAA: Werner Traa. I would like to add to -- Mr. Bartel this morning, informed something about the Chinese market and that there is some capacity coming on. This is correct. I can agree to that. A couple of companies in China informed the world that they are going to invest into additional capacity. The point for me is it's not yet -- some of those investments are not yet fixed. One important thing is also that I wanted to inform you that looking at who is the companies that are producing right now, the major share of the Chinese consumption, those are Taiwanese companies. A couple of years ago, there had been established three major companies. One is called S & T, one is Ming Jia Li and one is First Copper, which are well known in our industry. They are producing at this point a major share for the Chinese market and for their consumption.

VICE CHAIRMAN OKUN: Okay. I appreciate that. Again, anything else that we can get post-hearing on the specifics would be great.

Mr. Traa, when you were talking about the product mix that your company is producing now and you had focused on the high value -- my red light is on and this might take you more -- I'll come back to that, Mr. Traa.

CHAIRMAN KOPLAN: Thank you.

Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you.

I, too, would join my colleagues in welcoming all of you this afternoon. We very much appreciate your time and your testimony.

Maybe, Mr. Traa, if I could stay with you in general to try to make sure I understand it. You described a lot of your exports both to the United States and to the extent that you were describing them to China as niche, high end, unique products. Just so I understand it, do you export any commodity type brass sheet and strip to the U.S. or to any other third country market?

MR. TRAA: Yes, we export, of course, some commodity-type product into other countries. We have copper strip which we export to the United States and we do the same in also brass to China. As we mentioned, it's 1.5 million pounds which is actually brass or the material which is subject that we export to China.

COMMISSIONER HILLMAN: Okay. Would you have a sense of what portion of your total exports to the U.S. market would be of this high quality niche product versus what portion would be of what we would describe as more of a commodity product?

MR. SHOR: Wieland has had no exports to the U.S. for the last five years.

COMMISSIONER HILLMAN: Okay. I'm sorry. To your third country markets. I'm just trying to get a sense of how much of it is --

MR. SHOR: We'll provide that in our post-hearing brief. It's confidential information.

COMMISSIONER HILLMAN: Fair enough. Fair enough. I appreciate that.

Maybe, Mr. Pages, if I can go back to you a little bit on this issue of what has been the result of the changes in your source of supply. You stated that you lost the business of Delta Faucet because of the insufficient quality of the brass sheet and strip that you were using once you no longer had access to the Wieland product.

MR. PAGES: That's correct.

COMMISSIONER HILLMAN: Okay. Do you know who Delta switched to buying from?

MR. PAGES: Yes, I do.

COMMISSIONER HILLMAN: And do you know where that company sources its brass sheet and strip?

MR. PAGES: I believe they produce it

themselves.

COMMISSIONER HILLMAN: Okay. I'm not trying to get into business proprietary information, but if there are specifics on this that you can put on the record, again, if you're in a position to tell us now who did they switch to, if you would prefer to put that in a post-hearing brief if it's confidential, that's fine as well.

MR. PAGES: I know I lost the business to Olin.

COMMISSIONER HILLMAN: To Olin? Okay. All right.

MR. SHOR: And that's particularly significant for a small producer. One thing to keep in mind is some of the integrated producers here are vertically integrated down into some of the finished brass products, so Olin will produce plumbing fixtures and things like that that compete with some of its customers.

COMMISSIONER HILLMAN: Okay. All right. I appreciate that answer.

Coming back on the German side, given that the German industry appears to have at least some unused capacity, again, we can argue a lot about how much of it there is, why wouldn't it make sense to use some of that, to use that unused capacity to make additional sales in the U.S., to spread those fixed costs over a greater volume of sales?

MR. TRAA: I'm sorry, I was interrupted. I didn't understand the end of your question. I'm sorry.

COMMISSIONER HILLMAN: As I understand it, there may be some disagreement over the size of the number, but I think everybody is agreeing that there is at least some unused capacity in Germany, yet the argument is you're not going to ship any more to the United States and I'm trying to understand why not. Why not fill that unused capacity and make additional sales into the U.S. market and spread your fixed costs out?

MR. TRAA: As soon as we would fill up our capacity to 100 percent, I wouldn't be able to be flexible for all other customers. We do have contracts with customers on a long-term delivery and long-term relationship. If we fill up our capacity just to the 100 percent which was discussed the whole day about the question what is the real capacity of each individual company, we at least at Wieland, we don't fill up our capacity to 100 percent. We try to keep it at 90 percent so that we are able to be flexible to get in orders for the remaining 10 percent on a flexible, one or two-week lead time and this we couldn't do with shipping over to the United States.

And the other point of course is I haven't heard this today also this morning, for me there is always a question regarding what is the real capacity in regards to the gauges. Over the last years, the gauges, the thickness of the material all in the industry went down. The average thickness, from my understanding, with our customers at least, was reduced. If you go just by quantities, by tonnage, as we discussed during the whole day, this is from my feeling not the right way. If you have a very, very thin gauge material you cannot assume the same capacity as if you have heavy gauge material which is typically used, for example, for ammunition and so on. If you on the other side use for electronics very thin gauge, you cannot produce the same quantity. So that's the other point in all those arguments and discussions regarding capacities we have.

COMMISSIONER HILLMAN: And just so I understand it, you're suggesting that over the last five years there has been in general a move toward lighter gauges, thinner material being sold, a higher percentage of your sales are of a thinner gauge?

MR. TRAA: Yes, there is a trend. And I

would say this is a worldwide trend because of the higher metal prices and so on, customers like to reduce the gauges, the thickness of the material. If I take again the electronics, we see it very, very much, the miniaturization -- I hope I pronounced the words correct. You see it everywhere, smaller pieces, smaller parts, smaller gauges, so therefore I have always a problem of really finding out what is the real capacity because of this gauge situation. It goes down step by step.

COMMISSIONER HILLMAN: Okay. I appreciate that.

Mr. Shor?

MR. SHOR: Commissioner Hillman, there is one other point I'm going to ask Werner to address, which is we heard this morning from the U.S. industry that the mills basically run 24/7, that's the most efficient operation. It's very different in Germany and it is not necessarily the case that increasing your production up to your capacity level reduces your costs. There are other labor issues and other issues that I'd like Mr. Traa to address.

MR. TRAA: Yes. Maybe for the labor issue also my colleague Mr. Hanisch, who is also on the board of Wieland, can help me because he is our personnel director regarding labor issues. But it is correct. I used to run the U.S. operation, so I was the predecessor of Mr. Schuler. He is back. At that time, I know in the U.S. it's very easy to have people work on Saturday, Sunday, which is basically normal. When I returned to Germany, of course, this was in 2000, we heard a lot about this timeframe when the markets were booming. I came back and tried the same thing in Germany and they basically told me that this is, because of the German labor laws it's not possible. So we run our plants there typically five days a week. Sometimes Saturday morning, but that's it. So a seven-day week is just not possible according to German law and there the lawyer is the right person to talk to.

