

Before The U.S. International Trade Commission
Tool Chests and Cabinets from China and Vietnam
Inv. Nos. 701-TA-575 & 731-TA 1360-61 (Prelim)
May 2, 2017

David Spooner, Counsel for Geelong
Opening Statement

Commission Staff, I am David Spooner, counsel for Geelong, a respondent in this case. I am joined by key players from throughout the tool storage industry – from representatives of the major Chinese and Vietnamese manufacturers, to key U.S. sales representatives, to a pivotal retailer. We’re here to provide the staff with as accurate a picture as possible of the like product and of the market, the conditions of competition. We are eager to answer all of your questions, and to assist the staff in understanding that imports are by no means the cause of Petitioner-Waterloo’s struggles.

First, there are serious like product issues in this Petition. The Petition attempts to neatly segment the market into “portable”, “retail”, and “industrial” products, based upon precise dimensions and physical attributes, such as the width and depth of the units, the number of drawers and the load bearing strength of these drawers. As we trust will become evident, these distinctions are arbitrary. They’re frankly a fiction. The tool chest and tool box industry is marked by a broad range of products that share common physical characteristics and uses, are interchangeable, are sold through common channels of distribution, are produced in the same manufacturing facilities, and are bought by and available to a common group of consumers.

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As you can see, we are going to have a little show and tell. I'll leave the demonstration to one of our industry experts, but to briefly tee things up, I'd like to steer the Commission staff to three portions of our exhibits.

As you know, the scope excludes "portable" and "industrial" tool storage products -- and contains precise definitions for portable and industrial products. cursory research on the web, and a visit to a retail outlet, quickly produced almost comical evidence about the supposed domestic like product in this case.

For example, these photos, taken from Home Depot's website (page 10 of respondent Geelong's exhibits), show an apparently excluded portable tool box alongside an apparently in-scope "portable" and "industrial" tool box. According to the Petition, though, the three-drawer "portable" tool box is not portable and is in-scope, because, well, it has three drawers.

Page 15 of the exhibits, shown here, contains a photo of a Sears Craftsman branded tool chest, manufactured by Waterloo, on display at retail. The chest is marketed as having "industrial" casters paired with an "industrial strength" Griplatch system. According to the Petition, though, this is actually not an excluded industrial grade chest.

Indeed, we've provided marketing material for Sears' Craftsman brand (page 17 of the Exhibits). This marketing material details product specs for

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Waterloo's "basic," "heavy-duty," "premium heavy duty," and "professional" tool chests – a spectrum of product types that don't match the Petition's attempt to neatly bifurcate "retail" and "industrial" products. Indeed, it's unclear, to me at least, whether "heavy duty," "premium heavy duty," and "professional" are appropriate for industrial use.

Finally, the Petition excludes work benches, and defines work benches as, among other attributes, having no solid front, side, or back panels. Here's a work bench (found on pages 13-14 of our Exhibits). Our sample and several websites also reveal workbenches commonly have drawers, making them included in the scope.

Should the Commission proceed to a final phase, the Commission, in our humble opinion, should explore what are some troublesome like product issues.

But, after hearing today from a broad-based panel of witnesses, and after absorbing the questionnaire data, the Commission should have no need to continue to a final phase, considering the real market conditions.

We will address, and appropriately protect as BPI, the data in our post-staff conference brief. The data, we hope, point to some compelling facts.

Today, though, you will hear from primary industry witnesses from China and U.S. businesses, all of whom will explain the real conditions of competition.

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Most noteworthy, you'll hear from Waterloo's longtime, principal customer, Sears. It's Sears' job, of course, to convey the story in detail, but suffice it to say that reasons other than price compelled Sears to look for other supply options. And we know the story of Sears throughout the POI. It shouldn't come as a surprise that Sears' suppliers have also struggled, too. Sears' testimony about the role of non-price factors will be verified by other, experienced industry sources.

All of this should compel a negative preliminary determination. Thank you again for allowing us to come today, and we look forward to answering all of your questions. With that, perhaps, I should segue to our first witnesses, representatives of the largest source in China, Geelong.