

UNITED STATES TRADE REPRESENTATIVE

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301 COMMITTEE

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SECTION 301 TARIFFS PUBLIC HEARING

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MONDAY
AUGUST 5, 2019

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The 301 Committee met in the Main Hearing Room of the U.S. International Trade Commission, 500 E Street, SW, Washington, D.C., at 9:30 a.m., Arthur Tsao, Chair, presiding.

PRESENT

- ARTHUR TSAO, Chair, U.S. Trade Representative
- BARBARA BANAS, U.S. Department of Agriculture
- SARAH BONNER, Small Business Administration
- WON CHANG, Department of Treasury
- TERESA HOWES, U.S. Trade Representative
- JESSICA HUANG, Department of Commerce
- AGATHA KOPROWSKI, Department of Treasury
- TRACY ROY, Customs and Border Patrol
- ARI SULBY, Department of State
- DAVID WEINER, U.S. Trade Representative

ALSO PRESENT

- WILLIAM BISHOP, U.S. International Trade Commission
- TYRELL BURCH, U.S. International Trade Commission

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WITNESSES PRESENT

PETER ALFORD, PNP Supply, LLC
CHARLES BERNARD, Eagle Metals, Inc.
MARK BOYCE, Kemper AIP Metals, LLC
DENNIS BURRESON, OGCC Member
DIMITAR DIMITROV, Sofia Med SA
FRANZISKA ERDLE, WVMetalle
BRENDAN FITZPATRICK, DuroTerra
KYLE GILSTER, Gellert Global Group
RICH HUDGINS, California Cling Peach Board and
California Canning Peach Association
ARLIE JACOBS, Hempler Foods Group
MICHAEL JEMISON, Heyco Metal, Inc.
PHIL KAFARAKIS, Specialty Food Association
DANIEL KENDALL, ABC Metals
DAVID KLOTZ, Precision Metalforming Association
JAMES MILLER, Franconia Industries, Inc.
JEFFREY NYSTROM, Aurubis Buffalo, Inc.
BRIAN O'SHAUGHNESSY, Revere Copper
JASON REDD, Consorzio Per La Tutela Del
Formaggio Pecorino Romano
MIKE RODGERS, The Miller Company
NANCY ROSENTHAL, Rotax Metals, Inc.
JOHN SHAY, KME America, Inc.
MICHAEL SILVEIRA, Olive Growers Council of
California
SEAN SIMMONS, Tuffaloy Products
ROBERT STANG, Cheese Importers Association of
America
CHRIS SWONGER, Distilled Spirits Council of the
United States
RON TANNER, Di Bruno Bros.
DALE TAYLOR, GBC Metals, LLC
ROBERT TOBIASSEN, National Association of
Beverage Importers
PETER VITALIANO, National Milk Producers
Federation
MASSIMO VITTORI, oriGIn
GARY VOGEN, Yara North America
JESSICA WASSERMAN, Giovanni Rana USA

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P-R-O-C-E-E-D-I-N-G-S

9:25 a.m.

MR. BISHOP: Will the room please come to order?

MR. TSAO: Good morning and welcome.

The Office of the United States Trade Representative, in conjunction with the Interagency Section 301 Committee, is holding this public hearing in connection with the enforcement of U.S. WTO rights arising from the dispute brought by the United States against the European Union and certain EU member states addressed to the EU subsidies on large civil aircraft.

Detailed information about this investigation is set out in our notice of April 12, 2019, which is published at 84 Federal Register 15028. A number of public comments in response to the April 12 notice requested that the Trade Representative consider additional products that were not included in the April 12 list for possible inclusion on a final list of products to be subject to the additional duties.

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In response to these comments, and upon further analysis, the Trade Representative published a notice on July 5, 2019 that included a second list of products being considered for inclusion on a possible final list of products that may be subject to the proposed tariff action. The July 5 notice is published at 84 FR 32248.

The purpose of today's hearing is to receive public testimony regarding products included in the July 5 list. The Section 301 Committee will carefully consider the testimony provided at this public hearing, and the written comments, including post-hearing rebuttal comments, and will then make a recommendation to the Trade Representative.

As explained in our notice of April 12 and July 5, the selection of a final list of products will take into account the upcoming report of the WTO arbiter -- arbitrator on the appropriate level of countermeasures.

Before we proceed with the testimony, I will provide some procedural and administrative

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instructions. I will then ask the Agency representatives participating in today's hearing to introduce themselves.

The hearing is scheduled for one day and will conclude this evening. We have six panels of witnesses with 31 individuals scheduled to testify today. The provisional schedule has been posted on the USTR website.

We'll have a five-minute break between the panels and a 55-minute break for lunch. Each organization appearing at the hearing is limited to five minutes of oral testimony. After the testimony from each panel of witnesses, the Section 301 Committee will have an opportunity to ask questions. Committee representatives will generally direct their questions to one or more specific witnesses.

Post-hearing comments, including any written responses to questions from the Section 301 Committee, are due by Monday, August 12, 2019.

The rules and procedures for written submissions are set out in the July 5 Federal Register notice.

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Given the number of witnesses and the schedule, we request that the witnesses, when responding to the questions, be as concise as possible. Witnesses should recall that they have an opportunity to provide more extensive responses in their post-hearing submissions.

No cameras, video, or audio recording will be allowed during the hearing. A written transcript of this hearing will be posted on the USTR website and on a Federal Register docket as soon as possible after the conclusion of this hearing. If you have any questions about the facilities, please feel free to ask the guards at the front desk.

Okay, we're pleased to have international trade and economic experts from a range of U.S. government agencies. At this time, I'd like to ask them to introduce themselves. Starting from me, my name's Arthur Tsao, I'm an Associate General Counsel at the U.S. Trade Representative's Office.

MR. CHANG: Hello, good morning. My

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name is Won Chang, Department of Treasury Trade Office.

MR. SULBY: Ari Sulby, Department of State Trade Office.

MS. HUANG: Jessica Huang, U.S. Department of Commerce, Office of Trade Negotiations.

MR. WEINER: David Weiner, Office of Europe and Middle East at USTR.

MS. BANAS: Good morning everyone, Barbara Banas, U.S. Department of Commerce. Pardon me, I'm looking at my colleague in Commerce. U.S. Department of Agriculture. Good morning, I need more coffee.

MS. ROY: Tracy Roy, CBP, Chief of Trade Remedies, all of Trade Remedies for CBP.

MR. BISHOP: Mr. Chairman, our first witness on this panel is Dale Taylor with GBC Metals, LLC. Mr. Taylor, you have five minutes.

MR. TAYLOR: Members of the Committee, good morning. My name is Dale Taylor, and I am the President of Olin Brass. Appreciate the

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opportunity this morning to express our support for the proposed duties on certain copper and copper alloy products.

Olin Brass is a leading U.S. manufacturer, fabricator, and converter of non-ferrous products, including sheet, strip, foil, tube, and fabricated components. We've been manufacturing in the United States since 1916 and are proud to employ approximately 1,100 employees at our facilities in Illinois, Connecticut, Ohio, and Missouri.

More than 90% of our products are sold to end customers in the United States who primarily operate in five industries: electronics, electrical components, automotive, building and housing, munitions, and coinage.

Olin Brass is a subsidiary of Global Brass and Copper, which was recently acquired by Wieland. This acquisition was part of a broader strategy to allow Wieland to offer a global, in-country footprint to better serve multinational customers. The merger of Global Brass and Wieland,

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companies rich in technology and innovation in their own right, will provide significant value to ever-demanding applications.

We are currently reorganizing the U.S.-based operations into a newly formed subsidiary, Wieland World Products North America, for which I will continue to serve as president.

This new entity will collectively oversee four manufacturing facilities and Wieland Metal Manufacturing in Illinois.

I am hereby today appearing before this group on behalf of Olin Brass and soon-to-be successor Wieland World Products North American.

Since 2004, the copper and copper alloy industry in the United States has struggled in the face of a remarkable decline of more than 30% in U.S. domestic consumption due to material substitution, miniaturization, and offshoring. While at the same time, in recent years we've seen an increase in domestic imports from 16 to 23%.

We certainly welcome competition from the European competitors, but that competition must

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be on a level playing field, which it is not. United States International Trade Commission has found, for example, since 1987, U.S. brass, sheet, and strip industry has faced material injury from German, French, and Italian imports, of which then the Commerce Department did find a definition of dumping.

And while these German, French, and Italian imports are currently subject to a 1.9% tariff when imported into the United States, the same products are subject to a 4.8% tariff when U.S. manufacturers export to the UE. This inherent fairness is compounded by Europe's value-added tax system.

European manufacturers are exempt from value-added taxes when they export copper and copper alloy products to the United States, which essentially acts as a relative subsidy relative to their UE domestic sales. This practice allows for aggressive marketing strategy and places our own domestic industry on an economic disadvantage.

The cumulative effects of these unfair

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practices has caused Olin Brass and the industry to exit certain alloy families, such as 110 and 500 series phos bronze markets. Given the opportunity to compete fairly, Olin Brass and the industry, with our world class manufacturing facilities, are capable of producing the required product quality and ample capacity to serve these markets.

The proposed retaliatory duties on copper and copper alloy products are particularly appropriate given that among the small number of products under consideration with direct nexus to aircraft manufacturing. Large commercial aircraft can include, for example, more than hundreds of miles of copper wiring harnesses for flight control, navigation, communication, and entertainment systems.

Copper and copper alloys are also used extensively in aircraft electrical components. The proposed duties thus would be imposed on products directly involved in this trade dispute underlying this 301 hearing, and would effectively

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address the benefits of copper and copper alloy companies in the UE that have long enjoyed supplying their products from Meriboss (phonetic).

We are confident that additional duties on certain copper and copper alloy products will not have an adverse effect on U.S. stakeholders, largely because the domestic industries are well positioned to increase production to offset any reduction in the products annually imported from the UE.

U.S. manufacturers including Olin Brass and others represented here today are capable of producing the copper and copper alloy products under consideration. Our foundries' rolling and finishing equipment used in our industry can quickly be adapted to a full range of copper and copper alloy products. Olin Brass alone has invested \$125 million in its manufacturing facilities over the last eight years.

But the U.S. manufacturers are currently operating this equipment at less than 60% of its capacity. This excess capacity can be

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achieved and additional U.S. jobs created to ensure that the U.S. and consumers will benefit from a robust supply of copper and copper alloy products.

In fact, we estimate that returning UE imports to historical levels would increase U.S. utilization by only eight points. As a result, the industry underutilized capacity could do even more, should this committee impose additional copper alloys without harming U.S. businesses and consumers.

Indeed, consumers in the U.S. economy will benefit from increased domestic production and will still have significant competition in place to create a large number of options for supply for our customers.

Thank you again for your thoughtful consideration of the additional duties, and I welcome at a later time any questions you might have from the Committee.

MR. BISHOP: Thank you, Mr. Taylor. Our next witness is Jeffrey Nystrom with Aurubis Buffalo, Incorporated. Mr. Nystrom, you have five

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minutes.

MR. NYSTROM: Good morning, my name is Jeff Nystrom. I'm the President of Aurubis Buffalo. I appreciate the opportunity to appear before you today.

Aurubis Buffalo is a vertically integrated producer of copper alloy and sheet products located in Buffalo, New York. We have 630 employees and over a hundred years of history producing copper products. Aurubis Buffalo serves 519 customers in the United States and has been among the largest U.S. manufacturers of flat-rolled copper products throughout its history.

I'm here today to respectfully request that certain copper and brass products imported from the EU be removed from the USTR list of products being considered for additional duties in conjunction with this investigation. Specifically, I urge the removal of retaliatory duties on all sheet, strip, plate, foil of refined copper, brass, bronze, cupronickel, nickel silver.

Over the past two decades, the U.S.

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copper sheet and strip market has undergone a dramatic decline. Since the peak in 2000, industry volume has fallen by almost 40%, with corresponding decline in industry employment and the extinction of many historic businesses in this segment.

Unlike the case in other metal industries, the driver for this decline has not been foreign competition, unfair trade, or depressed market prices. The primary driver for the reduced copper -- reduced demand for copper alloy sheet and strip products is a dramatic increase in the commodity price for copper and the resulting material substitution that it has driven.

From 1990 to 2004, the average price for copper raw material used in copper alloy sheet strip products, as measured by the open traded COMEX spot price, was 96 cents, with a trading range of 61 cents to a \$1.48 per pound. Since 2004, the average COMEX spot price has shifted to \$2.95 per pound, with a trading range of \$1.26 to \$4.63 per pound.

This tripling of the commodity value

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of copper, as well as the high volatility, has dramatically changed end use economics and demand for copper alloy flat-rolled products. The increase in copper price has led downstream manufacturers to reduce copper content in end use applications, substitute alternative materials, or simply decrease their demand for copper alloy sheet and strip.

The impact has been economic hardship for the entire U.S. copper alloy flat-rolled product industry, with loss of employment, closure of businesses, and dying product segments. The imposition of tariffs on EU copper alloy flat-rolled imported products will artificially increase prices of all segment products within the U.S., not just the formally imported.

The result will be a new round of substitution, end-use reductions, economic hardship job losses for manufacturers that use copper alloy sheet and strip, and a decline in the competitiveness of U.S.-made end use products versus imported goods with copper content.

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Users of products containing copper content will redirect their purchasing focus towards imported finished goods which do not bear the burden of tariffs.

It is safe to assume that at least some of the copper flat-rolled products currently imported would never be domestically produced, leaving U.S. end users with a temporary or a permanent gap in their supply chain, or be forced to accept uncompetitive, tariff-laden raw material costs for their products.

Either way, the effect is harm for U.S. manufacturers and end use customers. Based on a clear, historic pattern that price shocks have had on the use and application of copper alloy, sheet, and strip, imposing tariffs on these products would have predictable and irreparable harm on the U.S. copper alloys flat-rolled products industry, its customers, its employees, and the nation as a whole.

For these reasons, Aurubis Buffalo strongly urges the removal of copper alloy flat-rolled products from the USTR's final list

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of tariff subheadings for retaliatory tariffs in connection with the enforcement of U.S. rights in this WTO dispute.

On behalf of Aurubis Buffalo, I'd like to thank you for allowing me to speak today, and I'm happy to answer any of your questions. Thank you.

MR. BISHOP: Thank you, Mr. Nystrom. Our next witness is Daniel Kendall with ABC Metals. Mr. Kendall, you have five minutes.

MR. KENDALL: Thank you for the opportunity to appear here today on behalf of our 57 employees, their families, and the U.S. metalworking industry. My name is Dan Kendall, and I serve as President of ABC Metals, located just outside Indianapolis.

ABC Metals was founded in 1973 as a leading manufacturer and distributor of copper and copper-based alloys in four operations in Indiana and Texas. We're the third largest distributor of copper strip in North America. We know firsthand how imposing tariffs on copper-based

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metals, specifically the ten HTS codes listed in Appendix A of our submission, will hurt U.S. manufacturing and the economy.

These high performance copper-based alloys are critical to U.S. manufacturing in electronics, automotive, aerospace, and agribusiness. ABC and other U.S. companies like us provide access to these metals to downstream manufacturers. We are a switchboard to these manufacturers that produce components for some of the largest companies in the world, such as Ford, GM.

Imposing high tariffs on these metals will cause OEMs to source their components outside the U.S., resulting in lost customers and lost jobs.

U.S. manufacturers like ABC are compelled to look globally to access these metals.

Access is critical to our success. Why? Because these alloys mentioned in the HTS codes have unique chemistries, mechanical properties, and because of inadequate domestic supply we have to source these metals in Europe.

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European mills are able to supply to the rigorous demand of our global customers. The proposed tariffs on imports from Europe would force ABC to either reduce our offerings, resulting in lost customers, or we would become beholden to the virtual monopoly being created by Wieland Metals in the U.S. copper industry, which I'll now explain.

On July 16, 2019, Wieland Metals, headquartered in Om, Germany, completed its acquisition of Global Brass and Copper, the last remaining U.S.-owned brass strip manufacturer. Prior to that, on May 28, Olin Brass, a division of GBC, which was about to be acquired by Wieland, petitioned USTR for inclusion of these metals for tariff protection that are sourced in Europe.

Ironically, Wieland, a German company, is attempting to create an unfair trade advantage that ultimately will benefit a European company and would harm its U.S.-based competitors. All U.S. manufacturers who produce and purchase these high performance alloys, including ABC, will not be able to offer product that meets the performance

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and quality demands of our customers.

Recent attempts by ABC to purchase from Wieland have been denied without sourcing recourse.

The consequence of these tariffs is a virtual monopoly for Germany-based Wieland. Some respondents have stated that the U.S. has the capacity to supply these imported materials. Not true.

U.S. producers may have capacity, but not capability to produce the copper that our customers demand. For instance, saying that you can produce billions of aspirin but not be able to make my blood pressure medicine doesn't work.

We need something that addresses the solutions that our customers demand.

So if USTR imposes tariffs on ten HTS codes, we've already been informed by our customers that they expect to move their domestic production to other countries within six to eighteen months.

We've already been told by one we have 45 days left of stock that we'll be sending to them, whereas U.S. producers need anywhere from twelve to thirty

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months to tool up the very narrow selection of product. So we strongly oppose the tariffs at any level in these copper products because it will lead to a shift in production by overseas OEMs, resulting in immediate job loss in the United States, except for a German-owned company.

So on behalf of our employees, their families, and our industry, we ask, don't drive manufacturing offshore by imposing these tariffs.

Rather, preserve access to all U.S. manufacturers dependent on these alloys. Thank you for this opportunity to appear today.

MR. BISHOP: Thank you, Mr. Kendall.

Our next witness is David Klotz with the Precision Metalforming Association. Mr. Klotz, you have five minutes.

MR. KLOTZ: Thank you for the opportunity to testify today. My name's David Klotz, I'm the President of Precision Metalforming Association out of Ohio.

On behalf of our 800 member companies, we ask the USTR not to impose tariffs on the

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copper-based alloyed metals from the European Union, as listed in Appendix A in my testimony.

PMA is a trade association representing 137 billion metalforming industry of North America, the industry that creates precision metal products using stamping, fabricating, spinning, slide-forming, and roll-forming technology and other value-added processes.

Our nearly 800 members are family-owned companies ranging from 50 to 100 employees. Their products are critical inputs for the aerospace, defense, agricultural, automotive, medical, electrical, and other industries.

Our industry knows firsthand how tariffs on imports send a ripple effect throughout the manufacturing and the economy. During the time of the Section 201 steel tariffs in 2001, 2003, the U.S. Census reported a 17% drop in the number of metalstamping businesses in the U.S.

At the same time, American businesses faced 30% tariffs on their steel. We saw a huge

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increase in Mexico and Southeast Asia of automotive stampings, and many of these supply chains never returned.

Similar, the 232 tariffs on steel and aluminum have increased lead times, made U.S. manufacturing less competitive, and encouraged customers to source from overseas, where they face no taxes on imports. Tariffs are taxes, plain and simple. In this global environment, many of our members can easily pass along the increased costs to their customers, even if they purchase domestically, as the prices have gone up along with delivery times.

This situation is even worse in the case of the copper-based alloys. The U.S. simply does not manufacture these critical inputs to the quality and specifications required by our customers. Let it be clear, this is not an issue of price. It's more availability, safety, and necessity.

In the survey conducted in July, our members report using the listed copper-based alloys

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from Europe for the aerospace, agricultural, automotive, defense, electrical, and medical industries. Needless to say, American consumers nor warfighters can take the risk of using substandard materials.

Returning to the availability, our members simply cannot make the product out of materials they cannot get. And when U.S. manufacturers cannot deliver on time as a promise to their customers, they will source overseas, as they have options for their inputs while we do not.

For example, the oxygen-free alloys are not manufactured in the U.S. and not readily available, and neither are the phosphor bronze or copper tin alloys. In fact, due to the recent consolidation of the state of the U.S. metal market, only U.S. producer exists for nickel silver alloys, and they require a 30,000 pound minimum purchase, effectively restricting sales for American small businesses.

In our survey to PMA members on the impact of these potential tariffs, one company

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responded, we would be forced to move production offshore or cease production of the components altogether. Absorbing the cost would put our company, including our 600 employees, out of business.

Our members report sourcing the subject material largely from Germany, EU, and China, a primary source of inputs from China already subject to the 25% tariffs. Another respondent reinforced the fact that the German mills are their dominant suppliers of the 500 series bronze and oxygen-free C102 copper globally.

The added costs will certainly push our downstream customers and move their production offshore. Many of these customers have facilities in Mexico or in China, and moving the stamping die is not very difficult, especially when the economics force it. This company expects laying off 30% of its workforce were the tariffs -- if they take effect.

Manufacturers feel the challenges tariffs pose well beyond those who import material

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from EU. One member was able to secure a specific type of copper but was concerned that limiting imports would drive up domestic prices and create challenges for their operations.

We saw this happen with the 201 tariffs, we're seeing this happen with the 301, and we expect this to happen with the 301 aviation tariff. In these situations, everyone loses.

PMA believes tariffs and duties are an effective tool and remedy important to leveling the international playing field. However, we ask that in this situation that the other trade actions use a target approach rather than a broad measure with unintended consequences.

Our manufacturers can compete with any business in the world, but just not with every government, and certainly not our own. We ask that you not impose the tariffs on the imported copper-based alloys included in Appendix A of my testimony. Thank you for your consideration, I'm happy to answer any questions afterwards.

MR. BISHOP: Thank you, Mr. Klotz.

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Our next witness is James Miller with Franconia Industries, Incorporated. Mr. Miller, you have five minutes.

MR. MILLER: I want to thank the Committee for giving me the opportunity to speak to you today. My name is Jim Miller, Vice President for Sales at Franconia Industries, Incorporated.

Franconia is one of the leading importers and recyclers of low-leaded and no-leaded brass bars, rod, and profiles, all of which are imported under HTSUS Code 7407.21.90. Franconia is located in Naperville, Illinois and has a large distribution facility in Bolingbrook, Illinois. Franconia imports the above-mentioned brass materials from Diehl Metall in the European Union.

Brass products are utilized in a number of industries, including automotive and heavy truck vehicles, plumbing, heating, and sanitary. Brass is a versatile metal that is both machinable and forgeable, and is therefore a top choice by original equipment manufacturers and small to large machining centers across the United States for use

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in these and many more industries.

It can also be produced with many different finishes, giving design engineers and general contractors the ability to satisfy their clients' functional and design requests with one single product. Brass is good for the environment in that it is easily recyclable and reusable in a well-established recycling system, thus reducing demand on natural resources.

Franconia has a working recycling system between the United States and Europe. Franconia's main focus is in the non-leaded, no-lead brass market. In this important market there is only domestic supplier in the United States besides Franconia that will meet industry standards for safe drinking water.

Our customer base sees the need for and welcomes a second source for a number of reasons, including market risk, competitive pricing, capacity risk, and quality risk. Most importantly, many of Franconia's lead-free brass products are especially made for drinking water

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applications, making these products an essential part of America's water supply.

In turn, Franconia's customers use these raw materials in their final products. Due to these many benefits, Franconia respectfully requests that the Committee remove brass products from the proposed list of tariffs. If these tariffs are imposed on brass products, Franconia will only be able to absorb so much of the added cost.