COMMISSIONER HILLMAN: Mr. Hanisch, did you want to add anything?

MR. HANISCH: I'm Joerg Hanisch and I'm also a member of the executive board of Wieland. Concerning labor, I would maybe just describe - maybe Wieland has a different strategy in employment. We believe in life-long employment. That means that we have to be very economical with our workforce because we don't throw them out when we have less work and then get them back in when we have more work. We just really try to have a steady workforce and we try to do it through equivalents with time accounts where we give people, let's say, that they work maybe when they are younger they work more. They can save something on their time accounts and when they get older and let's say a little bit weaker they work less, but they have saved some time accounts and so forth so that we really get them all through. That means that certainly we do not have the flexibility like the American industry maybe who could easily lay off someone. We cannot do that.

Therefore, what Werner said, Saturday, Sunday, we always would have to pay extra surcharges, I don't know what you call it, for those hours. Therefore, we have to try to be first very economical and second, of course, have the best technology available so that we make best use of our workforce.

COMMISSIONER HILLMAN: And that is a function of German law or a policy of your company? In other words, do other German companies do the same?

MR. HANISCH: The German tariff law is that we cannot lay off people easily and so forth. The other, let's say, we believe in having long-term relationships with our workforce. That certainly is Wieland and I would say maybe part of our success, that, even through hard times, we got through because we have people very much devoted to the company.

COMMISSIONER HILLMAN: All right. I appreciate that answer. Thank you very much.

COMMISSIONER HILLMAN: Thank you.

Commissioner Lane?

COMMISSIONER LANE: Thank you.

Good afternoon.

Mr. Malashevich, I'd like to start with you. You heard my question this morning of Mr. Kerwin talking about pricing in other markets other than the United States. Can you provide me with information post-hearing as to the price comparisons of BSS in the European Union and other countries, including the subject countries, as compared to the prices in the United States and what conclusions would you draw with regard to those prices as to whether or not the Respondents would come back into this market if the orders were revoked?

MR. MALASHEVICH: Yes, Commissioner, I will do that to the best of my ability.

COMMISSIONER LANE: Okay. Thank you.

Petitioners state that the basic conditions of competition and terms of sales of BSS including most notably the commodity nature of the product and the price-based nature of competition have not changed since the orders were imposed. In the Respondents' briefs at pages 26 through 30, it was stated that there have been no less than seven changes in the conditions of competition.

Please explain this discrepancy, if you can, and why are these changes significant.

MR. SHOR: I guess the reason for the discrepancy is we don't agree with them. I don't know how to explain it any better than that.

They are significant because they affect the ability of a large-scale German producer, like Wieland and the other German producers, to sell in the United States.

The most significant thing I heard in the testimony this morning was the testimony of Mr. Rupp who said our customers have changed, they want just-in-time delivery, they don't want to maintain inventory, they don't want any inventory. That's a very significant remark because it significantly curtails the ability of a foreign producer to sell in the U.S. market. Unless you have a place here to maintain inventory, to store a multiplicity of products that you can deliver to the customer just-in-time, you can't meet the needs of that customer, so that's a significant change in the condition of competition that affects the ability of foreign producers like Wieland, like the French producers, like the Italian producers, like the Japanese producers to even sell in the U.S. market.

The second change in the condition of competition is the degree to which the U.S. industry, mainly Olin, has taken over the distributor channel of distribution. A.J. Oster was the largest service center in the U.S. The service center has locations throughout the country where they store the material, they can cut it to length for you and they can meet the needs of end users. Olin bought A.J. Oster, so that's no longer a customer that Wieland can supply or a Japanese producer or an Italian producer or a French producer. It shuts out an entire channel of distribution to the U.S. market because there are very few independent service centers left in the country. That's a significant change in the conditions of competition. That's significant because it curtails the ability of a foreign producer to sell in the U.S. market.

The other change that's significant is what we all heard about this morning, the customers leaving the U.S. market. If you look at the customer base in the United States for this material, and the automotive sector is a good and significant example, if you were to think of what industries in the United States are most constrained by cost pressures, which industries have the fewest abilities to pass along price increases to their customers, it's the industries that buy this material. That's why we think prices in the United States are lower than in Europe or elsewhere, because the customer base here is squeezed by competition for their products from imports. That's another significant condition of competition that reduces the attractiveness of the U.S. market.

It was Commissioner Hillman's question in the morning session, why is it that if you're facing a declining market with lower prices than in Europe, what is that makes the U.S. such an attractive market? And it was the right question to ask. It is less attractive now than other markets, it's not where the growth is and it's not where the high prices are. That's another condition of competition we believe is significant because it reduces the incentives for any foreign producer to sell to the U.S. market.

I could go on, but I don't want to filibuster all of your time.

COMMISSIONER LANE: Thank you. As a matter of fact you can talk more if you want because that's the last question I have.

MR. SHOR: That's a very dangerous thing to say to a lawyer.

(Laughter).

COMMISSIONER LANE: Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: I'll move right on that, Mr. Shor.

Commissioner Pearson?

COMMISSIONER PEARSON: Thank you, Mr. Chairman.

Let me also extend my welcome to this panel, particularly those of you who have traveled quite a few kilometers to get here. I appreciate the effort that it takes, particularly for foreign producers to participate in one of our reviews.

Mr. Pages, no one's asked you any questions. I wouldn't want you to feel left out.

You indicated that you've been in the business for 30 years so you must have started when you were 15 and just never got away from it.

(Laughter).

MR. PAGES: I'll consider that a compliment.

COMMISSIONER PEARSON: It's always a

pleasure to have what I would consider a small or medium sized business in front of us. So many of our cases revolve around quite large firms and here we have a case that affects someone who's in Middle America I suppose would be a way to describe it.

Could you tell me a little more about your firm? How many employees does it have, that sort of thing.

MR. PAGES: We have two plants, one in Cleveland, Ohio, and another in Pennsylvania. We're about 50 employees totally.

COMMISSIONER PEARSON: Given your experience, if necessary you probably can go out on the plant floor and fill in for anyone who has to go home sick. I don't know whether you do do that, but you really grew up with it.

MR. PAGES: I've done that a time or two.

COMMISSIONER PEARSON: I can believe it.

And you also, when circumstances require it, would operate seven days a week? Or do you try to protect people on the weekend?

MR. PAGES: We typically will operate a normal 40 hour week. We have operated as much as three shifts and Saturdays. Rarely on a Sunday.

COMMISSIONER PEARSON: The current demand for your products doesn't quite justify those extra hours.

MR. PAGES: No.

COMMISSIONER PEARSON: But you are able to manage the 40 hour week currently?

MR. PAGES: That's correct.

COMMISSIONER PEARSON: Do you produce mostly to order or are you producing some products that go into inventory on the assumption that they'll get sold eventually?

MR. PAGES: We produce a small portion of our business, we build it to inventory. It's the sink strainer line that I mentioned earlier, but other than that we're building to order.

COMMISSIONER PEARSON: How much time do you have between when you might sign an order and when you would be delivering it?

MR. PAGES: That's --

COMMISSIONER PEARSON: It wasn't intended to be a trick question. But don't answer anything that might be business proprietary because it's not my intention to get into that. I'm just trying to understand more the nature of your business.

MR. PAGES: Most of our customers are long term and we have a long history with them so we plan to build to their forecast. That means we take all the lead times that we have for our raw materials and manufacturing time and we're building to a just-in-time combined system, so when the orders come in they're ready to be shipped pretty much as they need it.

COMMISSIONER PEARSON: And for the types of brass that you're using which I understand isn't the most desirable brass you can envision, but for the types of brass that you are using have you had difficulties obtaining it in time to meet the shipment dates for your outgoing orders?

MR. PAGES: At times.

COMMISSIONER PEARSON: Recently?

MR. PAGES: Recently, no.

COMMISSIONER PEARSON: If you could obtain the product that you circulated up here, the German product with the desirable characteristics, would it reduce your cost of producing items? For instance, would it reduce your buffing costs or other costs?

MR. PAGES: Absolutely. It would eliminate that step with that type of material. The time it takes for inspecting and making sure that the materials we buy now are correct would be less with the Wieland material.

COMMISSIONER PEARSON: So you would see your overall competitiveness increase somewhat then if you had access to the Wieland brass?

MR. PAGES: I would say so.

COMMISSIONER PEARSON: You are part of the U.S. demand base for brass sheet and strip that is still here, which is very nice.

MR. PAGES: Still here.

COMMISSIONER PEARSON: Can you describe your competition? Does it mostly come from other U.S. firms or are you competing quite directly with firms based in other countries?

MR. PAGES: I'm actually competing with companies like Olin that's here today and overseas with China. The way that we're able to compete is by finding ways technologically to reduce costs such as eliminating steps, like the buffing operation that we just spoke about. It's the only way we have any kind of a chance to compete.

COMMISSIONER PEARSON: And in your years in the business have you seen a change in the nature of competition? For instance, are you now getting more competition from overseas than you might have had 10 or 15 years ago?

MR. PAGES: It's never-ending and it gets increasingly difficult every day.

COMMISSIONER PEARSON: Do you flirt occasionally with the idea of putting a plant on the other side of the lake from Cleveland and escaping the order in that way?

MR. PAGES: We're a relatively small company and we really don't have the means to do that seriously.

COMMISSIONER PEARSON: So you're very committed to the U.S. market and your U.S. facilities.

MR. PAGES: Yes.

COMMISSIONER PEARSON: Starting an operation in Nanjing just isn't --

MR. PAGES: It's certainly not feasible, at least at this point.

COMMISSIONER PEARSON: Okay.

I thank you very much. Anything else you'd like to say for the good of the order?

MR. PAGES: No.

COMMISSIONER PEARSON: Okay.

Let me speak to the Brazilian and German producers then.

This morning I spoke with the domestic industry about their hedging programs for cooper and zinc and for brass on the outgoing side. Do you run your businesses the same way, trying to hedge the costs of your inputs and also then protect the value of what inventory you're holding on the brass side?

MR. TRAA: I'm Werner Traa speaking for Wieland. I can confirm pretty much exactly, that we do exactly the same as Mr. Bartel informed you this morning, so we hedge on futures on the LME, our customer orders. And part of our inventory, just a small fraction of our inventory is always inventory which is always there. We consider a fixed quantity but the overlapping material we hedge on the LME -- zinc, copper and the other non-subject parts which are nickel and so on.

COMMISSIONER PEARSON: Mr. Baialuna?

MR. BAIALUNA: Regarding the Brazilian industry, Eluma uses to hedge position with LME but due to the high cost to make this operation from Brazil there are several problems. We use hedge strategies but we do it physically. We hedge physically our position, buying and selling at the same volumes at the same time.

COMMISSIONER PEARSON: Are you able to do that partially because there are import restrictions for brass sheet and strip coming into Brazil?

MR. BAIALUNA: No. Not at all. The hedge

strategies actually they are doing to protect companies like ours from between the moment of the purchase of the raw material and the moment of selling this raw material.

If you consider it, every day that you are selling and buying exactly the same quantities, the same LME or the same quotations, you're square. You can do it using the futures market or you can do it physically using the physical market for raw material. We prefer to do it physically.

COMMISSIONER PEARSON: I see what you're saying. If you're always balanced on the inbound side and the outbound side --

MR. BAIALUNA: Exactly. So if I'm buying material at a high LME, at the same moment I'm selling higher. If the price goes down I will go down with my prices here. So I'm square every time.

COMMISSIONER PEARSON: Thank you.

Mr. Chairman, the light is changing so I'll pass.

CHAIRMAN KOPLAN: Thank you, Commissioner.

Commissioner Aranoff?

COMMISSIONER ARANOFF: Thank you, Mr. Chairman.

While we're revisiting some of the pricing issues that we discussed this morning I wanted to also ask the German and Brazilian producers if you could compare for me the way that you price your product both in your home market and for any export sales to the way that the domestic producers described it to us this morning in terms of a metal price, the surcharges that are associated with metal price, fabrication cost, any surcharges for energy or transportation. Is your methodology similar or is it quite different?

MR. TRAA: Werner Traa. For Wieland and for the German and European market, it's quite similar. Our system, we have of course the LME which is the base for the metal price. We base all our sales on that. We have the premiums as we heard this morning which are typically producer premiums and then we make out of them our own premiums and change it a little bit. Then in addition we have some extras and surcharges on the metal for melting loss we call it over there in Europe.

So, basically the same. We also use, for your information, that we put in to place what was roughly 1.5 years electricity, energy surcharge, then of course the fabrication price as we heard today.

I can also confirm that basically all except the LME, is subject to negotiations with our customers. That I can confirm. We do a little bit different in regards to the fixation. Typically we don't use metal fixation on the state of shipment because we feel we want to have it fixed earlier, so what we, for us we also to our customers either to fix a contract, a metal contract for larger quantity for a certain period of time that they can use it. We have then the possibility of every other day to fix it or it has to be a couple of weeks prior to shipment. Then they can either base it on the actual LME or at the average of demand and so on. But those are LME or exchange specialties. But generally the same as we heard this morning.

COMMISSIONER ARANOFF: Thank you.

And just to clarify, you price the same way in your home market and in the export market?

MR. TRAA: That's correct, yes. And maybe to add one thing, sorry. Of course a lot of our customers are multinational customers. They are based in the United States, in Europe, and in Asia, and they don't allow different metal pricing. So they allow you just the same calculation you use in the United States in Europe and in Asia. So that the world is getting smaller and smaller as we talk.

COMMISSIONER ARANOFF: Thank you.

And Mr. Baialuna?

MR. BAIALUNA: Actually we understand that nowadays the industry is global so it's almost the same. We have the metal price. We use LME in Brazil. We have a premium that is all linked with the metal and we have the conversion or fabrication price. Sometimes for some customers or for markets we join the fabrication price with the premium so it is LME plus something. But the say the price is calculated the same, I think it's the same around the world nowadays.