It will have to pass on the remainder to its customers. Franconia's customers, many of which are small to medium-sized businesses, are extremely price-sensitive and will have to pass these costs along to the ultimate consumer or look for overseas manufacturers to produce the very same components that were once produced here in the United States.

Moreover, this will not just impact the manufacturing industry. Brass materials are currently an expensive investment due to their many benefits. Franconia fears that if costs are passed

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along to the ultimate customer, which they almost certainly will, the consumer will be unwilling to invest in brass products as they become prohibitively expensive.

This may be true even in situations where installation -- installing fittings are important to the American South. This decrease in demand will further trickle down to those technically trained and licensed architects, general managers, plumbers, and technicians that recommend, install, and service these products.

If consumers are unable or unwilling to purchase these products, these contractors may bear the cost in decreased workflow or wages and potential layoffs. In short, the impositions of these proposed tariffs would have a reverberating effect through the U.S. economy.

Without the possibility of passing these costs of increased tariffs, Franconia would be obligated to leave the market. This would create a monopoly of no-lead brass into the United States, which as previously explained, is essential

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to the American water supply. Our customer base is looking for the ability to mitigate the risk of disruption in supply chain by having a viable second source.

For all these reasons, Franconia respectfully requests that the Committee remove HTSUS subheading 7407.21.90 from the final list of products that will be subject to new Section 301 tariffs. Thank you very much for your time and the opportunity to testify. I'd be happy to answer any questions later.

MR. BISHOP: Thank you, Mr. Miller. Our final witness on this panel is Nancy Rosenthal with Rotax Metals, Incorporated. Ms. Rosenthal, you have five minutes.

MS. ROSENTHAL: My name is Nancy Rosenthal. I am the owner of Rotax Metals, a family-owned business in a developing area of East New York in Brooklyn. Rotax has an extensive inventory of brass and copper products in the format of mill-finished rods, tubes, sheets, and plates.

My father-in-law started Rotax Metals

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in 1947, after immigrating from Europe in the late '30s. Rotax Metals shares the administration's serious concerns about foreign subsidies that create uneven grounds for U.S. manufacturing.

However, imposing tariffs on such a broad range of imports with the above-mentioned tariff codes from the EU will harm U.S. manufacturing and is unlikely to have any impact on the EU aircraft subsidy policy, the intended industry to impact.

Currently, a large portion of dimensions and sizes of the products Rotax Metals sells are simply not in the production range of U.S. manufacturing brass mills, or cannot meet quality specifications needed by our customers.

For example, brass sheet manufacturing stopped in many mills a few years ago. In one of the main U.S. brass mills, sheets are not available in 48-inch widths, which the U.S. market requires.

Olin Brass, a supporter of this tariff, no longer produces many of the products under the tariff codes that will affect Rotax Metals, especially the 36-

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and 40-inch wide sheets.

It is ironic in all of this, Olin Mills, recently purchased by Wieland, a company in the EU and based in Germany, will benefit most from these tariffs. However, due to the capital investment required and the complexity of the production process to satisfy the full product range needed, it is very unlikely that timely production could be profitably developed in the United States and cover our business needs.

As such, Rotax Metals, Inc., would have no choice but to source our requirements from non-EU member mills. This 301 tariff action proposed and supported by certain U.S. copper alloy mill companies seeks a tariff of up to 100%. Such a tariff would double the cost of imported copper-based mill product coming from the EU.

Such a tariff would also allow U.S. copper mill companies to raise their prices to the market as well, already evident from similar cases in the steel and aluminum sector. Again, many of the mill products that Rotax supplies are not

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produced by U.S. copper mill companies, whether it be by alloy, quality, format or size range. All of these components of quality are crucial to the end product and comprise our customers' specifications.

The chemical and physical properties of alloys are specific to certain product lines and critical components to customers' projects and manufactured products. Even if an alternative supply source existed, a change in alloy production process or supplier would require an intensive certification and qualification process.

Such process would take time and require costs before Rotax could even begin to switch to another supplier. This will result in a substantial loss of revenue and business. Rotax Metals and its customers are being inadvertently targeted by these tariffs without the option to buy domestically the same product.

If these tariffs are imposed, Rotax Metals will face significant increased costs in order to purchase timely, necessary product for

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our customers. We would be forced to pass these costs on to our customers, many of whom would not be able to absorb them.

Many of our products are used in projects which are estimated and budgeted months to years in advance, and such substantial cost changes could bring the projects to a standstill.

This brings the potential for a ripple effect of layoffs, lost profit, and cancelled contracts throughout the industries who use our materials.

This potential Section 301 tariff action on the majority of copper and copper alloy metal products coming from the EU countries would impact not only Rotax Metals, but its hundreds of customers. These small to medium sized businesses may have a very unique ability at niche trades across this country.

Very bluntly, imposition of this tariff would put businesses like mine and my customers' out of business. That means my employees who have been working for me for ten-plus years and their families will be impacted, not to mention my

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customers.

Rotax Metals therefore asks that the HTS headings listed be removed from the list of products to be subject to the proposed additional tariff of 100%, as announced by your office on July 5, 2019. Thank you very much.

MR. BISHOP: Thank you, Ms. Rosenthal.

Mr. Chairman, that concludes direct testimony from this panel.

MS. HUANG: Hello, my question is for Mr. Taylor. In your testimony, it is stated, current U.S. manufacturing equipment is operating at 60% of its capacity, and that domestic U.S. manufacturers are well positioned to increase production to offset any reductions in the products imported from the EU.

May you elaborate on the current state of U.S. copper and brass industry to fulfill this void, and also, if U.S. products are qualified substitutes for these EU imports.

MR. TAYLOR: In my testimony, the 60% capacity utilization is a fact. The industry is

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well below a historical norm. it is also quite known that as an industry is able to increase their capacity utilization, they're able to lower their costs, their unit costs of production.

And with the opening up of markets that are not available to us right now due to the inherent unfair barriers that persist through the European Union, this will allow the domestic industry to aggressively compete for the products within that market that they currently do not have.

MS. HUANG: I do have a follow-up to the last question. What about the quality, does it meet EU, does it meet the quality that the EU imports have?

MR. TAYLOR: I've heard testimony about the domestic industry not having the quality standards necessary to support the product that we do not supply. This industry has a long history of supplying very complex products, whether it's to the United States government, and/or very sophisticated multinational connector manufacturers.

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So it is my opinion that the industry is quite capable of adhering to any of the quality standards. And actually, given the capabilities of the industry, we actually should exceed it being able to adhere to those standards, quality standards.

MR. TSAO: I have a follow-up. How long would it take to basically start to manufacture the products at the quality and specification that you currently don't have?

MR. TAYLOR: Once again, I would say we do have the ability from a quality perspective today. So given the fact that the equipment that is used in our industry, whether it's a foundry or the rolling and finishing equipment, it's a matter of just basically switching over that production.

A lot of that equipment really does not care about the alloy, it's going to treat the alloy and the product uniquely and roll it to the same specification. So in some very small cases there might be a small ramp-up, but I would say the vast

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majority of the industry will be able to handle it very quickly, especially with the ramp-up of our utilization being so low.

MR. SULBY: One follow-up from my side.

Obviously there's been a lot of discussion from some of the other panelists on potential harms posed by these tariffs. Are there other alloy manufacturers in the United States besides your company that make these products?

MR. TAYLOR: Yes. My comments today are really directed as a result of the industry.

So while Olin Brass has those capabilities, we truly believe that the industry and the people in this room and others that aren't have those capabilities to be able to handle those products and compete very aggressively for that individual segment in order that would be affected by this tariff.

MR. CHANG: Hi, my name is Won Chang, Department of Treasury. This question is for Jeffery Nystrom of Aurubis. What is the domestic and international availability outside of Europe

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for the specific copper and brass products that you need to import?

MR. NYSTROM: Much like Olin Brass, Aurubis is a producer of alloys. We produce a broad family very similar to Olin Brass. Between the two companies, I believe we're a little bit over 50% of the domestic market.

There are, well, in support of what Dan Kendall has said, while there is capacity to produce, there are some very subtle differences in the production capabilities in the U.S., and I'll pick a very specific example. It has come up about 500 series phos bronze.

In Europe there are a number of producers that produce it through what's called a thin strip process. So they're casting it sub one-inch thick slab and then rolling it. Without getting into all the metallurgical details, that capability does not exist in the U.S. It could be put in, it could be invested in.

I think the topics that have been brought up are exactly correct, that is time. So

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could things be made in the U.S.? The answer is yes. What is unknown in this whole situation is what is going to be the short-term price impact.

There is very clear data what price does to the copper industry. I would be happy to supply it.

In the past 20 years, the industry has been decimated. While there, yes is slightly more importation, it is really about the underlying commodity price. The experiment has been done, and it's exactly known. What we don't know is what the impact of the tariff will be, higher prices or not.

So there are some specific things. It has been brought up around 500 series phos bronze.

It's also been brought up about oxygen-free. The capacity doesn't exist. It would take investment to be able to make it, and there is a learning curve.

And that time is a critical factor.

MR. CHANG: You indicate that Aurubis has been among the largest U.S. manufacturers of flat-rolled copper products. As a large producer, to what extent is Aurubis able to negotiate prices,

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including any post-tariff prices?

MR. NYSTROM: We have a competitive industry in the U.S. It's not a large industry such as steel or aluminum. We have a limited number of producers, we also have foreign importation out of Europe, out of Asia. And I think when you look at the history, we have come down dramatically from the highs of 2000, but we are at a relatively equilibrium position right now.

So from a pricing standpoint, there is pricing competition on most products. There are some products that are not produced in the U.S. and they're imported. But I see an elimination of particularly European imports to fundamentally change that equilibrium, and it would give domestic producers such as myself an incredible amount of leverage in the marketplace.

Now, you might say why am I saying this, as a domestic producer I must have a fundamental advantage. This is a complex topic. Aurubis, we are a German-owned company. So we produce about 95% of everything we sell domestically inside of

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the U.S., and about 5% is imported.

Most of my comments today are really focused on who our customers are. We know that we have a number of customers, particularly ones that are in what I would call copper, high copper content products where there is a -- the value of the copper in the product is very high. If the price of those products, if the underlying price of copper doubles, it will significantly drive up and change the competitiveness of those products.

So as we see it, as we debate internally this complex topic, our view is the harm that would happen to the U.S. industry, that is the shrinking of the industry, outweighs any benefit, short-term benefit, that we might have with higher prices.

MR. CHANG: Thank you.

MR. WEINER: Good morning, I have a question for Mr. Kendall. Before I get to my question, though, I'll just see if you could clarify a little bit your company's business and how you fit in the supply chain.

You say in your testimony that you're

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the third largest distributor of copper and copper-based alloys and sheet strip and coil, and that you and other companies like yours provide access to these metals to downstream manufacturers who produce components for even larger companies.

What exactly do you do with the materials that you -- just so we can all understand the, sort of the business model of the exactly, what exactly do you do with the materials that you import from Europe and others?

MR. KENDALL: What do is, we take master coil or master product in bulk form and we break bulk. We slit it, we edge it, we do also tinning plating, we customize the product so it's just exactly what our customers want. And then it goes from there into applications.

For instance, if you drove a Toyota, a Chrysler product, or a GM product, you had our material 500 series on that product. And we can't buy it here in the U.S.

MR. WEINER: Thank you. Some of the information that you provided in your appendix,

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in Appendix B to your testimony, which had some sort of anecdotal statements from some of your customers, those statements and in your testimony, you referenced particular types of alloys which of course other people testifying have done as well.

Can you elaborate on how broad, give you an opportunity to address, I want to give you an opportunity to address an issue which has already been addressed by other panelists, but I'd like to see if you could elaborate on how broad the insufficiency is in respect to either domestic U.S. production or sources outside Europe with respect to the range of types and grades or alloys that are under discussion here.

MR. KENDALL: Okay, thank you. The alloys that we find that we cannot buy or source domestically are copper 101, 102, 103, 505, 510, 511, 519, 521, 544, 700 series, and on and on. It's in 75% of our customer base of over 300 customers.

And not being one to put our hopes and destiny in the hands of others entirely, we ran

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an ad in a national paper, and I have an example of the ad here, asking for these tariff codes, who could source 10,000 tons of these, and they couldn't be EU or China. I got zero response, I got zero response from any of the respondents in this panel as well.

MR. WEINER: Thank you.

MR. SULBY: My question is for Mr. Klotz. Could you just give us sort of an overview of the U.S. metal market as it would pertain to an increase in tariffs? Who the major suppliers are, who the buyers are, what they're used for. I think that there's been sort of a little bit of confusion in the testimony of sort of how this market is structured.

MR. KLOTZ: Yes, based on the, you know, our members of 800 members in the Precision Metalforming Association, you know, the tariffs, you know, we've been affected, you know, as I mentioned and on the 201 back in 2001 and 2003 and then now the latest one on 232 on the aluminum steel.

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What happens is, you know, the tariffs are imposed to help the U.S. market. But the problem is also, you know, the U.S. market raises their prices up. So it's affected all our member companies and who they supply to, and they have to pass through that cost.

So it might help that industry, but then they just raise their price up, and then they have to pass that along to their customers, and then our customers will try to pass that along to their end users. So it's an effect, and the big one is, you know, with the new tariff that's coming out right now for the aviation now the 301, it's going to be the same thing.

Now, the limitation of some production that they can't even get here in the United States is the biggest issue. And as you've heard, the oxygen one and the nickel one are the biggest resort. So even if they can ramp up, it's going to take some time, and they're just going to raise their price up. So it's affected our customers.

And then what we've seen as these

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tariffs have been effected, most of our, their customers have had to, would outsource it and go to, you know, in Mexico or Asia as an alternate source. Because the stamping dies, as I've mentioned, can be moved very quickly.

MR. SULBY: So whether it's the oxygen-free or some of these other specialty alloys, are there other sources for these alloys besides China and the EU?

MR. KENDALL: No, correct, right now in the U.S. -- not in U.S., the oxygen-based is not available right now in the U.S.

MR. SULBY: But is it available from other international sources?

MR. KENDALL: Yes, but right now in China there's a tariff, right now a 25% tariff from China coming in.

MR. SULBY: Other than China and the EU, are there other, can you get these alloys in India, can you get them in Vietnam? Are there other countries besides the EU and China?

MR. KLOTZ: Maybe Dan can answer that.

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That I don't know.

MR. KENDALL: Currently, of the alloys that are covered that we sell 47 of them, we can only source 23 of them within the U.S. And after attempts for the last two to three years to source from other countries than China and the EU, our success rate is four of the remaining 24 alloys.

MR. SULBY: Maybe this question should go to Mr. Kendall, but I'll ask it to both of you.

Could you walk us through how these alloys, specifically these sort of niche specialty alloys are made, whether it's sort of a highly technical process or whether it could be easily replicated.

MR. KENDALL: These alloys are cast much different than traditional copper and brass.

The contents in the alloying agents are precipitated in there, and they have to be rolled specifically to avoid oxidation and particulates being rolled into the surface.

One of our applications is the casket industry, and it's very important that our deceased be able to be buried in a good-looking casket.

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And we have difficulty sourcing that material in the U.S. Surface quality is critical.

MS. ROY: Hi, this is Tracy Roy from CBP. This question is for Mr. Miller. Have you investigated using different manufacturers outside of Europe to procure your no-lead brass? And if so, what would the cost and timeline be to shift your supply chain?

MR. MILLER: Thank you, Tracy, for that question. In answer to that, we had investigated and found another viable source for the high performance alloy that we're looking for, that our customer base is looking for.

MS. ROY: Okay, what would the cost and the timeline be if you were to shift your supply chain?

MR. MILLER: Oh, I don't have the -- I'm sorry, I don't have a good answer for that at this time. But I can present one in a written comment.

MS. ROY: Thank you.

MR. MILLER: Would that be acceptable?

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MS. ROY: Yes, that is.

MR. MILLER: Okay.

MS. ROY: I just have one additional question for you as well. Do you have any sense of what share of imports under the reference tariff line 7407.21.90 are no-lead versus lead brass?

MR. MILLER: Can you repeat that question?

MS. ROY: Okay. Under the heading 7407.21.90, do you know how much of it is no-lead versus lead brass? Under that HTS number.

MR. MILLER: The no-lead high performance alloy would be a very small percentage of the overall brass rod.

MS. ROY: Okay, thank you so much.

MR. MILLER: Thank you.

MR. TSAO: This question is for Ms. Rosenthal. My question is very similar to the other questions, which is if the tariffs are imposed, how much time and what is the cost for your firm to switch suppliers to non-EU sources or domestic sources?

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MS. ROSENTHAL: I don't -- I would have to get back to you about a specific timeframe. However, I would like to say that the domestic producers, how come none of them in my -- since 1947 have approached my company to become a supplier? How come the countries, some of which are here in the EU, how come they are working with me through agents and are having constant conversations?

The material that comes in from the EU represents ten percent. Ten percent, I mean, we're talking about my product that is weather vanes on buildings, on homes, metal and brass in elevators.

I mean, I'm not the one that needs to be on raw materials have a tariff. Put your tariff on finished goods. But my customers are going to take their production to get their finished product overseas.

And we're talking about tradesmen, the very people that started this country. And I know that you're going to be speaking with somebody from Revere Ware who also, you know, has his days back

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to Paul Revere.

But my customers are just like that.

And they deserve to be able to get a product that's competitive in price so that they can produce and sell and be profitable and part of what makes this country what it is.

MS. BANAS: Good morning, my question is also for Ms. Rosenthal in a similar vein to Arthur's. In your testimony, you stated there is no domestic production of these specifications, and that production ended a few years ago for some specific brass sheets.

To the best of your knowledge, what is the likelihood, associated costs, and timeframe that domestic production of these specific metals could be created or restarted?

MS. ROSENTHAL: I would have to get back to you with a specific timeframe for that. Addressing a specific timeframe is very difficult.

MS. BANAS: Thank you.

MR. BISHOP: We release this panel with our many thanks and we invite the members of Panel

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2 to come forward and be seated.

Mr. Chairman, our first witness on this panel is Charles Bernard with Eagle Metals, Incorporated. Mr. Bernard, you have five minutes.

MR. BERNARD: Good morning, my name is Charlie Bernard, I'm President of Eagle Metals. Thank you for the opportunity to appear before you today.

Eagle Metals is a privately owned copper-based and stainless steel reroll mill manufacturing light gauge, tight tolerance, precision strip to customers' exacting specifications. We have 80 employees working in either our reroll facility located in Leesport, Pennsylvania, or our service center in El Paso, Texas.

We have a very diverse customer based located across the United States and internationally, serving the electronics, electrical, industrial, automotive, aerospace, and medical markets.

I'm here today to respectfully request

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that certain copper and brass products imported from the EU be removed from USTR's list of products being considered for additional duties in conjunction with this investigation. Specifically, I urge the removal of retaliatory duties on Attachment A.

I started my career at Olin Brass, spending eight years in sales and marketing positions, then as general manager of a service center operation, and have now owned and operated Eagle Metals for the past thirty years. I've spent my entire 42-year career in the copper strip market and have extensive experience throughout the entire industry.

I could tell you how a monopoly like the one that will be created should these tariffs be imposed would raise not only our prices but those of all our customers in the U.S. However, my narrative is about how we got to where we are today, how a German-owned company, namely Wieland, is seeking retaliatory tariffs against all their other German-based competitors, in effect barring them

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from shipping material to the U.S.

A reroll mill produces smaller quantities, lighter gauges, and holds tighter tolerances than a primary mill is able to provide.

We also have shorter lead times. We purchase our starting stock coils from the primary mills and process custom-made material to order.

In 2000, demand for copper-based alloys was 1.6 billion pounds, and supply was 1.5 billion.

There were three specialty mills producing 500 and 700 series alloys. The 500 series market alone was 60 million pounds. After 2001 and the dot com bust, the entire copper alloy strip market plummeted to just over 600 million pounds, and the 500 series volume to just 21 million pounds.

The fate of the three specialty mills all dating back to the 1850s? Attachment B. Miller was bought by Diehl, a German company, in 2000. Waterbury was bought by Olin in 2001, and subsequently closed in 2006. And the Kenosha Mill closed in 2001.

The reason why these specialty mills

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closed was not due to predatory pricing from imports, but their customer base moving wholesale to China, led by the connector and mobile phone manufacturers. At that point, all the U.S.-based reroll mills and service centers had to obtain their 500 series alloys from Germany.

Wieland supplied their U.S. reroll mill and service center operations exclusively from their mill in Germany, while all the other reroll mills and service centers had to purchase their 500 series alloys from the other German primary mills.

The total market for 700 series alloys is small, arguably less than a million pounds. Eagle Metals is a major supplier in the U.S. market for 700 series alloys because the orders are small, generally less than a thousand pounds, and they require light gauges and tight tolerances.

Our primary source for 700 series as well as 500 has been Miller-Diehl, who has been our supplier continuously for the past 30 years.

We had purchased 700 series from Olin, however,

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now that Wieland has purchased Olin, that option will no longer be available to us. No U.S. mill produces oxygen-free copper, as no U.S. mill has vacuum casting capabilities.

Imposing tariffs on oxygen-free copper material would require metal processors and fabricators to purchase metal from a U.S. processor who imports the metal from one of the two German-based mills that do have vacuum casting.

The reason why Wieland's tariff is written for 5 millimeter material and below is because Wieland can reroll material at five millimeters thick, while the other two American reroll mills can only process metal at a maximum of two and a half millimeters thick, thereby excluding us from that option. It will again create a monopoly in this product segment, add a middleman, and significantly raise prices.

Wieland was already the dominant producer of copper-based alloys in Europe. With Wieland's recent purchase of Olin Brass, they are now vertically integrated in the U.S., with a

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primary mill that commands 40% of the market, including two reroll mills and the largest multi-location service center network for strip, Attachment C.

Wieland's U.S.-based reroll mills are a direct competitor to the two American reroll mills and a direct competitor to the two remaining -- to the remaining independent American service centers. These proposed tariffs, if enacted, will create a monopoly for a German-owned mill at the expense of the remaining American-owned copper-based metal suppliers and fabricators.

On behalf of Eagle Metals, I want to thank you for allowing me to speak today.

MR. BISHOP: Thank you, Mr. Bernard. Our next witness is Dimitar Dimitrov with Sofia Med SA. Mr. Dimitrov, you have five minutes.

MR. DIMITROV: Thank you for the opportunity to appear in this hearing. My name is Dimitar Dimitrov, Sales Manager of Sofia Med.

Sofia Med is a producer of a wide range of alternate extruded copper alloy products. We are based in

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Sofia, Bulgaria, and our mill has been in operation since 1937.

Sofia Med respectfully urges the copper lead products included in the attached list be excluded from the products which are under consideration for additional tariffs.

We serve a diverse customer base in the United States, including metal processors, manufacturers, distributors, and service centers.

Our products are used in industrial building project and mechanical and electrical equipment applications.

Sofia Med is a state-of-the-art manufacturer, with an international reputation for quality, reliability, and customer service. We have made significant investments in modern equipment and process controls, and as a result we are able to manufacture and supply products that are not available from U.S. producers. These are mainly flat-rolled products, sheets, three-plate and full, in widths of up to 49 inches, in various thicknesses and alloys, and with special surface

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finishes required by our customers.