Regarding the period for fixing the metal, the moment you book the metal to make the price it's also negotiable. Normally we use to fix the metal, the moment of invoicing. But in some special agreements we can have the average amount, the average of the weight or some other period that is established in the negotiations.

But the way the price is calculated is almost the same.

COMMISSIONER ARANOFF: Have you experienced energy or transportation costs that you have a special premium for?

MR. BAIALUNA: Every cost that is involved with the fabrication in our opinion is the fabrication cost so we include everything in fabrication cost.

If I had, for example, an exercise to buy the raw material for anyone, I would include in the premium for the metal. So I divide everything. I do not put any extra charge. I include in fabrication cost.

COMMISSIONER ARANOFF: So you don't have a separate charge for it but have you in fact had the same experience with rising energy and transportation costs that some other producers have had in the recent period?

MR. BAIALUNA: Well, I think that everybody has increasing costs. In Brazil it was not different. We also had an important energy crisis in 2001.

Our increases in our fabrication costs, we will include in these fabrication costs covered, use it to calculate the final pricing. In some special agreements, for example, I can sell the material exworks my plant or I can sell the material CIF, so it's included, the freight and expenses for this.

But all costs involved with the fabrication, and that means energy costs and other will be included in the fabrication costs, fabrication price.

COMMISSIONER ARANOFF: Thank you very much.

MR. TRAA: May I add one thing that --

COMMISSIONER ARANOFF: Certainly.

MR. TRAA: Because one of our customers is sitting behind me, and that he is thinking that we are increasing premiums. We talked a lot about published premiums of the producers which are Codelco or the big mines in the world, a metal premium for copper. This is based, of course on a fixed monthly quantity so there are no ups and downs. You have to use them 100 or 200 or 500 tons each individual month on the middle -- let's say 15th, 16th of January, February, and on a fixed shipment and you pay on delivery. So this is the premium from the producers.

What we of course charge our customers is then because we have then to finance this and transportation and so on, so that's why we have there different, and it's not just for any reason that we mark this up. There are of course reasons that there are increases from the published producer premiums. Thank you.

COMMISSIONER ARANOFF: So you're telling me you don't just set an extra percentage profit margin and slap it on the top. Okay. Thank you.

Mr. Baialuna, let me just follow up with you.

In the industry association data that were provided for us reflecting the entire Brazilian industry and in the corrected information that was most recently supplied to us, I don't want to get into confidential information, but the number for capacity utilization for the Brazilian industry as a whole in the corrected data is still significantly lower than the number that you're, the level you're indicating for your own company.

My question to you, or to Mr. Bruno, is how should the Commission weigh the issue of capacity utilization in the Brazilian industry given that we have on the one hand Mr. Baialuna saying his plant is operating pretty much flat out and the other data that we have from the rest of the industry?

MR. BRUNO: Commissioner Aranoff, with respect to to 2005 I think there was a correction. If you're referring to 2005, that number is wrong and has been corrected and provided to the staff.

With respect to the other years, there is a difference between Eluma's capacity utilization and the information provided by the Brazilian industry, but I would characterize that as relatively small. We're talking about five or six percentage points if I remember well.

I think that what is important here is that if you calculate the excess capacity and the tonnage basis and assume that this will be exported to the United States, we're talking small numbers, particularly when you assess that tonnage against the U.S. apparent consumption. You're talking very very small tonnage. And that's an assumption we have to make, that all that would go to the United States. Most of it is going to the Brazilian market as you saw from the data.

COMMISSIONER ARANOFF: Okay. I take your argument that ton for ton it doesn't matter, but I would note that I was looking actually at the corrected data.

My red light has come on. Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Okay. Mr. Traa, Mr. Schuler, Mr. Pages. German producers state at page 16 of the brief that, and I'm quoting, "The higher quality German BSS is not fungible with the standard quality brass produced by domestic American producers because it is not available from any domestic producer including Wieland Metals. This is confirmed by data provided by U.S. purchasers. Sixteen of 27 responding purchasers rated quality as the single most important factor in selecting a supplier." You cite to the staff report at 2-14 which is public. Then you finish by stating, "No purchaser rated U.S. quality superior to German quality."

However, nearly all responding U.S. producers, importers and purchasers perceived degree of interchangeability of products produced in the U.S. and Germany and rated them either always or frequently interchangeable. I'm referring to the staff report at Table 2-7 at page 2-24. I note that with regard to U.S. producers, seven out of eight said that. With regard to U.S. importers, four out of four. And with regard to U.S. purchasers, 10 out of 11.

I have two questions. First, what share of the total BSS production in Germany is accounted for by what you claim to be higher quality product that is not available from U.S. domestic producers? That's the first question. Could you respond to that?

I need to have you quantify this. This is a follow-up to Commissioner Hillman's earlier question. I'd like you to quantify for me what share of total production you're talking about.

MR. SHOR: We'll provide that in our post-hearing brief if that's okay.

CHAIRMAN KOPLAN: That's fine if you could do that.

Second, does the BSS produced by Wieland Metals in the United States compete with the majority of product from other domestic producers here?

MR. SCHULER: Markus Schuler, Wieland Metals. Yes, it does.

CHAIRMAN KOPLAN: It does. Okay. Thank you.

MR. SCHULER: We are, if I may add, just not able to produce the same quality that we could supply out of Europe.

CHAIRMAN KOPLAN: This is for Mr. Bruno.

At page five of your brief you draw a parallel between the current investigations and the July 2000 review of pipe and tube that covered 11 countries including Venezuela in which the Commission determined that revocation of the order in Venezuela would not have an adverse impact on the domestic industry because of the Venezuelan industry's low production capacity and level of exports relative to U.S. domestic consumption and because of an increasing emphasis on shipments to the Venezuelan home markets since imposition of the order.

I see you're nodding your head along with me on that.

In your post-hearing brief could you compare the size of the BSS industry in Brazil relative to U.S. consumption of BSS. The Petitioners have included information concerning the capacity of the Brazilian BSS industry at pages 31 to 33 of their brief, and information on capacity utilization at pages 43 and 44. That information is business confidential so I'd appreciate it if you could include a discussion of that material in your response in the post-hearing.

MR. BRUNO: Certainly.

CHAIRMAN KOPLAN: Thank you.

MR. SHOR: Mr. Chairman, could I address your question about interchangeability and fungibility and quality differences?

CHAIRMAN KOPLAN: Certainly.

MR. SHOR: I think it's worth spending a minute thinking about the way the Commission asks certain questions.

If you ask whether a product is interchangeable or fungible, first you're asking that to a variety of purchasers, domestic purchasers, that may never have even been exposed to the German material at all, but they still answer.

Is a hamburger from McDonald's interchangeable with one from the Capital Grille?

Yes. They serve the same purpose. You eat them both, you eat them the same way. Is the quality the same? Does that mean you'd pay the same price for them? No.

I view the fungibility and interchangeability questions as: Can you use it for the same general use? Yes. Are there still quality differences that will affect the price somebody pays? That's in the more specific questions on surface finish, quality meets or exceeds standards.

So you're asking different things in those different parts of the questionnaire, and just because they're fungible and can be used for the same application like the hamburger from McDonald's and the hamburger from the Capital Grille, doesn't mean they compete at the same level necessarily.

CHAIRMAN KOPLAN: The source for that came in response to Commission questionnaires. They were not talking about hamburgers from McDonald's. So if you can go back and take a look at the source for the table and elaborate on that for me in the post-hearing, that would be helpful.

The other thing I would say is that the table that you've cited, Table 4, which deals with the issue of how important is quality. I recognize that quality is extremely important, but it doesn't close the loop on whether there was a problem with quality. That table asks what are the most important factors for people who are buying. It doesn't get to the next level. So Table 7 seems to approach that in my review of Germany and these other countries. Table 7 includes much more than just Germany.

So if you could pick up on my question and add to your answer in the post-hearing that would be helpful.

MR. SHOR: We'll do so, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you very much.

Next, Mr. Baialuna and Mr. Bruno. You argue at page eight of your brief, and I'm quoting, "During the POR U.S. average unit prices were lower," and I can that now because you lifted the bracket today, "than Eluma's average unit prices in its export markets."

Petitioners argue at page 53 of their brief that "Third country markets such as China, the European Union, India, South Korea, and Taiwan, have import duties ranging from 3.7 to 20 percent on BSS in contrast to the 1.9 percent import duty imposed by the United States." And that countries such as China, Korea, and the UK additionally impose a value-added tax on imports of BSS.

Thus Petitioners argue that, "Given significant third countries' value-added taxes and import duty levels, subject producers would have a strong incentive to return to the U.S. market with the orders revoked."

My question is, are prices in the U.S. market really lower than prices in your alternate export markets, taking into account the differences in duties and taxes?

MR. BRUNO: I will answer this question, Chairman Koplan.

The exports of Eluma and most Brazilian producers are to Latin American countries that are part of international agreements such as Mercosul, and they do not have to pay duties, custom duties in those markets. So there is really no obstacle to them selling to those markets and there is no higher tariffs that they have to pay upon entering those markets.

So if you're looking at it from the incentive of selling to the United States in fact they have to pay a customs duty if they come to the United States while they don't pay any if they go to certain of these countries where they are selling currently.

CHAIRMAN KOPLAN: Thank you very much for that.

With that, I don't believe I have any further questions. I appreciate all of your responses to my questions this afternoon and I'll turn to Vice Chairman Okun.

VICE CHAIRMAN OKUN: Thank you, Mr. Chairman.

Mr. Malashevich, I did want to note, I know you had raised in your testimony and in your brief the argument regarding domestic industry's capacity and as you are aware there was a change in that. So I think I'll look at your post-hearing arguments to see, once you've had a chance to look at that data, whether you think your arguments still hold. So I'll just wait for post-hearing on that.

But I did also want to go back to you on the charts you were using this afternoon, the one that we have sourced from Table 1, one of the public staff report regarding the BSS subject import share of ADC during the original POI.

One of the points raised by Ms. Cannon this morning, and I wanted a chance to go back and look at it, I think relates to this chart which is you start at '84 even though for a portion of these subject imports the investigation actually started in '83. I think our staff report doesn't actually even have the right data yet.

So my question is, looking at this do you have a response to Ms. Cannon's argument that you're really starting at the wrong point in trying to make this everything for these particular subjects, going down the entire period? You might better be able to do that post-hearing, but I did want to hear a response to that.

MR. MALASHEVICH: I will do it post-hearing, but our entire basis for starting here was that's where the pre-hearing report started and we wanted to base all our data on that shall we say integrated document.

VICE CHAIRMAN OKUN: Okay. I don't know, but my understanding is that she's correct with regard to the dates being different, and therefore if for purposes of post-hearing, if you agree, having gone back, and I think the staff report will actually have the earlier data included --

MR. SHOR: If I could --

VICE CHAIRMAN OKUN: Just so that I understand that particular argument with regard to these subject imports.

Yes, Mr. Shor.

MR. SHOR: If I could just jump in on the issue, and maybe there's a misperception of what our point is.

There certainly was an increase from 1983 go 1984 and then from 1984 there was a steady downward trend. Our point really is that before the orders were entered, before the petitions were even filed, imports had started a downward trend that have continued. There may have been an increase in '83. There may have been an increase in 1973. But there was a downward trend that started before the orders were entered that has continued through the present day.

So if you look at what the trend was before the orders, it was up from '83 to '84 for the two years prior to the petitions being filed.

VICE CHAIRMAN OKUN: I understand what you're saying, but I thought one of the points that Mr. Malashevich and you were making in your brief is to try to say, to make this point that you can't even go back to the original investigation on this because it's a whole different case, and had you had that case in front of you no Commission would have found it.

My point is, I think it's not, unless you're actually looking at what we would have actually been looking at, that's not a terribly persuasive argument to me.

MR. SHOR: Maybe it was a little bit cute, but we were trying to, the real point is what was happening. You're not deciding the case as if you were in 1987, obviously, now, so it's not really relevant to your analysis. We were just trying to portray the trend that started in 1984.

VICE CHAIRMAN OKUN: Okay. I understand that.

Mr. Traa, also, if you've answered this question then I'll go back to the transcript, but I did want to have a chance to hear what your view of the European Union market, what the trend is in the future there. That's been a place where you've had a fair amount of exports, and is it performing the same way as the United States market in terms of demand decreasing there because of movement off-shore? Or were there any other trends that would be similar or dissimilar to the U.S. market?

MR. TRAA: We have in general, of course, a similar situation. We have job shops which we had the explanation of this morning. Some of them are moving out to China, to Asia. There is a similar situation in that regard.

On the other side, of course, I see especially in one of the key industries which is the automotive industry, quite a growth, a strong growth also for Europe but as well for the United States. Why do I see it that way? I look at, even if you look at numbers and numbers of passenger cars that are produced, this is also for our industry not only the only figure which is important. You also need to look at the applications our product or the end product goes on. If I look at the cars, BMW, Mercedes, Audi, and so on, the number of applications are huge and increasing year by year.

You have all the sensors and electrical things like GPS and electronic gimmicks in those cars and all those gimmicks need connectors. So in the car let's say ten years ago, you have much much less material from us in there, in those cars, than you have today. So I see there quite a very very good future and a good market trend.

So I can't answer it's all going to leave and go out to China. I see also in Germany, in Europe, still a good market and good market conditions.

VICE CHAIRMAN OKUN: I appreciate those comments.

A final question for you, Mr. Traa, I understand that KM Europa had purchased facilities in Germany, France and Italy and manages those facilities under a parent corporation.

I was curious. I think you had said this morning that KM's German producer no longer produces subject product in Germany and I wondered if you could tell me what happened to its brass production, whether it moved it to, if I'm correct about that did it move its brass production to other European facilities?