The U.S. industry has very limited capabilities to produce flat-rolled products in widths above 39 inches, in all alloys, gauges, and surface qualities required by U.S. manufacturers.

Sofia Med has been servicing the U.S. market since 2004, including numerous small- and medium-sized U.S. companies. As shown in their submissions, U.S. processors, consumers, and distributors of copper and copper-lead products also support the removal of the same products from the HTS subheadings listed in the U.S. Trade Representative's notice.

These American companies point out that some of these products are not available from domestic producers, and there are either very limited or no alternative products offered by the domestic industry.

As you have already heard, one of our -- one of the major American brass mills also poses retaliatory tariffs on imported copper and brass products from the European Union.

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Finally, Sofia Med is the only producer of copper and brass flat-rolled products in Bulgaria. We supply niche products that are not available from the U.S. industry to small- and medium-sized companies in the U.S. Thus, imports of these products from Bulgaria are an important link in the supply chain of American businesses, and they do not threaten U.S. mills.

Accordingly, Sofia Med requests that these HTS headings be excluded from the list of products under consideration for increased duties, or, in the alternative, that imports of these products specifically from Bulgaria be excluded from any additional duties.

Thank you.

MR. BISHOP: Thank you, Mr. Dimitrov.

Our next witness is John Shay with KME America, Incorporated. Mr. Shay, you have five minutes.

MR. SHAY: Good morning. My name is John Shay, President of KME America, or KMA, located in Oak Brook, Illinois. Founded 35 years ago, KMA

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supplies copper, brass, bronze, and copper-nickel semi-raw materials manufactured in Germany by our parent, KME Germany GmbH.

KMA does not sell any consumer goods in the United States, as we supply mill products to U.S. distributors, OEMs, and even U.S. mills.

Our metals are found in U.S.-manufactured finish products in the automotive, defense, telecom, semiconductor, construction, oil and gas, power gen, and other domestic industries. In fact, the copper in the Statue of Liberty was rolled in a French facility that became a KME mill.

KMA opposes the proposed imposition of a tariff on products, including KMA's copper and copper alloy goods. Although we support the administration's effort to enforce U.S. rights against the EU under the WTO agreement, the proposed tariffs on KMA's copper and copper alloy goods would significantly and disproportionately harm American interests, including KMA, while doing nothing to enforce U.S. rights.

The proposed tariffs will be paid for

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by American importers, and the amount of the tariffs will be passed through the supply chain, resulting in increased costs to the American public. Ultimately, the result will be reduced or limited sales, earnings, investments, and downstream value-add jobs here in the U.S.

From our perspective, the standard duty rates are already prudent, and the impact of such an enormous increase will force us to adjust our terms of sale and raise prices dramatically, which would impact approximately 90 percent of sales by tonnage.

Every pound of metal we import supports downstream value-added manufacturing here in the U.S. Considering the breadth of the industry that KMA and other copper importers support, the proposed tariff on metals would send a shockwave throughout the economy, harming not only our companies but the tens of thousands of American workers along our supply chains, and ultimately the millions of American consumers of the finished products.

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As a case in point, today you might have driven here in a GM or a Ford automobile purchased from a Washington area dealership. A typical supply chain utilizing KMA products could involve three to eight companies in different states performing real U.S. manufacturing operations on our imported materials, all before that automobile hits the lot and without considering the companies that move these goods through the supply chain.

Now, consider the hundreds of millions of automobiles on the road and all of these trucks moving materials from one state to another throughout the supply chain. Each day, in some way, our metals touch the lives of each person in this room.

The negative impact of these tariffs cannot be avoided by sourcing domestically or from foreign markets other than the EU. There exists today a real and a substantial manufacturing capabilities gap between U.S. and EU copper and copper alloy production.

U.S. production of the same metals

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across the entire alloy quality, format, and size range that is available from the EU is limited at best, and the U.S. manufacturing base has found domestic sources to be inadequate.

Ironically, U.S. mills often import these same foreign products as either feedstock or finished materials to be resold. During the last 25 years, U.S. mills have not made significant investments. They have gone the other way, exiting alloys and entire product groups.

By contrast, KME in Germany uses a unique state-of-the-art production technology and is investing over \$30 million in its rolling operations this year to increase capabilities and quality.

U.S. mills individually would be required to invest an estimated 35- to \$200 million each over the next few years in order to bring their capabilities in line with the products that we supply to the U.S. manufacturing base today.

However, these investments would be foolish if higher tariffs force a significant

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portion of the U.S. copper-consuming manufacturing base to offshore over the next few years. We note that the May 28 Olin letter -- Olin Brass letter requesting these tariffs misleads the committee, as KMA does not sell any materials or metals for use in the civilian aviation industry, including Airbus. Rather, KMA's products are wholly unrelated to those involved in the WTO dispute.

Olin also exaggerates the cited import numbers, which as a percent of the U.S. market, have remained steady. Moreover, the VAT export rebate from which Olin claims EU exports benefit, does not exist. The advantage of EU mills is not a subsidy but continued reinvestment.

Possibly the most important point to note here is that GBC, the parent of Olin Brass, which testified on the previous panel, is now owned by the German copper company Wieland. The timing of Olin's letter is suspicious, coming after Wieland announced the acquisition of these companies.

Within a period of a few months, Wieland

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has announced and finished the acquisition of GBC.

While doing this, Wieland, through Olin, has managed to take advantage of this 301 tariff action that could effectively restrict or eliminate the main import source of quality copper mill products in the United States.

The entire market sees the Olin letter for what it is: a planned move to knock out the available supply of quality and competitive mill products from Europe, while giving Wieland near-monopolistic control of the North American market.

For these reasons, KMA requests that the committee recommend that these metals classified under headings 7407, 7409, and 7410 be removed from the proposed Section 301 list.

Thank you for your consideration, and I am pleased to take any questions.

MR. BISHOP: Thank you, Mr. Shay.

Our next witness is Sean Simmons with Tuffaloy Products. Mr. Simmons, you have five minutes.

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MR. SIMMONS: Thank you for the opportunity to testify today. My name is Sean Simmons. I'm the President of Tuffaloy Products.

Our company strongly disagrees with the inclusion of HTS Code 7407.10.50 in the proposed list of tariffs to be levied on EU member states for unfair subsidies provided for large civil aircraft.

Tuffaloy is a fourth-generation family business that designs and manufactures resistance welding consumables and tooling used to bond metal sheets in the automotive, appliance, furniture, and general industrial markets.

Tuffaloy, a U.S. stakeholder, is a small business that has been manufacturing in the United States since 1937 and continues to invest in operations to ensure the Tuffaloy family, consisting of 45 employees, has a sense of financial security for their future.

Tuffaloy Products fully supports the committee's efforts to enforce U.S. rights in the WTO dispute. In order for international commerce to flow as freely as possible, the WTO's contracts

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must be fairly enforced to ensure the rules of the road are transparent and predictable. The committee's actions are clearly justified.

However, the inclusion of copper bars and rods will have minimal impact on the EU and subjects U.S. manufacturing firms to considerable harm. The request of foreign-owned Olin Brass to include certain copper, copper alloy strip, and some rod and bar products is not in the best interest of U.S. manufacturing.

The sole reference to the underlying EU subsidies matter is remote and speculative at best. Absent from Olin Brass's recommendation is an discussion of the adverse consequences of including, in particular, HTS Code 7407.10.50 in the list.

These adverse consequences, especially to the domestic auto industry, are considerable.

Alloyed copper used for resistance welding consumables is classified under HTS subheading 7407.10.50. These alloyed coppers are engineered to optimize conductivity and minimize deformation.

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Each resistance welding machine is specifically calibrated for each weld application, and any changes to any component can have detrimental effects on weld quality. As of today, there is no domestic manufacturing of these primary alloys in the forms and sizes we use for resistance welding consumables.

The production process for specialty copper alloys is capital intensive. The engineering specifications of these alloys are difficult to achieve and maintain. Therefore, it is not feasible for a domestic manufacturer to quickly or profitably enter this market.

The automotive industry, a downstream stakeholder, is the dominant user of the resistance welding technology and the process of the primary method for constructing the vehicle body and is an integral component of a vehicle's crashworthiness.

For perspective, the average vehicle body contains 5,000 spot welds. Even if a domestic manufacturer of resistance welding coppers was

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available, any change to the supply chain could result in a costly and time-consuming recertification of the resistance welding process for many automotive companies and Tier 1 manufacturers. The other industries we serve may also be subject to this requalification process.

If tariffs up to 100 percent are imposed on HTS subheading 7407.10.50, then Tuffaloy Products will be subject to increased raw material costs, which will have to be passed on to our customer base. The majority of our customers will not accept a substantial increase. This has the potential to cause severe financial harm to Tuffaloy Products and substantially increases the likelihood of layoffs.

Whatever issues Olin Brass has with foreign competition in the semi-fabricating industrial sector should be examined in an independent 301 proceeding by the Commission. The broad inclusion of HTS Code 7407.10.50 in the list would be a substantial and unnecessary overreaction to their alleged injury.

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Requiring our small business to pivot a sophisticated supply chain for resistance welding copper alloys exposes our company to immediate economic harm and protects no domestic suppliers.

Further, requiring the U.S. auto industry to recertify a weld process that is integrated and fundamental to the production of safe automobiles is not in the best interest of the United States.

In closing, Tuffaloy Products sincerely request that HTS subheading 7407.10.50 be removed from the list.

MR. BISHOP: Thank you, Mr. Simmons.

Our next witness is Franziska Erdle with WVMetalle. Ms. Erdle, you have five minutes.

MS. ERDLE: Good morning, committee members, and thank you for your time today. My name is Franziska Erdle. I will testify on behalf of WirtschaftsVereinigung Metalle, which is a German non-ferrous metals association, where I serve as General Manager.

I come to testify in opposition to the Trade Representative's proposal to impose a

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100 percent tariff on products, including copper and copper alloy goods. While we support the administration's effort to enforce U.S. rights under the WTO agreement, this action would significantly and disproportionately harm American interests.

Today we have a strong relationship between the U.S. and Germany regarding the copper industry. Our association membership companies are closely tied to the U.S. industry, and some of them have subsidiaries in the U.S.

I would, nevertheless, like to make clear that the German non-ferrous metals industry is not using this close partnership to generate export growth on the back of our American friends.

Even in the face of declining consumption in Germany, our companies do not flood the U.S. copper market. We did compare the numbers and have found that in relation to the HTS numbers concerned, import volumes have been stable since 2017. We are, therefore, dealing with normal developments in two market economies.

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The German copper industry delivers specific laws, qualities, formats, and sizes to the U.S. Every pound of our metal supports downstream value-added manufacturing here in the United States. The subject products are not imported consumer goods sold to end users, but rather materials supplied to metal service centers, distributors, fabricators, original equipment manufacturers, and even to U.S. domestic mills.

Our metals are found in U.S.-manufactured automotive, military, telecom, semiconductor, construction, and energy. These products impact everyone here in this room in some way. In terms of economic policies, it doesn't make sense for the U.S. to forego these copper facilities.

Let me highlight another important point. The civil aviation industry is not among any core market segment that German copper trade has pursued as the alloys that they focus on are not typically used in civil aircraft.

The proportion of copper and copper

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alloys in aircraft is less than 0.2 percent in relation to all materials used for the installation of electronic components.

Implementing taxes may severely restrict or stop the flow of copper goods from the EU. The impact on the entire supply chain is clear.

The high pressure on downstream value added copper-based manufacturing jobs here in the U.S., as well as a negative economy impact on the U.S. commodity industry.

Considering the breadth of industry that German copper fabricators support, the proposed tariff on metals would send a shockwave throughout the U.S. economy. Shifting the production to the U.S. on short notice is not so easy to achieve. It could bring trouble to U.S. companies due to the necessary OEM approval, for example, by car makers.

Setting up a production line and receiving the OEM approval will take time. Having this in mind, it could become more attractive for U.S. companies to import products from third

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countries than to set up a production line. This would have an immensely negative effect on U.S. copper processors.

In the end, please allow me to dispel prejudice. In Germany, it is possible to claim import tax and show it as a transitory item in the balance sheet. With this practice, Germany follows the destination country principle, which is expressly recognized by the WTO in order to establish neutrality in international trade.

VAT discounts, as in China, are not granted in Germany and do not correspond to the principle of a market economy.

Bottom line is that in Germany exporters do not benefit from any discounts, either tax-wise or otherwise. For these reasons, WirtschaftsVereinigung Metalle respectfully requests that the committee remove copper products from the final list of products that will be subject to new Section 301 tariffs.

The concrete HTS numbers and other import details we have summarized in our statement,

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which I have with me as a printed version and which you can find on the homepage of USTR.

Thank you for your consideration.

MR. BISHOP: Thank you, Ms. Erdle.

Our final witness on this panel is Michael Jemison with Heyco Metals, Incorporated.

Mr. Jemison, you have five minutes.

MR. JEMISON: Members of the committee, good morning. My name is Michael Jemison, and I am Chairman of Heyco Metals, Incorporated. We are based in Reading, Pennsylvania.

I appreciate this opportunity to appear before you. Heyco Metals was founded in 1969 as an outgrowth of a manufacturing business which was a pioneer in electrical connectors and plastic injection molding and dates back to 1927.

Always privately owned, Heyco today employs 75 people and achieves up to \$75 million in annual revenue. Our capital-intensive manufacturing involves rolling, annealing, leveling, slitting, and packaging copper and

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stainless steel coil purchased at heavy gauge from so-called primary mills.

I should interject that in that regard we are very similar to Mr. Bernard's company. We are a reroll mill.

There are no U.S. producers for certain alloys, so our sources are necessarily based offshore.

I am requesting that the following products imported from the EU be removed from USTR's list under consideration for additional duties: 7409.11.50, 100 series copper strip, particularly where the oxygen-free coppers are concerned; 7409.31.50; and 7409.31.90, both the 500 series phosphor bronze strip; and 7409.40.00, the 700 series copper nickel and nickel silver strip.

These UTS U.S. codes should be removed due to unavailable or inadequate domestic supply.

In fact, imports from the EU account for nearly 90 percent of domestic consumption of these alloys.

Data shown in Appendix A support this statement.

Furthermore, the import-export data

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show few alternative sources for these alloys globally. Most of the remaining production occurs in China and is already subject to duties of 25 percent under Section 301.

These alloys are critical to our automotive, medical, electronic, and telecommunication industries. Subjecting them to additional duties would strongly encourage end users to shift product offshore. That's a lose-lose proposition.

Over the course of my 40-year career in this industry, I have seen the outright closure of several primary mills. I have witnessed the fire sale of erstwhile industry leaders to private equity, whose motivation is anything but long term, and to the very EU competitors who themselves enjoyed market access conditions in the U.S. that were never reciprocated by their home countries.

In fact, tariffs on my company's copper-based products entering the EU have long been subject to rates double those imposed by the U.S. on analogous imports from the EU.

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So you might ask: why do I not support tariff remedy? Well, there is a back story that causes me to look askance at these efforts to jump on the tariff bandwagon. In 1985, Heyco supported seven antidumping and five countervailing duty cases on brass strip leveled against several countries, including many in the EU. The immediate response by offending parties included attempts at trans-shipment, misclassification, and threat of alloy substitution, which would have polluted domestic supplies of brass scrap critical to our primary mills.

Their longer term response, more importantly, was dumping of other alloy systems that fell outside the brass statutes, including copper-tin alloys known as phosphor bronze. Two domestic market leaders in phosphor bronze strip production, The Miller Company and Waterbury Rolling Mills, were ultimately driven out of business by these unfair trading practices.

I have to amend my final paragraph and bring it down to the singular based on Mr. Nystrom's

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testimony today and the absence of PMX here in this room. Now one of the very parties who contributed to the demise of phosphor bronze strip production in the U.S. is seeking tariff protection. It is my conviction that new tariffs would fail to revive U.S. production because end users would shift their manufacturing offshore. Such tariffs would merely create a near monopoly for that foreign entity who now owns the very mill it helped decimate.

On behalf of Heyco Metals, I thank you for allowing me to speak here today, and I'm happy to answer any of your questions.

MR. BISHOP: Thank you, Mr. Jemison.

Mr. Chairman, that concludes direct testimony from this panel.

MR. CHANG: Hi. Won Chang, Department of Treasury. Thank you for your testimony.

I have a question for Charles Bernard of Eagle Metals. You note the tariffs in certain copper and brass products would create a monopoly in the United States for these products. Is there such a significant barrier to entry from producing

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these products in the United States? Why is it so difficult for competitors to produce higher end copper products of certain quality even in the long term?

MR. BERNARD: Well, there's three different -- there's three different categories that I talked about during my report. One is the 500 series alloys. Olin Brass had a mill that produced 500 series and 700 series alloy, Waterbury Rolling Mills. They closed it in 2006, and now they are seeking tariffs on German mills when there is no 500 product to be bought here.

We all went to buy our material from the German mills because they left. In 2001, the 500 series alloys went from 60 million pounds in 2000 to 21 million pounds. Today it's about 30 million pounds.

The reason why they closed those mills is because at 21 million pounds, three mills could not make enough money selling those alloys. Right?

And there was a big shift from connector manufacturers producing connectors here and going

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to China. So that's why the market left.

And cell phone manufacturers left also.

You know, we used to supply nickel silver to a stamper in Florida that was the sole supplier to Motorola, and Motorola moved their facility to China. That stamper closed. We didn't sell anymore 700 series.

And then we started supplying stainless steel to another stamper for the Blackberry, and then they closed because of Apple putting a web browser on their phone, and they make all of their cell phones in China.

So the reason why everybody is in Germany is because the German market is a lot bigger. It's 120 million pounds. So they have enough product to make 500 series alloys and reinvest back in their businesses, and that's why we all buy from there, and that's why Diehl bought Miller, because Olin bought -- Diehl bought Miller, which was the start of that, because they said, "We want to have a footprint in the United States."

And Miller says there is no way to make any money

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here long term, so they sold their business.

And then because Olin was concerned about another foreign mill buying Waterbury, they went and bought Waterbury to say, okay, we don't want somebody else to have control of that.

And then Kenosha was owned by American Brass, which is now Aurubis. And the three of them said, "There is no way to make 500 and 700 series in enough volume to make money," so they all got out of it, and that's why we all buy 500 series material from Germany.

And there is no thin-slab casting in the United States. So to say that we could do that tomorrow, testimony of Wieland, that's not true.

They are going to import five millimeter material from their German mill and finish it in the U.S., and then we have a problem being a reroll mill. We can't buy from them because we're a direct competitor.

The 700 series business, as I said, it's a small market. So Olin is the only one that makes 700 series domestically. Again, we have a problem.

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Wieland bought them. We're a direct competitor. We can't buy 700 series anymore.

And since the market is so small, you have to go to one of the German mills, and there is only one, Diehl, that was part of Miller, that makes 700 series alloys, because I went to them and I said, "You're my primary mill. You make all my 500. Would you make the 700 for me?"

They said, "Yes."

There is not enough business to divide that at that point.

And then the OFHC business, like I said, that's a complete misrepresentation. There is no vacuum casting capability in the United States. The only thing a mill can do here is buy the cake from the two German mills that have vacuum casting.

To say you're going to put vacuum casting in, why didn't you put vacuum casting in 20 years ago when the business was booming? They didn't do it. And why would you put phosphor bronze casting in now for a market that's very small?

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You wouldn't. You just support it from your facility in Germany, and then you prevent all the other German mills from shipping here.

It would have been different if Olin said, "Okay. I'm going to do this." But it's Wieland that's doing this.

MR. CHANG: Are there other markets that could produce these products more immediately in third countries?

MR. BERNARD: Do you mean other suppliers?

MR. CHANG: Yeah. In third countries, if not in the U.S.

MR. BERNARD: There is no other 700 series manufacturers in the world. There is basically two. There is Olin and there is Diehl. That's it.

500 series alloys, if there was somebody that could make the product competitively, and make it really, more importantly, to the quality level, we all would be seeking that because we're all competing for that product. So, no, the German

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mills provide the best quality, and it's available.

MR. CHANG: Okay. Thank you.

MR. TSAO: Excuse me. Before we proceed, I think -- none of us here are experts in metal. When the witnesses refer to 100 series, 500 series, 700 series, can you just -- this is for everybody -- can you just generally explain what that means? Is it based on quality? Components? Just give us an idea what those designations mean.

Thank you.

Or anybody, yeah.

MR. BERNARD: Okay. When we say "copper-based alloys," it means that copper is the primary element. Okay? So copper, 100 series, great electrical connectivity. So wires, right? Anything that conducts electricity.

If you add zinc to it, 30 percent zinc, makes brass, which is the most common 200 series alloy. So 70/30, 260 brass. You cut that in half to zinc content 15, you get 230. You cut that to 10 percent zinc, you get 210.

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So you get different levels of copper and zinc in a 200 series alloy. The cheapest metal you can get is brass in a copper alloy product because zinc is the lowest cost element.

So you add strength when you add zinc, but you reduce connectivity. And for certain applications, that's okay. If you want to go to 500 series, you add tin. Tin is more expensive than zinc. But it's stronger.

So for higher-end cars, German cars, you would say, arguably, they use phosphor bronze in their connectors. Okay? So the U.S. cars would usually use brass, lower cost, for the more commodity-based cars.

On nickel silver products, or copper nickel, you are adding nickel to the product. So the 700 series is a copper nickel tin, and the same thing. They just vary the compositions of those three elements to get different properties.

So, for example, 735 is nickel silver material, and it's a deep-draw material. So it's made for miniature connectors and for anything that

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would be for deep draw.

770 was great for cell phones. 752, good for musical instruments.

So depending upon the alloy composition, that's what you use it for. Does that make sense?

MS. ROY: Can I just ask one question?

Mr. Bernard, so when you describe the series, are you basically saying that for the 500 and the 700 series that the major component is copper?

MR. BERNARD: Yes.

MS. ROY: Okay. Thank you.

MS. BANAS: Good morning. My question is for Mr. Dimitrov. You note that Sofia Med is based in Bulgaria. Does Sofia Med have any production in the United States?

MR. DIMITROV: Thank you for the question. No, we don't have any production in the United States. We mainly service service centers, distributors, rerollers, those kind of companies.

MS. BANAS: To follow up on that, would Sofia Med be able to produce in the United States?

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And what presents -- prevents, excuse me, locating some production in the United States?

MR. DIMITROV: Well, first of all, it's a matter of a very big, large investment. So to reach the point of where we are today as a company, it took us approximately 15 years and about 200 million euros investment. And that's a long investment.

Sourcing, first of all, equipment takes years. Getting the capabilities up to a wide range of widths and thicknesses also takes years. I mean, you have to buy specialized equipment. They have a specific focus in that.

Other than that, you need also people who are experienced in that industry and its know-how. So that's not readily available for sure. And you need to have the market as well. Already the U.S. market is quite saturated. So our investment is Bulgaria. Our main market is Europe. We have minimum experts to the United States, only niche products which are not available.

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We are not the main supplier, and we are not competing, let's say, against Olin, I guess it's Aurubis, where they have, let's say, absolute advantage in the local market in lead times and specific products which are needed in large volumes for the market.

So I hope that answers the question.

MS. BANAS: Yes. Thank you for clarifying.