MR. TRAA: Yes. According to my knowledge -- sorry, I always forget. Traa is my name.

According to my knowledge in --

VICE CHAIRMAN OKUN: You don't forget your name, you just forget to say it, right?

(Laughter).

MR. TRAA: According to my knowledge in Germany or to our knowledge in Germany, they stopped this. They are now in the high-performance alloys. They have their own alloy groups called Stol, Stol 76 in France, and this goes through the press right now. They are planning or there are discussions to close Serifontaine which is the old metal plant. They already sold their dual-gauge production, dual-gauge is used for again electronics, sold that to Griset which belongs to Diehl, and there are discussions going around that they are going to close the Serifontaine, this French place.

In Italy they have two places close to Florence and one they closed already which has 90 employees. They have now finally closed a couple of weeks ago and they are still producing in Campo Tizzoro. This is the main production of KME in Europe. There, of course they produce the subject brass at this point. This is what I know.

VICE CHAIRMAN OKUN: I appreciate you sharing that knowledge of the industry with me.

I think with that I don't have any further questions for this panel, but I do want to thank you for all your answers this afternoon and I will look forward to post-hearing to read some of the additional information you'll provide.

Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you. I hope a couple of follow-ups.

One I guess to you, Mr. Schuler. As I understand some of the argument on the German side is that because you have re-rolling operations in the

United States you would not be significantly increasingly German imports in the absence of an order because you have production here.

Just so I understand it, where does Wieland Metals obtain its feed stock today?

MR. SCHULER: We get our re-roll from Olin.

COMMISSIONER HILLMAN: Would there be any reason to get it from Germany in the absence of an order?

MR. SCHULER: According to all of what I alluded to earlier, no. For me there is no option to economically import the material from Germany at this point.

COMMISSIONER HILLMAN: Okay. I appreciate that.

Then I guess going back to you, Mr. Pages, just on this issue of the whole Delta faucet situation.

When the orders were imposed and it became clear that you were not going to be directly sourcing material from Germany, did you try to source the same quality of brass from the U.S. industry?

MR. PAGES: It just wasn't available.

COMMISSIONER HILLMAN: Again, meaning they couldn't supply you a quantity, they wouldn't --

MR. PAGES: At the time I was working with Delta with that high-luster finish material and they were trying to convert to a no-buff part, skipping that step in the operation. Then I lost the ability to import it from Germany and I was finished.

COMMISSIONER HILLMAN: Is Olin now making this no-buff product for Delta?

MR. PAGES: I've approached them and asked them to sell me a no-buff material and they said that it's not available. That's the only response I got.

COMMISSIONER HILLMAN: Okay. So it's not a price issue. They're saying they're not selling it in the commercial market or --

MR. PAGES: well, they didn't really elaborate. They just said it's not available to me.

COMMISSIONER HILLMAN: All right. I appreciate that answer.

Mr. Shor, Mr. Traa was just going through the information that he has, as I understand it, with respect to how we should think about capacity in both France and Italy. I'm just curious either for you or for Mr. Bruno, assuming the Commission were to cumulate, do you have any sense of how we should evaluate available capacity in Japan?

Mr. Traa, you gave Vice Chairman Okun some answers with respect to your knowledge of what's going on in France and Italy. The other subject country here is Japan. Can you tell us anything about whether there have been significant changes in capacity in Japan for brass sheet material?

MR. TRAA: According to my knowledge, the Japanese producers do almost the same as we do in Germany which means they moved over the last year into the more high-performance alloys. This is a worldwide trend and I'm sure my colleagues here in the United States can confirm this.

I'm not saying that the Japanese went out of brass or the subject product, but I'm saying that I know there is a trend in the industry, in Japan as well, that they moved into other highly sophisticated and higher value-added products.

If I take their producers, one of them is Kobe, with whom Wieland has a joint venture here in the United States on the tube side, and there once in a while we talk also a little bit about other things. I know from them that they are very very strong in the electronics applications, copper, copper alloys, high performance alloys. So this is one of the Mitsubishi Shindo. Another one who are also very strong in the electronics industry, Nikko, which is Nippon Mining.

They are going into those alloys. So all the high sophisticated producers, of course they produce a base load in their production of brass, the 200 series material. But as much as possible they use their capacity for the high profit margin alloys which I referred to already today during my speech.

So what we see in the world, Japan, Europe, the old producers they go into the higher value-added products, and of course we have new producers. We talked about Poland. We talked about India today. There are output users in Bulgaria coming on board. So the entry is the brass for them, no doubt. I don't dispute that.

COMMISSIONER HILLMAN: But fundamentally you would not describe a change in the capacity in Japan as much as a shift in what they're using that capacity to produce. Still subject product, but a higher end product.

MR. TRAA: No, no.

MR. SHOR: High-performance alloys. That's non-subject --

MR. TRAA: That's non-subject.

COMMISSIONER HILLMAN: Okay, I wanted to make sure I understood it.

There has been no change in the overall

capacity but the choice has been to use that capacity to produce a product that is not the subject product.

MR. TRAA: That's correct.

COMMISSIONER HILLMAN: Presumably the shift could come back again, but as you said there's no economic reason to think that that would occur, given that those are higher value products.

MR. TRAA: That's correct, yes.

COMMISSIONER HILLMAN: In response to Vice Chairman Okun you were speaking about what KM Europa is doing. I wondered if you could talk more generally about whether you know whether there's been any changes in capacity in France or Italy more broadly. They're not the only producer there. I'm wondering if you can tell us a little bit more about both France and Italy.

MR. TRAA: In France, to my knowledge, I talked about Trefimetaux. There are other companies like Gindre, CLAL, Comptoire. I don't know, CLAL, which is I think in some of the papers, I saw this name. To my knowledge they don't produce subject alloys, the 200 series. They went into special alloys, into different alloys. As I said, for my feeling more in the copper side, pure copper, Phosphor material, and the CLAL-alloys. Those are the copper and nickel alloys which are not, those are their strains. We have, I talked today,

In Italy, other companies, I saw in some of the papers the company LMM which is a very, very small re-roller, which is a customer of Schwermetall. I know them because they are bankrupt, they don't operate any more. To my knowledge they buy a very, very small quantity from Schwermetall and just roll, re-roll for one individual customer.

We do have in Italy other companies like ILNOR. That is correct, they are producing subject material but they are really local in Italy, from Germany. They come into the German market. But I don't see those small companies as capable of building up a chain over here in the United States to get to those customers.

My colleague Mr. Schuler described it. It's for them, for the small companies, almost impossible to start here a big sales organization in the United States. Looking back again to KME, and we heard this this morning. They say they are the world's largest producer of copper and copper alloy products in our industry. They still don't have any sales organization, large sales organization. For example, a slitting center or something like this in the United

States. They just don't have it.

So they would of course, how else you could either sell in a market like the United States through your own organization -- a wide organization, not just one sales office. I'm talking about all over the nation, offices and of course you need in order to be, to provide the flexibility you need service centers like we started, we have in Chicago and we use, as Markus Schuler said, today's Olin organization. There are plants in the past but this is not possible for a company like KME to use this because there is nobody there.

So they would have to build all this up and I think this doesn't make sense for them.

This is my opinion.

COMMISSIONER HILLMAN: The one other one that you had not touched on was France, whether you see any significant changes in capacity in France.

MR. TRAA: I mentioned Trefimetaux which is, they belong to KME and my understanding is that they closed part of Trefimetaux and there are discussions that they will close this plant.

Over the last years we heard today Outokumpu got a new owner, Nordic Capital. The same happened to the company, to KME. There is a new financial investor in there which the name is INTEK. So the old, the former owner company which as the Orlando family, they are more or less out. Today is this new financial investor.

My understanding is that there are plans, and I can't confirm this, but there are plans to close or to reduce the French operations, to close this Trefimetaux.

COMMISSIONER HILLMAN: Okay. I think that's extremely helpful. Again, if there are any other specific data that could be put on the record in any way on this, I think it would be very helpful given that we did not receive questionnaire responses to the producers in Japan, France or Italy if there is anything further. But I appreciate very much those answers. Thank you.

CHAIRMAN KOPLAN: Commissioner Lane?

Commissioner Pearson?

COMMISSIONER PEARSON: A question for Mr. Bruno and Mr. Baialuna.

In your brief you note that the downward trend of imports from Brazil during the original investigation. Can you give us any idea about the pricing behavior of Brazil during that investigation? In particular, did Brazilian producers under or oversell the U.S. industry? And what that pattern different from the other subject countries?

MR. BRUNO: Commissioners Pearson, I don't remember this information is public or confidential in the staff report. I know the answer to your question. I would prefer to address it in a post-hearing brief.

COMMISSIONER PEARSON: That would be fine. I did not see this particular information regarding the original investigation in the staff report, but if it's in there please point me to it.

MR. BRUNO: I thought it was there, but that's the reason why I want to double check. I thought that we were able to get this information.

COMMISSIONER PEARSON: Thank you.

Now despite the fact that it's always dangerous, I'm going to try to ask a legal question for Mr. Shor and Mr. Bruno.

The record indicates that despite the fact that these orders have been in place for nearly 20 years, the performance of the industry has not improved much since the orders were imposed.

As a legal matter does this create the presumption that removing the orders is likely or is not likely to have an adverse effect on the domestic industry?

MR. SHOR: Mike Shor for the German Respondents.

We address this issue in our brief. The Commission in several cases has found that where the condition of the domestic industry improves, there is a presumption that, absent the order, things would deteriorate. It follows from that that, if the conditions don't improve, there should be a presumption that there be no deleterious effect from removal of the order.

MR. BRUNO: I would concur with this analysis. It would seem to me that in this particular case the order had no impact on the industry one way or the other. It seems that if they feel vulnerable it is for reasons that have nothing to do with imports and therefore nothing to do with imports. The orders were powerless to address those issues.

COMMISSIONER PEARSON: Can you cite any previous cases, either now or in the post-hearing, in which the Commission made the determination that's implied by your responses?

MR. BRUNO: We will try to do so, Your Honor, a post-hearing brief.

COMMISSIONER PEARSON: Okay. Then a somewhat related question, in the event that the

Commission does not decumulate Brazil and Germany, would you argue that revoking the orders would or would not be likely to lead to continuation or recurrence of material injury within a reasonable foreseeable time. Assuming that we do not decumulate.

MR. SHOR: Our position is that, even with cumulation, revocation of the orders would not likely lead to a resumption of significant imports in the foreseeable future for the reasons that Mr. Traa mentioned. France, Germany, Italy. There is no significant capacity there to export to the United States. We addressed Germany and Brazil in our own briefs.

MR. BRUNO: We concur.

COMMISSIONER PEARSON: This is probably the last one I've got. In the event that we do decumulate Brazil and Germany, and vote to revoke those orders, what's the right thing to do with the rest of the subject countries?

MR. BRUNO: Is this a legal question?

(Laughter).

COMMISSIONER PEARSON: Look, I don't pretend to understand the nuances of the law, and if we do as you are suggesting and decumulate and vote in the negative in respect to Brazil and Germany, we've still got to do something with the others. So based on everything that you've learned about this case and your understanding of the law, what ought we to do with those others?

Either now or in the post-hearing. If you prefer to think on this one, that's also okay.

MR. SHOR: We'll think on that one and address it in our post-hearing submission.

COMMISSIONER PEARSON: Thank you very much. I appreciate all of the input this afternoon.

Mr. Chairman, I have no further questions.

CHAIRMAN KOPLAN: Thank you. I must say that we don't care is the best way to respond to that question.

(Laughter).

With that, I'll turn to Vice Chairman Okun.

I'm sorry. I won't. I'll turn to Commissioner Aranoff.

COMMISSIONER ARANOFF: Thank you, Mr. Chairman.

I have two quick follow-ups that I just want to ask the parties on both sides, give you a chance to address in your post-hearing briefs.

First we've had some discussion today about the percent of distribution network for brass sheet and strip that's controlled by U.S. producers or their affiliates.

If either side has something they want to add to that in terms of what that percentage is and what the implications of that are for the ability of subject imports to reenter this market in the event of revocation, that would be helpful.

And the second thing, we did start a conversation this morning with the domestic industry on some information concerning the non-subject suppliers to the U.S. market, and particularly those who were not subject to these orders and revoked before the Netherlands and Korea which we discussed, but the other non-subject suppliers who have never been subject to order.

If there is any information that either party wants to put on the record concerning the quality or product range of those producers, their capacity, what their markets are, or anything else that would be relevant to our understanding global conditions of competition, I'd just invite you to please supply us with that information.

Thank you very much.

CHAIRMAN KOPLAN: Thank you.

Commissioner Hillman, did you have any

additional questions?

I believe there are no other questions from the dias.

Mr. Deyman?

MR. DEYMAN: George Deyman, Office of Investigations. The staff has no questions.

CHAIRMAN KOPLAN: Thank you.

Counsel for the domestic industry, do you have any questions of this panel before they're released?

MR. HARTQUIST: No questions. Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Thank you.

With that I'd like to thank all of you for your responses to our questions and I look forward to your post-hearing submission. I look forward to the domestic industry's as well.

With that, this panel is excused and we'll go to rebuttal and closing remarks. That means you can step back from the table except for counsel.

With that, let me announce what's left in the way of time.

Those in support of continuation have ten minutes remaining from their direct presentation and five minutes for closing.

Those in opposition have two minutes remaining from their direct presentation for rebuttal and five minutes for closing.

Mr. Hartquist, how much of that time do you need to use prior to going to closing?

MR. HARTQUIST: I'll go directly to closing, and I'll probably take about four or five minutes to do that.

CHAIRMAN KOPLAN: Without objection, you may proceed.

MR. HARTQUIST: Thank you, Mr. Chairman.