MR. SULBY: My question is for Mr. Shay. You discuss in your testimony how tariffs will be passed through -- passed through the supply chain. Could you give us a sense of how much of the tariff will be passed through at each stage, and how much will ultimately get to sort of the end manufacturer?

MR. SHAY: Yeah. I think that's a quite detailed response for that, but I would prefer to put in our written statement.

MR. SULBY: That's fine. And we've sort of heard from other testimony as well about these different series. Do you concur with the

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testimony that there are no other countries that can provide the different series of alloys, or are there other countries -- Bulgaria, otherwise -- that can provide these alloys?

MR. SHAY: No. I agree with the statement that Charlie made earlier, that there are no other countries that are capable of doing that.

MR. TSAO: Sir, I have a follow-up question. You said KME's parent company is based out of Germany; is that right?

MR. SHAY: Yes, sir.

MR. TSAO: Are you aware whether the parent company has engaged the German government or the EU government, EU Commission, with respect to compliance with the WTO decision?

MR. SHAY: I am not aware of that.

MR. TSAO: Okay. Thank you.

This question is for Mr. Simmons. In your submission, you have asked that one tariff line -- that is 7407.10.50 -- be excluded from the proposed list of products that could be subject

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to additional tariffs. Can you explain what proportion of this product affects the cost to your business? You know, what's the percentage of cost of this material with respect to your business?

MR. SIMMONS: Our raw material cost is typically anywhere from 50 to 70 percent of our product.

MR. TSAO: And like the question we asked other witnesses, are there alternative suppliers for this specific type of products, from domestic sources or from a third country?

MR. SIMMONS: There are no domestic sources, but there are sources out of Asia for our specific copper alloys.

MR. TSAO: And is it possible to switch supplies to the Asian sources?

MR. SIMMONS: When dealing with the automotive, there is a typical buyoff process and recertification. We would most likely bring in finished goods from Europe until we can get the sources validated.

MR. WEINER: Can I just follow up on

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that? And how long -- I mean, it probably varies from piece of equipment to piece of equipment, or maybe seasonally, but how long does that certification process or validation process take in your experience?

MR. SIMMONS: It can range anywhere from 90 days to well over a year. It depends on who the customer is and what their process for qualification is.

MR. WEINER: Okay. I have a couple of questions for Ms. Erdle. About how many German manufacturing companies are in your association approximately?

MS. ERDLE: So we are representing the whole German non-ferrous metals industry with around 650 companies.

MR. WEINER: And is that the -- is your association the only association of that industry, or of those manufacturers, those producers?

MS. ERDLE: Yes. Of non-ferrous metals, yes.

MR. WEINER: Non-ferrous metals, yeah.

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Okay. And those companies employ approximately how many people in Germany?

MS. ERDLE: Over 110,000 people.

MR. WEINER: Okay.

MS. ERDLE: In Germany.

MR. WEINER: Thank you. You said that a number of -- in your testimony that a number of the German companies in the association have subsidiaries in the United States. Is there any way to give us a sense of how many there are, how many U.S. subsidiaries of member companies there are in the United States?

MS. ERDLE: I don't know the exact number, but some of them are sitting on the table today.

MR. WEINER: Okay. What is Germany's -- for the products in question, and I guess maybe I'm not sure -- you may want to define the range of items differently, but for the products that we have included on the preliminary tariff list, what would you -- can you estimate what Germany's share of global production -- of global

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supply might be? Is that something you could provide now or --

MS. ERDLE: No. I have to check that, and I would prefer to hand it in with the written statement, if it's okay.

MR. WEINER: Okay. No, sure. That's fine. And then sort of a similar question, and then what's -- and this may be you need to come back to us with a clarification later on this as well, but the share of Germany's exports, what is the -- what percentage or proportion does the U.S. market account for in terms of the total share of German exports?

MS. ERDLE: I don't have the exact number, but I can give you an idea. So most of the exports -- so most of the products produced in Germany are for the German market. The biggest export market is still the European Union, the member states of the European Union.

And, yes, it's still an important export market, and I will hand you in the exact number later, written.

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MR. WEINER: Okay. Thank you. One final question, and this may -- I may have misunderstood earlier testimony, and I forgot -- and I apologize -- who made the statement on the last panel, but there was a question about the amount of copper and copper alloy materials used in commercial aviation manufacturing.

And I think in your statement you said that the proportion of copper and copper alloys in aircraft is less than .2 percent in relation to all materials used for the installation of electronic components. I'm just wondering whether you could reconcile that statement with I think the earlier statement if I -- again, if I misunderstood, I apologize.

MS. ERDLE: So the 0.2 percent is in relation to the electronic components.

MR. WEINER: Electronic components. Okay. Okay. As opposed to the rest of the aircraft manufacturing? Okay. All right. Thank you.

MS. ERDLE: Thank you.

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MS. ROY: This question is for Ms. Erdle as well. Is China a major competitor for the products that you export to the U.S.? And one more question to that. And, if so, given this competition, has Germany's supply seen any impact on U.S. orders as a result of the 301 tariffs against China?

MS. ERDLE: Could you repeat the second part?

MS. ROY: Sure. If China is a competitor, has Germany's supplier seen any impact on the U.S. orders as a result of the sanctions on China?

MS. ERDLE: So as the qualities and the specialties that German companies deliver are completed different than from China, it is -- you cannot really compare it. So I would say it's not a real competitor.

MS. ROY: Okay. Thank you so much.

MR. TSAO: Ms. Erdle, I have follow-up questions as well. You represent the industry. My question is: has your industry group engaged

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with the European Union with respect to compliance with the WTO case?

MS. ERDLE: Yes. We are talking to the representative of the European Union, of course, and we handed in our statement, which you also know.

MR. TSAO: Okay. And we also have heard a lot of discussions about the dynamics between the different German manufacturers in the non-ferrous industry. Does your industry association have a view to help us understand that particular dynamic?

MS. ERDLE: All I can say is that my statement is made on the basis of a position agreed among our member companies, and of course the positions of individual companies may differ. But to find out the position of a special company, I would kindly ask you to ask the company.

MS. HUANG: My question is for Mr. Jemison. In your submission, you state that these alloys are not available in the United States, despite their wide applications in the automotive, medical, electronic, and telecommunication

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industries. What proportion of these products make up the cost of your business, and what is the estimated impact on employment?

MR. JEMISON: I'm sorry. What percentage of our business is comprised of these alloys?

MS. HUANG: Yes. The cost of these alloys.

MR. JEMISON: Oh, the cost of the alloys. I would like to research that to give a more accurate answer in a follow-up written testimony. Is that okay?

MS. HUANG: Yes. Yes.

MR. JEMISON: I mean, I can guesstimate, but I'd rather --

MS. HUANG: Whatever --

MR. JEMISON: -- give you an accurate answer.

MS. HUANG: Follow-up testimony is perfectly fine.

MR. JEMISON: All right.

MS. HUANG: Thank you.

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MR. JEMISON: And the other part of that question?

MS. HUANG: You can also follow up in your testimony later. It's the impact on employment as well.

MR. JEMISON: Okay. That would -- because that would be somewhat speculation.

MS. HUANG: Yes. We understand it's an estimation.

MR. JEMISON: Yes.

MS. HUANG: Yes.

MR. JEMISON: So if I may follow up, I would appreciate that.

MS. HUANG: Yes, of course.

MR. JEMISON: Okay.

MS. HUANG: I do have another question.

As your fellow panelists have said, could you elaborate further on any third country availability for these products they have mentioned that there is not -- in your testimony, you said most of the remaining production is in China. Do you know of any other sources besides the EU in China?

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MR. JEMISON: I do not.

MS. HUANG: In Appendix A of your testimony, for HTS Code 7409.40.00, I understand for the other tables it exemplifies what you're saying that the EU is the largest source for these HTS product codes. In the export side, if I understand this table correctly, it's saying the U.S. exported approximately 39 billion for 7409.40.00.

I just -- I see that we import from the EU about 69 billion, and then we import from the rest of the world about six billion. I just see a large number of U.S. exports to the rest of the world for this HTS product code. And I just was wondering, what was the reasoning behind that, if you knew.

MR. JEMISON: You mean the almost five million pounds?

MS. HUANG: Yes.

MR. JEMISON: And 38 million.

MS. HUANG: Yes.

MR. JEMISON: That has me stumped.

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You know, these are Department of Commerce numbers.

MS. HUANG: If you want to follow up in the follow up --

MR. JEMISON: I'd have to discuss that with my staff and see if we can add some clarity to that.

MS. HUANG: Yes. Thank you.

MR. BISHOP: We release this panel with our many thanks and invite the members of Panel 3 to come forward and be seated.

(Pause.)

MR. BISHOP: Will the room please come to order?

Mr. Chairman, our first witness on this panel is Mark Boyce with Kemper AIP Metals, LLC.

Mr. Boyce, you have five minutes.

MR. BOYCE: Thank you. My name is Mark Boyce, and I'm President of Kemper AIP Metals. Thank you for the opportunity to appear today.

We are a supplier of many of the HTS codes under consideration today. Olin Brass has requested protectionist 301 tariffs on most of the

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copper alloys imported into this country. While many of the products listed in Olin's request are not produced in the U.S., as has been previously discussed by the panelists, today I would like to speak about 7409.31.50 and 7409.31.90, which are the copper tin alloys known as phosphor bronze.

Last month, Olin was acquired by German brass mill Wieland, who combined now comprise the largest market share in the world. The sale price was reportedly nearly \$1 billion, a 10X EBITDA multiple sale.

This is an extremely large premium when compared to average multiples in sales of industrial companies. This does not sound like a company in need of government protection, and, in fact, the benefit of providing such protection now goes directly to the bottom line of their German owner.

If the intent of the USTR is to counteract German government subsidies in the case of large aircraft, this action certainly is not accomplishing that goal.

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We are opposed to the imposition of tariffs on these alloys for the following reasons.

Phosphor bronze has not been produced in the U.S. for at least 10 years. And the reasons are probably many, but I would like to discuss a few today.

U.S. demand is small and has fallen significantly. Telecommunications and electronic equipment production, transitioned in large part from the U.S. to China in the early 2000s, resulting in a decline of the bronze market to nearly half of what it was in the year 2000.

The market has reduced from well over 60 million pounds to roughly 30 million pounds today.

Production of phosphor bronze is extremely specialized. Phosphor bronze is a copper -- copper alloys with tin, and these elements produce alloys with a combination of both high strength and high formability, perfect for use in the stamping of connectors.

To achieve these properties, highly specialized expertise is required that is not

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required in the production of binary alloys, and a previous alloy -- excuse me, a previous panelist pointed out these are the pure copper alloys and the brass alloys.

Those alloys make up approximately 90 percent of the alloy volume produced by U.S. brass mills.

Phosphor bronze element control is much tighter, and many more processing steps are required to meet customer specification than with the binaries. Tolerances for phosphor bronze are much tighter than producing binary alloys, and quality requirements are on an order of magnitude more strenuous as phosphor bronze strip is produced to perform in critical functions such as automobile safety systems, electronics, airbag activation systems, to name a few.

Finally, the production of phosphor bronze requires specialized equipment. To build a greenfield, world-class plant in the U.S. would cost up to \$100 million and take years to build.

Such an investment to service a 30 million pound

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market makes no economic sense.

The combination of small market size, extremely difficult process requirements, and heightened quality standards simply did not justify investment in the U.S., nor does it suit a tonnage-oriented U.S. mill landscape.

The market size for phosphor bronze in Germany is roughly four times the size of the phosphor bronze market in the U.S. The German market scale promotes competition and rewards those suppliers who can improve quality and reduce cost.

It is the reason German phosphor bronze producers supply the majority share of the global phosphor bronze strip market.

Olin states in their petition ample capacity is available in the U.S., so no shortages would result. This statement is not true for production of phosphor bronze strip. There is no existing capacity for the production of world-class phosphor bronze in United States.

Indeed, if we let history be our guide, we can learn that this will not end well. From

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1987 to 2001, I worked for a company named Waterbury Rolling Mills, a producer of phosphor bronze strip located in Waterbury, Connecticut. Olin bought that company in 2001.

The price paid was roughly \$50 million, and the EBITDA multiple, oddly enough, was roughly 10X. As stated earlier, that's a very large premium.

Waterbury Rolling Mills was profitable and employed 250 U.S. workers. It was closed in less than five years after being purchased by Olin.

The disruption to the lives of our employees and customers was dramatic. Olin has not produced phosphor bronze for nearly 10 years, and as discussed, the economics of launching production in the U.S. now are not there.

Imposing tariffs on these two products will only serve to increase costs for downstream U.S. connector manufacturers who rely on Kemper and other German producers.

I appreciate your time today, and I'm happy to answer any questions.

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Thank you.

MR. BISHOP: Thank you, Mr. Boyce.

Our next witness is Mike Rodgers with The Miller Company. Mr. Rodgers, you have 5 minutes.

MR. RODGERS: Good morning. My name is Mike Rodgers, and I am President and CEO of The Miller Company. I want to thank the committee for giving me the opportunity to speak to you today.

The Miller Company is based in Meriden, Connecticut, and currently employs 33 individuals, including 18 United Steelworkers. Miller is an importer, manufacturer and distributor of phosphor bronze, and nickel silver strip and stampings, all of which are imported under the following subheadings: 7409.31.50, 7409.31.90, and 7409.40.00.

Phosphor bronze and nickel silver strip are utilized in a number of manufacturing applications in the United States, including but not limited to construction, automobile components, telecom equipment, medical devices,

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electronic components, and even musical instruments. The phosphor bronze and nickel silver strip that we import are utilized in groundbreaking technology such as driver assistance systems, keyless locks, as well as age-old products such as bronze cymbals used by some of America's great jazz legends.

Let me start with an overview of the phosphor bronze and nickel silver process.

Most of our customers are small to medium sized independent businesses and do not have the capacity to utilize these materials as exported from the EU. For this reason, Miller imports large master coils of bronze and nickel silver, and cuts or slits these coils into the required widths for our customers' ultimate use.

If needed, we will also further stamp or custom package the strip to meet our customers' needs. Therefore, our customers come to us not only for high quality products, but also special requests and customizable solutions.

Miller's customer quality requirements

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for phosphor bronze and nickel silver strip demand that they be produced via horizontal strip casting lines. Approximately 90 percent of the phosphor bronze strip and 100 percent of the leaded nickel silver strip consumed in the United States are produced via horizontal casting lines in the EU.

There is simply no domestic capability to produce these strip products to match EU supply.

While some bronze strip and nickel silver strip products are produced in the United States, these materials are produced via a standard vertical slab cast hot rolled technology. Materials produced with vertical slab cast hot rolled technology cannot achieve the demanding quality required by our customers, and therefore are not true substitutes for the phosphor bronze and nickel silver strip produced via horizontal casting lines in the EU.

The technology required to produce strip via horizontal strip casting lines is not currently operational in the United States, and it is both prohibitively costly and time consuming

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to set up. In fact, EU manufacturers have not relocated to cheaper labor markets because the time and cost of setting up a plant that can product phosphor bronze and nickel silver by horizontal casting lines are simply too prohibitive. It is simply cheaper to keep the plants in the EU.

Therefore, imposing these tariffs on products will not incentivize manufacturers to move to the United States, nor will they change the EU's current trade policies. Therefore, placing additional tariffs on phosphor bronze and nickel silver strip is unlikely to influence EU trading practices, and will only harm U.S. manufacturing.

If these proposed tariffs are applied to phosphor bronze and nickel silver, Miller will have no choice but to raise prices.

As mentioned earlier, most of Miller's customers are small to medium sized businesses and are unwilling or simply unable to absorb those price increases. We have already seen some of our price-sensitive U.S. customers start to utilize overseas manufacturing for the parts they used to

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produce themselves in response to the rising cost of inputs. We worry that raising prices even more will lead to an even greater exodus of business and jobs outside of the United States, and in many cases to China.

This will be especially true in the automotive industry which consumes approximately 50 percent of the imported bronze. This will ultimately mean decreased output, lower wages, layoffs, and factory closures as prices rise and demand decreases.

Although Miller shares the Administration's desire to combat unfair trade practices, it does not support a strategy that ultimately hurts U.S. manufacturing. For all of these reasons, Miller respectfully requests the committee remove HTSUS subheadings 7409.31.50, 7409.31.90, and 7409.40.40 from the final list of products that will be subject to a Section 301 tariff.

Thank you very much for the opportunity to testify. And I'm happy to answer any of the

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committee's questions.

MR. BISHOP: Thank you, Mr. Rodgers.

Our next witness is Gary Vogen with Yara North America. Mr. Vogen, you have 5 minutes.

MR. VOGEN: Good morning. My name is Gary Vogen. I am Vice President of Corporate Affairs for Yara North America, Inc. I appreciate the opportunity today to speak on behalf of Yara North America and our agricultural customers.

Yara North America requests that USTR remove nitrogen products under HTS 3102 from the list of products under consideration for the imposition of increased duties for the following reasons:

Products under HTS 3102 contain a range of specialty nitrogen products, including specially formulated nitrogen fertilizers that are designed for specific agronomic and/or handling safety characteristics. These products -- these include products such as compound urea plus sulfur, fertilizer, and calcium ammonium nitrate which are not manufactured in the U.S.

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Many of these specialty nitrogen products, while not manufactured in the U.S., are demanded by specific crop segments in the U.S. as the best agronomic and environmental choices for a grower's crop nutrition solution. Increased duties on these products would place a disproportionate burden on a segment of U.S. farmers that would no longer have access to them, further raising their costs and making their agricultural production less competitive.

The quantity of U.S. imports of nitrogen products listed under HTS 3102 from the EU 28 is negligible. Further, the value represented by the increased duties on these products is also negligible in relation to the larger trade dispute, only .64 percent of total value. And therefore, it does not materially add to the rebalancing countermeasures contemplated in this dispute. Also, these nitrogen products do not have a material impact on EU 28 exports.

Previously-submitted testimonies of trade balance numbers for products listed under

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HTS 3102 have been inaccurate, as they only presented selected products. Both the U.S. and the EU 28 are net importers of nitrogen products.

And U.S. customs data suggests that the trade balance has been in favor of the U.S.

In 2018, for example, the U.S. exports of listed nitrogen products to the EU 28 were 894,000 product tons, versus imports to the U.S. from the EU 28 of 653,000 product tons.

Referencing nitrogen ton equivalents, the differential is more pronounced at 288,000 tons of exports from the U.S. versus 157,000 tons of imports to the U.S.

Furthermore, the specialty nitrogen products listed under HTS 3102 make up a significant portion of the portfolio of a number of U.S. small business agricultural retailers that will be adversely affected by increased duties on these products. Many of these businesses rely on the ability to utilize these specialty nitrogen products as part of their customized agronomic solutions.

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U.S. agriculture has already carried a significant burden in 2018 and '19 as a result of trade restrictions with China. Coupled with some of the worst growing conditions and natural disasters in two generations, the additional burden these duties would place on U.S. agriculture is injurious.

Total EU 28 exports of nitrogen products to the U.S. under HTS 3102 represent less than 1.9 percent of the total U.S. nitrogen market.

This small quantity suggests that such nitrogen products are imported into niche markets not served by domestic production.

Finally, the impact increased duties on these nitrogen products would have as a retaliatory measure against the EU 28 is insignificant, given that the EU 28 is a net importer of nitrogen, and these products are in no way critical elements of EU 28 exports. The significant damage increased duties on these nitrogen products would do to certain U.S. small businesses, on the other hand, suggests that it

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is not in the U.S. interests to add these products to the final list.

Thank you for the opportunity to speak here today. And I'd be happy to answer any questions later.

MR. BISHOP: Thank you, Mr. Vogen.

Our next witness is Brendan Fitzpatrick with DuroTerra. Mr. Fitzpatrick, you have 5 minutes.

MR. FITZPATRICK: Good morning. My name is Brendan Fitzpatrick. I am the Director of Engineering and Marketing for DuroTerra, a distributor of advanced ductile iron pipe products based in Braintree, Massachusetts. I have served in this role since DuroTerra's founding, and have over 20 years' experience in civil engineering and construction.

I am here to express DuroTerra's strong opposition to the inclusion of all products classified under HTSUS 7303.00.00 on the list of products subject to increased duties, as requested by Charlotte Pipe and Foundry Company. The request

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is overly broad.

Charlotte Pipe seeks duties on cast iron soil pipe, which is classified under HTSUS 7303.00.0030. Products under HTSUS 7303.00.0090, which covers specialized products that are not produced in the United States, should be excluded.

DuroTerra has also submitted written comments with additional information and detail beyond my testimony.

The committee has requested input on whether duties might have an adverse effect upon U.S. stakeholders, including small businesses and consumers. If implemented, these duties will unquestionably harm DuroTerra, a small business, and its customers: commercial, residential, industrial builders, along with local, state, and federal government bodies, including the military.

They will threaten our growth and unnecessarily increase the cost of new buildings, bridges, and other structures.

DuroTerra is the exclusive North American distributor of TRM piling systems, also

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known as ductile iron piles, manufactured by Tiroler Rohre in Austria. The TRM piling system is a vertical, low-vibration, modular-driven pile foundation system, ideal for vibration-sensitive projects such as urban redevelopment and construction in restricted overhead areas. This system is effective and in a class of its own.

In 2019, the Pile Driving Contractors Association recognized the system with a Project of the Year Award for its use at an international shipping facility renovation project adjacent to Philadelphia International Airport. The TRM piling system was selected for the project over more expensive micropiles and helical piles.

Likewise, when micropiles and helical piles failed to provide effective performance in two different projects at Quonset Point Air National Guard Base in Rhode Island, DuroTerra used the TRM piling system to get the jobs done.

Charlotte Pipe's request covers cast iron pipes utilized in residential and commercial application for horizontal transmission of water,

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stormwater, irrigation, and sewer waste. The TRM piling system is driven vertically into the ground with a pile driving hammer to support foundation loads for structures. The products are totally different.

The TRM piling system also differs significantly from U.S. foundry-produced cast iron pipes in both physical characteristics and chemical composition.

Because of time, I refer the committee to DuroTerra's written comments for additional technical information on how the TRM piling system is completely different from horizontal transmission products, which make up the vast majority of the products imported under HTSUS 7303.00.00.

There is no foundry in the United States, Charlotte Pipe or anyone else, that produces ductile iron pipe products for vertical foundation support of structures. The only other producers of these products are in Europe and China.

China's products are less expensive to be sure,

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but they are also low quality. In the past, the better quality of TRM's product has enabled us to effectively manage the cost differential.

Going forward, we believe that placing duties on the TRM piling system would give these low quality Chinese goods a further price advantage in the U.S. market, which is inconsistent with the Trump Administration's decision to impose Section 301 tariffs on them.

Finally, I want to emphasize DuroTerra's role as a small business. We have five employees. Our business shows significant growth potential, with a 42 percent compound annual growth rate since 2015. But the proposed duties would generate substantial cost increases and harm DuroTerra's ability to compete, severely affecting sales and jeopardizing the future of our small business.

In 2017, President Trump spoke at the North American Building Trades Unions' National Legislative Conference. He told the attendees that he spent his life working side by side with

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American builders, and said that government would no longer punish America's builders. Duties on the TRM piling system will punish America's builders.

He has also spoken at length about fixing the massive trade distortion in our relationship with China. Duties on the TRM piling system will worsen that distortion.