To Commissioner Pearson's question just asked a few minutes ago about Brazilian prices during the original investigation and whether there was evidence of underselling or overselling. We have the answer. It's public information. The answer is that 23 of 27 comparisons showed underselling by the Brazilians during that period.

I'd just like to make a couple of general remarks about comparative prices in various markets around the world because there's been a lot of attention as to whether prices here or elsewhere are higher or lower. The general point I would make is this.

Obviously it's impossible for all exports to flow to the market that has the highest prices and frequently I've seen in my experience markets having the highest prices because they are protected markets by way of import tariffs or other protections that cause the prices to be higher in one place than another. But beyond that, particularly in an industry like this where there is substantial global over-capacity, producers of these products are chasing markets all over the world all the time. They'll sell wherever they can, and in part the reason for doing that is because these mills are so dependent upon being able to fill the mills and keep them going when they have very high fixed costs that they're trying to deal with in selling their product.

Mr. Shor noted a few minutes ago that purchasers that don't have any familiarity with the German brass might rate U.S. and German products the same, in commenting on the questionnaire responses that you received.

But in fact in the responses the purchasers had the ability to indicate that they had no familiarity with the product and therefore couldn't make a comparison, and a number of purchasers said that, 12 of them did.

But of the purchasers who are familiar with the products, 10 of 11 of them reported that the U.S. and German products are interchangeable.

I'd like to talk for a minute about Mr. Pages' testimony which frankly I found, well to be kind I would say to be disingenuous.

He testified about Wieland's quality and he testified about the Delta purchase issue, and until Commissioner Hillman basically pulled out of him what happened that that business he was reluctant to indicate that the business had gone to Olin. That Delta had found Olin's product to be of sufficient quality. And as a matter of fact Delta has just recently given a vendor award to Olin which is based upon product quality and service.

So I think the responses were a little bit incomplete and in fact Olin essentially is a competitor of Mr. Pages' company.

A brief comment on German capacity and the potential for export. Mr. Shor was asked about the re-roller data and he commented that to include that would be possible double counting. But we have to bear in mind that the German re-rollers, like re-rollers around the world, typically have the ability to source material from various sources and often import a re-roll material, and the German producers have that option. So I think you have to consider re-roll capacity.

If they were to import material from outside of Germany and bring it in for re-roll and then export it to the United States that would increase their exports to this market.

Mr. Baialuna's testimony about Eluma's lack of interest in the U.S. market, you know it's perplexing to me. I love to see the foreign producers appear before you and testify. I think that's a good thing and I commend them for doing so because so frequently they don't and you're left having to make assumptions based upon a lack of information.

But if the lower prices that he testifies to for brass in the United States are not attractive to Eluma, why would they care if the orders remained in place and why would they spend money on lawyers and travel time and so forth to try to have this order terminated? To me it just doesn't make sense.

With respect to the German material also, I would note that in the original investigation the issue of quality and premium price and so forth, 43 of 58 price comparisons showed underselling by German brass at that time.

Now to Mr. Malashevich's graph, and I think some of the problems with it --

CHAIRMAN KOPLAN: I think you've used the full five minutes.

MR. HARTQUIST: Then I will conclude and I'll comment on Mr. Malashevich's graph in the post-hearing brief.

CHAIRMAN KOPLAN: Okay. Thank you very much.

MR. HARTQUIST: Thank you, Mr. Chairman.

CHAIRMAN KOPLAN: Mr. Shor, you've got two and five. Do you need time for the rebuttal or are you going to go directly to closing?

MR. SHOR: I'll just go to closing.

Good evening. I'll start where Mr. Bruno started this morning with the back to the future analogy.

The domestic industry's case this morning largely consisted of the argument to just assume that everything would go back to the way it was in the early 1980s. That's an argument that might work in the first-five year review or five years after an order, but it shouldn't work 20 years after an order.

Twenty years ago I had brown hair. Twenty years ago I was thin. Things were quite different then and the conditions are not the same now and there's no basis to assume they should be.

Let's look at the factors the Commission traditionally considers in these five year reviews in deciding whether or not to revoke an order. It looks to whether the condition of the domestic industry has improved. If it finds improvement, it presumes that that's a result of the order. I think we can agree there's no significant improvement. Whatever effect the order may have had immediately after it was enacted, it's not providing much improvement to the domestic industry today.

The Commission looks at the trends immediately prior to the order, with imports increasing or decreasing. There was some dispute as to whether we should start in 1983 or 1984, but certainly in the years prior to they order, prior to the petition, the downward trend in imports had already started.

The Commission looks to where prices are higher. It's interesting in this case, you have a domestic industry that's owned to a large extent by a large producer based in Europe. They didn't provide prices in Europe like we did to show where prices were higher. They have a Korean-owned company. Why weren't there prices provided by them to show that

Korean prices were lower?

The only producer that came before you and provided pricing data in their home market was Wieland, to show you that prices in Europe are higher than in the United States. That should tell you something.

They offered the standard product shifting argument. All of the higher performance alloys which are non-subject merchandise, all of the leaded brass products, all of the other products that the German producers have moved into, they've argued essentially as I understand their brief that every pound of that material would come to the United States, would be shifted into lower profit, lower margin products. That argument too, falls by the wayside.

Then we have the usual China argument. I guess they can't help themselves, they're used to arguing steel cases. There are no volumes of this material being sold by these countries to China. There is nothing to shift out of China into other countries. The quantity for Brazil, I repeat, is 600 pounds. The quantity for Germany was 1.5 million pounds. There is no potential for third country product shifting into the United States.

The Commission also considers accessibility to the channels of distribution. You heard important testimony today about how the nature of the U.S. market has changed. The end user customers demand just-in-time delivery. The domestic industry bought up the channel of distribution of the service centers. How is it these large producers in other countries or small producers in other countries are going to manage to deliver their product to small end users in the United States for just-in-time delivery?

Finally, I was amazed, the new argument that I heard this afternoon about re-rollers. Consider the speculative nature of that argument. That if the orders were terminated the German re-rollers are going to import material from some unnamed third country, which they've never done; re-roll it in Germany; and shift it to the United States. There's no basis for any finding based on that. That's pure speculation.

In sum, we're not back in 1983 when imports were increasing. It is more than 20 years later. The domestic industry has had its full measure of relief from these orders and it's time for the Commission to terminate them.

Thank you very much.

CHAIRMAN KOPLAN: Thank you.

I must say I am very impressed. I just

counted up. We had, according to the calendar, nine lawyers and three economists and we're through before 4:25. We'll have to bottle that.

I want to thank everyone who participated in this investigation today. You've made a real contribution to our efforts and I look forward to the post-hearing submissions.

I also want to thank staff for their contributions.

Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by February 2, 2006. Closing the record and final release of data to the parties, February 23, 2006. Final comments are due February 27, 2006.

With that, this hearing is adjourned.

(Whereupon, at 4:25 p.m. the hearing in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Brass Sheet and Strip from Brazil

INVESTIGATION NO.: 701-TA-269

HEARING DATE: January 24, 2006

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: January 24, 2006

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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).

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