For these reasons, DuroTerra opposes Charlotte Pipe's request for the inclusion of HTSUS 7303.00.00 on the list, and respectfully requests that products under HTSUS 7303.00.0090, including TRM piling system, be excluded from the list of products subject to increased duties.

Thank you for your time.

MR. BISHOP: Thank you, Mr. Fitzpatrick.

Our next witness is Peter Alford with PNP Supply LLC. Mr. Alford, you have 5 minutes.

MR. ALFORD: Thank you. My name is Peter Alford. I'm founder and managing partner of PNP Supply. We are a supplier of ductile iron piping system, high pressure applications. We're

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based in Englewood, Colorado.

Since 1972, I have been involved in providing services in planning, design, project management, and after sales services in the specialized field of snow making system design and construction at ski resorts worldwide. I am here because PNP supply opposes the inclusion of all products classified under HTSUS 7303.00.00 on the list, products subject to increased duties requested by Charlotte Pipe and Foundry.

Charlotte Pipe's request covers cast iron soil pipe, which is classified under HTSUS 7303.00.0030. Specialized products not produced in the United States, which are classified under HTSUS 7303.00.0090, should be excluded. Our written comments further elaborate on our concerns.

Fifteen years ago, ski area clients asked our company to complete field studies to try to find an effective and environmentally friendly pipe suitable for high-pressure applications in unique environmental demands inherent in snow making systems. The results of that study

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identified the VRST lock restraint joint ductile iron pipe system manufactured by Tiroler Rohre in Austria. Since 2006, PNP Supply has exclusively distributed the VRST system, which is ideal for high pressure distribution and transmission in alpine environments, primarily snow making systems in ski resorts.

This is because it has a series of distinctive physical and chemical attributes, including high alumina cement interior lining, a unique joint locking system, and special alloy materials in the structure itself. Together, these attributes mean that the VRST system is longer lasting, more environmentally sustainable, and less prone to leakage, breakage, and failure in alpine environments.

For example, the unique joint locking system eliminates the need for welding in the entire installation process. Costs, as well as the risk of forest fires, are very important, especially when working in U.S. Forest Service lands and national parks.

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And the chemical composition of VRST materials, combined with the joint locking system enables the VRST system to operate at 1,450 pounds per square inch gauge, compared with maximum operating pressures of 350 pounds per square inch gauge for typical ductile iron pipe systems manufactured by U.S. foundries.

To that point, in my 47 years in this industry we have never seen a U.S. foundry supply a product that can compete with or is even comparable to the VRST system.

Another example, in 2011, a large Vermont ski resort contacted us to assist with a 2.5 mile wastewater line that was moving water, wastewater from one, the bottom of one mountain range to another mountain range. PNP Supply contacted three U.S. foundries regarding this project to see if they could handle the high pH conditions that were required. None of them was able to provide a system capable of handling these toxic conditions. The VRST system was the only feasible option, and it still remains the best

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option.

As a result, our customers have included operators in major alpine regions in the United States, some of the most prominent ski resorts in Colorado, Utah, California, Idaho, Montana, Michigan, Wisconsin, Pennsylvania, Maine, and Vermont. Without PNP Supply and the VRST system, and with U.S. foundries unable to provide high pressure pipes with requisite physical and chemical attributes for use in these environments, U.S. ski resorts and alpine towns will be forced to rely on lower quality pipe, most likely from China.

For these reasons, PNP Supply requests that products under HTSUS 7303.00.0090, including the VRST system, be excluded from the list of products subject to increased duties. PNP Supply opposes Charlotte Pipe's request for the inclusion of HTSUS 7303.00.00 on this list.

Thank you for your time, and I look forward to answering questions.

MR. BISHOP: Thank you, Mr. Alford.

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Our final witness on this panel is Brian O'Shaughnessy with Revere Copper. Mr. O'Shaughnessy, you have 5 minutes.

MR. O'SHAUGHNESSY: Thank you. My name is Brian O'Shaughnessy, and I serve as Chairman of Revere Copper Products, Inc. -- not Revere Ware, Revere Copper Products. My company was founded in 1801 by Paul Revere, and remains the oldest basic manufacturing company in the USA.

Revere has 320 employee owners, and is headquartered with our large copper rolling mill in Rome, New York. Revere's culture is based on respect for all of its stakeholders. All of the Revere stock is owned by the people who work at Revere as part of our culture. This broad, family-type ownership was not done as a financing mechanism but to promote our culture.

This ownership is very different from most of the copper and brass fabricating industry, including the distribution companies who take a large share of our product to market. That ownership is increasingly foreign-owned, particularly

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German. Indeed, seven or more companies from that industry are testifying today, with most against the tariffs. In spite of whatever they say, these tariffs will help Revere in particular and U.S. industry in general.

Indeed, the very strength of their opposition itself should inform you that taking these actions recommended by Revere will help cause European competitors to pressure their government to stop the wrongful subsidies of their aviation industry.

Furthermore, the EU economic leadership just announced that it will move to negative interest rates to further weaken the euro against the dollar and bolster exports. This action demonstrates the need for the market access charges legislation just introduced with bipartisan support in the U.S. Senate. This legislation would negate the impact of the 27 percent currency misalignment due to the role of the U.S. dollar as the reserve currency of the world.

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The exchange rate between the euro and the dollar provides additional harm to U.S. manufacturers. Germany in particular is uniquely positioned to compete with the U.S. because their value of their euro does not reflect the strength of the German economy, but rather the overall weakness of the EU economy. Germany subsidizes the worst performing economies in the EU in order to maintain its use of the undervalued euro for its domestic mercantilism.

The huge glut of euros in Germany are spent on acquiring U.S. assets, which further strengthens the dollar and weakens the euro. German companies are acquiring an increasing number of our customers, our competitors that are physically located in the United States.

All EU members use a VAT to protect domestic production. The proceeds of those taxes are used to reduce the costs of domestic production, such as like we have in the U.S. payroll taxes and healthcare. This means the net cost for VAT to domestic producers is offset, leaving only the tax

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on imports.

Whether it is EU subsidies, VATs, or currency practices, the EU has contributed mightily to an overall 50 percent decline in the consumption of fabricated copper and brass in the USA. The irony here is that brass and copper fabrication should be treated the same as steel and aluminum, with protective tariffs to preserve this industry critical to our national security. We should not be here seeking tariffs only to help negotiate somewhat reasonable -- something reasonable to offset EU subsidies of its aviation industry, but to protect the copper fabrication industry in the USA from all such foreign mercantilism.

Production and consumption of all copper and copper alloy semi-fabricated products in the U.S. has been on a steady decline for years.

In 2000, slightly over 4 billion pounds of copper and copper alloys were used to produce a variety of semi-fabricated products. By 2016, this market had dropped by half to just over 2 billion pounds.

One of the major downstream markets for

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these products is the aircraft industry. It is likely that some of the reduction in domestic production has resulted from the EU subsidization of its aircraft industry, which the duties currently under consideration are designed to counter. Further, many of the products produced by the industry are critical to the manufacture of products necessary to the national defense of the United States.

Revere has been an important supplier to U.S. defense industries and wants that condition to continue. Today, multinational companies have significant foreign ownership and care little for their stakeholders.

I leave you with this final sentence from Revere's mission statement, and suggest you listen to Revere to consider what is best for our country:

"Our future will consider equally our employees and our shareholders, our customers and our country."

What we'd like you to do is to add the

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last page that I have, a list of products, to those currently under consideration to prevent circumvention. Very critical.

Thank you.

MR. BISHOP: Thank you, Mr. O'Shaughnessy.

Mr. Chairman, that concludes direct testimony from this panel.

MR. WEINER: Thank you. Thank you. Mr. Boyce, a couple of questions for you.

You focused in your testimony this morning on phosphor bronze, noted that it hadn't been produced in the United States for at least -- for at least 10 years. And then you described briefly, but I think pretty clearly, some of the reasons why you think that's the case.

Is that -- is it also the case that there is apart from outside of the EU, are there other producers of phosphor bronze at this time?

MR. BOYCE: Not credible to the global connector industry.

MR. WEINER: Meaning what, sir?

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MR. BOYCE: Meaning there are -- there are phosphor bronze, there's a Brazilian phosphor bronze producer that sells in Brazil only. There's Chinese phosphor bronze manufacturers that are newer. But compared to the global quality requirements of the global connector industry, the EU is the leader by far.

MR. WEINER: So not comparable -- the production elsewhere is not comparable in quality and quantity is what you're saying?

MR. BOYCE: Correct.

MR. WEINER: And can I assume that the same factors that you identify in your testimony that would make it difficult for a venture to start up here, the high cost/low demand would also apply in other markets?

MR. BOYCE: In other -- pardon me?

MR. WEINER: In other countries, other markets, and we wouldn't see production of phosphor bronze coming online quicker elsewhere necessarily?

MR. BOYCE: I would not anticipate that.

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MR. WEINER: Why is the German market three times the size of the U.S. market? Is that because there's a user -- they're supplying a domestic industry with greater -- with higher demand? And why is that, if that's the case?

MR. BOYCE: Yes. It's actually, I think, closer to four times the size of the U.S. But I think the main reason is the European car manufacturers utilize phosphor bronze, which is copper and tin -- often copper and tin alloy with tin coating -- for the majority of their connectors within the automobile.

The U.S. uses brass or an alloy, it's a copper, tin, zinc alloy, which is called 425. And the nickname is the poor man's phosphor bronze.

So that's the U.S. system, so it doesn't use as much phosphor bronze, versus the European system which uses virtually, predominantly phosphor bronze. So that's the biggest difference right there that I'm aware.

MR. WEINER: So the auto production is probably the major factor.

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MR. BOYCE: It is.

MR. WEINER: And the difference in the

--

MR. BOYCE: I think the -- I think the European allocation of phosphor bronze is somewhere around 70 percent to the automotive industry.

MR. WEINER: Thank you.

You also -- I think in your written testimony you mention that phosphor bronze and cupronickel could potentially be used in aircraft production. Could you -- could you elaborate on this potential and discuss that a little bit further?

MR. BOYCE: I really -- I'm going to research that. The cupronickel goes into connectors, goes into different type. Most of the -- most of the materials that I'm referring to in that written statement is the use of copper alloyed materials that go into connectors.

MR. WEINER: Yes.

MR. BOYCE: Precision applications.

And that was sort of my point, that if

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you compare the U.S. capacity of alloy production, over 90 percent is either copper or brass. The difference is riding a bicycle versus riding a Harley. It's just a total different world. And to say that, well, I can ride a bicycle doesn't mean that you're going to hit the highway on a Harley and make phosphor bronze. And that's sort of the point.

MR. WEINER: Okay. Thank you.

MS. HUANG: This question is for Mr. Rodgers.

MR. RODGERS: Yes.

MS. HUANG: Mr. Rodgers, you stated in your testimony that there is domestic production of bronze strip and nickel silver strip products, but that the domestic products are not a true substitute for those products.

Can you elaborate on how the quality of the material is affected by the vertical slab casting, that so-called hot rolled technology process, versus horizontal strip casting? And are those two casting processes rather simply or highly

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technical?

MR. ALFORD: I'm sorry. Just repeat the last couple of sentences? I have a hearing difficulty, I'm sorry, and I just didn't pick up that entire question.

MS. HUANG: I'm so sorry. Sir, this is meant for Mr. Rodgers.

MR. ALFORD: Go ahead. Sorry.

MS. HUANG: That's okay. Mr. Rodgers?

MR. RODGERS: Horizontal strip casting technology is very technical. As has been indicated in previous testimony, there are substantial metallurgical considerations involved in this.

The Miller Company, my company, was the last horizontal strip casting mill in this country.

And we were forced to close down in December of 2012 all of our integrated operations and convert our business model simply due to the decline in the consumption of phosphor bronze in this country.

So for anyone to say that they can flip a switch and go to a standard vertical cast product

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and have the quality required by our customers is simply not a true statement.

MS. HUANG: Thank you. I also have another question for you, Mr. Rodgers.

Are there other sources outside of the EU for the large master coils of bronze and nickel silver that your company imports?

MR. RODGERS: There is -- as the previous testimony from Mark Boyce, there is horizontal casting lines in China; however, the quality standards are not there.

MS. HUANG: Is there another --

MR. ALFORD: I just wanted to add to that.

MS. HUANG: Sure.

MR. ALFORD: Go ahead. Finish your question still.

MS. HUANG: No, you can continue on. You can answer.

MR. RODGERS: Again, it comes down to the quality requirements of our customers. They're very stringent.

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Many of the gauges, the thicknesses of these alloys are four pieces of paper thick. They run through high speed presses. So the demands on the slitting, and the thickness, and the tolerances are extremely tight. And so that quality isn't there.

MS. HUANG: Sir, did you want to add?

MR. ALFORD: I really wanted to say one thing. I know what you're talking about now I think. But I think in terms of, can a U.S. manufacturer adapt to produce this product, that's my question. It might not be others'.

But I would say this, that I don't think there is any possibility economically or technically to make this product -- higher pressure product -- at the same location as a lower pressure product. They're two different processes, they're two different production equipment, they're two different production methodologies.

So maybe that wasn't the question, but I'm sorry I interrupted.

MS. HUANG: No. Thank you so much, Mr.

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Alford, for your response.

I just have one more question. So if the goods that are produced out of China are lower quality goods, is there somewhere -- another company within the world that could possibly substitute, or is China the only other resource?

MR. RODGERS: I can't speak for the world, but from what we know of the markets and the capabilities, that's really it.

MS. HUANG: Okay. Thank you so much, Mr. Rodgers and Mr. Alford.

CHAIRMAN TSAO: Mr. Rodgers, I have a point of clarification now. Earlier during this hearing we have heard that German company Diehl acquired a company called Miller. I'm wondering for clarification, are you the same company as Miller?

MR. RODGERS: We are the same company.

CHAIRMAN TSAO: Okay. Got it.

MR. RODGERS: The Miller Company and its predecessor companies were founded in 1844 in Meriden, Connecticut, and were purchased by Diehl

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in 2000.

MS. BANAS: I have a few questions for Mr. Vogen. Thank you for your testimony by the way.

You noted in your testimony that specialized nitrogen fertilizers are not produced in the United States. Are there sources for these products outside of the EU, is my first question?

Could these specialized fertilizers be produced in the United States?

And lastly, you referenced specific crop segments. Can you elaborate on what the crop segments are? Thank you.

MR. VOGEN: Sure. First, the specialty products that I'm referring to fall in some cases under specific subheadings within the overall HTS 3102 code. None of -- the two specific ones that I mentioned by name are not produced in the U.S.

The question is: could they be produced by a domestic manufacturer?

MS. BANAS: Yes.

MR. VOGEN: The answer is they could be

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from a technical standpoint. But that's a decision based on scope of market, scope of dedication to that particular size of market. And what we have seen from most of the domestic manufacturing community is that there are choices to produce more what we would identify as commodity-based type nitrogen products that are useful across many different types of crops.

So then to your other question, which that reinforces the issue that for certain segments of the market where these products are imported, we, for example, have been bringing these products into the U.S. since 1946 and have invested heavily in distribution into coastal markets in Florida, California, North Carolina, in this area actually, where many of the high value vegetable and fruit, and tree nut crops are located. And these products are made specifically to augment the needs of those specific growth -- economic needs of those particular crops.

And many of those crops then are not grown in other regions across the broad spectrum

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of the U.S. They're very niche in where they're grown because of specific geographic soil types, and weather patterns of course.

And I answered two of them. What was the third one, sorry?

MS. BANAS: I think you actually did. I was just wondering about the specific crop segments. And so you mentioned vegetables and tree nuts. Is there something else?

MR. VOGEN: Well, we also, I mean, some of these products are made also for a few commodity type crops like cotton. And actually one of the largest consumption areas for CAN, calcium ammonium nitrate, is Georgia where -- and across the mid-South where cotton is king. And it's due to the specific agronomic need of that crop.

MS. BANAS: Thank you. I appreciate it.

CHAIRMAN TSAO: This question is for Mr. Fitzpatrick. You spent some time discussing the difference between horizontal pipes versus the vertical pipes that your company uses. In terms of engineering and production process

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requirements, how difficult is it to switch the manufacturing process from making horizontal pipes to vertical pipes?

MR. FITZPATRICK: Great. Thank you for that question. It's an important distinction.

So when you look at horizontal pipes, particularly in relation to Charlotte Pipe and Foundry, they are talking about transmission for things like utility lines. Those are low pressure systems. They often come together with gaskets to make a connection. They don't take vertical load.

So when you think about the products that we use, the ductile iron pile system, it's a vertical pile that actually supports building foundation loads. And so there's significant axial capacity, the ability to support load.

The pipe products produced by somebody like Charlotte Pipe is not intended -- they're intended to transmit fluids as opposed to transmit building loads. So there's substantial differences in the physical characteristics, as well as the chemical characteristics that allow

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you to be able to put load on these piles.

The ductile iron pile system by TRM is not intended to transmit anything other than loads from a structure to rock. And so the idea of being able to transition to manufacturing from a horizontal pipe to a vertical pipe is significant.

TRM has been manufacturing these products for over 35 years, and so there's a significant amount of learning curve, if you will, to be able to generate that understanding to produce a product that will not fail under load. So it's dramatically different in that regard.

Does that answer your question? Thank you.

MR. SULBY: I would actually like to start with a question for both Mr. Fitzpatrick and Mr. Alford.

In your testimony you cite the distinctions between the products that were requested to be added and sort of the products that both of your companies make. If we were to define the tariff level at the 10-digit level versus the

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8-digit level, to distinguish between the 0030 and the 0090, would you still have objections to that 10-digit 0030 being added to the tariff list?

MR. FITZPATRICK: No, sir.

MR. SULBY: And Mr. Alford?

MR. ALFORD: I don't think that -- I agree, I don't think we would.

MR. SULBY: Okay. Thank you.

And then Mr. Alford, we covered sort of variations of this question with other panelists. But in your experience, are there other suppliers outside of the U.S. and China for these high-pressure alpine type pipes that your company manufacturers?

MR. BURCH: Mr. Alford, can you turn on your microphone.

MR. ALFORD: I'm sorry. Sorry again.

The manufacturers I know outside of China and the U.S. there are -- there's a manufacturing company in France, there's a manufacturing company in Switzerland. These two companies are like TRM in Austria. They

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manufacture for a market that is predominantly in alpine regions that does not have the need for low pressure ductile iron pipe, or very small amount.

And that is the big issue: what is the market size? Because we have spoken over the years with U.S. manufacturing companies, they do not want to jeopardize their larger market of low pressure pipe by putting in a separate production methodology, at the same time operating to make high pressure pipe with different methodology, different equipment required. It's not feasible to do that.

TRM can do it. They don't make any -- they don't make low pressure pipe because most of their market is high alpine.

MS. HUANG: Hello. My question is for Mr. O'Shaughnessy. Thank you for your testimony.

Your testimony states that there is ample capacity with domestic copper and copper-related producers. Could you elaborate more on this, given that other testimonies received today emphasized the need for specialized products,

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and as for the timeline needed to ramp up U.S. production in order to fulfill domestic demand, should additional tariffs be placed on EU imports?

MR. O'SHAUGHNESSY: Sure. That's a good question.

Revere today only produces copper products. We don't produce brass products. But we just got out of producing brass products recently because of the collapsing market there and what we needed to do.

Revere could easily begin production of the items. If you look at the attached list on my testimony, the first five items and the last two items are ones that Revere could get into fairly quickly. The other three items, 7409.3150, 7409.3190, and 7409.4000, are ones that Revere would not easily get into.

The additional items on the second page are ones that Revere would -- Revere really needs to have added to help prevent circumvention and for protection from Germany's mercantilist practices.

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So does that answer your question?

MS. HUANG: Will you elaborate? "Easily," just can you give a rough timeline of what easily could translate to in terms of months or years?

MR. O'SHAUGHNESSY: Well, for us to go back into brass, we could do that very quickly. I mean, we could do that in less than a month.

We probably wouldn't because there is spare brass capacity in the United States. So I was answering your question in a theoretical way.

We could get into it very quickly, but we probably wouldn't because there are other fabricators that would ramp up. There's a lot of spare capacity in this industry for those copper and brass products, less so for the phosphor bronze products and so on -- in fact none for them.

But it would take a -- it could -- Revere's position is those products can all be produced in the United States, but it would require a massive supply chain change, and a massive change in our overall country's economic policy. We don't

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have a true policy to bring supply chains back to this country so that those, the productions of phosphor bronze and so on -- so that there'd be a market for them in this country.

But that takes something, a larger action on the part of our government.

MR. SULBY: Mr. O'Shaughnessy, one follow up. Several of the other panelists, especially in the prior panels, have testified about the lack of domestic capability for certain very, very specific sort of niche alloy products such as oxygen free, that would require, as I understood it, sort of vacuum fabrication.

Does that technology exist in the United States, or how long would it take to add that technology?

MR. O'SHAUGHNESSY: Well, oxygen free copper used to be produced by Phelps Dodge, a mining company. They would ship tapes to Revere, and we produced an oxygen copper tape. But they shut down. And so now the only oxygen free copper raw material that's available is foreign. And that's

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in Japan, and Europe, and I suppose in China.

But other than that it really doesn't exist in the U.S. today. And it would not -- you wouldn't get into it quickly I don't believe. Olin -- perhaps Olin can. I'm not sure.

MS. ROY: I just have one more question for Mr. Vogen. I know that you're Yara North America, but are you a subsidiary of a parent company? And if so, can you just tell me where is the parent company located?

MR. VOGEN: Sure. Yes, to answer your question we operate as a wholly owned subsidiary of Yara International, which is based in Oslo, Norway. Yara is a global nitrogen producer, so we have production facilities in the EU, also in Norway, also in many other parts of the world, including the U.S. and Canada.

So yes, we are a subsidiary of a larger company. We've operated here for 70-plus years and have a little over 200 -- or excuse me, we're right at 200 U.S. employees.

MS. ROY: Thank you so much.

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MR. BURCH: Mr. Chairman, we will release the panel with our thanks. And we will break until 1:30.

(Whereupon, the above-entitled matter went off the record at 12:21 p.m. and resumed at 1:38 p.m.)

MR. BURCH: Members of Panel 4 can make their way forward to be seated. Would the room please come to order?

MR. TSAO: Good afternoon. Welcome back. We have some new members to the Section 301 Committee. And I would like to ask her to introduce herself.

MS. HOWES: Hi. I'm Teresa Howes with the USTR Ag office.

MR. BURCH: Our first witness panel would be Peter Vitaliano with the National Milk Producers Federation. Mr. Vitaliano, you have five minutes.

MR. VITALIANO: Mr. Chairman, members of the Committee, thank you for the opportunity for the National Milk Producers Federation to once

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again testify on behalf of America's dairy farmers and farmer-owned dairy marketing cooperatives as the USTR considers how to enforce America's WTO rights in the large civil aircraft dispute.

The U.S. dairy industry commends USTR for recognizing the importance of a strong focus on dairy in the retaliation plans the agency is formulating to defend its WTO rights should the EU choose not to comply with the recent WTO ruling regarding European Airbus subsidies.

With the imposition of retaliatory tariffs on targeted dairy lines, the USTR has an opportunity to compel EU compliance with its WTO commitments while helping mitigate the deep dairy trade imbalance between the U.S. and the European Union.

The U.S. dairy industry is a major exporter that reliably supplies dairy products around the globe. However, a complex web of restricted trade policies imposed by the EU has created a widening trade deficit that has harmed America's dairy farmers.

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One of the most egregious of these trade barriers is the EU's aggressive use of geographical indications. These cumbersome requirements block U.S. companies from exporting their cheese to the EU, using the same familiar terms that consumers know and love such as asiago, feta or parmesan.

And the EU is working to expand its market control by pressuring its trading partners to adhere to these same restrictions on common named cheeses, which would directly impact U.S. exports to those third countries.

Not only are U.S. cheeses competitively priced, but our cheeses are also amongst the highest quality in the world. And while the EU restricts our cheese exports, we provide a large and lucrative market to EU exports of those very same products to the U.S. so much so that the U.S. ran a \$1.6 billion trade deficit with the EU last year with cheese alone accounting for approximately a billion dollars of that.

In light of this clear disparity of treatment, we encourage the U.S. to ensure that

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the tariff codes covering cheese, we are blocked from shipping to the EU if accurately labeled are captured on the USTR's final retaliation list.

Driving the EU to comply with its WTO obligations is critical. We believe the EU's strong commercial interest in this market will help to prompt compliance with its WTO commitments in the Airbus case and underscore to our EU counterparts what a more level playing field looks like for dairy trade.

With respect to the most recent Federal Register notice, the U.S. National Milk Producers Federation commends in particular USTR's decision to include the five high value and high value volume lines we identified as strong additional retaliation candidates in our earlier filing, namely 04063051, 04064054, 04069016, 04069041 and 04069042.

We continue to strongly support the inclusion of these lines on the final retaliation list.

As noted during our earlier testimony,

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we place a particularly high priority, including tariff lines for which dairy imports from the EU have been significant in order to provide a more effective means to resolve the basic dispute.

Please see our submission response to the latest Federal Register notice for our specific recommendations for these high value lines, which are primarily cheeses but not exclusively.

Should USTR be forced to narrow the list of tariff codes targeted for retaliation, National Milk Producers urges the USTR to focus on those tariff lines that will most strongly compel EU compliance with its WTO commitments through the commercial impacts that elevated tariffs would impose on EU exports.

In addition, we reiterate our support for USTR's inclusion of additional lower trade value lines on the proposed retaliation list in order to mitigate trade diversion from lines with greater trade volumes.

The National Milk Producers Federation looks forward to continuing to work with the USTR

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to stand up for free trade and dismantle unfair trade barriers. Thank you.

MR. BURCH: Thank you, Mr. Vitaliano.

The next panel witness would be Robert Stang with the Cheese Importers Association of America. Mr. Stang, you have five minutes.

MR. STANG: Good afternoon. The Cheese Importers Association of America, the CIAA, represents firms and individuals responsible for importing the majority of cheeses entering the United States.

We appreciate this opportunity to express our strong opposition to the addition of 19 tariff subheadings specific to cheeses and cheese products to the list of items proposed for duties under the Section 301 investigation concerning the large civil aircraft dispute with the European Union.

The CIAA supports free and fair trade between the United States and our trading partners, including the European Union. However, the CIAA requests that USTR remove the proposed cheese

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subheadings from this section due to the severe negative economic impact these tariffs will have on the entire supply chain, including U.S. jobs and consumers, the negative impact of this proposal on food safety in the United States and the impact of this proposal on the U.S. Department of Agriculture's Dairy Import License Program.

First, imposing these tariffs on goods covered under the 19 tariff subheadings for cheese will harm cheese importers and processors, wholesalers, retailers, restaurants and consumers.

The cheese importing community covers thousands of employees. Our members not only import, market and sell cheese and cheese products to U.S. businesses as is but further process and package these items for retail food service and grating use, for example, grated cheese or cheese powders.

The cheese importing industry not only supports individuals directly employed by our members, but also supports workers in the U.S. supply chain, including freight forwarders, truck

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drivers and food retail and restaurant workers, many associated with smaller local enterprises.

The imposition of these tariffs will significantly burden the entire supply chain, resulting in job losses due to decreased imports.

Also we believe that increased costs due to these tariffs will be passed on directly to consumers. Moreover, many cheese and cheese products that our members import and distribute cannot be found elsewhere, the result of these tariffs on cheese and cheese products being reduced, product availability to U.S. consumers and higher prices.

Second, imposing the proposed tariffs on cheese and cheese products from the EU might jeopardize the health and safety of U.S. consumers.

Under the Food Safety Modernization Act, importers are required to ensure that imported products are produced in facilities providing the same level of public health protection as foods produced in domestic facilities.

Our membership takes this duty very

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seriously and has longstanding relationships with European suppliers, able to ensure that their food products are produced in an appropriate, sanitary facilities meeting all U.S. government requirements.

It will be difficult for companies to overhaul supply chains on short notice, find alternative sources able to provide the unique flavors and quality associated with EU cheese and cheese products and adhere to U.S. sanitation and safety standards.

Third, imposing Section 301 tariffs on these cheese tariff subheadings will disturb the U.S. Department of Agriculture's dairy import licensing program and the associated tariff rate quota, or TRQ, system.

Under the TRQ system, a specific annual volume of cheese is allowed to enter the U.S. at a low in quota rate of duty while additional imports of these products are subject to a higher over quota duty rate.

The USDA allocates quotas to importers

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through the dairy import license program, which is there are different types of dairy import licenses, including licenses based upon historic imports.

The historic licenses are issued to companies for specific cheeses from specific countries and the quota covered by one license cannot be transferred to another license that covers a different cheese or a different country.

In order to maintain historical quota amounts, importers must import a specific amount of goods over a specific time period or lose the quota.

Imposing these additional tariffs on top of the existing high rate of duty will upend this administrative program because our members, who import fewer cheese from European countries covered under their historic licenses, causing a loss of historic quota allocations and reallocations that will not immediately or easily revert the pre-section 301 tariff levels should the tariffs be rescinded.

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In sum, the 19 additional and 40 originally proposed tariff subheadings covering cheese and cheese products should not be subject to Section 301 duties pursuant to the ongoing large civil aircraft dispute with the EU. Doing so would cause long-lasting and severe harm to numerous parties, including consumers, jeopardize health and safety and disturb a long-standing administrative licensing program.

Thank you.

MR. BURCH: Thank you, Mr. Stang. Our next partner witness will be Jason Redd with Consorzio Per La Tutela Del Formaggio Pecorino Romano. Mr. Redd, you have five minutes.

MR. REDD: Thank you.

MR. BURCH: Can you pull the mic a little closer?

MR. REDD: Okay. Good afternoon. My name is Jason Redd, and I represent the Consortium for the Protection of Pecorino Romano Cheese. We are grateful for the opportunity to appear before you and highlight our concerns regarding the

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proposed increase in tariffs.

I would also like to take this opportunity to say that we very much support the comments made by Mr. Stang and the Cheese Importers Association of America.

For over 30 years, the consortium has insisted on quality control and has been dedicated to enhancing the appeal of Pecorino Romano in Italy and around the world.

We believe that the proposed tariffs on cheeses will have a greater negative impact on American consumers and the American cheese industry than by Italian cheese producers.

As detailed in our written testimony, the United States dairy industry is in a state of crisis caused by a variety factors, including the lack of a comprehensive domestic dairy policy.

As a result, some of have proposed the initiation of trade barriers against high quality cheeses to assist the United States domestic cheese industry.

We believe that this approach will be

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unsuccessful and detrimental to consumers and the United States dairy industry.

While the dairy industry is seeking a protectionist strategy, we think that it is insightful to look to the United States wine industry which is thriving and innovating. They have taken action to ensure that the United States wine industry is protected in Europe and around the world.

It is also important to note that Italy is not one of the coalition agents participating in the Airbus production, i.e. France, Germany, the UK and Spain. Therefore, action against Italian cheese would be arbitrary in that context.

The World Trade Organization has found that the U.S. economy was harmed by France, Germany and the UK and Spain. There was no finding that other members of the EU harmed the U.S. economy.

As such, the United States Trade Representative should limit their response to the countries that have caused harm to the economy.

In conclusion, food is an expression

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of cultural identity of people and nations. Therefore, the imposition of trade barriers under tariffs to the imposition of cheeses that is the direction expression of a certified origin quality and traditions is in one word culture aims to damage the entire supply chain of the Italian food in the U.S. and represents an arbitrary and gross violation of the cultural diversity and causes job losses and revenues and does not resolve any of the problems behind the U.S. dairy economic crisis.

Thank you very much for your time and attention.

MR. BURCH: Thank you, Mr. Redd. Our next panel witness will be Michael Silveira with the Olive Growers Council of California. Mr. Silveira is also joined by Mr. Burreson. Mr. Silveira you have five minutes.

MR. SILVEIRA: Members of the Committee, I am Mike Silveira, chairman of the Olive Growers Council of California. I am also a long-standing grower of California olives where virtually all U.S. olives are grown.

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With me today is Denis Burreson, a member of the Olive Growers Council and one of our largest olive growers in California. Like myself and many other OGCC members, Mr. Burreson has been in the olive industry for several decades and is dedicated to ensuring a strong California-based industry.

In the interest of time, let me briefly summarize the central message of our pre-hearing submission. Mr. Burreson will help me answer any questions the Committee may have.

For those on the Committee who may not be familiar with ripe olives, the California industry invented ripe olives over a century ago and worked hard to build the U.S. market over many decades.

Like all farm sectors, our growers have faced weather-related challenges over time. Historically, we always overcame the difficult years but unfairly priced Spanish ripe olives changed that.

Over many years we have watched dumped

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and subsidized ripe olives from Spain systematically seize our institutional markets and more recently our retail markets.

By the time the ripe olive AD and CVD actions were filed in 2017, import relief had become a survival imperative for the California industry.

Last August when the U.S. government announced an average AD and CVD rate of 35 percent, our industry could not have been more grateful. That import relief holds our hope for the future.

We thank the administration for its continuing aggressive efforts to defend and sustain it.

Unfortunately, even as our government works to defend those rates against Spanish and EU challenges, a Spanish olive company has just invested in a U.S. ripe olive processor.

The combined company has now terminated nearly all its contracts with U.S. growers, enabling it to import provisionally prepared bulk olives from Spain.

Because provisionally prepared bulk olives are a category of olives that falls outside

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the scope of the import relief rulings, the combined company hopes to avoid paying the AD and CVD rates even as many California growers find themselves with nowhere to sell their crop.

The OGCC is therefore extremely grateful for the attention this Committee has given green olives, including bulk olives, in its April 12 and July 5 proposed retaliation lists.

I will not read all of the eight digit numbers laid out in our pre-hearing submission. But suffice it to say that the OGCC strongly endorses the four olive subcategories included on the April 12 list and the five olive subcategories included on the July 5 list.

We are also asking that because the Spanish industry is working overtime to find every possible pathway to try to avoid the AD and CVD duties, the Committee add to any final retaliation list two other groups of olive items, the details of which are spelled out in our pre-hearing submission.

One group covers three other potential

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bulk olive subcategories and the other covers 16 ripe olive categories. For the bulk categories on the April 12 and July 5 list, and for the three other bulk categories we request, we are asking that these be subject to prohibitive tariffs from all EU origins.

For the 16 ripe olive categories, we are asking that these also be blocked from all EU origins or at a minimum blocked from all EU countries other than Spain to prevent Spanish ripe olives from being transshipped through other EU countries to try to avoid the AD and CVD rates.

The OGCC believes that retaliatory tariffs on all the olive HTS numbers listed in our pre-hearing submission will help protect the integrity of our AD and CVD relief and ensure a promising, enduring future for our California grown and processed industry.

That concludes my remarks. We thank this Committee and the U.S. government for your excellent work on behalf of California olives.

Mr. Burrenson and I would be happy to

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take any questions.

MR. BURCH: Thank you, Mr. Silveira.

Our last panel will be Phil Kafarakis with Specialty Food Association. Mr. Kafarakis, you have five minutes.

MR. KAFARAKIS: Good afternoon. My name is Phil Kafarakis, and I am the president of the Specialty Food Association. I would like to thank the U.S. Trade Representative for the opportunity to present the viewpoints of our industry, the specialty food industry, at today's public hearing.

The Specialty Food Association is the trade association for all segments of the specialty food industry. The more than 3,800 SFA members, mostly small and very small food manufacturers, importers, distributors and retailers, are located throughout the U.S. They make and handle food products that are often referred to as value added or specialty.

Specialty food sales in the U.S. are at \$148 plus billion annually according to the

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research from Mintel International. Specialty food represents approximately 16 percent of all sales at retail and are growing at a rate 3 times than that of mass market foods.

Specialty food manufacturers and retailers value their positive relationship and position with their customers, many of whom are strong proponents of consumer choice and food.

International foods along with local products are the backbone of the product offerings.

This innovative mix of foods sourced both globally and locally is why specialty foods are growing in sales and are shaping the future of food.

The original list of 100 percent import duties will directly impact small food retailers around the country. These SMEs, or small and medium-sized enterprises, are the engine that drive the specialty food industry. We testified on May 1 regarding the impact that these tariffs would have on these small businesses and submitted a written statement on May 28.

Despite this input from the Specialty

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Food Association and others that represent small and very small businesses, the USTR is proposing additional tariffs on specialty foods from Europe, including various cheeses, pork products, olives, olive oils, pasta, coffee, yogurts and other processed food products.

Many of these additional cheeses such as Reggiano, provolone, Romano and Gouda are the largest selling lines in specialty food stores. Olives and pasta, yogurts and other added products are also very large sellers.

As with the original list, these additional import duties and their effect on small food businesses would not be appropriate and feasible in this industrial trade dispute.

Cheese is the highest volume category in specialty foods with annual sales in excess of \$4.2 billion. Meat and seafood is the second largest category.

These foods are sold by small retailers who distinguish themselves in part by the selection and mix of high quality and trending foods, often

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combining domestic and imported foods.

The proposed increased duties on the specialty food products will have an adverse effect on U.S. small food businesses, decreasing sales and adversely affecting employment.

There are few to no domestic products that can replace these imported specialty foods.

The Specialty Food Association estimates there are approximately 14,000 specialty food retailers across the U.S. which would be impacted by these tariffs as well as twenty plus thousand other food retailers.

The impact on food service establishment, an \$863 billion industry, which also relies on specialty foods will also be significantly impacted, and especially for the small business owners who operate the majority of restaurants in the U.S.

The original and additional processed specialty foods should be excluded from the list attached to the Federal Register notice, especially given the industrial nature of this long-standing

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dispute.

The many valuable industrial imports that could be subsidized and the likelihood that the EU will respond with additional tariffs on U.S. food producers is significant.

The Specialty Food Association has been working with the foreign agricultural service for the past 18 years to promote the export of value-added foods and has been very successful in building sales in Europe, especially in Germany, France, Italy and the Netherlands.

European consumers cannot buy salsa from Texas, avocado oil from California, blueberry jam from Maine and cheese from Wisconsin. It has taken many years for these small businesses to expand their export sales and retaliatory tariffs would be devastating. These businesses should not be sacrificed in a dispute about and between competing global transportation companies.

Putting small companies and the specialty foods they manufacture at retail are a risk and not appropriate and feasible.

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The Specialty Food Association would like to thank the U.S. Trade Representative for this opportunity to testify. I'm more than happy to take any questions you might have.

MR. BURCH: Thank you, Mr. Kafarakis. And, Mr. Chairman, this concludes all witness testimonies.

MR. TSAO: Hi. This question is for Mr. Vitaliano. Assuming that additional tariffs are placed on EU dairy products, how do you see these tariffs benefitting the U.S. dairy sector?

MR. VITALIANO: Excellent question. Mr. Redd in his comments mentioned that the U.S. dairy industry is taking its position on this issue primarily as a protectionist issue to address some economic difficulties.

The U.S. dairy industry has indeed come through a rather difficult time. But we don't really see these as something that is going to have a significant impact on the U.S. dairy farmer economic situation.

When I came to work for National Milk

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Producers some decades ago, our trade policy was primarily protectionist. Since that time we have realized that exports are far more important.

We import the equivalent of 3 percent of our production. I go out of my way to explain to almost every member audience that we have that imports are not our problem and that curtailing imports is not going to have a significant effect on our industry.

We are taking this position, first of all, because, again, given our history, our members would not object to it, but first and foremost we want to support the United States government, the USTR in particular, in resolving this case.

We have brought cases before the WTO in the past, and we do strongly support a WTO process that ensures free and fair trade. And, again, we've have difficulties with the European Union so we're very sympathetic with this Airbus dispute as well.

MS. HOWES: Hi. This is for Peter Vitaliano. Thank you for providing the

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prioritized list of dairy products with corresponding import values. The third section does not have any values listed, but we understand that there is some low value trade happening on these product lines.

Are you suggesting that we should not raise tariffs on these products since the value is so low and are there other product codes that we've missed which would be of greater impact?

MR. VITALIANO: We made it very clear, and particularly in our original statement and our written testimony and my testimony today, that we support the imposition of tariffs on basically all of the dairy tariff lines that USTR put in both lists.

We do have a priority and that's why we identified those three separate lists. We would put a priority on the basically high value, high volume lines that we feel would be most efficacious in terms of resolving the trade dispute, which, as I mentioned just previously, is our primary objective in supporting this action.

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But we did want to include the others simply, you know, we did not want to say don't do any of those. But we indicated that those might be useful basically in order to possibly preclude some trade circumvention.

There's a lot of different dairy tariff lines in the U.S. import schedule. And, you know, imposing tariffs on certain items might lead to finding, you know, other somewhat related tariff lines that might have previously low trade values as a way to basically provide a more extensive and effective retaliation against the EU.

MS. HOWES: Thank you.

MR. CHANG: Hello. My name is Won Chang, Department of Treasury. Thank you for your testimony. My question is for Robert Stang of Cheese Importers Association of America.

Noting your statement that the inclusion of cheese imports into the tariff retaliation would cause severe economic negative impact, can you clarify whether CIAA has examined the economic impact of the inclusion of specified

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cheeses relative to the economic impact of the EU's various policies on U.S. agricultural exports to the EU?

MR. STANG: Thank you. If it would be okay, we would like to address that in our post-hearing written submission.

MR. CHANG: Sure. Thank you.

MS. BANAS: Good afternoon. My question is also for Mr. Stang. Mr. Stang you note that your membership currently complies with FDA's Food Safety Modernization Act, FSMA, Foreign Supplier Verification Program requirements to ensure imports are safe but imply that if forced to change suppliers due to retaliation costs, that may no longer be the case. Can you please clarify this?

MR. STANG: Sure. U.S. importers worked extensively with a number of EU food processors, including cheese processors, to ensure that the specific food processing procedures and facilities and ingredients complied with all U.S. food safety requirements in that regard.

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If they were forced to go to a different supplier, it would require them to basically throw all of that hard work out of the window and start over with the re-education and compliance and all of the processes and procedures that go along with that.

MS. BANAS: Thank you.

MS. HUANG: Hello. Jessica Huang from U.S. Department of Commerce. My question is for Mr. Redd. In your testimony, you stated the additional tariffs may potentially negatively impact U.S. consumers more than the EU providers and stated that the loss of jobs and revenues may occur.

May you elaborate on the negative impacts these additional tariffs may have on the U.S. consumer and also any estimation of the potential jobs and revenues at risk?

MR. REDD: So I'll answer just in terms of we'll provide data after through my client. And I would also ask Mr. Stang and Mr. Kafarakis if he can add to it as well.

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But I think it's been our experience that the costs associated with the products that are coming over with our imports are generally higher and so consumers are willing to pay the additional dollars associated with that.

So increased tariffs would most likely be beneficial to the consumer. Therefore, just raising the costs associated with the product itself, which would trigger for the local vendors, for the consumers it would be negative throughout the whole chain.

MR. STANG: Sure. The only point I would like to add to that is that the tariff provisions in question cover cheese as well as cheese products. And a number of those cheese products are used in processing operations in the United States.

So to the extent that the tariffs increase cheese products used in processing, they are actually increasing the cost to intermediate ingredients for U.S. processors in raising the final cost of the finished product.

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MS. HUANG: Thank you.

MS. ROY: This question is also for Mr. Redd. Mr. Redd, U.S. producers of cheese, for example, parmesan, have won many awards for their cheese, often besting their Italian counterparts.

Yet due to protectionist geographical indication rules, the EU will not allow the United States to export parmesan cheese or any other specialty cheese, I'm assuming to the EU. Since the EU does not allow reciprocity, why should the United States worry about raising tariffs on EU cheeses?

Would you like me to repeat? Okay. Okay. U.S. producers of cheese, for example, parmesan, have won many awards for their cheese, often besting their Italian counterparts. Yet due to protectionist geographical indication rules, the EU will not allow the U.S. to export parmesan cheese to the EU.

Since the EU does not allow reciprocity, why should the U.S. worry about raising tariffs on EU cheeses?

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MR. REDD: I would say that I would have to provide a more detailed response to you. But my understanding is that we're limited to the specific region whereas, and I think that's the genesis in terms of the designation. So I think that if it was -- I'll just have to provide you with it after the case.

MS. ROY: Thank you so much.

MR. TSAO: Mr. Redd, I have a follow-up question. You represent the consortium, right? Are you aware whether your client the consortium has engaged with the EU, the European Commission, with respect to compliance with this WTO dispute?

MR. REDD: I am not aware of that, but I will get you an answer after the hearings.

MS. HOWES: Hi. My question is for Michael Silveira, Olive Growers. In your testimony, you note the encouragement of Spanish olives into the U.S. domestic market.

If tariffs are imposed on olives from the EU, would the U.S. industry be able to meet the possible increased consumer demand for U.S.

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olives? Thank you.

MR. SILVEIRA: May I defer that to Mr. Denis Burreson, please?

MR. BURRESON: Thank you. Yes. My name is Denis Burreson and in response I would say that that was brought up. I mean, that was something that I remember was discussed in the ITC or with the ITC. And it was essentially determined to not be an issue.

Having said that, I can tell you that I personally, and we as an industry, we right now probably have the biggest crop we've ever had in history in terms of on a tons per acre basis. You know, it's a great crop.

Historically, we've never had an issue because of the cyclical nature of the olive tree we tend to have inventories, you know, we tend to have inventories that are carried over. The olive has a very long shelf life.

And, I guess, the final point would be if it ever is an issue, we do have the ability to source from non-subsidized sources.

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MS. HOWES: Thank you.

MR. SULBY: My question is for Mr. Kafarakis. I apologize. You mentioned that many of these specialty retailers that you represent have both domestic and imported food products that they sell. Could you give us a rough approximation of the breakdown between imported and domestic products in these retailers?

MR. KAFARAKIS: I'd be more than happy to follow-up with that number. But, again, what I would stress is that it depends on the geographic area of where that particular retailer would be.

So, for example, if you're Di Bruno Brothers that we'll hear from later from Philadelphia, you probably have a majority mix of import goods, but you also have domestic products as well.

One of the questions that was asked earlier with respect to why should we be concerned about imported cheeses in particular is that the rising tide lifts all boats. When you have products that are coming in that could be retailed

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from \$25 to \$30 a pound because of their uniqueness, domestic products also ride that wave because we do have great products from the great state of Wisconsin, California, Vermont.

There are also products that have been received that when you think about the exporting side. Domestically, particularly in these specialty food stores, there's a mixture that helps the entire category grow, which is good for the retailer, which is good for the consumer.

The same thing happens with olives and olive oil. Particularly with olives as consumers are becoming much more educated about the variety of olives. There's great domestic olives, but there's also olives from all over the world that provide a variety for consumer choice. So that's why we, as an association, believe that it's a much healthier approach to leave food out of this industrial situation.

We will get you some information on the split between domestic products and imported products by some of the several categories that

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are listed. And as a reference to the consumer, most consumers today have figured out what a charcuterie board is.

So on average, a very simple charcuterie board at \$40 a board is going to turn into something between \$120 and \$130 when you think about the implications of what is about to come down the pike if something like this were to take place. So we stress that food should not be involved in this.

MR. SULBY: So in your response you talk about the sort of craft or specialty products that are made here in the United States. To what extent are these substitutes for potential imported goods that could be solved in your member stores?

MR. KAFARAKIS: I don't think it's going to be possible to be able to compete with Parmigiano-Reggiano and substitute that because of the uniqueness of that particular product. It's no different than what would happen with Wisconsin cheddar if you were exporting it into Europe. Sure.

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MS. ROY: I just have a question for Mr. Burreson. You stated that if tariffs are imposed on olives from EU, would the U.S. industry be able to meet the possible increased consumer demand for U.S. olives?

You also stated if not, you have other resources other than certain countries that are hit by the remedies.

The other sources for your olives, would they be a country that may be subject to maybe not a 301, but another order that may be imposed?

MR. BURRESON: I really don't know the answer to that. But we could get back to you with that. But it would be, I mean, an example would be Argentina, for example. But to answer your question, I'm not sure about the 301. We'll get back to you with anything --

MS. ROY: Okay.

MR. BURRESON: -- on that. But that would be an example of a country.

MS. ROY: Okay. I guess my question was, although another country such as Argentina

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may not be subject to the 301 remedies, we also have other AD, CVD orders that may be subject to other sourcing countries that may also be affected and then the ultimate consumer will also have to pay because of the amount of the order, I mean, the AD, CVD order that may be imposed on the import.

MR. BURRESON: Yes, I would -- I'm a grower.

MS. ROY: Okay.

MR. BURRESON: I would defer it to post-hearing comments on that.

MS. ROY: Okay. Thank you so much.

MR. BURCH: Mr. Chair releases this panel with our thanks. And would the members of Panel 5 make their way forward? Will the room please come to order?

MR. TSAO: We have some new members to the subcommittee. I would ask Sarah to introduce yourself.

MS. BONNER: Sarah Bonner with the U.S. Small Business Administration.

MR. BURCH: Our first witness on this

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panel would be Ron Tanner with Di Bruno Brothers.

Mr. Tanner, you have five minutes.

MR. TANNER: Yes, good afternoon. My name is Ron Tanner, and I am employed by the Specialty Food Association. I am presenting the testimony of Emilio Vinucci of Di Bruno Brothers who could not be here today.

So now I'm going to pretend I'm Emilio, and I'm going to give you his testimony. I am speaking today as a small business owner and also as a board member of the Specialty Food Association, which represents food retailers such as Di Bruno Brothers.

As a very proud third generation family business owner, whose grandparents immigrated from Italy, these additional ad valorem tariffs on European cheeses, pork products, olives and other processed foods are extremely damaging to our daily business.

These are the core categories of our retail business at our five independent markets in and around Philadelphia. We cannot afford to

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raise all of our prices in these categories.

My grandparents worked hard building a great business, which was welcomed by the people of Philadelphia. My grandparents have always been proud to have been considered part of the fabric of Philadelphia's food scene.

Today, with my cousin and brother, we have been able to grow our business to five retail locations, a catering and events division and an importing distribution arm.

We employ more than 350 great Philadelphians who we consider to be family. The original tariff list, published in April, would have significantly impacted our business and sales and could adversely affect employment.

These additional tariffs on European specialty foods will strike an even deeper blow into an American success story. They will also disappoint our customers who have come to rely on Di Bruno Brothers for their taste of home or their special treats.

Speaking as a board member of the

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Specialty Food Association representing the buying community, I stress that thousands of other specialty food retailers will be impacted by these tariffs.

Small businesses such as Taste in Norfolk, Virginia, Straubs in St. Louis, Pastoral Artisan Cheese Wine and Bread in Chicago, Feast in Charlottesville, Virginia, and Marczyk Fine Foods in Denver all rely on these European specialties as the core of their businesses.

They have created a dedicated consumer following that appreciate authenticity in food. These unfair tariffs threaten the existence of their businesses and the well-being of their employees.

We ask USTR to not sacrifice small businesses in this dispute between giant aerospace companies. Thank you.

MR. BURCH: Great. Thank you, Mr. Tanner. Our next panel witness will be Jessica Wasserman with Giovanni Rana USA. Ms. Wasserman, you have five minutes.

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MS. WASSERMAN: My name is Jessica Wasserman. And I am appearing on behalf of Giovanni Rana USA requesting that USTR remove certain food imports from the list of products proposed for additional duties in the above-captioned matter.

These products from Italy are essential to Rana's production in the United States and to its production facilities in the Chicago area where Rana produces delicious Italian style filled pasta products.

Rana USA makes Fresh Stuff pasta products and sauces, employing several hundred workers and is a positive investment story for Illinois and the United States.

Rana is an example of much pursued foreign direct investment in the U.S. The U.S. government, through the Select USA program at the Department of Commerce and through state economic development agencies devotes significant time and resources to attracting foreign investment to the U.S.

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Rana's investment in a food manufacturing and research and development facility in Illinois is a shining example of the success of these programs.

Rana purchases the vast majority of its raw materials and ingredients from U.S. suppliers with some exceptions for imports of products that are not available in the U.S. and which provide Giovanni Rana's traditional recipes their consumer appeal.

Tariffs on Rana's imports will seriously harm Rana USA and put in jeopardy the U.S. investment that so many, including the U.S. government has devoted considerable time and money to attract.

In the last seven years, Rana has created over 400 jobs. With its projected growth.

Rana anticipates another 200 jobs over the next three years. Rana has invested well over \$100 million in its first factory and is now investing \$200 million in a second factory located next to the first building in Bartlett, Illinois.

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Rana also invested another \$100 million advertising bought from U.S. companies and will invest another \$100 million over the next four to five years.

Rana's been recognized twice over the past five years for being among the top fastest growing small food companies. Rana is a mini economic engine and is the sweet spot of job creation today that is smaller companies, more entrepreneurial companies making authentic or premium products, highly sought after and appreciated by U.S. consumers.

Ninety percent of Rana's raw materials are purchased in the U.S. But Rana does rely on selected imported ingredients. Rana uses these ingredients to satisfy U.S. customers with the particular satisfying case to profile.

Tariff disruption to the few Italian ingredients Rana purchases will have an outsized and significant impact on Rana's key product lines and will also stifle all future development there by jeopardizing current and future jobs.

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Our number new product, for example, is pesto, which utilizes extra virgin olive oil from Italy and Pecorino Romano cheese from Italy, to make an authentic Italian pasta, which consumers want. Rana cannot source any differently.

The balance of the inputs for our products, the jars, labels and packages and the other ingredients, such as sunflower oil, parmesan cheese and garlic are all sourced in the U.S. as well the transportation, trucking and warehousing provide U.S. jobs, labor, energy, management, line workers, warehouse workers, truck drivers, all come to the U.S. As well, Rana is now exporting from the U.S. to Canada and is expanding in the U.S. as an export platform.

High and unreliable tariffs on imports into the U.S. would act as a deterrent for future investment.

The tariffs on these products would seriously harm Rana in its expansion and job creation potential in the U.S. Two of Rana's key product lines, the tariffs would have two impacts.

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First, the price elastic impact which reduces sales by 10 percent or more depending on the tariff. This has a direct impact on growth and will eliminate 30 jobs because Rana will not require the new capacity we are just now opening up in our 200 million facility. Those lines will remain idle.

Second, the loss of business due to non-competitive pricing to the customer. This could result in loss of \$50 to \$100 million in business and would eliminate approximately 60 jobs and also leave our new factory vacant for at least two years, another 200 jobs. An indirect impact would be reduction in U.S. advertising spend at about \$30 million over about three years.

The imported products that we import are not available in the U.S.

The flat pasta Rana imports from Italy is not made in the U.S. and must be sourced from Italy to give our product it's characteristics.

Rana is patented and made with titanium rollers that impart a very particular surface area

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to the pasta. The surface area provides distinctive benefits that allow our product to perform differently than any other products available in the U.S. market.

For our U.S. meal kit business, which we projected over \$100 million in sales over the next 18 months, the rough surface texture allows for a faster absorption of sauce in a microwave preparation.

U.S. olive oil does not meet the U.S. demand and so imports are necessary to fill the demand. This time about 70 percent of olive oil that is consumed in the U.S. is imported from Europe. California covers only 5 to 10 percent of the U.S. consumption.

A tariff increase would be passed on to the consumers in the form of higher prices. And as noted, many of these products have no domestic counterpart that would serve consumers as a substitute.

Thus, any tariff action taken here would either significantly increase consumer cost

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or more likely price the market, leaving the consumer with less choice in the marketplace.

We request removal of the following products from the retaliation list. The 1902.11.02 uncooked pasta containing eggs, 1902.19.20 uncooked pasta not containing eggs. The extra virgin olive oil, which is 1509.10.20 and from Italy 1509.10.20, again, sorry, and Pecorino Romano from Italy 0406.90.56 and parmesan from Italy 0406.90.41 and 42. Thank you for your attention to my testimony today.

MR. BURCH: Thank you, Ms. Wasserman.

Our next panel witness will be Massimo Vittori with oriGIn. Mr. Vittori, you have five minutes.

MR. VITTORI: Good afternoon. I am here today on behalf of the Organization for International Geographical Indications Network.

The global alliance of associations representing products with qualities and characteristics are linked to their geographical environment.

We represent some 550 associations from

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50 countries, including the U.S. and oriGIn welcomes the opportunity to provide comments concerning the preliminary list of products under consideration by the USTR for tariffs in connection with the WTO dispute by the United States against the European Union and certain new members states in EC and certain member states measures affecting trade in large similar craft.

On behalf of our members, I would like to express oriGIn objection to the inclusion of value-added agricultural products such as cheese, butter, hams, olives, fruits, wines and spirits on the proposed list.

A relevant number of products in the sector imported to the U.S. from the EU have specific qualities and characteristics highly appreciated by U.S. consumers, linked to the geographical environment of production.

As a result, they have obtained legal recognition in the U.S., either as distinctive products of their respective countries or certification marks.

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Such recognition provides consumers with valuable information about raw materials, areas of metal production, overall contributing to increase market transparency.

The reason for our objections can be summarized as follows. European value-added agricultural products in a number of sectors such as cheese, butter, hams, olives, fruits, wines and spirits greatly contribute to the U.S. economy.

To respond to the demand of consumers, a wide variety of U.S. actors, importers, retailers, specialty food and beverage shops, bars, restaurants, transformers of food and beverage have invested valuable resources to develop value chains and have thrived as a result of that.

If the proposed tariffs are imposed, U.S. jobs created by the above-mentioned actors will be at stake. Likewise, the proposed tariffs might provoke retaliation from the EU affecting U.S. high value-added agricultural products in the same sectors with negative effect on the U.S. economy.

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In this respect, we appreciate the fact that the U.S. and the EU policymakers have expressed their intention to settle WTO disputes concerning our crops.

origIn is also encouraging EU authorities to negotiate a mutually beneficial solution which will minimize as much as possible the negative effect of measures distorting free trade.

To confirm this approach, the relevant WTO rules, namely Article 22.3 of this pre-settlement understanding state the complaining parties should first seek to suspend concessions or other obligation with respect to the same sector or sectors as that in which a violation, or other notification, or impairment has been found by a WTO panel or by the appellate body.

Finally, U.S. consumers will suffer from the proposed tariffs. Depending on their value, retailers will have to raise price of those items or find alternatives. In other words, other price increases will be passed on to U.S. consumers

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or they will see the spectrum of products available drastically reduced.

The nature itself of value-added agricultural products deeply rooted in a geographical area makes their specific quality and characteristics impossible to be reproduced elsewhere.

This will result in a huge loss for U.S. consumers. In light of the above, our request to exclude high value-added EU agricultural products which have obtained legal recognition in the U.S. as distinctive products for their respective countries or geographically distinctive certification marks from the preliminary list of products and their discussion.

Thank you very much your attention, and I will hope to respond to your questions.

MR. BURCH: Thank you, Mr. Vittori. And our last panel witness will Kyle Gilster with Gellert Global Group. Mr. Gilster, you have five minutes.

MR. GILSTER: Yes. Mr. Chairman,

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members of the Committee. My name is Kyle Gilster.

I'm a partner with the law firm of Husch Blackwell.

I'm testifying on behalf of the Gellert Global Group. Mr. Gellert was not able to join us today.

The Gellert Global Group is a third generation family run organization that is comprised of five U.S.-based food importing companies. Some of these companies have been importing food products for 100 years.

The companies import a broad variety of foods into the U.S., including canned and frozen fruits, vegetables, meats and seafood, value-added and specialty cheeses, nuts and dried fruits, gourmet olive oil, vinegars, chocolates, natural fruit preserves, purees, soup bases, sauces and seasonings.

On behalf of the Gellert Global Groups' over 500 U.S. employees, we thank you for the opportunity to appear before you today to express our strong opposition to the addition of a number of tariff subheadings related to food.

This proceeding proposes to impose

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duties on items such as coffee, cheese, pasta, chorizo, olive oil and preserved fruits.

The Gellert Global Group respectfully respects the USTR remove the newly proposed food subheadings in addition to the food subheadings previously proposed due to number one, the severe economic impact the tariffs will have on the Gellert Global Group and U.S. consumers.

Number two, the proceeding's unintended impact on food safety. And number three, the impact on certain import licenses issued to the Gellert Global Group companies by the United States Department of Agriculture.

First, the imposition of these tariffs on the food subheadings will severely harm the Gellert Global Group, its employees and U.S. consumers. The Gellert Global Group employs, as we said, over 500 individuals in the United States in a variety of roles including distribution, sales, marketing, supply chain, food safety and quality and food manufacturing.

The food manufacturing includes the

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roles of grating, shredding, cutting, wrapping, cubing and drying surfaces for products to be sold into retail, food service and for additional food processing use.

Gellert Global Group is proud to be more than just an importer of these products and to be able to provide good steady jobs to U.S. workers.

However, these U.S. jobs will be in jeopardy should these tariffs be imposed as the companies will be forced to import less of the tariff products into the United States.

If this Committee decides to impose an additional 100 percent duty on all of the tariff subheadings related to food proposed in the Federal Register notices from April 12 and July 1 of this year, the Gellert Global Group faces paying additional duties approaching \$150 million.

The food subheadings under consideration at this hearing alone represents \$42 million in additional duties for the companies. These are funds that would otherwise be used to invest in our business.

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The Gellert Global Group recently made a \$12 million investment to expand the food manufacturing facility in New Jersey and was poised to make an additional expansion at that facility in the next year.

However, these plans have been placed on hold because of the threat of these tariffs as the company will be forced to divert additional capital needed for the expansion to pay the additional duties.

Additionally, if the proposed food subheadings are subject to 301 tariffs, consumers are anticipated to be at the receiving end of the additional duties when these costs are passed on to them in the form of increased prices.

These price increases will ultimately reduce the variety of food options available in the marketplace. Second, for over a century food safety has been a core pillar of Gellert Global Group's business. In that regard, the companies believe that imposing these duties on food products will interrupt carefully managed supply chains with

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unforeseen food safety impacts, jeopardizing the health of U.S. consumers.

For instance, the Gellert Global Group Companies have spent a significant amount of time and money and effort educating and vetting its European suppliers for compliance with the Food Safety Modernization Act.

Shifting sources to other entities due to these tariffs will require us to recreate certain components of the supply chain, including re-vetting and re-educating new suppliers.

Additionally, it may be impossible for the Gellert Global Group to find alternative sources of the imported meat products due to the USDA's stringent requirements that limit imports of meat products to certain facilities within a limited number of countries.

Lastly, the Gellert Global Group's companies hold many dairy import licenses issued by USDA. These licenses allow various Gellert Global Group companies to import a designated volume of certain dairy products such as Edam, Gouda

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and Gruyere processed cheese at a low, in quota rate of duty while additional imports of these products are subject to a higher over quota duty rate.

These licenses are both country and product specific. And the Gellert Global Group is unable to redistribute quota from its licenses to other products or other countries.

If tariffs are imposed on the cheeses under the company's hundreds of dairy import licenses, the companies will import less of these products under these licenses, which may result in us losing certain quota allocations.

Losing this quota will cause severe economic harm to the Gellert Global Group because lost quota is practically impossible to regain and especially as the companies have invested in and made strategic business decisions to obtain these quotes.

Thank you again for this opportunity to testify. Including the proposed additional food tariff subheadings will cause severe economic

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harm to the Gellert Global Group and have negative downstream impacts on U.S. food service and retail business as well as consumers and the companies they serve.

Thank you again.

MR. BURCH: Thank you, Mr. Gilster. And Mr. Chairman, this concludes our direct testimony from this panel.

MS. HUANG: Thank you for your testimonies. My question is for Mr. Tanner. What proportion of products served in the Di Bruno Brothers' businesses are imported as opposed to U.S. produced?

MR. TANNER: I believe it's about 65 percent.

MS. HUANG: Imported?

MR. TANNER: Imported products, yes.

MS. HUANG: In light of the testimonies throughout this process, we have heard many testimonies state that there are many U.S. producers of high quality specialty foods. To what extent can the products you referenced in your

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testimony be sourced domestically or from non-EU sources?

MR. TANNER: Many of the products are going to be very difficult to source domestically.

An example would be olive oil. You know, most of the high quality olive oil in Di Bruno as a high quality retailer does come from Italy, from Greece, from Spain.

There is olive oil made in California, and it is very high quality. It is also very expensive, and it is very lacking in supply, so it would be difficult to bring in any olive oils.

Regarding the cheeses, there are many high quality cheeses which are made in the United States, but these Italian style particularly cheeses, but also French cheeses, and German cheeses, and Dutch cheeses have developed a following. And in the U.S. there is not a lot of supply of the high end cheeses.

A lot of the good cheese makers in the U.S. are really at capacity, so if they were to have to come in and provide alternative cheeses,

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they just wouldn't be able to produce them, and cheese takes time.

You know, a Parmigiano Reggiano cheeses takes a year to age, so there would be a time lapse in that, and that would hurt the businesses within that period of time.

MS. HUANG: Thank you.

MS. BANAS: My question is for Ms. Wasserman, and it will be -- it will sound a bit familiar, so if you wanted to add anything that perhaps Mr. Tanner did not mention.

Your testimony references specific products you believe are not available to source in the United States. Are these items available from other countries outside of the EU? And I acknowledge your very insightful example regarding pesto. Is there anything else that you could provide as an example?

MS. WASSERMAN: Well, to be clear, Rana isn't really an importer. It really isn't a producer of -- you know, even the pasta that I mentioned, they produce most of it in the U.S.

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They just import a little bit from Italy -- the same with, well, everything that they import, so the cheese, which is -- it's all from Italy, Parmigiano Reggiano and the olive oil from Italy.

And as you can imagine, this is a traditional Italian recipe and marketing approach and so forth, so those specialty items really do need to come -- they taste a certain way from Italy, you know, and they are an Italian company and so forth.

I think, you know, I suppose that they could go around taste testing in other parts of the world and so on, but I think, you know, common sense would tell you that --

Again, they're just importing a limited amount, you know, 10 percent of what they're using to produce in the United States. They are invested here and even using the U.S. as a platform to Canada.

So I think for certain products that are marketed in a traditional way and produced in a traditional way, I suppose you could source it

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somewhere else. I just think it would be very hard to produce the exact taste.

I mean, imagine if you have a family recipe or even any recipe. Switching out all of the products that are specialized for that taste profile is not an easy thing to do.

Again, I just would like to emphasize that they are a foreign investment with actual production here, significant production, and growing.

MS. BANAS: Thank you. I appreciate that.

MS. BONNER: Hi, this question is for Mr. Vittori. Can you highlight specific products which could have the greatest price impact on the U.S. retailers and consumers due to what you believe are lack of domestic alternatives?

MR. VITTORI: For instance, within our network, we have received a lot of inputs from the cheese sector, products like Parmigiano Reggiano, Grana Padano, and Pecorino Romano.

These are products that, again, has

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geographical indications and has certification marks in the U.S. because that's the legal tool available to protect geographically distinct products.

The same taste, the same characteristics cannot be reproduced. So this doesn't mean that alternatives are not, do not have qualities, but just have different qualities, so you cannot reproduce the exact quality of those products.

MS. BONNER: Thank you.

MR. TSAO: Mr. Vittori, I have a follow-up question. How large is the U.S. market to your members' total export sales?

MR. VITTORI: It's quite -- import is growing, for instance, for Grana Padano. In 2008, they have exported over 154,000 wheels of Grana Padano, which amounts to 57,000 tons. And it's growing every year, so it's important.

MS. HOWES: Okay. My question is for Thomas Gellert. Your testimony referenced concerns over potential impact to your import

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licenses for certain dairy products. Can you elaborate more on your concerns?

MR. GILSTER: Yeah, absolutely, and just to clarify, Mr. Gellert couldn't join today, so I'm Kyle Gilster testifying on his behalf. Thank you for the question.

As it relates to the dairy import licenses, I think the point that we want to emphasize is the holistic impact that tariffs have on different USDA licenses such as dairy import.

You know, Gellert has a set in, quote, rate of duty, and when there is a disruption of that due to the tariffs, there are implications, and we're worried about the impact of that.

And we're still discerning what exact that impact would be, and would love to circle back with you further on the testimony in our written remarks.

But the bottom line is: holistically when tariffs are made, it has an impact on a variety of licenses, including dairy licenses from USDA.

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MR. TSAO: Mr. Gilster, would your competitors or would your clients' competitors face the same type of effect with respect to TRQ?

MR. GILSTER: Mr. Chairman, we'll circle back to you as it relates to that. I would like to consult with my client on that further, and we'll include that in our written testimony.

MR. BURCH: Mr. Chairman, we release this panel with our thanks. And will all of the members in panel 16 make their way forward? I mean 6.

MR. TSAO: We're going to take a 10 minute break because I think one of our witnesses still is trying to get here, so break in place 10 minutes and we'll reconvene. Thank you.

(Whereupon, the above-entitled matter went off the record at 2:45 p.m. and resumed at 2:59 p.m.)

MR. BURCH: Our first witness on this panel will be Chris Swonger with Distilled Spirits Council of the United States. Mr. Swonger, you have five minutes.

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MR. SWONGER: Thank you. My name is Chris Swonger, and I am the President and CEO of the Distilled Spirits Council of the United States, which is the leading voice and advocate for the U.S. distilled spirits industry.

The Distilled Spirits Council represents over 60 percent of all spirits sold in the United States, and approximately 75 percent of total U.S. spirits exports.

Nearly 1.6 million people are employed in the United States in the production, distribution, and sale of distilled spirits. I am here today to reiterate our industry's longstanding opposition to tariffs on distilled spirits.

The Distilled Spirits Council has consistently supported the U.S.'s efforts to open overseas markets and ensure that our trading partners adhere to the rules-based trading system.

The U.S. spirits industry is unique because we have enjoyed the benefits of free trade

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with the European Union for well over two decades.

As a result the EU is our largest export market for U.S. distilled spirits and accounts for 46 percent of the global U.S. spirits exports.

In 2018, American whiskey exports reached to the EU up to \$704 million and accounting for almost 60 percent of the total American whiskey exports.

It is important to note that the U.S. and the EU spirits industries are deeply, deeply interconnected, with many companies owning a range of distinctive U.S. and EU spirits such as bourbon, cognac, Irish whiskey, Scotch whiskey, Tennessee whiskey, in order to satisfy consumer demand.

While tariffs imposed on the EU may appear only to harm EU companies, this is simply not the case. The same is true for EU spirits on American spirits.

Thus, imposing tariffs would compound the negative impact on companies that are already suffering from the damaging impact of the EU's

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current retaliatory tariffs on American whiskies.

Our EU counterparts share our strong opposition to the application of any tariffs on distilled spirits. They are strongly urging the Commission to remove the EU's retaliatory tariffs on American whiskey as soon as possible.

In addition, they are working hard to ensure the EU is aware of the interconnectedness of our industry in this sector to urge that the EU do not include U.S. spirits on its final list of products for tariffs in a parallel case.

We are concerned that if the U.S. places tariffs on EU origin spirits, including liqueurs, cordials, brandies and whiskies, it will lead to numerous negative unintended consequences for the U.S. beverage alcohol sector, and therefore the U.S. economy.

The beverage alcohol sector creates good paying jobs in every state, from the production, import, wholesale, as well as jobs throughout the hospitality industry. Our suppliers include farmers that provide the grains,

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the packaging, to producers of bottles, caps, labels.

Depending on the level of tariffs imposed on EU spirits and wine, we estimate it could negatively impact U.S. businesses, leading up to a loss of jobs from 11,200 to even 78,600 jobs across the United States.

The EU has been imposing a 25 percent tariff on American whiskey since June 2018. We believe that imposing tariffs on EU distilled spirits will only result in more U.S. spirits facing retaliatory tariffs from the EU.

We note that the EU already responded to the U.S. preliminary list by proposing to target U.S. vodkas, rums, and brandies for tariffs in connection with the EU's parallel dispute against the United States. Therefore, more U.S. spirits producers could be negatively impacted.

The EU's 25 percent tariff has caused a decline in American whiskey exports by 19 percent through May 2019 and many years of positive growth.

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In fact, due to the combination of retaliatory tariffs by the EU, China, and Turkey, total American spirits exports have decreased by 7 percent, and the total American whiskey exports have decreased 13 percent between June 2018 and May 2019.

Specifically, many small U.S. distilled spirits reported that their EU export orders have been canceled or reduced. In addition, several companies have been forced to put expansion plans on hold, hold off new hires, cut back on production and local grain purchases.

For many, it has taken years and hundreds of thousands of dollars to build up the demand in the overseas markets. In 2018, total U.S. spirits exports came from 45 states. American whiskeys were exported from 42 states.

MR. TSAO: Sir, can you wrap it up? Your time is up.

MR. SWONGER: Yes. In sum, our industry has been fortunate to have enjoyed free and fair trade with the EU over the last 25 years.

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Unfortunately, American whiskies have become collateral damage in this unrelated trade dispute.

We urge the U.S. to avoid implementation on distilled spirits, and to re-engage the EU to secure the elimination of tariffs on distilled spirits. Thank you for the opportunity to testify.

MR. BURCH: Thank you, Mr. Swonger. Our next panel witness will be Robert Tobiassen with the National Association of Beverage Importers. Mr. Tobiassen, you have five minutes.

MR. TOBIASSEN: Thank you. I appreciate very much this opportunity this afternoon to speak before you on this important issue. NABI is a trade association that's been around since 1935. We represent importers of distilled spirits, wine, and beer.

Prior to joining NABI, I had 34 years with the Treasury Department, so I feel your pain on how you try to address public policy as civil servants, and as my colleague said, do the least collateral damage in these areas.

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In your Federal Register notice, you asked for specific information on whether increased duties on particular products on the additional list might have an adverse effect on U.S. stakeholders, including U.S. small businesses.

NABI really is in a unique position to talk to this issue. Our members are -- about 95 percent of our member companies are small family companies, anywhere from 50 to 250, 300 employees.

They're located in the U.S. They are not global companies that have presence on every continent around the world.

When I say they're family companies, they've been in families for generations, and hope to be in their families for future generations. Virtually none is a publicly traded corporation.

That 95 percent of my membership, as I said, are U.S. regionally-based companies. They do not have these markets overseas that they can balance losses in the U.S. market against and perhaps gains in the other, and live out these trade wars. They truly can be collateral damage. Lost

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shares from the proposed retaliatory tariffs in the U.S. marketplace are true losses to them that they may never be able to recover.

The brands they sell are not necessarily everyday household brands. They're niche products. They're brands that my members have spent many years investing money in to build these products, to build these brands, to create the consumer demand. Absorbing a 25 or 100 percent tariff is really not possible by them.

One of my smallest members told me that with a 25 to 50 percent tariff, it would mean probably a loss of 80 percent of its business. A 100 percent tariff would wipe it out.

They have three employees in the United States, and they obviously deal with employees in their producing companies in Europe. These lost jobs are truly employees who will feel this pain.

My colleague points out there can be 1,000 to 10,000 or more jobs. We're looking at individual jobs. I'm looking at it at the micro level because at the end, when the retaliatory

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tariffs ultimately end, the market share is lost, and it will be very difficult to regain that market share if possible at all.

You know, these are not chess pieces in a game, with all respect. These are human beings, and how does someone go home and tell his kid, you know, who is a warehouseman or a delivery person in the United States, a trucker, that, "I lost my job delivering alcohol because of some subsidy of an aircraft in Europe"?

As I've said in my previous testimony, you know, the only thing alcohol has related to aircraft is it happens to be served on planes, but I don't think they even use ethanol in fuel for jets. I don't think it works for it. So it's really just very, very collaterally related to this.

In our earlier testimony, we tried to make the point in May that, you know, in a trade war, you calculate how you apply the damage, and what you do is I think you look at really what's going on here, and the damage you intend to inflict

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should be aimed to address the real problem.

Because this is a trade fight over subsidies in civil aircraft and not one dealing with alcoholic beverages, you know, it is fitting and appropriate and proper, and does the least collateral damage to apply the tariffs only to the Section 1 parts of the original list that was the subject of the May 15th hearing.

Airbus has operations in the United States where they do bring in products. There is sufficient aeronautic equipment coming in from the EU to address your concern and repair the competitive damage suffered by the aircraft industry in the United States.

There is no need to have collateral damage and have people completely unrelated lose his or her jobs. We think this is a sensible bottom line.

The only caution I would give on the aircraft aeronautic parts is to work with the Federal Trade Zone Board to make sure none of the exemptions and exclusions from duties and tariffs

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that apply to products brought in and out of a trade zone would enable Airbus to escape those retaliatory tariffs. I believe the Federal Trade Zone Board has authority to address this issue, and I would urge you to go in that direction.

Be very pointed, and I think you can undercut the competitive advantage Airbus received, and you can protect a lot of uninvolved collateral damage that truly, truly affects peoples' lives. Thank you very much.

MR. BURCH: Thank you, Mr. Tobiassen.

Our next panel witness will be Rich Hudgins with the California Cling Peach Board and California Canning Peach Association. Mr. Hudgins, you have five minutes.

MR. HUDGINS: Members of the Committee, I'm Rich Hudgins, President and CEO of the California Canning Peach Association and a board member of the California Cling Peach Advisory Board. I've also served for many years on the U.S. government's private sector Advisory Committee for Fruits and Vegetables. Thank you for this

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opportunity to appear.

As some on this Committee know, EU subsidized canned fruit has undermined the U.S. processed peach sector for over four decades. Our trade challenges with EU canned fruit predate even the aircraft case. In Greece, where most of the EU canned peach production occurs, that industry has essentially been built and sustained on the back of EU subsidies.

For years, EU canned fruit subsidies came in the form of product specific direct aid.

From 2000 forward, that direct aid has simply been rolled over into producer organization aid and so-called decoupled payments, which in practice still allow the Greek industry to receive financial benefits based on prior EU processed fruit aid levels.

Over the long arc of these EU canned fruit subsidies, our industry has gone from being a strong net exporter to Europe and Asia to being a fragile import sensitive sector that relies almost entirely on the U.S. market for its survival.

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In recent years, although subsidized canned fruit from China has become the primary source of disruption in the U.S. and global marketplace, unfairly priced Greek canned fruit continues to represent between 15 to 20 percent of total U.S. canned peach imports.

In fact, the Greek industry is now increasing its plantings of peaches for processing, even as global demand declines, underscoring how government payments continue to drive that industry's decisions.

In addition to its increased plantings, the Greek industry has another incentive to expand shipments to the U.S. market. U.S. imports of Chinese canned fruit are now subject to an additional 25 percent Section 301 tariff.

While our industry does not yet know how these new tariffs will affect import volumes from China, if Chinese shipments are deterred, the Greek industry -- which is our next largest import source -- will move quickly to seize those U.S. customers with their own unfairly low price quotes.

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Subsidized Greek canned peach prices have always underpriced California pricing by large margins. Unfortunately, that differential has grown even larger over the last few years because of the 25 percent Section 232 tariff on tin plate steel.

While our U.S. processors have had to absorb the added tin plate steel cost, Greece and China have been free to enter their subsidized canned fruit with no such duty on their cans.

Members of the Committee, our cling peach grower and processor community is at a tipping point. Unfair imports have already caused large contractions in U.S. planted acreage, and a major California peach cannery was forced to shut its doors last year, leading to several hundred job losses.

We therefore ask that if the U.S. government takes retaliation against the EU, it include 100 percent tariffs on the three processed peach categories listed in our pre-hearing submission.

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In asking that these three HTS numbers be included, we are mindful of the underlying dispute and enforcement aims of this proceeding, but note that just as the EU has been quick to target U.S. agriculture with retaliation to maximize political pressure for a solution, EU farmers are also among the loudest political voices in Brussels and member state capitals.

And while prohibitive U.S. tariffs on processed peach items will not materially erode the aircraft award amount, they will send an important bilateral message that EU agricultural practices need to be reformed, and will help the U.S. canned fruit sector counteract four decades of unfair EU subsidy practices.

I thank the Committee for its attention. If you have questions, I'd be happy to take them.

MR. BURCH: Thank you, Mr. Hudgins. Our last panel witness will be Arlie Jacobs with Hempler Foods Good. Mr. Jacobs, you have five minutes.

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MR. JACOBS: Thank you. My name is Arlie Jacobs, and I'm the Executive Vice President of the Hempler Foods Group. Thank you for the opportunity to comment and provide input on the proposed tariffs. On behalf of the Hempler Foods Group, we respectfully object to the inclusion of EU pork in the tariffs.

Hempler Foods Group is a high quality manufacturer of specialty smoked meats located in Ferndale, Washington. The Hempler family immigrated from Germany to have a better life for their family. We began operations in the U.S. in 1934. However, our heritage dates back to the early 1800s.

Over the years, we have grown our business from a small mom and pop shop to roughly \$100 million in sales, and the number one branded bacon in dollar sales in the Northwest. The majority of our business takes place on the West Coast. However, we do reach as far as Texas.

We are a small fish in the sea of large food companies, and the importance of having a niche

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in the market is key to our livelihood.

Our number one product line is bacon, which is vastly different than anything found in the U.S. market. We use 100 percent European bellies for our brand of bacon, and the bellies used are highly differentiated compared to any U.S. or Canadian hog belly.

The uniqueness of the European pork belly is due to the breeding and size of the hog, which equates to an ultra-lean pork and simply isn't available to us in the U.S. or in Canada.

The hogs we use from Europe are raised to roughly 220 pounds, where a domestic or a Canadian hog is 300 pounds plus. The bellies from this European hog are roughly seven to nine pounds, where a domestic or a Canadian hog are 12 to 24 pounds plus.

This unique difference provides us with a high quality, high differentiated product, and a true niche in the U.S. markets we serve, and is the core of our business.

Due to the unavailability of comparable

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supply from both a quality and consistence standpoint, we must source these bellies for our bacon from Europe. There are no other manufacturers currently producing a bacon like ours in the U.S. We already pay a premium for the European bellies compared to a U.S. or Canadian supply.

Therefore, a tariff at any level on EU pork would negatively impact our business, thus adversely affecting more than 300 jobs, our ability to support our communities' public services such as fire and police departments, as well as many nonprofit organizations.

We appreciate your willingness to consider an exclusion of EU pork from a tariff. We understand the U.S. rights to enforce its position in the mentioned dispute. However, we are very concerned of the negative impacts it would have on the many people we serve and work directly or indirectly for Hempler Foods Group.

Thank you for your time and the opportunity to provide our thoughts and concerns

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with you today. I'm happy to answer any questions you might have.

MR. BURCH: Thank you, Mr. Jacobs. And Mr. Chairman, this concludes all of the direct testimony from this panel.

MS. BANAS: My question is for Mr. Swonger. In the event that these tariffs are imposed, would you anticipate a greater demand for American whiskies or other U.S. made distilled spirits?

MR. BURCH: Will you please turn on your microphone?

MR. SWONGER: Yes. Ask the question again?

MS. BANAS: Sure. In the event that these tariffs are imposed, would you anticipate a greater demand for American whiskies or other U.S. made distilled spirits?

MR. SWONGER: Because the industry is so interconnected with each other, I think it would -- it's going to compromise distilled spirits consumption across the board in both markets to

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be honest with you.

The American whiskey story has been a great story over the last 10 years. Bourbon has really captured great interest in American whiskey for the European market, and although distilled spirits products are substitutable, there's unique consumer taste profiles that are captured, and I think this would just really have a debilitating impact on the great growth for American whiskey that has taken place over the last 10 years.

As you've seen, just with the retaliatory tariffs that we've received from the EU since June 2018, we've had a 19 percent decline in distilled spirits consumption.

MS. BANAS: Thank you.

MR. TSAO: Mr. Swonger, I have a follow up. How many members do you have in your association?

MR. SWONGER: We have 14 board of director members, many of them multinational companies, and then we have 85 craft distilled spirits members. These are the small distilleries

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all around the country.

MR. TSAO: And in your approximation, would any proposed tariffs affect all of your members equally, or some will be affected more than others, or some may even benefit from it?

MR. SWONGER: Across the board, it would have an impact across the board because many of our companies have different categories, right, cognac, or American whiskey, or vodka, or rum.

And what's been unique about the distilled spirits industry between the U.S. and the EU, we have truly enjoyed great growth across both continents over the last 20 plus years because of the no tariffs.

So what's been happening over the last year and a half has had a great impact, and if tariffs are imposed on distilled spirits in Europe, it's going to have an impact on American-based companies as well.

MR. TSAO: And Mr. Tobiassen, a very similar question, how many members do you have and would the proposed tariffs affect them equally,

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or some are more affected than others?

MR. TOBIASSEN: Thank you. I have 27 members. I would note there are more than 12,000 importer basic permits issued by TTB. I wish I had 12,000 members, but I don't.

So I believe many of those 12,000 permits though are very small companies and would face similar disastrous situations because they have niche markets and they're very brand specific.

I believe it would affect members differently in part because my trade association is the only one that represents distilled spirits, wine, and beer, and so I think everybody would be affected because I have members who deal with non-alcoholic beer, so they're affected on the beer side even though beer itself is not on either of the lists.

So I think all of my members would be affected, but you're going to be affected differently if you're a spirits importer, if you're a non-alcoholic beer importer, if you're a wine

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importer, but they all will be affected.

MR. CHANG: Hi. Won Chang, Department of Treasury. My question is for Robert Tobiassen of the National Association of Beverage Importers.

If tariffs on imported spirits from the EU resulted in a greater demand for U.S. whiskies, would your members consider shifting their focus to American whiskey, or is this not an alternative for your members?

MR. TOBIASSEN: It's hard sometimes to forecast business models that companies may move into, particular when times become dire straits. As a general rule, my members focus on imports.

I do have some members who have been very successful in the import industry business, and they've started to acquire domestic interests and have started to expand a little bit into the domestic market, but as a general rule my members are very interested and focused on imports.

You know, as my colleague to my left has mentioned, and as I think I stressed in my May

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testimony, consumers are fickle. They have tastes. They have their brand loyalties in many ways.

You know, you're not going to convince a Bordeaux drinker that a Pinot Noir from Oregon is just as good. I mean, they have fickle tastes, so I don't think it's a fungible question. So it's not necessarily -- to answer your question, I guess, one, yes, it's possible they might move into domestic products, but that would be a very major shift in business models for almost all of them.

And number two, I don't know if there's going to be an increase in demand for American products or products from a non-EU country. I know you all look very carefully and try to determine whether or not -- in minimizing collateral damage -- is there another product in the U.S., or is there a product in another country that could meet that need?

But again, the difficulty with alcoholic beverages -- and it sounds like with bacon a little bit as well -- the consumers have

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preferences and they're just fickle that way, and so people don't necessarily move between categories. Thank you.

MR. CHANG: Thank you very much.

MR. TSAO: Sir, I just want to follow up on that. I mean, if they have very stated preferences and taste profile, I mean, doesn't that make the demand relatively inelastic? I mean, doesn't that mean that people are more willing to pay a higher price to get the particular product they have a preference for?

MR. TOBIASSEN: Sure, no, I've thought about that one a bit, and I guess I look at again, you know a trade war is a war, and you're always measuring how effective your weapons are and your damage and the like.

Supposing consumers pay more, okay, well, then supposing, you know, I have a consumer who likes Brand X wine and it's \$10.00 a bottle, and now they have to pay \$15.00 a bottle to get that wine. And they begrudgingly pay \$15.00 a bottle because they are loyal to that product.

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Well, the European producer is selling that same bottle, so they're not being hurt. The consumer is getting it but paying a lot more money.

It seems the only person that's gaining is the U.S. Treasury, not bad. I worked for the Treasury.

I like Treasury to gain.

But what -- if it's inelastic and they pay the higher price, what damage are you doing to Europe? The same volume is coming in. I mean, your goal is to damage Europe, but if it's inelastic, how do you damage Europe? Thank you.

MS. ROY: This question is for Mr. Hudgins. How effective would 100 percent tariffs on EU peaches be in reversing the losses you have described that the U.S. peach industry has sustained over the last four decades?

MR. HUDGINS: I believe the imposition of a 100 percent tariff on EU canned peaches would have a significant beneficial impact on the industry.

I've got 47 peach growers who will be notified at the conclusion of the 2019 peach harvest

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that they're going to lose their contract. We have plenty of processing capacity in the industry. We can replace every case of the EU volume with California canned peaches moving into the marketplace next year.

Not only would some of those 47 growers have an opportunity to remain in the canned peach business for the following year, you'd have more employment in the unionized processing facilities in California that would produce the replacement volume.

You would have more purchases of U.S. produced cans to produce the cases that are replacing the EU volume, and you'd have more U.S. purchases of U.S. sweetener.

So you'd have a benefit at the grower level. You'd have a benefit at the processing facility level, and you'd have a benefit at the level of suppliers for materials other than the raw product going into the finished product for the cases being produced in California instead of in Greece.

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MS. ROY: Just one more question, but thank you for your response. If such tariffs are implemented on peaches, how many jobs would be created in the U.S. peach industry?

MR. HUDGINS: What you would -- in my opinion, what you would see as a result of the imposition of tariffs is you would see processing facilities running more days. So instead of closing a plant on the 31st of August, you'd run another two weeks and you'd produce more volume.

So you would have additional line time in the processing facility. You would have more growers delivering fruit to a processing facility.

They, in turn, would employ more workers on their farms to harvest the fruit, to prune the trees, to thin the fruit off the trees, so there's a kind of trickle-down effect.

You also then generate more economic opportunity in the Central Valley of California where the processing plants are located that are typically in distressed economic areas.

So when we talk about the benefit, it's

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not just the benefit at the processing plant. It's also a benefit in the communities where the processing facilities are located, as you have a multiplier as those employees go out and purchase groceries and live their lives in the producing areas of California.

MS. ROY: Thank you so much.

MS. HUANG: My question is also for Mr. Hudgins. Do you anticipate that the price of canned peaches will rise with less European competition, or do you feel the U.S. industry can meet consumer demand to ensure prices remain stable?

MR. HUDGINS: I would expect to see no change in the retail sales channels. The evidence that I would cite is there's a large national retailer that in the course of the last year elected to source a significant portion of their store brand volume from China.

Obviously they realized it's savings purchasing that product from China, but a funny thing happened. The shelf price in the store

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didn't change, so I would expect the same dynamic to occur if California product replaces Greek product in retail sales channels going forward.

On the food service side, I think there's a little more price volatility in the food service arena, but in terms of cost per serving, I believe that it would be insignificant to the end user.

MS. HUANG: I have one more question.

In terms of timing, does it take any -- what's the timeline like for California peaches, canned peaches to ramp up production to replace Greek produced canned peaches?

MR. HUDGINS: The peach harvest in California extends from essentially the end of June through, excuse me, the second week in September, but the growing season essentially begins in the fall.

So a grower in the fall would begin to prune his orchard and to develop the crop, and would do so with the assurance that he had a contract to sell his fruit for the coming year.

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So as I explained, there are 47 growers today that have a contract that will expire at the end of the 2019 peach harvest in mid-September.

If there is an opportunity for California peaches to displace subsidized EU canned peaches moving into the marketplace for the coming year, more of those growers will have a contract to sell their peaches for the 2020 harvest, and that process will continue all through the growing season leading up to harvest in June of 2020.

So it's not a manufacturing environment. We don't turn on a dime, but we will have the opportunity to produce all of the volume that the marketplace would desire with California-sourced peaches if the 100 percent tariffs were imposed on EU canned fruit entering this country.

MS. HUANG: Thank you.

MS. HOWES: My question is for Arlie Jacobs. You described in your testimony the unique qualities of the EU intermediate product you got, the pork bellies, that they're leaner, and perhaps

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there's different breeding and techniques.

It wasn't in your written testimony, so if you could provide that in writing, that would be helpful. But this is my question: couldn't Hempler work with U.S. suppliers to produce the kind of pork bellies, lean pork bellies that you currently rely on?

MR. JACOBS: We've looked into it over the years, but there's significant capital and experience to grow a hog to this level, and to achieve the quality and consistent quality that we get with the EU pork.

MR. SULBY: Follow up for Mr. Jacobs. So if there were tariffs on EU pork products imposed, what would that do in terms of the price increase and total production? How would that sort of impact your business going forward?

MR. JACOBS: So bacon represents almost 60 percent of our business, so it would have a huge negative impact to our overall business. A 100 percent tariff would basically be a game changer for us, or really to any level it would

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be.

MR. TSAO: Thank you. This hearing -- thank you for the testimony, and thank you for those who have traveled far to come here. We really appreciate it. If there are no further issues to take up, this hearing is adjourned.

(Whereupon, the above-entitled matter went off the record at 3:37 p.m.)

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